Government of the United States ... Fortunately, John lived to see many of his dreams transferred into law. The comparability bill and the wage board bill are two outstanding examples of the many measures passed by Congress largely due to the effective hard work of John Griner."—Carl Albert.

"Some of my earliest recollection of work on Federal employee legislation in the U.S. Senate include deep conversations with John. His counsel in formal hearings and in private discussions was always incisive, knowledgeable and sincere. His understanding of the problems of Federal employees everywhere and his ability to articulate those problems to me and other members of the Senate POCS Committee were always appreciated."—Hiram L. Fong.

"It was with great sadness that I learned of the death of John Griner, who will long be remembered for his landmark accomplishments as the dedicated leader of the AFGE. His strength and dedication, his service and loyalty were admired by all who knew him. We on Capitol Hill will miss his wise counsel and vigorous leadership."—Hubert H. Humphrey.

"Few labor leaders have achieved the preeminence associated with John Griner's career. During his tenure as President, AFGE tripled its membership . . . His death is not only a profound loss to his friends, but an immense loss to hundreds of thousands of Civil Service employees who benefitted from his leadership."—Charles H. Wilson.

"His passing is a great loss to those of us who were fortunate to be counted as his close friends. His death is also a tremendous loss to the American labor movement. John was truly a pioneer. The strides made by the Federal employees in recent years can be attributed mainly to the AFGE, which has been almost synonymous with the name John Griner."—Frank E. Moss.

"John and I did not always agree, but he was a man I always liked, a man I felt I could always trust, and a man who knew how to work out realistic compromises without wavering in the cause he represented. He typified the best of what Federal employee organizations had to offer. Both the AFGE and the Civil Service in general are the better for his service."—David N. Henderson.

POSSIBLE SHORTAGE OF NATURAL GAS

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 24, 1974

Mr. RUPPE. Mr. Speaker, many of us heard Federal Energy Administrator, John C. Sawhill, remark on national television this past weekend that the United States faces a possible shortage of natural gas in the not-too-distant future. In that light, I would think it only logical that we do all we can to facilitate the delivery of this natural commodity, rather than impede it. The action of the Appropriations Committee in reducing the Department of the Interior's requested budget for environmental impact studies of natural gas pipelines from the Arctic Circle by $1 million—from $4.5 million to $3.5 million—will unfortunately have that effect.

It has been estimated by the personnel within the Interior Department responsible for these studies that this cutback in funds could mean about a 3-month delay in the issuance of their reports. Now, to some this may not sound like an unreasonable amount of time—3 months—but this will have the resultant effect of postponing action by the Federal Power Commission which, after receiving these statements, must then decide who will build the pipeline network from Prudhoe Bay in Alaska to the lower 48, as many call the continental United States, and by what route this network will then travel.

As many of you may know, the Arctic gas consortium has already filed with the Federal Power Commission for permission to build a pipeline from Prudhoe Bay, under which lie an estimated 26 trillion cubic feet of natural gas, to the Canadian-American border. This could link up with a proposed pipeline from the Mackenzie Delta in Canada which has approximately 7 trillion cubic feet of gas reserves. It is expected that the El Paso Co. will soon apply for a permit for the route from Prudhoe Bay but their plan involves gas liquefication and transportation from Alaska through the Pacific Ocean to the west coast.

Well over 50 petitions to intervene in the FPC proceedings have been filed and accepted by that Agency. I personally joined with the gentleman from Illinois (Mr. ANDERSON), the gentleman from Wisconsin (Mr. ASPIN), the gentleman from Minnesota (Mr. BERGLAND), the gentleman from Minnesota (Mr. FRENZEL), the gentleman from Wisconsin (Mr. FROEHLICH), and the gentleman from Illinois (Mr. ROSTENKOWSKI) in a petition to intervene. While I do not pretend to speak for the six others, I favor a route directly to the Midwest so that the citizens of those States are not shut off from needed gas supplies as may well be the case with the Alaskan oil which will go directly to the west coast.

But I would stress that a vote for this amendment to the Interior Department's appropriation would not have been construed as support for one route over the other. Rather, it would have been construed as a vote for an increased supply of natural gas when we may face severe shortages in the future. Speed is of the utmost importance. Any delay should be avoided in clearing the way for the delivery of this important gas. The $1 million extra not appropriated this afternoon could have proved to be a valuable investment in our Nation's energy supplies. I am indeed sorry that the House of Representatives failed to so act. It was a serious mistake.

SENATE—*Thursday, July 25, 1974*

The Senate met at 10 a.m., and was called to order by Hon. LAWTON CHILES, a Senator from the State of Florida.

PRAYER

The Reverend B. Cortez Tipton, ACSW, executive director, Council of Churches of Greater Washington, offered the following prayer:

Dear Lord and Father of mankind, enable us to know Thy mighty works. Help us to truly understand this great venture—our United States of America—as Your crucible of every national origin and faith. This honorable lawmaking body, the U.S. Senate, which is ever watchful of peace, freedom, and justice for this melting pot of human anticipation, is another example of Thy mighty works. Keep the Members thereof ever mindful of the rewards of their burdens.

Most Merciful Father, we are aware that the world awaits the finished product of our united efforts, the results of which will reveal the real worth and workings of freedom and progress. May we, as the constituency of Members of this Senate, be willing to undergird their efforts, and demonstrate the responsibility that goes with this freedom we seek so diligently. For, indeed, we are thankful that this is in essence Your message to us who are privileged to work together for the improvement of the quality of man. 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 second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 25, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. LAWTON CHILES, a Senator from the State of Florida, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. CHILES 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, July 24, 1974, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

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

SENATE RESOLUTION 367—NAMING DEMOCRATIC MEMBERS OF THE COMMITTEE ON THE BUDGET, AND ITS CHAIRMAN

Mr. MANSFIELD. Mr. President, with the permission of the distinguished acting Republican leader, I would like at this time to send a resolution to the desk

relative to the designation of the Democratic Senators who have been named by the steering committee, approved by the Democratic conference, for consideration at this time.

The ACTING PRESIDENT pro tempore. The resolution will be stated.

The second assistant legislative clerk read as follows:

S. RES. 367

Resolution naming the majority party's membership on the Committee on the Budget

Resolved, That the following shall constitute the majority party's membership on the Committee on the Budget of the Senate for the remainder of the 93d Congress.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the membership of the committee be read, but not the chairman.

The second assistant legislative clerk read as follows:

Mr. MAGNUSON, Mr. MOSS, Mr. MONDALE, Mr. HOLLINGS, Mr. CRANSTON, Mr. CHILES, Mr. ABOUREZK, Mr. BIDEN.

Mr. MANSFIELD. Mr. President, was Mr. MUSKIE's name called?

The second assistant legislative clerk read as follows:

Mr. MUSKIE.

The ACTING PRESIDENT pro tempore. Does the majority leader wish the resolution divided, so that there will be a separate vote on the chairman?

Mr. MANSFIELD. Yes; that was my intention. But I wanted Mr. MUSKIE's name on there as a member of the committee.

The ACTING PRESIDENT pro tempore. His name has been read as a member of the committee.

The question is on agreeing to the resolution as to the members of the committee.

The resolution, as to the members of the committee, was agreed to.

The question is on the naming of the Senator from Maine (Mr. MUSKIE) as chairman.

The ACTING PRESIDENT pro tempore. Without objection, the Senator from Maine (Mr. MUSKIE) is designated as chairman of the committee.

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. 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.

U.S. THAI-FLIGHT BAN SEEN AS POLITICAL PLOY

Mr. MANSFIELD. Mr. President, in this morning's Los Angeles Times is an interesting story by Mr. George McArthur. The title of the story is "U.S. Thai-Flight Ban Seen as Political Ploy." I would like to read to the Senate an excerpt from the story. It is from Bangkok:

The U.S. Air Force in Thailand has been having its troubles lately, so there was little surprise last week when the Bangkok authorities asked the Americans to stop reconnaissance flights over the Indian Ocean.

The question now arises as to who actually asked whom.

The government of Thailand had never before made a point of placing restrictions on American planes, which were, to say the least, fighting a major air war in Vietnam and Laos from Thai bases. Some American pilots from Thai bases are still getting combat pay for supply flights into Cambodia.

Authoritative informants now say the initiative to stop the Indian Ocean reconnaissance flights came from the Americans themselves.

The Thai announcement was a smoke screen worked out by U.S. Ambassador William Kintner, the West Point general turned scholar-diplomat, and Thai Foreign Minister Charunthan Issarangkun.

The evident design was to increase pressure on the U.S. Congress to approve almost $30 million for the improvement of base facilities on the Indian Ocean island of Diego Garcia. The idea was that if any necessary reconnaissance flights could no longer be flown from Thailand, the base at Diego Garcia would become even more vital.

This is a most interesting observation.

I ask unanimous consent that the entire newsstory be printed at this point in the RECORD.

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

[From the Los Angeles Times, July 25, 1974]

SMOKE SCREEN WORKED OUT BY AMBASSADOR—U.S. THAI-FLIGHT BAN SEEN AS POLITICAL PLOY

(By George McArthur)

BANGKOK.—The U.S. Air Force in Thailand has been having its troubles lately, so there was little surprise last week when the Bangkok authorities asked the Americans to stop reconnaissance flights over the Indian Ocean.

The question now arises as to who actually asked whom.

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The Thai announcement was a smoke screen worked out by U.S. Ambassador William Kintner, the West Point general turned scholar-diplomat, and Thai Foreign Minister Charunthan Issarangkun.

The evident design was to increase pressure on the U.S. Congress to approve almost $30 million for the improvement of base facilities on the Indian Ocean island of Diego Garcia. The idea was that if any necessary reconnaissance flights could no longer be flown from Thailand, the base at Diego Garcia would become even more vital.

At any rate, after American prompting the Thais dutifully made their announcement, stating that American missions from Thailand were to be confined to those designed to enforce the Paris peace agreement of 1972 concerning Vietnam, Laos and Cambodia. The Thai government proceeded to get a little more mileage from the American-inspired announcement by implying—for restive domestic consumption—that Thai authorities intended to take a firmer look at the whole base situation from now on.

In fact, the government of Thailand has never given the Americans any real trouble over the bases and is unlikely to do so now, even though civilian Premier Sanya Thammusat, a former university reactor, is more vulnerable to popular pressures than the previous military regime.

The present rate of withdrawal, which will see the U.S. presence down to about 350 planes and 27,000 men by the end of this year, is delicately balanced to meet Thai domestic requirements and leave the United States with ample military punch in Southeast Asia.

Thailand's hawkish generals are temporarily out of power, but not without political clout. They find the American presence reassuring. Furthermore, the withdrawals under way are causing economic dislocations that the government can ill afford, despite the continuing pleas of some students.

The question is not so much whether the bases, built at an initial cost of $650 million (U.S.), should remain. It revolves around what possible use they might be to both Thailand and the United States.

The interplay involving Indian Ocean reconnaissance flights indicates the bases can be used for political purposes or for purposes somewhat remote from Thailand's security, or American power in South Vietnam.

In fact, the bases are now being used for reconnaissance flights over Laos, probably by unmanned drone aircraft. The U.S. Embassy in Bangkok, asked about reconnaissance flights over the Indian Ocean, replied: "The U.S. is not currently flying surveillance flights over the Indian Ocean."

Asked about flights over Laos, the reply was: "We do not discuss the specifics of reconnaissance flights."

Given the nature of the Indochina war and the uncertain peace agreements so far concluded, it is almost unthinkable that the United States would soon forego intelligence-gathering flights of one sort or another.

However, the big question now is whether the Thai bases will ever again be used for major attacks on North Vietnam—or elsewhere.

The United States has privately told the South Vietnamese government of President Nguyen Van Thieu that such air support in the future is virtually ruled out, even in the event of a large-scale and open North Vietnamese offensive. Although this was done to impress upon Thieu that South Vietnam must be prepared to do all the fighting nowadays. The United States was careful not to close the door absolutely.

The rationale for the Thai bases is based on three premises:

President Nixon has demonstrated in the past that he is willing to unilaterally order air strikes if he feels it necessary and Mr. Nixon remains the U.S. Commander in Chief.

In the event of an enormous North Vietnamese offensive, the United States would present its case to Congress, which might change its mind and remove present restrictions on northern air strikes.

In any event, U.S. air power in Thailand is a restraining influence on North Vietnam since Hanoi cannot rule out bombing raids and must plan accordingly. Furthermore, supply missions to Cambodia indicate the continued willingness of the United States to use its air power advantage in Indochina.

American officials decline to comment on further reductions in air power after the present schedule is completed by the end of the year.

By the end of the year, officials note, the U.S. Air Force in Thailand will remain a highly effective weapon. Of the 350 aircraft in the country, more than half will be combat jets.

Mr. MANSFIELD. I would hope, Mr. President, that the Armed Services Committee, as the Appropriations Committee will, will look into this matter most, most carefully.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, not to exceed beyond 10:30 a.m., with statements therein limited to 5 minutes.

THE HIGH COURT'S DECISION IN THE TAPES CASE

Mr. ROBERT C. BYRD. Mr. President, our system of government is founded upon the diverse branches of government properly fulfilling their constitutional functions. The Supreme Court's unanimous decision yesterday in the tapes case is an example of the proper functioning of our Government at its best.

The President's failure to comply with the subpena duces tecum, issued by the U.S. District Court for the District of Columbia, for the production of 64 White House tapes necessary for the Watergate conspiracy trial, squarely presented the Supreme Court with the issue of whether all Presidential conversations are immune from the legal process under a doctrine of absolute executive privilege.

The Court acted promptly, thoroughly, decisively, hearing arguments on July 8 and issuing its unanimous decision on July 24. In rejecting the President's assertion of an absolute privilege to withhold Presidential conversations from the courts, the Supreme Court upheld one of this Nation's finest legal traditions—that no man is beyond the reach of our judicial process. Indeed, a court which is supposed to be a pro-prosecution, "law and order" Court could hardly reach any other decision. The Court's well-reasoned opinion recognized that there could be times, especially in the area of military, diplomatic, and sensitive national secret areas, in which Executive privilege might prevail and material might be validly withheld from the courts. But the Court rejected the claim in the present case, saying the demands of the judicial system outweighed any need for the President to keep these conversations secret.

I am compelled to say that it is a sad commentary upon the state of public confidence in our system that we all breathed a sigh of relief last evening when the President announced through his lawyer, Mr. St. Claire, that he would fully comply with the Court's decision.

Under our system of government, there is no citizen—whatever his rank or station—who should not comply or who would have any constitutional or legal reason not to comply with a decision of the highest court of our land. No man is above the law in our land, and the public has a right to the evidence of every man under our system of government.

But the praise for the Court's role in this drama should not deter us from praising two other separate entities of our Government for their roles in this proceeding.

The Special Prosecutor continues to earn the esteem of all of us for his tenacious pursuit of justice in this case, often being confronted by obstacles that would have deterred men of lesser courage.

And, with pride of membership, I must point to the role in this case of an aggressive and unyielding senatorial committee—the Senate Judiciary Committee, without whose efforts to secure the pledges of independence for the Special Prosecutor, there would have been no decision on the merits yesterday in this landmark case in the Supreme Court. If the members of the Judiciary Committee had not pounded out the guidelines for the Special Prosecutor which became law in the Federal Register, and if those members had not extracted pledges of support for the Special Prosecutor's independence from the Acting Attorney General and the Attorney General designates, the Special Prosecutor would not have had what the Supreme Court called the "unique authority and tenure" which gave him the standing to make this a justifiable case in the Supreme Court and which allowed the Court to reach its historic decision on the merits of the case.

Mr. President, an executive branch Special Prosecutor relentlessly pursuing evidence sought to be withheld by the President of the United States; protected in his position by law hammered out through the persistence of a wary Senate Committee on the Judiciary; and a decision by the highest Court of the land reached quickly and, yet, with insight and care to preserve the separation of powers of our constitutional system, show the proper functioning of the diverse branches of our Government in which all of our citizens and history can rightly take pride.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I yield briefly to the distinguished Senator from Missouri; I do not want to keep him waiting, he has an important report.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. EAGLETON. I thank the distinguished Senator from West Virginia.

DISTRICT OF COLUMBIA CAMPAIGN FINANCE REFORM AND CONFLICT OF INTEREST ACT—CONFERENCE REPORT

Mr. EAGLETON. Mr. President, I submit a report of the committee of conference on H.R. 15074, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15074) to regulate certain political campaign finance practices in the District of Columbia, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommned to their respective Houses this report, signed by all the conferees.

The ACTING PRESIDENT pro tempore. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report, which reads as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15074) to regulate certain political campaign finance practices in the District of Columbia, 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 House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—SHORT TITLE, DEFINITIONS

SHORT TITLE

SEC. 101. This Act may be cited as the "District of Columbia Campaign Finance Reform and Conflict of Interest Act."

DEFINITIONS

SEC. 102. When used in this Act, unless otherwise provided—

(a) The term "election" means a primary, runoff, general, or special election held in the District of Columbia for the purpose of nominating an individual to be a candidate for election to office or for the purpose of electing a candidate to office, and includes a convention or caucus of a political party held for the purpose of nominating such a candidate.

(b) The term "candidate" means an individual who seeks nomination for election, or election, to office, whether or not such individual is nominated or elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, if he has (1) obtained or authorized any other person to obtain nominating petitions to qualify himself for nomination for election, or election, to office, (2) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to office, or (3) reason to know, or knows, that any other person has received contributions or made expenditures for that purpose, and has not notified that person in writing to cease receiving contributions or making expenditures for that purpose. A person who is deemed to be a candidate for the purposes of this Act shall not be deemed, solely by reason of that status, to be a candidate for the purposes of any other Federal Law.

(c) The term "office" means the office of Mayor of the District of Columbia, Chairman or member of the Council of the District of Columbia, member of the Board of Education of the District of Columbia, or an official of a political party.

(d) The term "official of a political party" means—

(1) national committeemen and national committeewomen;

(2) delegates to conventions of political parties nominating candidates for the Presidency and Vice Presidency of the United States;

(3) alternates to the officials referred to in clauses (1) and (2) above, where permitted by political party rules; and

(4) such members and officials of local committees of political parties as may be designated by the duly authorized local committees of such parties for election, by public ballot, at large or by ward in the District of Columbia.

(e) The term "political committee" means any committee (including a principal campaign committee), club, association, organization, or other group of individuals organized for the purpose of, or engaged in, promoting or opposing a political party or the nomination or election of an individual to office.

(f) The term "contribution" means—

(1) a gift, subscription (including any assessment, fee, or membership dues), loan, advance, or deposit of money or anything of value, made for the purpose of financing, directly or indirectly, the election campaign of a candidate or any operations of a political committee;

(2) a contract, promise, or agreement, whether or not legally enforceable, to make a contribution for any such purpose;

(3) a transfer of funds between political committees; or

(4) the payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to such candidate or committee without charge, or for less than reasonable value, for any such purpose or the furnishing of goods, advertising, or services to a candidate's campaign without charge, or at a rate which is less than the rate normally charged for such services.

Notwithstanding the foregoing, such term shall not be construed to include (A) services provided without compensation, by individuals volunteering a portion or all of their time on behalf of a candidate or political committee, (B) personal services provided without compensation by individuals volunteering a portion or all of their time to a candidate or political committee, (C) communications by an organization, other than a political party, solely to its members and their families on any subject, (D) communications (including advertisements) to any person on any subject by any oragnization which is organized solely as an issue-oriented organization, which communications neither endorse nor oppose any candidate for office, or (E) normal billing credit for a period not exceeding thirty days.

(g) The term "expenditure" means—

(1) a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of financing, directly or indirectly, the election campaign of a candidate or any operations of a political committee;

(2) a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure;

(3) a transfer of funds between political committees; and

(4) notwithstanding the foregoing provisions of this paragraph, such term shall not be construed to include the incidental expenses (as defined by the Board) made by or on behalf of individuals in the course of volunteering their time on behalf of a candidate or political committee.

(h) The term "person" means an individual, partnership, committee, association, corporation, labor organization, and any other organization or group of persons.

(i) The term "Director" means the Director of Campaign Finance of the District of Columbia Board of Elections and Ethics created by title III.

(j) The term "political party" means an association, committee, or organization which nominates a candidate for election to any office and qualifies under the District of Columbia Election Act (D.C. Code, sec. 1–1101 et seq.), to have the names of its nominees appear on the election ballot as the candidate of that association, committee, or organization.

(k) The term "Board" means the District of Columbia Board of Elections and Ethics established under the District of Columbia Election Act (D.C. Code, sec. 1–1101 et seq.) and redesignated by section 306.

TITLE II—FINANCIAL DISCLOSURES

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 201. (a) Every political committee shall have a chairman and a treasurer. No contribution and no expenditure shall be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of treasurer thereof and no other person has been designated and has agreed to perform the functions of treasurer. No expenditure shall be made for or on behalf of a political committee without the authorization of its chairman or treasurer, or their designated agents.

(b) Every person who receives a contribution of $10 or more for or on behalf of a political committee shall, on demand of the treasurer, and in any event within five days after receipt of such contribution, submit to the treasurer of such committee a detailed account thereof, including the amount, the name and address (including the occupation and the principal place of business, if any) of the person making such contribution, and the date on which such contribution was received. All funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of such committee.

(c) Except for accounts of expenditures made out of the petty cash fund provided for under section 201(b), the treasurer of a political committee, and each candidate, shall keep a detailed and exact account of—

(1) all contributions made to or for such political committee or candidate;

(2) the full name and mailing address (including the occupation and the principal place of business, if any) of every person making a contribution of $10 or more, and the date and amount thereof;

(3) all expenditures made by or on behalf of such committee or candidate; and

(4) the full name and mailing address (including the occupation and the principal place of business, if any) of every person to whom any expenditure is made, the date and amount thereof and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made.

(d) the treasurer or candidate shall obtain and preserve such receipted bills and records as may be required by the Board.

(e) Each political committee and candidate shall include on the face or front page of all literature and advertisements soliciting funds the following notice: "A copy of our report is filed with the Director of Campaign Finance of the District of Columbia Board of Elections and Ethics.".

PRINCIPAL CAMPAIGN COMMITTEE

SEC. 202. (a) Each candidate for office shall designate in writing one political committee as his principal campaign committee. The principal campaign committee shall receive all reports made by any other political committee accepting contributions or making expenditures for the purpose of influencing the nomination for election, or election, of the candidate who designated it as his principal campaign committee. The principal committee may require additional reports to be made to it by any such political committee and may designate the time and number of all reports. No political committee may be designated as the principal campaign committee of more than one candidate, except a principal campaign committee supporting the nomination or election of a candidate as an official of a political party may support the nomination or election of more than one such candidate, but may not support the nomination or election of a candidate for any public office.

(b) Each statement (including the statement of organization required under section 204) or report that a political committee is required to file with or furnish to the Director under the provisions of this Act shall also be furnished, if that political committee is not a principal campaign committee, to the campaign committee for the candidate on whose behalf that political committee is accepting or making, or intends to accept or make, contributions or expenditures.

(c) The treasurer of each political committee which is a principal campaign committee, and each candidate, shall receive all reports and statements filed with or furnished to it or him by other political committees, consolidate, and furnish the reports and statements to the Director, together with the reports and statements of the principal campaign committee of which he is treasurer or which was designated by him, in accordance with the provisions of this title and regulations prescribed by the Board.

DESIGNATION OF CAMPAIGN DEPOSITORY

SEC. 203. (a) Each political committee, and each candidate accepting contributions or making expenditures, shall designate, in the registration statement required under section 204 or 205, one national bank located in

the District of Columbia as the campaign depository of that political committee or candidate. Each such committee or candidate shall maintain a checking account at such depository and shall deposit any contributions received by the committee or candidate into that account. No expenditures may be made by such committee or candidate except by check drawn payable to the person to whom the expenditure is being made on that account, other than petty cash expenditures as provided in subsection (b).

(b) A political committee or candidate may maintain a petty cash fund out of which may be made expenditures not in excess of $50 to any person in connection with a single purchase or transaction. A record of petty cash receipts and disbursements shall be kept in accordance with requirements established by the Board and such statements and reports thereof shall be furnished to the Director as it may require. Payments may be made into the petty cash fund only by check drawn on the checking account maintained at the campaign depository of such political committee or candidate.

REGISTRATION OF POLITICAL COMMITTEES: STATEMENTS

SEC. 204. (a) Each political committee shall file with the Director a statement of organization within ten days after its organization. Each such committee in existence at the date of enactment of this Act shall file a statement of organization with the Director at such time as the Director may prescribe—

(b) The statement of organization shall include—

(1) the name and address of the political committee;

(2) the names, addresses, and relationships of affiliated or connected organizations;

(3) the area, scope, or jurisdiction of the political committee;

(4) the name, address, and position of the custodian of books and accounts;

(5) the name, address, and position of other principal officers, including officers and members of the finance committee, if any;

(6) the name, address, office sought, and party affiliation of (A) each candidate whom the committee is supporting, and (B) any other individual, if any, whom the committee is supporting for nomination for election or election, to any public office whatever; or, if the committee is supporting the entire ticket of any party, the name of the party;

(7) a statement whether the political committee is a continuing one;

(8) the disposition of residual funds which will be made in the event of dissolution;

(9) the name and address of the bank designated by the committee as the campaign depository, together with the title and number of each account and safety deposit box used by that committee at the depository, and the identification of each individual authorized to make withdrawals or payments out of each such account or box; and

(10) such other information as shall be required by the Director.

(c) Any change in information previously submitted in a statement of organization shall be reported to the Director within the ten-day period following the change.

(d) Any political committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year shall so notify the Director.

REGISTRATION OF CANDIDATES

SEC. 205. (a) Each individual shall, within five days of becoming a candidate, or within five days of the day on which he, or any person authorized by him (pursuant to section 401(d)) to do so, has received a contribution or made an expenditure in connection with his campaign or for the purposes of preparing to undertake his campaign, file with the Director a registration statement in such form as the Director may prescribe.

(b) In addition, candidates shall provide the Director the name and address of the campaign depository designated by that candidate, together with the title and number of each account and safety deposit box used by that candidate at the depository, and the identification of each individual authorized to make withdrawals or payments out of such account or box, and such other information as shall be required by the Director.

REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

SEC. 206. (a) The treasurer of each political committee supporting a candidate, and each candidate, required to register under this Act, shall file with the Director, and with the applicable principal campaign committee, reports of receipts and expenditures on forms to be prescribed or approved by the Director. Except for the first such report which shall be filed on the twenty-first day after the date of enactment of this Act, such reports shall be filed on the 10th day of March, June, August, October, and December in each year during which there is held an election for the office such candidate is seeking, and on the fifteenth and fifth days next preceding the date on which such election is held, and also by the 31st day of January of each year. In addition such reports shall be filed on the 31st day of July of each year in which there is no such election. Such reports shall be complete as of such date as the Director may prescribe, which shall not be more than five days before the date of filing, except that any contribution of $200 or more received after the closing date prescribed by the Director for the last report required to be filed prior to the election shall be reported within twenty-four hours after its receipt.

(b) Each report under this section shall disclose—

(1) the amount of cash on hand at the beginning of the reporting period;

(2) the full name and mailing address (including the occupation and the principal place of business, if any) of each person who has made one or more contributions to or for such committee or candidate (including the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events) within the calendar year in an aggregate amount or value in excess of $50 or more, together with the amount and date of such contributions;

(3) the total sum of dividual contributions made to or for such committee or candidate during the reporting period and not reported under paragraph (2);

(4) the name and address of each political committee or candidate from which the reporting committee or the candidate received, or to which that committee or candidate made, any transfer of funds, together with the amounts and dates of all transfers;

(5) each loan to or from any person within the calendar year in an aggregate amount or values of $50 or more, together with the full names and mailing addresses (including the occupation and the principal place of business, if any) of the lender and endorsers, if any, and the date and amount of such loans;

(6) the net amount of proceeds from (A) the sale of tickets to each dinner, luncheon, rally, and other fundraising events organized by such committee; (B) mass collections made at such events; and (C) sales by such committee of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;

(7) each contribution, rebate, refund, or other receipt of $50 or more not otherwise listed under paragraphs (2) through (6);

(8) the total sum of all receipts by or for such committee or candidate during the reporting period;

(9) the full name and mailing address (including the occupation and the principal place of business, if any) of each person to whom expenditures have been made by such committee or on behalf of such committee or candidate within the calendar year in an aggregate amount or value of $10 or more, the amount, date, and purpose of each such expenditure and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made;

(10) the total sum of expenditures made by such committee or candidate during the calendar year;

(11) the amount and nature of debts and obligations owed by or to the committee, in such form as the Director may prescribe and a continuous reporting of its debts and obligations after the election at such periods as the Director may require until such debts and obligations are extinguished; and

(12) such other information as may be required by the Director.

(c) The reports to be filed under subsection (a) shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the unchanged amount need be carried forward. If no contributions or expenditures have been accepted or expended during a calendar year, the treasurer of the political committee or candidate shall file a statement to that effect.

(d) Each treasurer of a political committee, each candidate for election to office, and each treasurer appointed by a candidate, shall file with the Director weekly reports of cash contributions on forms to be prescribed or approved by the Director.

REPORTS BY OTHER THAN POLITICAL COMMITTEES

SEC. 207. Every person (other than a political committee or candidate) who makes contributions or expenditures, other than by contribution to a political committee or candidate, in an aggregate amount of $50 or more within a calendar year shall file with the Director a statement containing the information required by section 206. Statements required by this section shall be filed on the dates on which reports by political committees are filed, but need not be cumulative.

FORMAL REQUIREMENTS RESPECTING REPORTS AND STATEMENTS

SEC. 208. (a) A report or statement required by this title to be filed by a treasurer of a political committee, a candidate, or by any other person, shall be verified by the oath or affirmation of the person filing such report or statement, taken before any officer authorized to administer oaths.

(b) A copy of a report or statement shall be preserved by the person filing it for a period to be designated by the Board in a published regulation.

(c) The Board shall, by published regulations of general applicability, prescribe the manner in which contributions and expenditures in the nature of debts and other contracts, agreements, and promises to make contributions or expenditures shall be reported. Such regulations shall provide that they be reported in separate schedules. In determining aggregate amounts of contributions and expenditures, amounts reported as provided in such regulations shall not be considered until actual payment is made.

EXEMPTION FOR CANDIDATES WHO ANTICIPATE SPENDING LESS THAN $250

SEC. 209. Except for the provisions of subsections (c) and (d) of section 201, and subsection (a) of section 205, the provisions of this title shall not apply to any candidate who anticipates spending or spends less than $250 in any one election and who has not designated a principal campaign committee.

On the fifteenth day prior to the date of the election in which such candidate is entered, and on the thirtieth day after the date of such election, such candidate shall certify to the Director that he has not spent more than $250 in such election.

IDENTIFICATION OF CAMPAIGN LITERATURE

SEC. 210. All newspaper or magazine advertising, posters, circulars, billboard, handbills, bumper stickers, sample ballots, and other printed matter with reference to or intended for the support or defeat of a candidate or group of candidates for nomination or election to any public office shall be identified by the words "paid for by" followed by the name and address of the payer or the committee or other person and its treasurer on whose behalf the material appears.

EFFECT ON LIABILITY

SEC. 211. Nothing in this title shall be construed as creating or limiting in any way the liability of any person under existing law for any financial obligation incurred by a political committee or candidate.

TITLE III—DIRECTOR OF CAMPAIGN FINANCE

ESTABLISHMENT OF THE OFFICE OF DIRECTOR

SEC. 301. (a) There is established within the District of Columbia Board of Elections and Ethics the office of Director of Campaign Finance (hereinafter in this Act referred to as the "Director"). The Commissioner of the District of Columbia shall appoint, by and with the advice and consent of the Senate, the Director, except that on and after January 2, 1975, any vacancy in the office of Director shall be filled by appointment by the Mayor, with the advice and consent of the Council. Such appointments shall be made without regard to the provisions of title 5 of the United States Code, governing appointments in the competitive service. The Director shall be entitled to receive compensation at the maximum rate as may be established from time to time for grade 16 of the General Schedule in section 5332 of title 5 of the United States Code, and shall be responsible for the administrative operations of the Board pertaining to this Act and shall perform such other duties as may be delegated or assigned to him from time to time by regulations or orders of the Board. However, the Board shall not delegate to the Director the making of regulations regarding elections.

(b) The Board may appoint a General Counsel without regard to the provisions of title 5 of the United States Code, governing appointments in the competitive service, to serve at the pleasure of the Board. The General Counsel shall be entitled to receive compensation at the same rate as the Director of the Board and shall be responsible solely to the Board. The General Counsel shall perform such duties as may be delegated or assigned to him from time to time by regulation or order of the Board.

(c) In any appropriate case where the Board upon its own motion or upon recommendation of the Director makes a finding of an apparent violation of this Act, it shall refer such case to the United States Attorney for the District of Columbia for prosecution, and shall make public the fact of such referral and the basis for such finding. In addition, the Board, through its General Counsel, shall initiate, maintain, defend, or appeal any civil action (in the name of the Board) relating to the enforcement of the provisions of this Act. The Board may, through its General Counsel, petition the courts of the District of Columbia for declaratory or injunctive relief concerning any action covered by the provisions of this Act.

POWERS OF THE DIRECTOR

SEC. 302. (a) The Director, under regulations of general applicability approved by the Board, shall have the power—

(1) to require any person to submit in writing such reports and answers to questions as the Director may prescribe relating to the administration and enforcement of this Act; and such submission shall be made within such reasonable period and under oath or otherwise as the Director may determine;

(2) to administer oaths;

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

(4) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Director and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection;

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the Superior Court of the District of Columbia; and

(6) to accept gifts and voluntary and uncompensated services. Subpenas issued under this section shall be issued by the Director upon the approval of the Board.

(b) The Superior Court of the District of Columbia may, upon petition by the Board, in case of refusal to obey a subpena or order of the Board issued under subsection (a) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

DUTIES OF THE DIRECTOR

SEC. 303. The Director shall—

(1) develop and furnish (upon request) prescribed forms for the making of the reports and statements required to be filed with him under this Act;

(2) develop a filing, coding, and cross-indexing system consonant with the purposes of this Act;

(3) make the reports and statements filed with him available for public inspection and copying, commencing as soon as practicable but not later than the end of the second day following the day during which it was received, and to permit and facilitate copying of any such report or statement by hand and by duplicating machine, as requested by any person, at reasonable cost to such person, except any information copied from such reports and statements shall not be sold or utilized by any person for the purpose of soliciting contributions or for any commercial purpose;

(4) preserve such reports and statements for a period of ten years from date of receipt;

(5) compile and maintain a current list of all statements or parts of statements on file pertaining to each candidate;

(6) prepare and publish such other reports as he may deem appropriate;

(7) assure dissemination of statistics, summaries, and reports prepared under this title;

(8) make from time to time audits and field investigations with respect to reports and statements filed under the provisions of this title, and with respect to alleged failures to file any report or statement required under the provisions of this title; and

(9) perform such other duties as the Board may require.

GENERAL ACCOUNTING OFFICE TO ASSIST BOARD AND DIRECTOR

SEC. 304. The Board and Director may, in the performance of its functions under this Act, request the assistance of the Comptroller General of the United States, including such investigations and audits as the Board and Director may determine necessary, and the Comptroller General shall provide such assistance with or without reimbursement, as the Board and Director and the Comptroller General shall agree.

NOMINATING COMMITTEE

SEC. 305. (a) Effective January 2, 1975, there is established within the Government of the District of Columbia a committee to be known as the "District of Columbia Board of Elections and Ethics Nominating Committee" (hereinafter in this Act referred to as the "Committee"). The Committee shall have the function of nominating individuals for appointment as members of the District of Columbia Board of Elections and Ethics for any and all vacancies occurring on such Board on or after the date on which a majority of the members first appointed pursuant to this section hold their first meeting as members of the Committee. Such nominations shall be made by the Committee in accordance with the provisions of this section. The Committee shall consist of five members. Within ten days following the date on which a majority of the members are first appointed pursuant to this section, such members so appointed shall hold their first meeting as members of the Committee.

(b)(1) Two members of the Committee shall be appointed by the Mayor, at least one of whom shall be a lawyer.

(2) Three members of the Committee shall be appointed by the Chairman of the Council of the District of Columbia, with the approval of the Council.

(c) Members of the Committee shall serve for terms of five years, except that of the members first appointed pursuant to subsection (b)(1), one shall serve for one year and one for five years, as designated at the time of appointment, and members appointed pursuant to subsection (b)(2), one shall serve for two years, one for three years, and one for four years, as designated at the time of appointment.

(d)(1) No individual may be appointed as a member of the Committee unless he or she—

(A) is a citizen of the United States, and

(B) is a resident of the District of Columbia and has maintained his or her domicile within the District for at least one year immediately preceding the date or his or her appointment, and

(C) is not a member of the Council of the District of Columbia or an officer or employee of the Government of the District of Columbia (including the judicial branch).

(2) Any vacancy in the membership of the Committee shall be filled in the same manner in which the original appointment was made. Any individual appointed to fill a vacancy, occurring other than upon the expiration of a term, shall serve only for the remainder of the term of such individual's predecessor.

(e) Members of the Committee shall be paid for each day spent performing their duties as members of the Committee at a rate which is equal to the daily equivalent of the rate provided by step 1 of grade 17 of the General Schedule under section 5332 of title 5, United States Code.

(f)(1) Except as otherwise provided in subsection (a) of this section, the Committee shall act only at meetings called by the Chairman or a majority of the members thereof and only after notice has been given of such meeting to all members of the Committee.

(2) The Committee shall choose annually from among its members a Chairman and such other officers as it deems necessary. The Committee may adopt such rules of procedure as may be necessary to govern the business of the Committee.

(3) Each agency of the government of the District of Columbia shall furnish to the Committee, upon request, such records, information, services, and such other assistance and facilities as may be necessary to enable the Committee to perform its function properly. Any information furnished to the Committee designated "confidential" by the person furnishing it to the Committee shall be treated by the Committee as privileged and confidential.

(g)(1) In the event of any such vacancy

in the District of Columbia Board of Elections and Ethics, the Committee shall, within thirty days after such vacancy occurs, submit a list of three persons as nominees for appointment by the Mayor to fill the vacancy. If more than one such vacancy exists at the same time, the Committee shall submit a separate list of nominees for appointment to fill each such vacancy, and no individual's name shall appear on more than one such list. In filling such vacancy, the Mayor may appoint more than one individual from any list currently before the Mayor. In any case in which, after the expiration of the thirty-day period following the date on which a majority of the members of the Committee first meet as provided in subsection (a), a vacancy is scheduled to occur, by reason of the expiration of a term of office, the Committee's list of nominees for appointment to fill that vacancy shall be submitted to the Mayor not less than thirty days prior to the expiration of that term.

(2) If the Mayor fails to submit for Council approval the name of one of the individuals on a list submitted to the Mayor under this section within thirty days after receiving such list, the Committee shall appoint, with the approval of the Council, an individual named on the list to fill the vacancy for which such list of nominees was prepared.

(3) Any individual whose name is submitted by the Committee as a nominee for the appointment to the District of Columbia Board of Elections and Ethics may request that the nomination of such individual be withdrawn. If any such individual requests that his or her nomination be withdrawn, dies, or becomes disqualified to serve as a member of the Board, the Committee shall promptly nominate an individual to replace the individual originally nominated on the list submitted to the Mayor.

(h) Members of the Committee shall be appointed as soon as practicable, but in no event later than June 30, 1975.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS

SEC. 306. (a) On and after the date of the enactment of this Act, the Board of Elections of the District of Columbia established under the District of Columbia Election Act (D.C. Code, sec. 1–1101 et seq.), shall be known as the "District of Columbia Board of Elections and Ethics" and shall have the powers, duties, and functions as provided in such Act, in any other law in effect on the date immediately preceding the date of the enactment of this Act, and in this Act. Any reference in any law or regulation to the Board of Elections for the District of Columbia or the District of Columbia Board of Elections shall, on and after the date of the enactment of this Act, be held and considered to refer to the District of Columbia Board of Elections and Ethics.

(b) (1) Any person who violates any provision of this Act or of the District of Columbia Election Act may be assessed a civil penalty by the District of Columbia Board of Elections and Ethics under paragraph (2) of this subsection of not more than $50 for each such violation. Each occurrence of a violation of this Act and each day of noncompliance with a disclosure requirement of this Act or an order of the Board shall constitute a separate offense.

(2) A civil penalty shall be assessed by the Board by order only after the person charged with a violation has been given an opportunity for a hearing, and the Board has determined, by decision incorporating its findings of facts therein, that a violation did occur, and the amount of the penalty. Any hearing under this section shall be of record and shall be held in accordance with chapter 5 of title 5, United States Code.

(3) If the person against whom a civil penalty is assessed fails to pay the penalty, the Board shall file a petition for enforcement of its order assessing the penalty in the Superior Court of the District of Columbia. The petition shall designate the person against whom the order is sought to be enforced as the respondent. A copy of the petition shall be forthwith sent by registered or certified mail to the respondent and his attorney of record, and if the respondent is a political committee, to the Chairman thereof, and thereupon the Board shall certify and file in such court the record upon which such order sought to be enforced was issued. The court shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order and the decision of the Board or it may remand the proceedings to the Board for such further action as it may direct. The court may determine de novo all issues of law but the Board's fundings of fact, if supported by substantial evidence, shall be conclusive.

(c) Upon application made by any individual holding public office, any candidate, or any political committee, the Board, through its General Counsel, shall provide within a reasonable period of time an advisory opinion, with respect to any specific transaction or activity inquired of, as to whether such transaction or activity would constitute a violation of any provision of this Act or of any provision of the District of Columbia Election Act over which the Board has primary jurisdiction.

TITLE IV—FINANCE LIMITATIONS

GENERAL LIMITATIONS

SEC. 401. (a) No individual shall make any contribution which, and no person shall receive any contribution from any individual which when aggregated with all other contributions received from that individual, relating to a campaign for nomination as a candidate or election to public office, including both the primary and general or special elections, exceeds—

(1) in the case of a contribution in support of a candidate for Mayor, $1,000:

(2) in the case of a contribution in support of a candidate for Chairman of the Council, $750:

(3) in the case of a contribution in support of a candidate for member of the Council elected at large, $500:

(4) in the case of a contribution in support of a candidate for member of the Board of Education elected at large or for member of the Council elected from a ward, $200;

(5) in the case of a contribution in support of a candidate for member of the Board of Education elected from a ward or for official of a political party, $100, and in case of a runoff election, an additional $100; and

(6) in the case of a contribution in support of a candidate for a member of an Advisory Neighborhood Council, $25.

(b) No person (other than an individual with respect to whom subsection (a) applies) shall make any contribution which, and no person shall receive any contribution from any person (other than such an individual) which when aggregated with all other contributions received from that person, relating to a campaign for nomination as a candidate or election to public office, including both the primary and general or special elections, exceeds—

(1) in the case of a contribution in support of a candidate for Mayor, $2,000;

(2) in the case of a contribution in support of a candidate for Chairman of the Council, $1,500;

(3) in the case of a contribution in support of a candidate for member of the Council elected at large, $1,000;

(4) in the case of a contribution in support of a candidate for member of the Board of Education elected at large or for member of the Council elected from a ward $400, and in the case of a runoff election, an additional $400;

(5) in the case of a contribution in support of a candidate for member of the Board of Education elected from a ward or for official of a political party, $200, and in the case of a runoff election, an additional $200; and

(6) in the case of a contribution in support of a candidate for a member of an Advisory Neighborhood Council, $25.

For the purposes of this subsection, the term "person" shall include a candidate making contributions relating to his candidacy for nomination for election, or election, to office. Notwithstanding the preceding provisions of this subsection, a candidate for member of the Council elected from a ward may contribute $1,000 to his own campaign. The provisions of this subsection to the extent that such provisions are applicable to corporations and unions shall, to that extent, expire as of July 1, 1975, unless the Council of the District of Columbia on or before such date enacts legislation repealing or modifying such provisions or extending such provisions as to corporations and unions on and after that date. In the event that the Council fails to so repeal, modify, or extend such provisions as to corporations and labor unions, the Council shall report its reasons therefor to the Committees on the District of Columbia of the Senate and the House of Representatives prior to August 1, 1975.

(c) No individual shall make any contribution in any one election which when aggregated with all other contributions made by that individual in that election exceeds $2,000.

(d) (1) Any expenditure made by any person advocating the election or defeat of any candidate for office which is not made at the request or suggestion of the candidate, any agent of the candidate, or any political committee authorized by the candidate to make expenditures or to receive contributions for the candidate is not considered a contribution to or an expenditure by or on behalf of the candidate for the purposes of the limitations specified in this Act.

(2) No person may make any unauthorized expenditure advocating the election or defeat of a clearly identified candidate during a calendar year which, when added to all other authorized expenditures made by that person during the year advocating the election or defeat of that candidate, exceeds $1,000.

(3) For purposes of paragraph (2)—

(A) "clearly identified" means—

(i) the candidate's name appears,

(ii) a photograph or drawing of the candidate appears, or

(iii) the identity of the candidate is apparent by unambiquous reference,

(B) "person" does not include the central committee of a political party, and

(C) "expenditure" does not include any payment made or incurred by a corporation or labor organization which, under the provisions of section 610 of title 18 of the United States Code would not constitute an expenditure by that corporation or labor organization.

(4) Every candidate shall file a statement with the Board, in such manner and form and at such times as the Board may prescribe, authorizing any person or any political committee organized primarily to support the candidacy of such candidate to either directly or indirectly, receive contributions, or make expenditures in behalf of, such candidate. No person and no committee organized primarily to support a single candidate may, either directly or indirectly, receive contributions or make expenditures in behalf of such candidate without the written authorization of such candidate as required by this paragraph.

(e) In no case shall any person receive or

make any contribution in legal tender in an amount of $50 or more.

(f) No person shall make a contribution in the name of another person, and no person shall knowingly accept a contribution made by one person in the name of another person.

(g) For purposes of the limitations contained in this section all contributions made by any person directly or indirectly to or for the benefit of a particular candidate, including contributions which are in any way earmarked, encumbered, or otherwise directed through an intermediary or conduit to that candidate, shall be treated as contributions from that person to that candidate.

(h)(1) No candidate or member of the immediate family of a candidate may make a loan or advance from his personal funds for use in connection with a campaign of that candidate for nomination for election, or for election, to public office unless that loan or advance is evidenced by a written instrument fully disclosing the terms, conditions, and parts to the loan or advance. The amount of any such loan or advance shall be included in computing and applying the limitations contained in this section only to extent of the balance of the loan or advance which is unpaid at the time of determination.

(2) For purposes of this subection, the term "immediate family" means the candidate's spouse and any parent, brother, or sister, or child of the candidate, and the spouse of any such parent, brother, sister, or child.

LIMITATION OF EXPENDITURES

SEC. 402. (a)(1) No principal campaign committee shall expand any funds which when aggregated with funds expended by it, all other committees required to report to it, and by a candidate supported by such committee shall exceed (1) in the case of a candidate for Mayor, $200,000 in the aggregate for any primary and general election in connection therewith, but in no event in excess of $120,000 for one of such elections and $80,000 for the other of such elections; (2) in the case of a candidate for Chairman of the Council, $150,000 in the aggregate for any primary and general election in connection therewith, but in no event in excess of $90,000 for one of such elections and $60,000 for the other of such elections; (3) in the case of a candidate for member of the Council elected at large, $100,000 in the aggregate for any primary and general election in connection therewith, but in no event in excess of $60,000 for one of such elections and $40,000 for the other of such elections; (4) in the case of a candidate for member of the Board of Education elected at large or member of the Council elected from a ward, $20,000 in the aggregate for any primary and general election in connection therewith, but in no event in excess of $12,000 for one of such elections and $8,000 for the other of such elections; (5) in the case of a candidate for member of the Board of Education elected from a ward, or in support of any candidate for office of a political party, $10,000 in the aggregate for any primary and general election in connection therewith, but in no event in excess of $6,000 for one of such elections and $4,000 for the other of such elections; and (6) in the case of a candidate for member of an Advisory Neighborhood Council, $500.

(2) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Board and the Board shall publish in the District of Columbia Register the per centum difference between the price index for the twelve months preceding the beginning of such calendar year and the price index for 1974. Each amount determined under paragraph (1) shall be changed by such per centum difference. Each amounts so changed shall be the amount in effect for such calendar year.

(b) No political committee or candidate shall knowingly expend any funds at a time when the principal campaign committee to which it shall report, or which has been designated by him, is precluded by subsection (a) from expending funds or which would cause such principal committee to be precluded from further expenditures. Any principal campaign committee of a candidate having reasonable knowledge to believe that further expenditures by a political committee registered in support of such candidate, or by the candidate it supports, will exceed the expenditure limitations specified in subsection (a) shall immediately notify, in writing, such political committee or candidate of that fact.

(c) Any expenditure made in connection with a campaign in a calendar year other than the calendar year in which the election is held to which that campaign relates is, for the purposes of this section, considered to be made during the calendar year in which that election is held.

TITLE V—LOBBYING

DEFINITIONS

SEC. 501. When used in this title—

(a) The term "contribution" includes a gift, subscription, loan, advance, or deposit of money or anything of value and includes a contract, promise, or agreement, whether or not legally enforceable, to make a contribution.

(b) The term "expenditure" includes a payment, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure.

(c) The term "legislation" means bills, resolutions, amendments, nominations, rules, and other matters pending or proposed in the Council of the District of Columbia, and includes any other matter which may be the subject of action by the Council of the District of Columbia.

DETAILED ACCOUNTS OF CONTRIBUTIONS: RETENTION OF RECEIPTED BILLS OF EXPENDITURES

SEC. 502. (a) It shall be the duty of every person who shall in any manner solicit or receive a contribution to any organization or fund for the purposes hereinafter designated to keep a detailed and exact account of—

(1) all contributions of any amount or of any value whatsoever;

(2) the name and address of every person making any such contribution of $200 or more and the date thereof;

(3) all expenditures made by or on behalf of such organization or fund; and

(4) the name and address of every person to whom any such expenditure is made and the date thereof.

(b) It shall be the duty of such person to obtain and keep a receipted bill, stating the particulars, for every expenditure of such funds exceeding $10 in amount, and to preserve all receipted bills and accounts required to be kept by this section for a period of at least two years from the date of the filing of the statement containing such items.

RECEIPTS FOR CONTRIBUTORS

SEC. 503. Every individual who receives a contribution of $200 or more for any of the purposes hereinafter designated shall within five days after receipt thereof render to the person or organization for which such contribution was received a detailed account thereof, including the name and address of the person making such contribution and the date on which received.

STATEMENTS OF ACCOUNTS FILED WITH DIRECTOR

SEC. 504. (a) Every person receiving any contributions or expending any money for the purposes designated in subparagraph (a) or (b) of section 506 of this title shall file with the Director between the first and tenth day of each calendar quarter, a statement containing complete as of the day next preceding the date of filing—

(1) the name and address of each person who has made a contribution of $200 or more not mentioned in the preceding report; except that the first report filed pursuant to this title shall contain the name and address of each person who has made any contribution of $200 or more to such person since January 2, 1975;

(2) the total sum of the contributions made to or for such person during the calendar year and not stated under paragraph (1) of this subsection;

(3) the total sum of all contributions made to or for such person during the calendar year;

(4) the name and address of each person to whom an expenditure in one or more items of the aggregate amount or value, within the calendar year, of $10 or more has been made by or on behalf of such person, and the amount, date, and purpose of such expenditure;

(5) the total sum of all expenditures made by or on behalf of such person during the calendar year and not stated under paragraph (4) of this subsection;

(6) the total sum of expenditures made by or on behalf of such person during the calendar year.

(b) The statements required to be filed by subsection (a) of this section shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous statement only the amount need be carried forward.

PRESERVATION OF STATEMENTS

SEC. 505. A statement required by this title to be filed with the Director—

(a) shall be deemed properly filed when deposited in an established post office within the prescribed time, duly stamped, registered, and directed to the Director, Washington, District of Columbia, but in the event it is not received, a duplicate of such statement shall be promptly filed upon notice by the Director of its nonreceipt;

(b) shall be preserved by the Director for a period of two years from the date of filing, shall constitute part of the public records of his office, and shall be open to public inspection.

PERSONS TO WHOM TITLE IS APPLICABLE

SEC. 506. The provisions of this title shall apply to any person (except a political committee) who, by himself, or through any agent or employee or other persons in any manner whatsoever, directly or indirectly, solicits, collects, or receives money or any other thing of value to be used principally to aid, or the principal purpose of which person is to aid, in the accomplishment of any of the following purposes:

(a) The passage or defeat of any legislation by the Council of the District of Columbia.

(b) To influence, directly or indirectly, the passage or defeat of any legislation by the Council of the District of Columbia.

REGISTRATION OF LOBBYISTS WITH DIRECTOR; COMPILATION OF INFORMATION

SEC. 507. (a) Any person who shall engage himself for pay or for any consideration for the purpose of attempting to influence the passage or defeat of any legislation by the Council of the District of Columbia shall, before doing anything in furtherance of such object, register with the Director and shall

give to him in writing and under oath, his name and business address, the name and address of the person by whom he is employed, and in whose interest he appears or works, the duration of such employment, how much he is paid and is to receive, by whom he is paid or is to be paid, how much he is to be paid for expenses, and what expenses are to be included. Each such person so registering shall, between the first and tenth day of each calendar quarter, so long as his activity continues, file with the Director a detailed report under oath of all money received and extended by him during the preceding calendar quarter in carrying on his work; to whom paid; for what purposes; and the names of any papers, periodicals, magazines, or other publications in which he has caused to be published any articles or editorials; and the proposed legislation he is employed to support or oppose. The provisions of this section shall not apply to any person who merely appears before the Council of the District of Columbia, or a committee thereof, in support of or opposition to legislation; nor to any public official acting in his official capacity; nor in the case of any newspaper or other regularly published periodical (including any individual who owns, publishes, or is employed by any such newspaper or periodical) which in the ordinary course of business publishes news items, editorials, or other comments, or paid advertisements, which directly or indirectly urge the passage or defeat of legislation, if such newspaper, periodical, or individual, engages in no further or other activities in connection with the passage or defeat of such legislation, other than to appear before a committee of the Council of the District of Columbia in support of or in opposition to such legislation.

(b) All information required to be filed under the provisions of this section with the Director shall be compiled by the Director as soon as practicable after the close of the calendar quarter with respect to which such information is filed and shall be printed in the District of Columbia Register.

REPORTS AND STATEMENTS UNDER OATH

SEC. 508. All reports and statements required under this title shall be made under oath, before an officer authorized by law to administer oaths.

PENALTIES AND PROHIBITIONS

SEC. 509. (a) Any person who violates any of the provisions of this title, shall be guilty of a misdemeanor, and shall be punished by a fine of not more than $5,000 or imprisonment for not more than twelve months, or both.

(b) In addition to the penalties provided for in subsection (a) of this section, any person convicted of the misdemeanor specified therein is prohibited, for a period of three years from the date of such conviction, from attempting to influence, directly or indirectly, the passage or defeat of any proposed legislation or from appearing before a committee of the Council of the District of Columbia in support of or opposition to proposed legislation; and any person who violates any provision of this subsection shall be guilty of a felony, and shall be punished by a fine of not more than $10,000, or imprisonment for not more than five years, or both.

EXEMPTION

SEC. 510. The provisions of this title shall not apply to—

(1) any Member of the United States House of Representatives or any Senator;

(2) any member of a staff of any person specified in paragraph (1) while operating within the scope of his employment;

(3) any member of an Advisory Neighborhood Council;

(4) any person who receives less than $500 during the calendar year as compensation for performing services relating to the influencing of legislation; or

(5) any entity specified in section 1(d) of title II of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code, sec. 47–1554(d)), no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation.

TITLE VI—CONFLICT OF INTEREST AND DISCLOSURE

CONFLICT OF INTEREST

SEC. 601. (a) The Congress declares that elective and public office is a public trust, and any effort to realize personal gain through official conduct is a violation of that trust.

(b) No public official shall use his official position or office to obtain financial gain for himself, any member of his household, or any business with which he or a member of his household is associated, other than that compensation provided by law for said public official.

(c) No person shall offer or give to a public official or a member of a public official's household, and no public official shall solicit or receive anything of value, including a gift, favor, service, loan gratuity, discount, hospitality, political contribution, or promise of future employment, based on any understanding that such public official's official actions or judgment or vote would be influenced thereby, or where it could reasonably be inferred that the thing of value would influence the public official in the discharge of his duties, or as a reward, or which would cause the total value of such things received from the same person not a member of such public official's household to exceed $100 during any single calendar year.

(d) No person shall offer or pay to a public official, and no public official shall solicit or receive any money, in addition to that lawfully received by the public official in his official capacity, for advice or assistance given in the course of the public official's employment or relating to his employment.

(e) No public official shall use or disclose confidential information given in the course of or by reason of his official position or activities in any way that could result in financial gain for himself or for any other reason.

(f) No member or employee of the Council of the District of Columbia or Board of Education of the District of Columbia shall accept assignment to serve on a committee the jurisdiction of which consists of matters (other than of a de minimis nature) in which he or a member of his family or a business with which he is associated, has financial interest.

(g) Any public official who, in the discharge of his official duties, would be required to take an action or make a decision that would affect directly or indirectly his financial interests or those of a member of his household, or a business with which he is associated, or must take an official action on a matter as to which he has a conflict situation created by a personal, family, or client interest, shall—

(1) prepare a written statement describing the matter requiring action or decision, and the nature of his potential conflict of interest with respect to such action or decision;

(2) cause copies of such statement to be delivered to the District of Columbia Board of Elections and Ethics (referred to in this title as the "Board"), and to his immediate superior, if any;

(3) if he is a member of the Council of the District of Columbia or member of the Board of Education of the District of Columbia, or employee of either, deliver a copy of such statement to the Chairman thereof, who shall cause such statement to be printed in the record of proceedings, and, upon request of said member or employee, shall excuse the member from votes, deliberations, and other action on the matter on which a potential conflict exists;

(4) if he is not a member of the Council of the District of Columbia, his superior, if any, shall assign the matter to another employee who does not have a potential conflict of interest, or, if he has no immediate superior, he shall take such steps as the Board prescribes through rules and regulations to remove himself from influence over actions and decisions on the matter on which potential conflict exists; and

(5) during a period when a charge of conflict of interest is under investigation by the Board, if he is not a member of the Council of the District of Columbia or a member of the Board of Education, his superior, if any, shall have the arbitrary power to assign the matter to another employee who does not have a potential conflict of interest, or if he has no immediate superior, he shall take such steps as the Board shall prescribe through rules and regulations to remove himself from influence over actions and decisions on the matter on which there is a conflict of interest.

(h) Neither the Mayor nor any member of the Council of the District of Columbia may represent another person before any regulatory agency or court of the District of Columbia while serving in such office. The preceding sentence does not apply to an appearance by such an official before any such agency or court in his official capacity.

(i) As used in this section, the term—

(1) "public official" means the office of the Mayor of the District of Columbia, Chairman of the Council of the District of Columbia, or member of the Council of the District of Columbia, or Chairman or member of the Board of Education of the District of Columbia, or each officer or employee of the District of Columbia government who performs duties of the type generally performed by an individual occupying grade GS–15 of the General Schedule or any higher grade or position (as determined by the Board regardless of the rate of compensation of such individual);

(2) "business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock, trust, and any legal entity through which business is conducted for profit;

(3) "business with which he is associated" means any business of which the person or member of his household is a director, officer, owner, employee, or holder of stock worth $1,000 or more at fair market value, and any business which is a client of that person;

(4) "household" means the public official and his immediate family; and

(5) "immediate family" means the public official's spouse and any parent, brother, or sister, or child of the public official, and the spouse of any such parent, brother, sister, or child.

DISCLOSURE OF FINANCIAL INTEREST

SEC. 602. Any candidate for nomination for election, or election, to public office who at the time he becomes a candidate, does not occupy any such office, shall file within one month after he becomes a candidate for such office, and the Mayor, and the Chairman and each member of the Council of the District of Columbia holding office under the District of Columbia Self-Government and Government Reorganization Act, and the Chairman and each member of the Board of Education, shall file annually, with the Board a report containing a full and complete statement of—

(1) the amount and source of each item of

income, each item of reinbursement for any expenditure, and each gift or aggregate of gifts from one source (other than gifts received by him or by him and his spouse jointly during the preceding calendar year) which exceeds $100 in amount or value, including any fee or other honorarium received by him or in connection with the preparation or delivery of any speech or address, attendance at any convention or other assembly of individuals, or the preparation of any article or other composition for publication, and the monetary value of subsistence, entertainment, travel, and other facilities received by him in kind;

(2) the identity of each asset held by him, or by him and his spouse jointly, which has a value in excess of $1,000, and the identity and amount of each liability owned by him, or by him and his spouse jointly, which is in excess of $1,000 as of the close of the preceding calendar year;

(3) any transactions in securities of any business entity by him, or by him and his spouse jointly, or by any person acting on his behalf or pursuant to his direction during the preceding calendar year if the aggregate amount involved in transactions in the securities of such business entity exceeds $5,000 during such year;

(4) all transactions in commodities by him, or by him and his spouse jointly, or by any person acting on his behalf, or pursuant to his direction, during the preceding calendar year if the aggregate amount involved in such transactions exceeds $5,000;

(5) any purchase or sale, other than the purchase or sale of his personal residence, of real property or any interest therein by him, or by him and his spouse jointly, or by any person acting on his behalf or pursuant to his direction, during the preceding calendar year if the value of property involved in such purchase or sale exceeds $5,000; and

(6) the amount of each tax paid by the individual, or by the individual and the individual's spouse filing jointly, for the preceding calendar year, except in the case of candidates filing reports during calendar year 1974, who shall file reports for the preceding three calendar years.

(b) Any candidate for nomination for, or election to, office who at the time he becomes a candidate, does not occupy any such office, shall file within one month after he becomes a candidate for such office, and the Chairman and each member of the Council and the Mayor holidng office under the District of Columbia Self-Government and Governmental Reorganization Act, and the Chairman and each member of the Board of Education, and each officer and employee of the District of Columbia government who performs duties of the type generally performed by an individual occupying grade GS–15 of the General Schedule under section 5332 of title 5, United States Code, or any higher grade or position (as determined by the Board regardless of the rate of compensation of such individual), shall file with the Board in a sealed envelope marked "Confidential Personal Financial Disclosure of (name)", before the fifteenth day of May in each year, the following reports of his personal financial interests:

(1) a copy of the returns of taxes, declarations, statements, or other documents which he, or he and his spouse jointly, made for the preceding year in compliance with the income tax provisions of the Internal Revenue Code of 1954;

(2) the name and address of each business or professional corporation, firm, or enterprise in which he was an officer, director, partner, proprietor, or employee who received compensation during the preceding year and the amount of such compensation;

(3) the identity of each trust or other fiduciary relation in which he held a beneficial interest having a value of $10,000 or more, and the identity, if known, of each interest of the other fiduciary relation in real or personal property in which the candidate, officer, or employee held a beneficial interest having a value of $10,000 or more, at any time during the preceding year. If he cannot obtain the identity of the fiduciary interests, the candidate, officer, or employee shall request the fiduciary to report that information to the Board in the same manner that reports are filed under this rule.

(c) Except as otherwise provided by this section, all papers filed under this section shall be kept by the Board in the custody of the Director for not less than seven years, and while so kept shall remain sealed. Upon receipt of a request by any member of the Board adopted by a recorded majority vote of the full Board requesting the examination and audit of any of the reports filed by any individual under section (b) of this title, the Director shall transmit to the Board the envelopes containing such reports. Within a reasonable time after such recorded vote has been taken, the individual concerned shall be informed of the vote to examine and audit, and shall be advised of the nature and scope of such examination. When any sealed envelope containing any such report is received by the Director, such envelope may be opened and the contents thereof may be examined only by members of the Board in executive session. If, upon such examination, the Board determines that further consideration by the Board is warranted and within the jurisdiction of the Board, it may make the contents of any such envelope available for any use by any member of the Board, or the Director or General Counsel of the Board which is required for the discharge of his official duties. The Board may receive the papers as evidence, after giving to the individual concerned due notice and opportunity for hearing in a closed session. The Board shall publicly disclose not later than the first day of June each year the names of the candidates, officers, and employees who have filed a report. Any paper which has been filed with the Board for longer than seven years, in accordance with the provisions of this section, shall be returned to the individual concerned or his legal representative. In the event of the death or termination of the service of the Mayor or Chairman or member of the Council of the District of Columbia or Chairman or member of the Board of Education, or officer or employee of the District of Columbia, such papers shall be returned unopened to such individual, or to the surviving spouse or legal representative of such individual within one year of such date or termination of service.

(d) Reports required by this section (other than reports so required by candidates) shall be filed not later than sixty days following the enactment of this Act, and not later than May 15 of each succeeding year. In the case of any person who ceases, prior to such date in any year, to occupy the office or position the occupancy of which imposes upon him the reporting requirement contained in subsection (a) shall file such report on the last day he occupies such office or position, or on such later date, not more than three months after such last day, as the Board may prescribe.

(e) Reports required by this section shall be in such form and detail as the Board may prescribe. The Board may provide for the grouping of items of income, sources of income, assets, liabilities, dealings in securities or commodities, and purchases and sales of real property, when separate itemization is not feasible or is not necessary for an accurate disclosure of the income, net worth, dealing in securities annd commodities or purchases, and sales of rental property of any individual.

(f) All public reports filed under this section shall be maintained by the Board as public records which, under such reasonable regulations as it shall prescribe, shall be available for inspection by members of the public.

(g) For the purposes of any report required by this section, any individual shall be considered to have been Mayor, Chairman, or member of the Council of the District of Columbia, or Chairman or member of the Board of Education, or officer or employee of the District of Columbia during any calendar year if such individual served in any such position for more than six months during such calendar year.

(h) For purposes of this section, the term—

(1) "income" means gross income as defined in section 61 of the Internal Revenue Code of 1954;

(2) "security" means security as defined in section 2 of the Securities Act of 1933, as amended (15 U.S.C. 77b);

(3) "commodity" means commodity as defined in section 2 of the Commodities Exchange Act, as amended (7 U.S.C. 2);

(4) "transactions in securities or commodities" means any acquisition, holding, withholding, use, transfer, or other disposition involving any security or commodity;

(5) "immediate family" means the child, parent, grandparent, brother, or sister of an individual, and the spouse of such person; and

(6) "tax" means the taxes imposed under chapter 1 of the Internal Revenue Code of 1954, under the District of Columbia Revenue Act of 1947, and under the District of Columbia Public Works Act of 1954 and any other provision of law relating to the taxation of property within the District of Columbia.

TITLE VII—PENALTIES AND ENFORCEMENT, TAX CREDITS, USE OF SURPLUS CAMPAIGN FUNDS, VOTERS' INFORMATION PAMPHLETS, STUDY OF 1974 ELECTION AND REPORT BY COUNCIL, EFFECTIVE DATES, AMENDMENTS TO DISTRICT OF COLUMBIA ELECTION ACT, AND AUTHORIZATION

PENALTIES AND ENFORCEMENT

SEC. 701. (a) Except as provided in subsection (b), any person or political committee who violates any of the provisions of this Act shall be fined not more than $5,000, or shall be imprisoned for not longer than six months, or both.

(b) Any person who knowingly files any false or misleading statement, report, voucher, or other paper, or makes any false or misleading statement to the Board, shall be fined not more than $10,000, or shall be imprisoned for not longer than five years, or both.

(c) The penalties provided in this section shall not apply to any person or political committee who, before the date of enactment of this Act during calendar year 1974, makes political contributions or receives political contributions or makes any political campaign expenditures, in excess of any limitation placed on such contributions or expenditures by this Act, except such person or political committee shall not make any further such contributions or expenditures during the remainder of calendar year 1974.

(d) Prosecutions of violations of this Act shall be brought by the United States Attorney for the District of Columbia in the name of the United States.

TAX CREDIT FOR CAMPAIGN CONTRIBUTIONS

SEC. 702. (a) Title VI of article I of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code, secs. 47–1567—47–1567e) is amended by adding at the end of that title the following:

"SEC. 7. (a) *Credit for Campaign Contributions.*—For the purpose of encouraging residents of the District to participate in the election process in the District, there shall be allowed to an individual a credit against the tax (if any) imposed by this article in

an amount equal to 50 per centum of any campaign contribution made to any candidate for election to any office referred to in the first section of the District of Columbia Election Act, but in no event shall such credit exceed the amount of $12.50, or $25 in the case of married persons filing a joint return.

"(b)(1) A husband and wife filing separate returns for a taxable year for which a joint return could have been made by them may claim between them only the total credit (or refund) to which they would have been entitled under this section had a joint return been filed.

"(2) No individual for whom a personal exemption was allowed on another individual's return shall be entitled to a credit (or refund) under this section.".

"Sec. 7. Credit for campaign contributions.".

USE OF SURPLUS CAMPAIGN FUNDS

SEC. 703. Within the limitations specified in this Act, any surplus, residual, or unexpended campaign funds received by or on behalf of an individual who seeks nomination for election, or election to office shall be contributed to a political party for political purposes, used to retire the proper debts of his political committee which received such funds, or returned to the donors as follows:

(1) in the case of an individual defeated in an election, within six months following such election;

(2) in the case of an individual elected to office, within six months following such election; and

(3) in the case of an individual ceasing to be a candidate, within six months thereafter.

A STUDY OF 1974 ELECTION AND REPORT BY COUNCIL

SEC. 704. (a) The Council of the District of Columbia shall, during calendar year 1975, conduct public hearings and other appropriate investigations on (1) the operation and effect of the District of Columbia Campaign Finance Reform Act and the District of Columbia Election Act on the elections held in the District of Columbia during 1974; and (2) the necessity and desirability of modifying either or both of those Acts so as to improve electoral machinery and to insure open, fair, and effective election campaigns in the District of Columbia.

(b) Upon the conclusion of its hearings and investigations the Council shall issue a public report on its findings and recommendations. Nothing in this section shall be construed as limiting the legislative authority over elections in the District of Columbia vested in the Council by the District of Columbia Self-Government and Governmental Reorganization Act.

EFFECTIVE DATES

SEC. 705. (a) Titles II and IV of this Act shall take effect on the date of enactment of this Act, except the first report or statement required to be filed by any individual or political committee under the provisions of such titles shall include that information required under section 13(e) of the District of Columbia Election Act (D.C. Code, sec. 1-1113(e)) with respect to contributions and expenditures made before the date of enactment of this Act, but after January 1, 1974.

(b) Titles I, III, VI and VII of this Act shall take effect on the date of enactment of this Act.

(c) Title V of this Act shall take effect January 2, 1975.

AMENDMENTS TO DISTRICT OF COLUMBIA ELECTION ACT

SEC. 706. (a) Section 13 of the District of Columbia Election Act (D.C. Code, sec. 1-1113) is amendedd to read as follows:

"AUTHORIZATION

SEC. 13. There are hereby authorized to be appropriated, out of any money in the Treasury to the credit of the District of Columbia not otherwise appropriated, such sums as are necessary to carry out the purposes of this Act.".

(b) The first sentence of subsection (b) of section 4 of such Act (D.C. Code, sec. 1-1104) is amended to read as follows:

"(b) Each member of the Board shall be paid compensation at the rate of $100 for each eight hour period with a limit of $12,500 per annum, while performing duties under this Act, except during 1974 such compensation shall be paid without regard to such annual limitation.".

(c) The amendment made by subsection (a) shall not affect the liability of any person arising out of any violation of section 13 of the District of Columbia Election Act committed before the date of enactment of this title, and any action commenced with respect to such a violation shall not abate.

AUTHORITY OF COUNCIL

SEC. 707. Notwithstanding any other provision of law, or any rule of law, nothing in this Act shall be construed as limiting the authority, after January 2, 1975, pursuant to the District of Columbia Self-Government and Governmental Reorganization Act with respect to any matter covered by this Act.

AUTHORIZATION OF APPROPRIATION

SEC. 708. Amounts authorized under section 722 of the District of Columbia Self-Government and Governmental Reorganization Act may be used to carry out the purposes of this Act.

And the Senate agrees to the same.

Mr. GRIFFIN. Will the Senator from Missouri yield?

Mr. EAGLETON. I am happy to yield to the Senator from Michigan.

Mr. GRIFFIN. Mr. President, I want to make it clear in the RECORD, although the distinguished Senator from Maryland (Mr. MATHIAS), who is the ranking member on this side on that committee, is unable to be present at this time, it is my understanding, and I will ask the distinguished chairman of the committee if it is not the case, that he and other Republican members on the conference have signed the conference report unanimously in terms of the conferees subscribing to this conference report?

Mr. EAGLETON. The Senator from Michigan is eminently correct and Senator MATHIAS did participate fully in the conference of yesterday and did sign the report and supports this measure.

I move the adoption of the conference report on H.R. 15074.

The conference report was agreed to.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, at this time I will seek recognition and yield my 5 minutes to the distinguished assistant majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished majority leader.

THE COURT DECISION ON FORCED BUSING

Mr. ROBERT C. BYRD. Mr. President, a little earlier I complimented the Supreme Court of the United States on its unanimous 8-to-0 decision yesterday in the tapes case. Having heard the report earlier concerning the High Court's decision in the Detroit busing case, I wish also to compliment the Court on that momentous and historic decision, and again may I say that I cannot see how the Supreme Court could have held any other way.

The Supreme Court's reversal today of the Detroit school case will have a significant effect in settling a problem which has deeply concerned this country in recent years. The court-ordered busing of schoolchildren to schools distant from their homes has aroused a deep and bitter hostility in great numbers of our citizens, both black and white.

The decision stresses that the busing across school district lines would be acceptable if those school district lines were established with the purpose of fostering racial segregation.

The Court today moves us away from the fears of many people that large metropolitan areas would be joined together into one huge, court-joined school district solely for the purpose of achieving racial balance in the schools within that area. There is no question that State-enforced segregation in our schools is unconstitutional and must be eliminated wherever it be found. But it would have been equally wrong to have courts order children bused out of school districts to other districts merely to achieve an arbitrary racial balance.

I recognize this is a difficult field where there are no easy answers and few happy solutions, but I believe the Supreme Court's decision in Milliken against Bradley will ease the fears of many of our citizens, without ever losing sight of the necessity and legality of court action where constitutional rights are threatened.

GIVE EDUCATION AN EQUAL CHANCE

Mr. ROBERT C. BYRD. Mr. President, the United States is in the midst of another summer sports happening—the National Football League players' strike.

As an isolated event, the strike hardly would be worth noting, since it is extremely difficult to find sympathy for players earning an average of $32,000 a year when public schoolteachers in our country average only $10,673 annually.

But the strike does not stand by itself. It follows by about 1 month an American League baseball game, during which fans armed with bottles, lead pipes, and knives swarmed onto the field to attack a visiting team; and it comes on the heels of a college recruiting season which many observers believe was the most unethical ever.

Taken together, those three incidents illustrate what Ohio State University President Dr. Harold L. Enarson has called our "near obsession" with sport. It is time athletics were viewed with a more proper perspective. It is time we all realized that few things are less vital to our national survival than a fall without NFL football, the outcome of a single baseball game, or the location where high school athletes choose to continue their athletic training.

I enjoy sports as much as anyone. It is both relaxing and entertaining to watch skilled athletes compete. Yet, my enjoyment is blunted when I see ath-

letics given a greater importance than they deserve—and given it, in many cases, at the expense of education.

On the professional level, football salaries, as I mentioned, average $32,000 for a 6-month season; baseball salaries average $40,000 annually; and average basketball earnings are estimated at $85,000 per season. Salaries by themselves are relatively unimportant—players cannot be blamed for getting what the traffic will bear; and little sympathy can be found for multimillionaire team owners who give in to the demands.

The danger lies, instead, with the inevitable inclusion of tax dollars in the professional teams' future plans—especially now that the breaking point has been reached. The New York Nets, for instance, won the American Basketball Association championship last year, and are considered one of the most successful sports franchises in the country. Yet, by grossing $2.5 million, the Nets admit they just broke even.

Most other teams are not as well off, and the question arises: Where do they go from here? Not higher ticket prices. They are about as high as they can go. The logical step is to demand bigger and more modern stadiums—which always have been, are being, and will continue to be built largely with tax dollars. And if one city does not come up with a new facility, the team will simply relocate.

At the present time, at least two American cities are constructing elaborate stadiums even before they have teams to use the facilities. They are building them merely to be in the bidding when the next team gets restless.

The Houston Astrodome, when it was opened at a cost of $31.6 million about a decade ago, was called the eighth wonder of the world. In another few years, as cities rush to make sure their athletes play in as much comfort as the Astrodome offers, it may not even be the eighth wonder of the National League.

But Houston had the foresight to move early. Other municipalities are paying dearly for the privilege of matching the Astrodome. In one case, a bond issue was approved for a stadium expected to cost $35 million. The price tag is now estimated at between $90 million and $100 million—and officials have yet to get a definite commitment for a team to play there.

What all this means, simply, is that, in many cities across this Nation, citizens are placing their lives, their children's lives, and even their grandchildren's lives in hock so that they can sit on cushioned seats watching professional athletes who dress in carpeted locker rooms.

And when a team wins a championship, thousands—and sometimes even a million or more—fans celebrate in the streets. It is a mania that is more and more apparent in America. And the irony of the celebrations—the pity of them—is that, in many of these very same cities, public school systems, with underpaid teachers and inadequate facilities, are turning out high school graduates whose basic skills of reading and writing barely reach the literate level.

The National Education Association notes, with justifiable frustration, that bond issues for new sports facilities are seldom rejected by citizens who, in recent years, have been turning down with alarming regularity increased expenditures for education.

If sports on the professional level are getting out of hand, the situation at the so-called amateur level is downright appalling. The costs to colleges for recruiting athletes are skyrocketing, and part of the increased costs have come from under-the-table offers, and out-in-the-open attempts at bribery and payoffs.

Darrell Royal, the respected head coach of the University of Texas, was quoted in the Chronicle of Higher Education as saying:

> You're out there trying to sell yourself and your school and (the high school athlete) ain't hearing a word you're saying. All he's wondering about is when you're going to start talking money.

And it is no wonder the recruited athlete is thinking money. If he is what is generally called a blue chip prospect, he has probably been visited by over 100 coaches, between 20 and 25 of whom have made illegal offers—in some cases, a new car and monthly "expense money"; in other cases, offers to pay off the mortgage on his parents' house.

On numerous occasions, coaches will send an assistant to move into the athlete's town for several months, just so someone from the university will be available if the prospect needs assistance. The cost is staggering, and I cannot help but wonder—although I suspect it has never happened—whether one of these assistant coaches, since he represents a university, has ever taken a side trip from the gymnasium and the super athlete to the school's chemistry department in an effort to attract a quality student to return with him to the university. I wonder what would happen if a coach returned to campus and said: "I didn't sign the 7-foot center, but I did bring back a student who needs financial help, but who may become a great research scientist." Undoubtedly, he would be summarily fired.

Richard Starnes of Scripps-Howard Newspapers, wrote that:

> Many athletic departments spend $50,000 and up on recruiting every year, and an unknown additional sum is spent by fiercely loyal alumni.

It is a safe bet that schools would look unkindly on any coach who was sidetracked from recruiting an athlete, and who used any portion of that money for something as "foolish" as enticing a brilliant student to attend his university.

Keeping in mind that haunting figure of $10,673 annually for a school teacher, there are some other cost estimates worth noting. One Big Ten university spends $19,000 a year on the telephone and telegraph requirements for recruiting athletes, while a southern football power admits an annual phone bill of $28,000 and an expenditure of $15,000 in postage for recruiting efforts.

And that is all before the athletes arrive on campus. Once there, the costs go even higher.

According to NCAA survey results, the average tutoring bills for football players at major colleges is about $17,000, and one Atlantic Coast Conference school is said to spend more than $20,000 a year. Everyone knows that these tutors are not employed to bring the athletes up to academic excellence—just to raise them to passing. The dividends to society would be greater if the tutors were employed to advance science students from good to excellent, but at few—if any—schools is such the case.

The NCAA—more noted for its petty feud with the AAU than for any efforts it is making to put sports in proper perspective—has reacted by passing another lenient regulation. As of August 1, schools engaged in big-time competition will be "limited"—limited, mind you—to 105 football scholarships and 18 basketball scholarships. For most big-time schools, this will mean an outlay of $500,000 annually. One cannot help but feel that the schools will somehow manage to survive that restriction.

At one time, colleges and universities justified enormous expenditures for athletics by saying the revenue produced by the school's teams helped build classrooms and laboratories. The years have taught us the fallacy of that argument. Revenue produced by athletics has gone, in too many cases, back into the athletic department. One case in point is a university that belongs to the Southeastern Conference. A few years ago, the school itself was in such sad financial condition that its regents were lobbying desperately in the State Legislature for more funds to pay professors. At the same time, a $2.3 million surplus was tucked away in a separate bank account for the school's athletic department. The story had a happy ending, of sorts, when the athletic department loaned the university $400,000; and thus the teams had a school to represent.

Most schools, of course, do not have a surplus. Their expenditures have kept pace—or outpaced—their revenues. Money from a bowl appearance goes immediately into a down payment to expand the stadium, with the taxpayers of the State picking up the rest of the tab. And the athletic departments can only keep their heads above water by continuing to win, continuing to appear in bowl games and postseason basketball tournaments. A losing season would spell financial ruin for the athletic department, and could bring the university itself down with it.

The ACTING PRESIDENT pro tempore. The Senator's additional 5 minutes has expired.

Mr. MANSFIELD. Mr. President, on behalf of the distinguished acting Republican leader, I yield——

Mr. GRIFFIN. Mr. President, may I be recognized?

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. GRIFFIN. I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. I thank the distinguished acting Republican leader and I again thank my distingulshed majority leader.

Thus, the coaches are under tremen-

dous pressure to recruit, at whatever cost, the kind of athletes who will assure continuous winning—which, in turn, means larger athletic budgets. If the whole thing seems like a vicious circle, that is exactly what it is. And, unfortunately, there is no end in sight.

Since major athletic powers can no longer contend that winning teams mean money for the schools, the new justification is that competition is good for young people.

I could not agree more wholeheartedly. I believe it is extremely important that youths be taught that winning is a worthwhile goal. However, competition is taught not only on the playing fields—and certainly not by underwriting an athletic program that involves so few of the students in a participatory capacity. The 1972–73 football season, for instance, consisted of 2,997 games played by 620 universities and colleges, and involved only about 50,000 players, coaches, and trainers—out of an estimated college and university enrollment of 8,370,000.

It is folly to believe that all those students relegated to the status of observers learn any great lessons about competition—or that the students eager to excel in the classroom are any less competitive than the athletes. And I believe the competition fostered in the classrooms and laboratories of our colleges and universities produces greater benefits for our society than that which involves so few students on the playing fields.

True, some schools maintain topflight varsity programs while preserving their status as great universities. But the prospect is very real that, within the next few years, they may have to downgrade one. Either the athletic department is going to have to settle for a smaller, albeit equitable, share of the budgetary pie, or the university itself is going to suffer. Unless we start now to view sports in a better perspective—to give athletics a priority no higher than they deserve—that choice might be more difficult than it should be.

The answer, of course, is deemphasis. Everyone agrees on that. But past experience tells us how difficult that is to achieve. As long ago as 1929, the Carnegie Foundation for the Advancement of Teaching warned that college athletics "have bred among athletes, coaches, directors, and even in some instances among college administrative officers, equivocation and dishonesty."

Thus, the solution may be found in taking the other direction. The overemphasis has come step by step, bit by bit, and will continue until it reaches some undetermined point in the future. It might prove the wiser course, then, for the NCAA to remove all sanctions on recruiting, scholarships, and "expense money," and require only that schools make public the total costs of their athletic programs—even the expenses now hidden because they go for unethical and improper activities.

The result would be that one, two, or at the most, a half dozen universities would have powerhouses, with which the rest of the schools would be unable to compete. Those latter institutions, therefore, would be relieved of a great deal of pressure and could rededicate themselves to higher education, and to developing athletic programs truly amateur, involving a greater percentage of their students.

The games themselves—even the so-called major sports of baseball, basketball, and football—would remain unchanged, and would serve the recreational purpose they were originally intended to serve. And all our serious intense efforts could go into making our cities better places in which to live, and our universities better places in which to learn.

I suggest, Mr. President, that we all take the respite provided by the NFL players strike to reexamine our attitudes toward sports as they relate to the more important things in our society.

Mr. MANSFIELD. Mr. President, following the speech just given by the distinguished assistant majority leader, the Senator from West Virginia (Mr. ROBERT C. BYRD), I ask unanimous consent that an article which appeared in the Boston Globe under date of July 24, 1974, entitled "At Large/Mike Barnicle," and under the subheading "What Price Touchdowns?" be incorporated in the RECORD immediately following the remarks of the Senator from West Virginia.

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

[From the Boston Globe, July 24, 1974]

(By Mike Barnicle)

WHAT PRICE TOUCHDOWNS?

One bright note in a summer that has been filled with the sights and sounds of a government unraveling like a spool of tape has been the National Football League Players Assn. strike. If our luck holds, the impasse might continue into the fall and we would then be spared the task of having to watch or read about the mediocre exploits of those people from Foxboro who spend their Sundays masquerading as professional football players.

However, there is a larger question involved in this labor dispute—who cares? Who really cares that some defensive tackle, making $50,000 for an 8-month year, wants more dough? Who really cares that some corporation executive who presides over a tax write-off called a professional football club, won't give out a raise? Who cares about athletes in T-shirts, parading around a serene, tree-lined campus, protesting their lack of rights? And what concern is due an owner who bothers us with double-talk about the costs of owning and operating a franchise?

Both groups—the players and the owners—are in the headlines today because professional football has ceased to be a game and has instead become a rather boring pastime run by people who are more familiar with board rooms than locker rooms. The people who dictate the future of this "game" have more at stake in Dow Jones averages than they do in some quarterback's passing average. It is a big business run, for the most part, by greedy combines who raise ticket prices, sell cold hot dogs and unsalted popcorn at exorbitant rates and don't really care about those whose rights have truly suffered—the fans.

The "plantation mentality" of professional athletics in the United States has so long been a part of the scene that the specter of an outspoken player used to be enough to send the owner into convulsions and the athlete to Alpine, Tex., where he would languish away in some Class B league, his talents and his tongue in a city where no one could be harmed.

Players were slaves to be bought, sold or traded whenever their market value would benefit the club owner. Championships were tied to profits and the talents of the gifted few were showcased in an effort to trip the turnstiles and build up the bank accounts of the money men who signed the leases and granted the pay raises.

Finally, the break came when expansion arrived and athletes discovered that an open market and a bidding war meant a chance to gut some millionaire out of a few hundred thousand dollars. Leagues proliferated and talent diluted at such a rate that now there are people who refer to the new World Football League as "major league."

But all of that is the American way. So now we have quotes from Federal mediators on top of our sports pages and reports of "progress in the negotiations" instead of box scores. Agents and lawyers and accountants compete for the attention of athletes while sports fans have to take out bank loans if they want season tickets. It's all money now.

The Player Assn. keeps using the smokescreen of "the freedom issues" while the owners insist on mentioning nonsense like, "the ruination of the concept and structure of the game." In fact, what is involved are basic issues like preseason games—who plays and who pays; contracts—how long and how much; player trades—who goes and what do you give him to agree to go. All negotiable over any bank counter.

But the players continue to talk about their "rights" at the same time they are trying to hustle themselves out of town at the first smell of gold. And the owners are mad because their athletes have taken a page from their book about how to cheat the public and make money at it.

We now have a situation where we are saturated with more and more football, in more and more cities, played by teams with less and less talent. All because some market research major told the greedy where the dollars were. Both sides deserve one another.

CONCURRENT RESOLUTION RELATING TO ADJOURNMENTS DURING THE REMAINDER OF THE 93D CONGRESS

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Concurrent Resolution 568.

The ACTING PRESIDENT pro tempore. The Chair lays before the Senate a message from the House, which the clerk will state.

The second assistant legislative clerk read as follows:

House Concurrent Resolution 568 relating to adjournment to a date certain during the remainder of the 93d Congress.

Mr. ROBERT C. BYRD. Mr. President, would the clerk read the entire resolution?

The ACTING PRESIDENT pro tempore. The resolution will be stated.

The second assistant legislative clerk read as follows:

Resolved by the House of Representatives (the Senate concurring), That notwithstanding the provisions of sec. 132(a) of the Legislative Reorganization Act of 1946 (2 U.S.C.

198), as amended by section 461 of the Legislative Reorganization Act of 1970 (Public Law 91-510; 84 Stat. 1193),

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the concurrent resolution?

Mr. ROBERT C. BYRD. Mr. President, I ask that the clerk continue with the reading of the resolution so that the Senate will have an understanding of it.

The ACTING PRESIDENT pro tempore. The resolution will be stated.

The second assistant legislative clerk read as follows:

Resolved by the House of Representatives (the Senate concurring), That notwithstanding the provisions of sec. 132(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 198), as amended by section 461 of the Legislative Reorganization Act of 1970 (Public Law 91-510; 84 Stat. 1193) the House of Representatives and the Senate shall not adjourn for a period in excess of three days, or adjourn sine die, until both Houses of Congress have adopted a concurrent resolution providing either for an adjournment (in excess of three days) to a day certain, or for adjournment sine die.

Mr. ROBERT C. BYRD. Mr. President, in view of the fact that the resolution is self-explanatory, I ask unanimous consent that the Senate proceed with its immediate consideration.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 568) was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 16027. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1975, and for other purposes.

The message also announced that the House has agreed to House Concurrent Resolution 568 relating to adjournment to a date certain during the remainder of the 93d Congress.

HOUSE BILL REFERRED

The bill (H.R. 16027) making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1975, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HUMPHREY, from the Committee on Foreign Relations, without amendment:

S. 2354. A bill to provide for the participation of the United States in the African Development Fund (Rept. No. 93-1029).

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

S. 3362. A bill to enable the Secretary of the Interior to provide for the operation, maintenance, and continued construction of the Federal transmission system in the Pacific Northwest by use of the revenues of the Federal Columbia River Power System and the proceeds of revenue bonds, and for other purposes (Rept. No. 93-1030).

By Mr. MAGNUSON, from the Committee on Commerce, with amendments:

H.R. 8193. A bill to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels (together with minority views) (Rept. No. 93-1031).

AUTHORITY FOR COMMITTEE ON COMMERCE TO FILE FINAL REPORT ON H.R. 8193, ENERGY TRANSPORTATION SECURITY ACT OF 1974

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Commerce be permitted to file its final report until midnight tonight on H.R. 8193, the Energy Transportation Security Act of 1974.

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

AUTHORITY FOR COMMITTEE ON COMMERCE TO FILE REPORT ON S. 1361, GENERAL REVISION OF THE COPYRIGHT LAW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Commerce have until Monday next to file its report on S. 1361, general revision of the copyright law.

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

Mr. MANSFIELD. Mr. President, both of these requests have been cleared all around.

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. TUNNEY:

S. 3807. A bill to protect students receiving Federal financial assistance against losses resulting from the closing of certain private educational institutions. Referred to the Committee on Labor and Public Welfare.

By Mr. THURMOND (for himself and Mr. HARTKE):

S. 3808. A bill to amend Public Law 92-425, an act "To amend chapter 73 of title 10, United States Code, to establish a Survivor Benefit Plan, and for other purposes." Referred to the Committee on Armed Services.

By Mr. GRAVEL:

S. 3809. A bill relating to Barrow Utilities, Inc., Barrow, Alaska. Referred to the Committee on Interior and Insular Affairs.

S. 3810. A bill relating to Barrow Utilities, Inc., Barrow, Alaska. Referred to the Committee on Commerce.

By Mr. EAGLETON:

S. 3811. A bill to provide for the payment of reasonable attorneys' fees in certain cases of civil actions brought against State and local law enforcement officers. Referred to the Committee on the Judiciary.

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 3812. A bill to authorize the appropriation of such sums as may be necessary to rehabilitate Eniwetok Atoll, Trust Territory of the Pacific Islands. Referred to the Committee on Interior and Insular Affairs.

By Mr. CRANSTON (for himself and Mr. TUNNEY):

S. 3813. A bill to authorize the Secretary of the Interior to acquire private lands in California for water quality control, recreation, and fish and wildlife enhancement, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. CRANSTON (for himself, Mr. HARTKE, Mr. RANDOLPH, Mr. THURMOND, Mr. HANSEN, Mr. TALMADGE, Mr. HUGHES, and Mr. STAFFORD):

S. 3814. A bill to amend title 38 of the United States Code in order to extend medical benefits to the survivors of certain severely service-connected disabled deceased veterans. Referred to the Committee on Veterans Affairs.

By Mr. ROTH (for himself and Mr. BIDEN):

S. 3815. A bill to designate the Federal office building located in Dover, Del., as the "J. Allen Frear Building." Referred to the Committee on Public Works.

By Mr. HUDDLESTON (for himself, Mr. CHILES, Mr. BENTSEN, Mr. HELMS, and Mr. NUNN):

S. 3816. A bill to terminate the Emergency Daylight Saving Energy Conservation Act of 1973. Referred to the Committee on Commerce.

By Mr. BROCK (for himself, Mr. BAKER, Mr. FULBRIGHT, and Mr. MANSFIELD):

S. 3817. A bill to amend the National Bank Act, the Federal Deposit Insurance Act, the National Housing Act, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. BENNETT:

S. 3818. A bill to amend the Internal Revenue Code of 1954;

S. 3819. A bill to amend the Internal Revenue Code of 1954;

S. 3820. A bill to amend the Internal Revenue Code of 1954; and

S. 3821. A bill to amend the Internal Revenue Code of 1954. Referred to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TUNNEY:

S. 3807. A bill to protect students receiving Federal financial assistance against losses resulting from the closing of certain private educational institutions. Referred to the Committee on Labor and Public Welfare.

Mr. TUNNEY. Mr. President, I am introducing legislation today that would provide for the protection of students participating in federally insured student loan programs when the vocational or proprietary institution attended ceases operation. It would also protect students receiving veterans, education allowances.

Under present circumstances, when an institution closes its doors, the student is not only left with a loan to repay, but without the education for which he originally incurred the loan.

Four parties are involved when a student contracts for a federally insured student loan: The student, the loaning institution, the Federal Government, and the institution to be attended. Wherein lies the responsibility for repayment of

that loan should the institution cease operation?

Clearly the initial responsibility lies with the student. He or she is contracting for the purpose of obtaining an education, with the hope that upon completion of his education he or she will be able to become employed and repay the loan.

The loaning institution accepts a certain amount of the responsibility in that it is loaning a sum of money to be spent by another party, for a specified period, hopefully to be repaid in the future. Student loans are generally a good risk in that the student will receive his education, become employed, thus allowing him to repay the loan.

The Federal Government has undertaken the responsibility of opting to repay the loss to the loaning institution should the student fail to do so. The Government, interested in the development of productive citizens, insures these loans, thus supporting the educational process.

The educational institution has the responsibility of educating the student.

On occasion, however, whether by illegal practice or lack of funds, many of these postsecondary institutions are forced to close, after midterm. In this instance, the student is left holding the bag with a loan to repay and without the product for which the loan was originally intended, that being his education.

My bill presents a solution to this problem. It stipulates that no Federal student loans, Federal insured student loans, or veterans education allowance may be paid to a vocational or proprietary institution that has been in existence for less than 10 years unless that school has provided assurances—by the posting of a bond or otherwise—that, in the event the institution ceases operation, it will reimburse the student for the portion of the loan that would cover the education not received.

For example, a student is attending a vocational business college, four quarters per school year. The school is bonded. Three quarters have been completed and the student is 5 weeks into his fourth quarter. The school is forced to close. Under my legislation the student shall be reimbursed by the institution for a total of the fourth quarter. This would allow him to transfer to another school with sufficient funds to complete a full quarter. In most instances, if the school is accredited—which it must be to receive Federal loans or VA benefits—the units completed can be transferred to another institution, while the partially completed units would not be transferrable.

This type of protection is long overdue. Unfortunately, an increasing number of students are becoming the victims of underhanded practices by people who are out to make a fast buck. In nearly all cases, the students who are affected are those who can least afford it; that is: Students from low-income families and veterans. In California two such instances have occurred.

In 1971, a civil fraud suit was filed against Riverside University. The school was forced into receivership and was charged with certifying numerous ineligible student loans. Many students had signed up for the loans but had not yet started class. The money, however, had already been expended by the school and the students were forced into repaying the loans.

Another example involved the West Coast Trade School, a group of five proprietary vocational schools in Los Angeles. This institution closed in May of 1973. Hundreds of students were left with loans to be repaid and no education. The second portion of my bill would cover these two institutions and others like it.

Over the years, the Federal Government has been held responsible for over 116,000 defaulted student loans, a liability which has amounted to $110.5 million of the taxpayers money. In California alone, 9,923 loans were paid by the Government amounting to $76.6 million. Obviously, only a percentage of these defaults were the result of an institution closing. However, one such instance, however, is one too many. Neither the student nor the Federal Government should be forced to clean up after an educational institution that has shirked its responsibility of educating. Too many students are being blindly duped into attending new vocational and proprietary institutions by misleading sales tactics and other abuses.

Some type of protection is urgently needed and I strongly feel that my bill meets that end.

Mr. President, at this point I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 3807

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act be cited as the "Student Loan Protection Act of 1974".

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) The term "Federal student loan" means a loan made by any department or agency of the United States to an individual to assist that individual to attend an educational institution.

(2) The term "federally insured student loan" means a loan which is made by any person or by any department or agency of a State or local government to assist that individual to attend an educational institution and the repayment of which is insured or guaranteed, in whole or in part, by a department or agency of the United States.

(3) The term "veterans educational allowance" means subsistance allowance paid under chapter 31 of title 38, United States Code, and educational assistance allowance paid under chapter 34 and 35 of such title.

(4) The term "educational institution" means any institution which furnishes education or training at the secondary level or above, including vocational schools and correspondence schools.

(5) The term "new private educational institution" means any educational institution which (A) is not an agency of the United States, a State or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, or a possession of the United States, and is not owned and operated by one or more of the foregoing, and (B) which has been in operation for less than 10 years.

(6) The term "academic period" means, with respect to any new private educational institution, a semester, trimester, quarter, or other period of time during which education or training is offered by such institution. In the case of a new private educational institution which does not offer education or training based on an academic period within the meaning of the preceding sentence, such term means, with respect to any individual, that period which begins on the date on which such individual first attends such institution during an uncompleted course of study or training.

(7) The term "Secretary" means the Secretary of Health, Education, and Welfare.

REQUIREMENT OF GUARANTEES BY NEW PRIVATE EDUCATIONAL INSTITUTIONS

SEC. 3. (a) On and after the effective date of this section—

(1) no Federal student loan or federally insured student loan may be made to an individual to assist that individual to attend a new private educational institution, and

(2) no veterans educational allowance may be paid to an individual attending a new private educational institution, unless the new private educational institution has provided assurances satisfactory to the Secretary (by the posting of a bond or otherwise) that, in the event such institution ceases operations, it will make the payments required by subsection (b) with respect to each individual then attending such institution with the assistance of a Federal student loan or a federally insured student loan or who is receiving a veterans educational allowance.

(b) The amount to be paid with respect to an individual under subsection (a) is an amount equal to the expenses paid by such individual to enable him to attend such institution during the academic period in which such institution ceases operations, but such amount shall not exceed—

(1) in the case of an individual attending with the assistance of a Federal student loan or federally insured student loan, the portion of the loan attributable to such academic period, or

(2) in the case of an individual receiving a veterans educational allowance, the amount of such allowance received which is attributable to such academic period.

(c) The payments required by this section shall be made—

(1) with respect to an individual attending with assistance of a Federal student loan or federally insured student loan, to the lender as repayment of part or all of such loan, except that if such loan has been repaid, the payment shall be made to such individual, and

(2) with respect to an individual receiving a veterans educational allowance, to such individual.

PROTECTION AGAINST LOSSES NOT COVERED BY GUARANTEES

SEC. 4. (a) In the case of an individual who—

(1) was attending a new private educational institution which ceased operations on or before the date of the enactment of this Act,

(2) is attending a new private educational institution which ceases operations after such date and before the effective date of section 3 with respect to such institution, or

(3) is attending a new private educational institution which has failed to give the assurances required by section 3 and which ceases operations after the effective date of that section with respect to such institution, but only if such individual is pursuing education or training which he commenced at such institution before such effective date, the Secretary shall take the action required by subsection (b).

(b) With respect to an individual rescribed in subsection (a)—

(1) who was attending the institution with the assistance of a Federal student loan, the Secretary shall cancel an amount of such loan equal to the amount which would be payable under section 3 if that section applied, except that if such loan has been repaid, the Secretary shall pay such amount to such individual,

(2) who was attending such institution with the assistance of a federally insured student loan, the Secretary shall pay to the lender (as a repayment of part or all of the loan) an amount equal to the amount which would be payable under section 3 if that section applied, or if the loan has been repaid, shall pay such amount to the individual, and

(3) who was receiving a veterans educational allowance, the Secretary shall pay to the individual the amount which would be payable under section 3 if that section applied.

REGULATIONS

SEC. 5. The Secretary, after consultation with the Administrator of Veterans' Affairs, shall prescribe such regulations as may be necessary to carry out the provisions of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this Act.

EFFECTIVE DATE

SEC. 7. This Act shall take effect on the date of its enactment, except that the provisions of section 3 shall take effect with respect to any new private educational institution on the first day of the first academic period of such institution which begins more than 90 days after the date of the enactment of this Act.

By Mr. THURMOND (for himself and Mr. HARTKE):

S. 3808. A bill to amend Public Law 92–425, an act "To amend chapter 73 of title 10, United States Code, to establish a Survivor Benefit Plan, and for other purposes." Referred to the Committee on Armed Services.

Mr. THURMOND. Mr. President, I send to the desk a bill which would amend title 10, U.S. Code, by providing survivor benefits for certain totally disabled service-connected enlisted personnel who were excluded from benefits in the recently enacted Survivor Benefit Plan.

This bill is designed to remedy a glaring deficiency in recently enacted law which discriminates against thousands of former military enlisted personnel who were permanently and totally disabled due to service-connected causes, primarily during World War II.

In the last Congress a Survivor Benefit Plan was enacted which established a greatly liberalized system of benefits for the survivors of retired military personnel. Under this act, Public Law 92–425, survivors of military retirees are eligible to receive up to 55 percent of the retired pay of their sponsor at the time of the sponsor's death. These new benefits are essentially the same as, and are patterned after, those provided for survivors of retired civil service personnel.

However, only the survivors of retired military personnel are eligible for benefits under Public Law 92–425. Since enlisted personnel were not eligible to retire for disability prior to October 1, 1949, the effective date of the Career Compensation Act, all enlisted personnel disabled before and during World War II and up to 1949 are therefore barred from participating in the Survivor Benefit Plan. Thus, they are unable to provide adequate survivor benefits available to all other dependents of retired Government personnel, military and civilian alike.

By Public Law 93–82 the Congress recently recognized the inequity which their technical lack of retired status places on pre-1949 enlisted personnel who suffered permanent and total disability from service-connected causes. This act made such personnel and their dependents eligible to participate in a program similar to the CHAMPUS program. This on-going program, among other things, pays most of the civilian medical costs incurred by military retirees and their dependents.

Mr. President, the bill I am offering would conform exactly to the rationale of Public Law 93–82 by permitting former enlisted personnel who are permanently and totally disabled to participate in the Survivor Benefit Plan on the same basis as if they held a retired status. Under this bill they would make the same monthly contributions to help defray the cost of participation and their survivors would receive the same benefits. Certainly the need to provide such survivorship protection is equal to, and is perhaps even greater than the need to defray medical costs.

Before closing, Mr. President, I would like to stress the need for this legislation. Almost by definition, permanently and totally disabled veterans are, in most cases, limited to the disability compensation they receive from the Veterans' Administration. Of course, at the time of death, if death occurs for reasons other than service-connected disability, this compensation ends.

However, the survivors of these totally disabled veterans are usually left with nothing since the veterans, because of their disabilities, were unable to build an estate, accrue social security or obtain insurance except at prohibitive costs.

This bill will merely provide them the opportunity to participate in a contributory survivor benefit plan and thereby assure some support for those they leave behind.

Mr. President, while this bill falls under the jurisdiction of the Senate Armed Services Committee, I am pleased to have as a cosponsor the distinguished chairman of the Senate Veterans' Affairs Committee, Mr. HARTKE of Indiana.

By Mr. GRAVEL:

S. 3809. A bill relating to Barrow Utilities, Inc., Barrow, Alaska. Referred to the Committee on Interior and Insular Affairs.

S. 3810. A bill relating to Barrow Utilities, Inc., Barrow, Alaska Referred to the Committee on Commerce.

Mr. GRAVEL. Mr. President, today I am introducing two pieces of legislation for the relief of the people of Barrow, Alaska. A native owned cooperative utility system in the town, Barrow Utilities, Inc., provides natural gas and electric distribution service to 3,000 residents through approximately 400 meters. Due to negligence on the part of the Bureau of Indian Affairs and callousness on the part of the Department of the Navy, the Native residents of Barrow are now burdened with an unsafe natural gas distribution system, and utility rates which are among the highest in the Nation. The residents and officials of the city have referred to this situation as Barrow's "Time Bomb."

Barrow Utilities was formed in 1964 for the purpose of providing natural gas service to the residents of Barrow through loans and assistance made available by the Bureau of Indian Affairs in Alaska. Barrow Utilities agreed to provide the manpower to operate the system, which they did.

The Bureau agreed to provide managerial and technical expertise to train the Natives in the specialized art of operating a utility, with a view to self-sufficiency and viable utility status for the future. The Bureau of Indian Affairs reneged on this part of the agreement. By 1971, the cooperative was in a bankrupt condition, due mainly to the inadequacy of retail rates and charges, vast sums of delinquent utility bills, inexperienced management, incompetent accounting personnel, improper and inadequate records, and lack of skilled, experienced utility workmen and supervisors. The Bureau of Indian Affairs attempted to rectify this situation by recklessly allowing Barrow Utilities to incur a debt of $750,000 without regard to how the funds were to be used, knowing full well that more than money was needed to correct the situation.

The result is a gas distribution system which is, at this very moment, a safety hazard to the residents of Barrow. It has been described as "meeting no known safety standards." There is an impending danger of explosion. Cases of gas inhalation account for 2 percent of all hospital admissions in Barrow. The system itself has been cited for numerous violations by both the Federal Office of Pipeline Safety and the Alaska Public Utilities Commission. There is a definite and imperative need to replace the gas distribution system immediately.

The danger to life and property in Barrow because of the hazardousness of the gas pipeline system could have been overcome had Barrow Utilities the means to raise capital money. But the Bureau of Indian Affairs has the first mortgage loan on the gas and electric distribution system as well as a power, water, and sewage plant. Unless Barrow Utilities is relieved of these debts, there is virtually no way to borrow new money.

To enable Barrow Utilities to seek alternate funding sources and eventually insure the safety of the residents of Barrow, one of the bills I am introducing today provides for the cancellation of the debt of $750,000 owed by Barrow Utilities, Inc. to the Bureau of Indian Affairs.

A second and equally important issue concerns the price for natural gas paid by Barrow Utilities, Inc. The cooperative purchases natural gas from excess sup-

plies in the Naval Petroleum Reserve No. 4, through contract with the Department of the Navy. This gas is sold at the wellhead and provided on an interruptible basis. In 1964, the price of 50 cents per thousand cubic feet—MCF—was set, but it was not based on any cost analysis of similar service. It was based on an 18 year amortization schedule whereby the natives of Barrow would bear the costs of development of additional natural gas wells drilled by the Navy.

This rate has no relation to actual use of service. Barrow Utilities is being asked to finance the total costs of drilling additional wells when they consume only 20 percent of the total gas production. The U.S. military and other governmental users consume 80 percent of the gas produced. The present capital expenditures for well development would have been made whether or not the residents of Barrow had been permitted to purchase natural gas. Finally, should the residents of Barrow not continue to purchase natural gas, the Navy would experience no reduction in operating and maintenance costs.

The price of 50 cents per mcf seems to have little justification. Yet, in July 1974 the Department of the Navy was ordered by the Office of Management and Budget to amortize the costs of well development over a shorter period of time. The rate of 77 cents per mcf was set as the base price for any new contract to purchase natural gas from petroleum reserve No. 4.

To illustrate the inequity, statistics indicate that in the lower 48 States, the average price at the wellhead for natural gas is 27.3 cents per mcf. In nearby Chugach, Alaska, firm gas service is being provided at 17 cents per mcf. In a time when Americans take pleasure in criticizing the huge profits earned by private sector energy suppliers, it is unbelievable and unjustifiable that the U.S. Government proposes to burden its citizens with a charge nearly 3 times in excess of the private sector rate.

In my opinion, the U.S. Government and the Department of the Navy have done a grave disservice to the residents of Barrow. The second bill I am introducing today provides that no agency of the U.S. Government shall impose any charge for natural gas made available to Barrow Utilities which is in excess of the average wellhead price in the lower 48 States.

The people of Barrow are entitled to fair and proper treatment from their Government. The residents of Alaska should no longer be treated as less than first-class citizens. I propose to protect these people in the face of arbitrary and unjust governmental action.

By Mr. EAGLETON:

S. 3811. A bill to provide for the payment of reasonable attorneys' fees in certain cases of civil actions brought against State and local law enforcement officers. Referred to the Committee on the Judiciary.

Mr. EAGLETON. Mr. President, I am introducing a bill today to amend section 1983 of title 42 in order to recompense law enforcement officials for the expense of defending themselves against baseless charges brought under this section.

Section 1983 was enacted in 1871 as part of the Post-Civil War Civil Rights Act. It guarantees a right of action for individuals who claim that they have been deprived of rights, privileges, or immunities secured to them by the Constitution and laws of the United States by persons acting under color of State law. Thus, persons who believe that their rights have been infringed by local officials have a remedy under which they can bring suit against the officials and may even seek damages.

Over the many years since this statute was originally enacted, it has served as a useful means of vindicating constitutional rights when those rights have been violated by local or State officials. There have been a great many successful cases in which the plaintiffs were able to show that the defendants were actually guilty of such violation.

However, in recent years, Mr. President, this section has been used for purposes quite different from those for which it was originally intended. We have seen local law enforcement officials all over the country hit with a barrage of suits that can only be described as groundless. Very often, the individuals bringing this suit have been convicted of a criminal offense and are confined in jail. From there, comes a flood of papers charging that an inmate was deprived of some right, in that a confession was coerced, he was mistreated by police officers, a plea of guilty was forced from him, and so forth. In many cases, this amounts to an attempt to relitigate issues already decided in the criminal proceedings in which the inmate was originally convicted.

This is not to say that all actions brought under section 1983 are without merit. It would be wrong to assert that no law enforcement official ever violates the constitutional rights of an individual; the retention of section 1983 on the statute books reflects a recognition that we must constantly be on guard against the arbitrary exercise of official power.

Nevertheless the evidence is clear that the right of action conferred by section 1983 is being misused in a great number of cases. In my home State of Missouri, there have been several such cases in which allegations have been made against law enforcement officials that were later proved to be totally unfounded and the cases were dismissed. Among those who were wrongfully charged in such suits were the prosecuting attorney of Phelps County, several police officers in the city of St. Louis, and the sheriff of Pettis County. There undoubtedly are other such cases but these are ones with which I am immediately familiar.

While all of the defendants in these cases were ultimately exonerated, they had to pay a price. Perhaps the greatest cost to them—one for which they can never be recompensed—stems from the very fact that such charges were made and published with the resultant damage to their reputations. Beyond this there are the financial costs of defending oneself in Federal court. In some cases public agencies provide legal representation but in others, either by choice or by necessity, the defendants have been required to hire their own counsel and pay all of the costs of defense themselves. This can be an enormous burden for a law enforcement official whose pay is rarely commensurate with the importance of his duties anyway.

Section 1983 exemplifies the fairness and justice that is the bedrock of our American system, Mr. President, but the principle of fairness must apply to both parties in any proceeding. It is hardly fair to grant a right of action to one who has a complaint against a law enforcement official and, more often than not, give him a court-appointed lawyer to pursue the case at no cost to him, while at the same time requiring the law enforcement official who is complained against to prove his innocence at great cost to himself.

The bill I am introducing today would make section 1983 more evenhanded. Any law enforcement official who is sued under section 1983 and who ultimately prevails—that is, if the charges against him are not proven to be true—would be entitled to have a reasonable attorney's fee paid by the Federal Government. It is necessary that the Federal Government make this payment rather than the plaintiff because suits of the kind I am describing are generally brought by individuals who have no means and a judgment of attorneys' fees against the plaintiff would more than likely prove worthless. As I previously stated, the remedy afforded under section 1983 forms an important part of the American system of justice. It is only fitting that the Federal Government participate in paying the costs of this procedure. I should add, by way of precedent, that similar provisions in the Civil Rights Act of 1964 permit the payment of attorneys' fees for persons who bring successful actions to have rights vindicated under that act.

We demand a great deal of our law enforcement officers, Mr. President. They are expected to wage a war—often at great personal hazard to themselves—against totally unprincipled and unscrupulous criminals while at all times conducting themselves in conformity with the requirements of law. On the whole, I believe they do a magnificent job of it. And one of the ways that we can assist them in meeting their responsibilities is to relieve them of the concerns arising from the need to defend themselves in Federal court against false and unjust accusations.

My bill is designed to accomplish that goal Mr. President, I urge its speedy consideration and adoption by my colleagues.

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 3812. A bill to authorize the appropriation of such sums as may be necessary to rehabilitate Eniwetok Atoll, Trust Territory of the Pacific Islands. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, by request, I send to the desk for myself and the Senior Senator from Arizona (Mr. FANNIN) a bill to authorize the appropriation of such sums as may be necessary to rehabilitate Eniwetok Atoll, Trust Territory of the Pacific Islands.

Mr. President, this proposal was submitted and recommended and I ask unanimous consent that the executive communication accompanying the draft legislative from the Secretary of the Interior be printed in the RECORD at this point in my remarks.

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

DEPARTMENT OF THE INTERIOR,
Washington, D.C., June 27, 1974.

Hon. GERALD R. FORD,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a proposed bill "To authorize the appropriation of such sums as may be necessary to rehabilitate Eniwetok Atoll, Trust Territory of the Pacific Islands."

We recommend that this bill be referred to the appropriate committee for consideration and that it be enacted.

Eniwetok Atoll lies among the Marshall Islands, which are a part of the Trust Territory of the Pacific Islands administered by the United States acting on behalf of the United Nations. The atoll had been fortified by the Japanese during World War II and was captured by the United States in 1944, with the local inhabitants being placed under the jurisdiction of the U.S. Armed Forces. After the war, in 1947, the United States decided that the entire atoll was required for its atomic weapons testing program, so notified the United Nations Security Council, and resettled the atoll's inhabitants on nearby Ujelang Atoll. The testing, carried out between 1948 and 1968, severely damaged Eniwetok and made it uninhabitable.

The United States is committed to rehabilitating Eniwetok, whose former residents are most anxious to return. Discussion among various Federal agencies has resulted in this task being allotted in the following manner: Department of Defense—maintaining existing facilities and operations in the area and cleaning the atoll; Department of the Interior—rehabilitation of the atoll; Atomic Energy Commission—radiological monitoring and surveying.

This bill would authorize the appropriation of sums necessary to enable the Department of the Interior to fulfill its portion of the Federal commitment. A special authorization is needed because the authorization of funds for the Trust Territory in 1975, when it is contemplated that our rehabilitation work would commence, has already been enacted, and our budget could not incur an expense of this kind without serious curtailment of other programs for the Trust Territory.

Because of both the unforeseen problems which are virtually certain to occur in rehabilitating a former atomic test site and the rapidly increasing costs of basic building material, we find it necessary to request an open-ended authorization. However, based upon a master plan drawn up by a private consulting firm, which constitutes one possible way of meeting our responsibility, we tentatively estimate the cost of the operation at $12,000,000. Included in this amount is approximately $4,000,000 for replanting of the area and for construction of housing and community facilities; approximately $5,500,000 for facilities, equipment, and operations pertaining to the rehabilitation effort; and the remaining $2,500,000 for overhead, profit, and contingencies.

The Office of Management and Budget has advised that this legislative proposal is consistent with the program of the President.

Sincerely yours,

JOHN KYL,
Secretary of the Interior.

By Mr. CRANSTON (for himself and Mr. TUNNEY):

S. 3813. A bill to authorize the Secretary of the Interior to acquire private lands in California for water quality control, recreation, and fish and wildlife enhancement, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

LAKE CASITAS WATERSHED AND RECREATION PARK

Mr. CRANSTON. Mr. President, on behalf of myself and my California colleague (Mr. TUNNEY) I introduce a bill to authorize Federal purchase of lands for recreational park use above Lake Casitas reservoir, near Ojai, Calif., and to provide watershed protection for the Lake's essential water supply. The bill is identical to that introduced in the House by Congressman ROBERT J. LAGOMARSINO.

The bill I introduce today would create an 8,500-acre park on the north Shore of Lake Casitas, and is located adjacent to the Los Padres National Forest on the Ventura-Santa Barbara County line. The bill directs that the land remain in its natural state for the protection of the Lake Casitas watershed, although persons now living on the land—pursuant to approval by the Secretary of the Interior—will be allowed to stay if assurances are given that the land will not be used in a detrimental fashion. The land will revert to the Government at their death.

In introducing his bill, Congressman LAGOMARSINO expressed his hope that the recreation area be known as the Charles M. Teague Memorial Park, out of respect for the late Congressman whose efforts in the House of Representatives led to the construction of the Lake Casitas reservoir as a Bureau of Reclamation Project. I believe this is a fitting and wholly deserved remembrance, Mr. President, and I want to go on record as being in complete support of such a designation.

I ask unanimous consent that, at the close of my remarks, there be printed in the RECORD the text of the bill, together with resolutions by the Ventura County Association of Governments, the city council of the city of Camarillo, and the Casitas Municipal Water District, all supporting the legislation I introduce today.

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

S. 3813

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to provide for protection of the quality of water in Lake Casitas, and to provide for the preservation and enhancement of public outdoor recreation, fish and wildlife, and the environment of the area, the Secretary of the Interior (hereinafter referred to as the "Secretary") is hereby authorized to acquire in the name of the United States certain privately owned lands within townships 3 and 4 north, ranges 23 and 24 west, San Bernardino base and meridian, lying outside the boundaries of the Los Padres National Forest, as generally depicted on the drawing entitled "Private Lands in Casitas Reservoir Watershed", numbered 767-208-237, and dated September 1972, which is on file and available for public inspection in the offices of the Bureau of Reclamation, Department of the Interior.

SEC. 2. (a) The Secretary may acquire the subject lands by donation, purchase (with donated or appropriated funds), condemnation or exchange: *Provided,* That any lands owned by the State of California or any political subdivision thereof may be acquired only by donation.

(b) With respect to property authorized to be acquired for the purposes of this Act, which is beneficially owned by a natural person and which the Secretary determines can be continued in that use for a limited period of time without undue interference with the administration, development, or public use of the area, the owner may on the date of its acquisition by the Secretary retain a right of use and occupancy of such property for agricultural or noncommercial residential purposes for a term, as the owners may elect, ending either—

(1) at the death of the owner or spouse, whichever occurs later, or

(2) not more than twenty-five years from the date of acquisition.

Any right so retained may not during its existence be transferred or assigned. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value on such date of such acquisition, less the fair market value on such date of the right retained by the owner.

(c) The Secretary may terminate a right of use and occupancy retained pursuant to this section upon the Secretary's determination that such a right is being exercised in a manner not consistent with the purposes of this Act, and upon tender to the holder of the right an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination.

(d) For the purposes of this title, "noncommercial residential property" shall mean any single family residence in existence or under construction as of July 1, 1974.

SEC. 3. The Secretary, in accordance with the provisions of section 4 of the Act of July 9, 1965 (79 Stat. 213), shall administer the lands to be acquired and may issue such licenses, permits, or leases, or take such other action as may be required for proper management in accordance therewith. In administering such lands, the Secretary shall take such action as may be necessary to assure that such lands will be kept in their natural state as permanent open space or will be developed for public park purposes. The Secretary may provide for the management of such lands by the Casitas Municipal Water District, or any other authorized non-Federal public body, as part of the Lake Casitas Recreation Area.

SEC. 4. There is authorized to be appropriated the sum of $10,000,000 (April 1974 price levels) plus or minus such amounts as may be justified by changes in the price indexes for agricultural and noncommercial residential property in Ventura County, California.

VENTURA COUNTY
ASSOCIATION OF GOVERNMENTS,
Ventura, Calif.

A RESOLUTION OF THE EXECUTIVE COMMITTEE OF THE VENTURA COUNTY ASSOCIATION OF GOVERNMENTS SUPPORTING THE PASSAGE OF HR-13507, "CONGRESSMAN CHARLES TEAGUE MEMORIAL OPEN SPACE PARK"

Whereas, on February 2, 1955, Congressman Charles M. Teague introduced in the 84th Congress, 1st Session HR-3488 which authorized the construction of the Ventura River Project, the principal feature of which is Lake Casitas; and

Whereas, through Congressman Teague's great interest and diligent efforts the Ventura River Project was completed on October 1, 1959, and Lake Casitas now holds in storage approximately 240,000 acre-feet of high quality water; and

Whereas, the Ventura County Board of Supervisors and the Casitas Municipal Water District Board of Directors have caused a study to be made by Montgomery Research, Inc. of the impact of varying land uses on the high quality of the water stored in Lake Casitas; and

Whereas, the conclusions presented in the study indicate that if any of the land use alternatives are implemented the high quality of the water will be degraded beyond acceptable limits and a serious problem of eutrophication will exist and, therefore, none of the land use alternatives of potential development should be implemented; and

Whereas, on January 11, 1973, due to his long-time, continuous interest in the Ventura River Project, Congressman Teague introduced in the 93rd Congress, 1st Session HR–1922 which authorized purchase by the United States of certain privately owned land within the direct drainage area of Lake Casitas thereby precluding the degradation of the high quality water and potential serious problems of eutrophication; and

Whereas, in March, 1974, Congressman Robert J. Lagomarsino introduced in the 93rd Congress, 2nd Session HR–13507 which would accomplish the same objectives sought by Congressman Teague; and

Whereas, due to the high esteem in which Congressman Teague was held by his fellow members of Congress and by the people he represented so well and faithfully in Ventura County, it seems appropriate that a memorial be established in his memory;

Now, therefore, be it resolved as follows:

The Executive Committee of the Ventura County Association of Governments strongly supports HR–13507 to establish an open space park which will accomplish the objective sought by Congressman Teague and would establish a suitable memorial which is sought by his fellow members of Congress and the residents of Ventura County by the designation of the area for which HR–13507 authorizes purchase as the "Teague Memorial Open-Space Park".

RESOLUTION No. 74-66

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAMARILLO SUPPORTING THE PASSAGE OF HR–13507, "CONGRESSMAN CHARLES TEAGUE MEMORIAL OPEN SPACE PARK"

Whereas, on February 2, 1955, Congressman Charles M. Teague introduced in the 84th Congress, 1st Session HR–3488 which authorized the construction of the Venture River Project, the principal feature of which is Lake Casitas; and

Whereas, through Congressman Teague's great interest and diligent efforts the Ventura River Project was completed on October 1, 1959, and Lake Casitas now holds in storage approximately 240,000 acre-feet of high quality water; and

Whereas, the Ventura County Board of Supervisors and the Casitas Municipal Water District Board of Directors have caused a study to be made by Montgomery Research, Inc. of the impact of varying land uses on the high quality of the water stored in Lake Casitas; and

Whereas, the conclusions presented in the study indicate that if any of the land use alternatives are implemented the high quality of the water will be degraded beyond acceptable limits and a serious problem of eutrophication will exist and, therefore, none of the land use alternatives of potential development should be implemented; and

Whereas, on January 11, 1973, due to his long-time continuous interest in the Ventura River Project, Congressman Teague introduced in the 93rd Congress, 1st Session HR–1922 which authorized purchase by the United States of certain privately owned land within the direct drainage area of Lake Casitas thereby precluding the degradation of the high quality water and potential serious problems of eutrophication; and

Whereas, in March, 1974, Congressman Robert J. Lagomarsino introduced in the 93rd Congress, 2nd Session HR–13507 which would accomplish the same objectives sought by Congressman Teague; and

Whereas, due to the high esteem in which Congressman Teague was held by his fellow members of Congress and by the people he represented so well and faithfully in Ventura County, it seems appropriate that a memorial be established in his memory;

Now, therefore, be it resolved as follows:

The City Council of the City of Camarillo strongly supports HR–13507 to establish an open space park which will accomplish the objective sought by Congressman Teague and would establish a suitable memorial which is sought by his fellow members of Congress and the residents of Ventura County by the designation of the area for which HR–13507 authorizes purchase as the "Teague Memorial Open-Space Park."

CASITAS MUNICIPAL WATER DISTRICT
RESOLUTION NO. 1444

A RESOLUTION SUPPORTING ADOPTION OF H.R. 13507

Whereas, on February 2, 1955, Congressman Charles M. Teague introduced in the 84th Congress, 1st Session HR 3488 which authorized the construction of the Ventura River Project, the principal feature of which is Lake Casitas; and

Whereas, through Congressman Teague's great interest and diligent efforts the Ventura River Project was completed on October 1, 1959, and Lake Casitas now holds in storage approximately 240,000 acre-feet of high quality water; and

Whereas, the Ventura County Board of Supervisors and the Casitas Municipal Water District Board of Directors have caused a study to be made by Montgomery Research, Inc. of the impact of varying land uses on the high quality of the water stored in Lake Casitas; and

Whereas, the conclusions presented in the study indicate that if any of the land use alternatives are implemented the high quality of the water will be degraded beyond acceptable limits and a serious problem of eutrophication will exist and, therefore, none of the land use alternatives of potential development should be implemented; and

Whereas, on January 11, 1973, due to his long-time, continuous interest in the Ventura River Project, Congressman Teague introduced in the 93rd Congress, 1st Session HR 1922 which authorized purchase by the United States of certain privately owned land within the direct drainage area of Lake Casitas thereby precluding the degradation of the high quality water and potential serious problems of eutrophication; and

Whereas, in March, 1974, Congressman Robert J. Lagomarsino introduced in the 93rd Congress, 2nd Session HR 13507 which would accomplish the same objectives sought by Congressman Teague; and

Whereas, due to the high esteem in which Congressman Teague was held by his fellow members of Congress and by the people he represented so well and faithfully in Ventura County, it seems appropriate that a memorial be established in his memory;

Now, therefore, be it resolved by the Board of Directors of Casitas Municipal Water District that this District strongly supports HR 13507 to establish an open-space park which will accomplish the objective sought by Congressman Charles M. Teague and would establish a suitable memorial which is sought by his fellow members of Congress and the residents of Ventura County by the designation of the area for which HR 13507 authorizes purchase as the "Teague Memorial Open-Space Park."

By Mr. CRANSTON (for himself, Mr. HARTKE, Mr. RANDOLPH, Mr. THURMOND, Mr. HANSEN, Mr. TALMADGE, Mr. HUGHES, and Mr. STAFFORD):

S. 3814. A bill to amend title 38 of the United States Code in order to extend medical benefits to the survivors of certain severely service-connected disabled deceased veterans. Referred to the Committee on Veterans' Affairs.

PERFECTING AMENDMENT TO CHAMPVA AUTHORITY

Mr. CRANSTON. Mr. President, today I am introducing, for myself and the chairman of the Committee on Veterans' Affairs (Mr. HARTKE), the ranking majority member of the Subcommittee on Health and Hospitals (Mr. RANDOLPH), which I chair, the ranking minority members of the full committee (Mr. HANSEN) and of the subcommittee (Mr. THURMOND), and full committee members Mr. HUGHES, Mr. TALMADGE, and Mr. STAFFORD, a bipartisan bill which will correct an unintended inequity in the provisions of title 38 authorizing medical benefits for the wives and dependents of permanently and totally disabled veterans whose disability is service-connected, or the widows and children of veterans who died as a result of service-connected disabilities. This program has been labeled CHAMPVA.

The CHAMPVA provisions, added by Public Law 93–82 which I authored in the Senate, represent an effort to extend special VA benefits for these dependents under title 38—such as are provided to them for death compensation benefits, home loans, and educational assistance benefits—so as to provide for medical benefits as well for these wives, widows, and war orphans. However, under the present statutory language in section 613(a)(2), medical benefits would be lost for the widow and dependent children in those exceptional cases where a totally and permanently service-connected disabled veteran died as a result of an accident, or an illness not associated with the veteran's disability. Certainly the medical benefits of such a veteran's dependents should not be terminated upon his death.

The legislation we are introducing today would correct the inequity resulting from the language in the current statute, and would make eligibility for these CHAMPVA benefits determined on the same basis as for GI bill benefits under chapter 35 for widows and surviving dependents of veterans who had total and permanent 100 percent service-connected disabilities at their death.

Mr. President, this new medical eligibility is estimated to affect the future benefits of approximately 114,999 dependents presently eligible for CHAMPVA under section 613.

At present, there are 427 survivors of deceased veterans who had been deemed 100 percent disabled due to a service

connected disability, but whose death was not related to that disability. Of these survivors, 192 are without medical insurance and 235 have some form of third-party insurance.

These individuals have already given a great deal to their country through the disability of their veteran spouse. Should an additional tragedy occur, they should be protected from losing the benefits that are due them.

The first year costs of extending care to these dependents is estimated at $56,584.

Mr. President, I ask unanimous consent that the text of the legislation I am introducing today be printed at this point in the RECORD.

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

S. 3814

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That clause (2) of subsection (a) of section 613 of title 38, United States Code, is amended to read as follows:

"(2) the widow or child of a veteran who (A) died as a result of a service-connected disability; or (B) at the time of death had a total disability permanent in nature, resulting from a service-connected disability,".

By Mr. ROTH (for himself and Mr. BIDEN):

S. 3815. A bill to designate the Federal office building located in Dover, Del., as the "J. Allen Frear Building." Referred to the Committee on Public Works.

Mr. ROTH. Mr. President, today I am introducing, for myself and Senator BIDEN, a bill to honor former Senator J. Allen Frear of Delaware by designating the new Federal building in Dover by his name.

It is important, I believe, that this building be named after such a distinguished son of Delaware as Allen Frear. For a Federal building should be more than just a building of bricks and mortar. It should be a building of spirit and tradition, tied to the virtues exhibited by our own patriots of revolutionary days: love of country, dedication to freedom, devotion to duty, faith in God, and allegiance to principle, ethics and morality. Allen Frear exhibited all those qualities—and more—throughout his life and as a distinguished Member of the U.S. Senate. Members of the Senate who served with him during the years 1949 to 1961 will recall his depth of perception, his good sense, his humaneness and his deep interest and concern for his fellow man.

J. Allen Frear was born on a farm near Rising Sun, Del., on March 7, 1903. He graduated from the University of Delaware in 1924. He became president and owner of a retail business in Dover, a commissioner of Delaware State College as well as of the Delaware Old-Age Welfare Commission, president of Kent General Hospital, a major in the U.S. Army, with overseas service in the European Theater of Operations and with the Military Government at the close of the Second World War, after serving two terms in the U.S. Senate, a Commissioner of the Securities and Exchange Commission. His life is one in which all of us from Delaware can be justly proud. By his example he has set a high standard for us all.

Mr. President, great men and great events are associated with the site of the new Federal building. It is fitting and proper that the Federal building be located near such historical places. And it is fitting and proper that it should bear as its name the name of one among us—from our own time—who did so much to carry on the great traditions of those whose presence throughout history honors the spot.

I hope my colleagues in the Senate will join with me in supporting this bill to honor a former Member of the Senate.

Mr. President, on July 2 I delivered an address in Dover at the dedication of the new Federal building which describes my views more fully. I ask unanimous consent that it be inserted in the RECORD at this time.

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

STATEMENT OF WILLIAM V. ROTH, JR.

Mr. Ink, distinguished guests.

As we stand here today facing the old historic Meeting House Square, one cannot help but pause and think of the great men and events associated with this locale. It was here, for instance, that John Dickinson, the penman of the revolution, is supposed to have drafted the Delaware Constitution in 1792. It is also said that this square was the site for the reading of the Declaration of Independence in 1776.

The cemetery adjacent to the Delaware State Museum is the resting place for such historic figures as Colonel John Haslet, the Commander of Delaware's first militia regiment, and of Senator John Clayton, jurist and Secretary of State under President Zachary Taylor. It is fitting and proper then that the new Federal Building be located so near such hallowed ground.

The proud traditions of Delaware upheld in the past by such men as those I have mentioned are still being upheld by fine and good men. Historians will long remember the contributions of John Williams of Sussex County whose quiet and methodical investigations of wrongdoing gained the attention, and respect of the entire nation. Cale Boggs whose early roots were in Kent County now represents the finest in New Castle County. His has been a lifetime truly marked by outstanding dedicated public service. In fact, because of my high regard for the service rendered our State by Cale I have urged that the new Federal Building in Wilmington be named after him.

Here in Kent County we have former Senator Allen Frear, one of the finest public servants Kent County has ever provided to this Nation.

Allen Frear has always been perceptive, full of good sense, and warmly human. These fine qualities plus his deep interest and concern for his fellow man are what helped to make him such an excellent United States Senator.

In these three men one can find many characteristics of the patriots of revolutionary days. Senators Frear, Williams, and Boggs represent all of the old fashioned virtues that made this country great—the same virtues exhibited by the heroes of the revolution—love of country—dedication to freedom—devotion to duty—faith in God—strong family ties—and an allegiance to principle, ethics and morality. All are men of unimpeachable integrity and morality, and each section of our State can be proud that it has provided such men to us and that men of this calibre would dedicate their lives to public service and show so much true concern for the citizens of this State.

Mr. Ink and distinguished guests, it gives me great pleasure to participate in this dedication. Moreover, it gives me double pleasure to propose to you today that this building be named after Dover's distinguished friend and neighbor, Former U.S. Senator Frear. I am making such a request of the Senate Public Works Committee and hope that my colleagues on this committee will go along with my proposal.

In the case of Senator Boggs, I was stymied by an unofficial rule that Federal buildings cannot be named after a living American unless he has reached the age of 70. Without revealing Allen Frear's age, I can say that in his case we are faced with no such impediment. I realize, however, that there are still some reservations about naming a public building after a living man. Whether or not this can be accomplished, I would hope the media and the people of Delaware would begin calling these two buildings by the names of these outstanding men.

It is important, I believe, that this building be named after such a distinguished son of Dover as Allen Frear. For a Federal building should be more than just a building of blocks and mortar. It should be a building of spirit and tradition, as well as a building tied to the virtues represented by Senator Frear and his distinguished colleagues I have mentioned. I want this building to be part of the fine traditions of this State and by being named after Allen Frear it will be.

Allen Frear served in the Senate from 1949 to 1961 and as his many friends in this State know so well he and his lovely wife Esther have participated in a lengthy array of civic and public causes. Their lives represent the finest in America and as we dedicate this building which I will hereafter call the Frear Building, I would urge that we dedicate it to the old fashioned virtues which made this country great—virtues which characterize the lives of Allen and Esther Frear. These are the virtues which have sustained this nation throughout its history and with the help of God they will continue to sustain us in the future.

By Mr. HUDDLESTON (for himself, Mr. CHILES, Mr. BENTSEN, Mr. HELMS, and Mr. NUNN):

S. 3816. A bill to terminate the Emergency Daylight Saving Energy Conservation Act of 1973. Referred to the Committee on Commerce.

Mr. HUDDLESTON. Mr. President, with the recent publication of the Department of Transportation's interim report on the effects of year round daylight saving time, the benefits of winter fast time remain nebulous at best. While the findings of the report are inconclusive, it does recommend that the winter daylight saving time experiment be abandoned from the last Sunday in October 1974 through the last Sunday in February 1975. The bill which I am introducing today would go a step further. It would repeal the Emergency Daylight Saving Energy Conservation Act and return the Nation to the observance of daylight saving time only from the last Sunday in April through the last Sunday in October as we have had in the past.

The Senate approved year round daylight saving time last December expecting significant energy savings, decreased crime, decreased traffic accidents, and

more time for recreation. But, to the contrary, the DOT study indicates a "probable" electrical energy saving of only 0.75 to 1 percent partially offset by an increase in gasoline use as much as 0.5 to 1 percent in some States over the amount forecasted under conditions of standard time. It indicates no significant effects on traffic safety; no measurable effects on crime; and no measurable effects on recreation.

So, after 6 months, year-round daylight saving time has not borne out the Senate's expectations. What it has done is create very real and concrete problems for people in every part of the country.

Families remain understandably fearful for the safety and well-being of their small children who have to go to school in the dark. And, in areas where school hours have been shifted to avoid the darkness, working parents have been seriously inconvenienced.

Radio stations complain of frequency interference problems during prime time morning rush-hour broadcasts. All of the licensing changes and legislation in the world cannot change the basic, physical fact that broadcast signals behave differently in darkness than in daylight.

The construction industry—the Nation's largest industry—has called for the repeal of year-round daylight saving time because of the safety hazards of working during early morning darkness, and the resulting increase in energy use on construction projects.

And, farmers are seriously inconvenienced when daylight does not correspond to the working hours of the businesses with which they must deal.

Mr. President, I opposed year-round daylight saving time last December. But, after 6 months without conclusive proof that we are saving significant amounts of fuel; 6 months of complaints from constituents adversely affected by the time change; and, 6 months of just day-to-day experience with year-round daylight saving time, I am more opposed to it than ever.

We are fast approaching another winter under daylight saving time with all of its attendant problems. We have been assured that the Commerce Committee will hold in depth hearings on this matter, and I urge that they begin at the earliest possible date.

By Mr. BROCK (for himself, Mr. BAKER, Mr. FULBRIGHT, and Mr. MANSFIELD):

S. 3817. A bill to amend the National Bank Act, the Federal Deposit Insurance Act, the National Housing Act, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. BROCK. Mr. President, on behalf of myself and Senators BAKER, FULBRIGHT and MANSFIELD, I am introducing an emergency measure to avoid unemployment and severe economic repercussion likely to occur as a result of the inability of firms to borrow funds because of current interest restrictions in some States.

Interest rates are now extremely high. The prime rate—the rates banks charge their best customers—is around 12 percent, and banks now borrow from each other in the so-called Federal funds market at 13–14 percent, or so. Under these conditions, corporations who need to borrow sizable amounts in order to carry on their business simply cannot get money in States like Tennessee and Arkansas, where the State constitutions impose ceilings of 10 percent. In Montana, and other States, statutory restrictions—sometimes equally hard to change—also make it virtually impossible to get needed funds.

The National Bank Act, generally speaking, authorizes national banks to charge the rates permitted to State banks or to other lenders in the same State. Back in 1933, Senator Glass proposed an amendment to the National Bank Act which authorized national banks to charge 1 percent in excess of the discount rate on 90-day commercial paper in effect at the local Federal reserve bank. It was necessary, according to Senator Glass, to authorize national banks to charge more than the State interest rates when rediscount rates equaled or exceeded the State interest rate ceiling—otherwise businesses needing to borrow might have to stop their operations. While Senator Glass recognized the desirability, as a general rule, of restricting national banks to charging the same rate ceilings as their State competitors, he saw the necessity of departing from this rule when necessary to enable national banks to carry out their function of providing funds for the needs of business.

In 1933, the Federal reserve discount rate reflected market conditions. In recent years, however, the Federal reserve discount rate has lagged far behind the market in periods of rapidly rising interest rates. The current discount rate of 8 percent permits national banks to charge 9 percent. With a prime rate of 12 percent common throughout the financial centers of the country, and with banks paying substantially over 9 percent to get funds from other banks or in the market, it is quite clear that the 9 percent permitted by Senator Glass' provision provides little or no help to concerns which cannot carry on their businesses without substantial borrowings of money.

Accordingly, in order to permit corporations to get funds in these days of high interest rates, my bill would permit federally insured banks and savings and loan associations to charge up to 5 percent over the applicable Federal reserve discount rate to all corporate borrowers.

The bill, of course, does not affect consumer lending or home mortgages. It is limited to corporations who, with their attorneys, do not need the protection of usury laws. In this connection it is appropriate to note that many States completely exempt corporate loans from their usury ceiling. It is also appropriate to note that certificates of deposit of $100,000 or more are exempt from interest rate ceilings under Federal Reserve Board and FDIC regulations.

My bill would authorize all insured banks, national and State, and all insured savings and loan associations, Federal and State, to charge these rates. I believe all of the institutions can be of help in this emergency, and that they should all be equally empowered to participate in providing this help.

In this country we have a decentralized banking system which has served well in providing credit for the Nation's expanding economic needs. This so-called dual banking system has been responsible for innovation at both the Federal and State level and I am a strong supporter of this system. In areas of major competitive importance, there must be a substantial measure of equality between banks under Federal or State charters. Wide discrepancies in the two systems over a protracted period of time would make it impossible to preserve these essential financial systems.

I urge prompt consideration of this bill in order to provide emergency relief for industry and agriculture in certain parts of the country. We cannot permit unrealistic interest ceilings to prevent business and agriculture from getting the funds needed to continue operating and to market crops, however beneficial and desirable the ceilings may be in the case of single family housing or small loans to consumers and other individual borrowers.

I full recognize that remedial action by those States suffering credit distortions because of usury ceilings would be the most desirable means of dealing with existing inequities. However, it is simply not possible for that to be done overnight in States like Tennessee, Arkansas, and Montana. Thus, to give these States sufficient time to act and yet not set an unwise precedent, I am limiting the effective date of the amendment to July 1, 1977.

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

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

S. 3817

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5197 of the Revised Statutes, as amended (12 U.S.C. 85), is amended by inserting in the first and second sentences before the phrase "whichever may be the greater", the following: "or in the case of a loan to a corporate borrower, at a rate of 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal reserve bank in the Federal reserve district where the Bank is located,".

SEC. 2. The Federal Deposit Insurance Act is amended by adding at the end thereof the following:

"SEC. 24. (a) In order to prevent discrimination against State-chartered insured banks with respect to interest rates, if the applicable rate prescribed in this subsection exceeds the rate such State bank would be permitted to charge in the absence of this subsection, a State bank may in the case of a loan to a corporate borrower, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal reserve bank in the Federal reserve

district where the bank is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such State bank would be permitted to charge in the absence of this paragraph, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than is allowed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than 2 years after the date of such payment, an amount equal to twice the amount of the interest paid from the State bank taking or receiving such interest."

SEC. 3. Title IV of the National Housing Act is amended by adding at the end thereof the following:

"SEC. 412. (a) If the applicable rate prescribed in this section exceeds the rate an insured institution would be permitted to charge in the absence of this section, such institution may in the case of a loan to a corporate borrower, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal reserve bank in the Federal reserve district where the institution is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than that prescribed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than 2 years after the date of such payment, an amount equal to twice the amount of the interest paid from the institution asking or receiving such interest."

SEC. 4. If any provision of this Act or the application of such provision to any person or circumstance shall be held invalid, the remainder of the Act and the application of such provision to any person or circumstance other than that as to which it is held invalid shall not be affected thereby.

SEC. 5. The amendments made by this Act shall apply to loans made after the date of enactment of this Act, but prior to July 1, 1977.

Mr. BAKER. Mr. President, I welcome the opportunity to cosponsor the bill introduced today by my distinguished fellow colleague from Tennessee (Mr. BROCK) which is designed to enable the banking industry in the States of Arkansas, Montana, and Tennessee to make loans to corporate customers at rates of interest comparable to those charged in other states to corporate borrowers.

While we hope that the present high interest rates, as manifested by a prime rate of approximately 12 percent, will soon recede, banks across the Nation currently pay 13 to 14 percent on funds borrowed from other banks. Consequently, it is not surprising that banks in Arkansas, Montana, and Tennessee are loath to make sizable corporate loans necessitating borrowing from other banks because the State constitutions and/or statutes in these States impose interest ceilings to 10 percent on all loans, including those made to corporations. A significant burden, thus, is imposed on the local business community as it is unable to obtain funds in these three States.

As explained by Senator BROCK, the measure which we introduce today would authorize, for a limited period of time, national banks, federally insured State chartered banks, and federally insured savings and loan associations to charge corporate customers interest rates at the discount rate on 90-day commercial paper in effect at the Federal Reserve Banks in the Federal Reserve District where the banking institution is located—plus 5 per centum. I understand that this legislation has the support of governmental banking officials at both the Federal and State levels; and, because it does not affect consumer or home financing borrowings, this bill will not constitute an additional burden upon the individual taxpayer already reeling from the effects of inflation.

Mr. President, as I possess an interest in a small national bank, I have carefully examined this legislation for a possible conflict of interest. Because the type of loans affected by this bill are made normally only by large financial institutions, and because it provides relief to FDIC State banks and savings and loan institutions as well as national banks, I have concluded that I should not withhold my vote or support for this legislation. Unless we authorize an increased interest rate ceiling in these three States, I fear that Arkansas, Montana, and Tennessee will experience unusual economic disorientation and substantial loss of jobs because the business communities in those States are unable to secure the funds necessary to continue their operations.

By Mr. BENNETT:

S. 3818. A bill to amend the Internal Revenue Code of 1954. Referred to the Committee on Finance.

EXTENSION OF MORATORIUM UNTIL JANUARY 1976

Mr. BENNETT. Mr. President, I would like to offer an amendment to H.R. 8214 which would authorize extension of a moratorium on the reporting of military moving expenses until January 1, 1976. I had intended to introduce this amendment to H.R. 6642, a bill which was passed by this body on July 16, 1974, and which contains provisions extending this moratorium until January 1, 1975. Unfortunately the bill was passed before I had the opportunity to do this.

The extension of this moratorium until January 1976 is in the best interests of the Government. First, it will insure that we have had the opportunity to grant permanent legislative relief from the reporting requirement, a matter being considered by the Ways and Means Committee. Second, it will prevent the necessity for the military services to soon begin sinking costs into reporting systems that may not be required.

As background, it should be noted that in 1970 the Internal Revenue Service granted a 2-year moratorium to DOD on the military moving expense reporting requirement. This has periodically been extended since, with the current extension ending with the present session of this Congress. In granting this extension, IRS put DOD on notice that this would be the last short of legislative relief.

DOD has consistently sought relief from the reporting requirement because of the costs—$1.8 million fixed and $6.2 million annual operating—involved in establishing the necessary reporting systems. These costs would not be offset to any significant degree by increased tax revenue because moving costs included in gross income would be offset, in the great majority of instances, by comparable deductions. Further, implementation of the reporting requirement would subject military members to the so-called 39 week and 50 mile tax rules, which, as applied to the military who at the convenience of the Government are required to make frequent moves, are extremely unfair.

By Mr. BENNETT:

S. 3819. A bill to amend the Internal Revenue Code of 1954. Referred to the Committee on Finance.

Mr. BENNETT. Mr. President, participants in the Armed Forces health professions scholarship program, which started in 1973, were originally under the impression that their educational expenses which are paid by the Government would not be taxable. However, on August 1, 1973, the Internal Revenue Service ruled that they were.

The average annual educational expenses under the program are approximately $3,000. In effect, by making this amount taxable, the value of the monthly stipend of $400 which the scholar receives is reduced by approximately $100 per month down to $300.

This scholarship program was considered as a substitute for the doctor draft which ended on July 1, 1973. If this program fails because it does not provide sufficient financial inducement, it may be necessary to reinstate the doctor draft.

The present language of the bill affords relief to participants in the scholarship program which would end in approximately 5 months—31 December 1974. This obviously is not an adequate amount of time in which to develop and obtain enactment of permanent legislative relief. In order to provide adequate time in which to develop and obtain enactment of legislation providing permanent relief to this program, there should be no terminating date for the temporary relief provided by this bill. The appropriate committees and the Congress should not be under undue pressure in reaching

a permanent solution to this problem. These matters can be very time consuming as the amount of time this bill has been under consideration amply proves.

Mr. BENNETT:

S. 3820. A bill to amend the Internal Revenue Code of 1954. Referred to the Committee on Finance.

Mr. BENNETT. Mr. President, participants in the Armed Forces health professions scholarship program which started in 1973, were originally under the impression that their education expenses which are paid by the Government would not be taxable. However, on August 1, 1973 the Internal Revenue Service ruled that they were.

The average annual educational expenses under the program are approximately $3,000. In effect, by making this amount taxable, the value of the monthly stipend of $400 which the scholar receives is reduced by approximately $100 per month down to $300.

This scholarship program was considered as a substitute for the doctor draft which ended on July 1, 1973. If this program fails because it does not provide sufficient financial inducement, it may be necessary to reinstate the doctor draft.

The present language of the bill affords relief to participants in the scholarship program which would end in approximately 5 months—31 December 1974. This obviously is not an adequate amount of time in which to develop and obtain enactment of permanent legislative relief.

By providing an additional year—fiscal year 1975—of relief, a responsible, adequate amount of time would be available in which to develop permanent legislative relief.

By Mr. BENNETT:

S. 3821. A bill to amend the Internal Revenue Code of 1954. Referred to the Committee on Finance.

INDEFINITE EXTENSION OF MORATORIUM

Mr. BENNETT. Mr. President, I would like to offer an amendment to H.R. 8214 which would authorize an indefinite extension of a moratorium on the reporting of military moving expenses. I had intended to introduce this amendment to H.R. 6642, a bill passed by this body on July 16, 1974, and which contains provisions extending this moratorium until January 1, 1975. Unfortunately, the bill was passed before I had the opportunity to do this.

The extension of this moratorium for an indefinite period is in the best interests of the Government. First, it will insure that we have had ample opportunity to review and, if appropriate, grant permanent legislative relief from the reporting requirement, a matter being considered by the Ways and Means Committee. Second, it will help relieve some apprehension by members of the military and will prevent the necessity for the military services to soon begin sinking costs into developing reporting systems that may not be required.

As background, it should be noted that in 1970 the Internal Revenue Service granted a 2-year moratorium to DOD on the military moving expense reporting requirement. This has periodically been extended since, with the current extension ending with the present session of this Congress. In granting this extension, IRS put DOD on notice that this would be the last, short of legislative relief.

DOD has consistently sought relief from the reporting requirement because of the costs—$1.8 million fixed and $6.2 million annual operating—involved in establishing the necessary reporting systems. These costs would not be offset to any significant degree by increased tax revenue because moving costs included in gross income would be offset, in the great majority of instances, by comparable deductions. Further, implementation of the reporting requirement would subject military members to the so-called 39-week and 50-mile tax rules, which as applied to the military who at the convenience of the Government are required to make frequent moves, are extremely unfair.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 3108

At the request of Mr. STAFFORD, the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 3108 to amend the Rehabilitation Act of 1973.

S. 3327

At the request of Mr. CURTIS, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 3327 to amend section 208 of the Social Security Act.

S. 3783

At the request of Mr. FULBRIGHT, the Senator from New Jersey (Mr. CASE) was added as a cosponsor of S. 3783, to implement certain provisions of the International Convention on Fishing and Conservation of the Living Resources of the High Seas, and for other purposes.

SENATE CONCURRENT RESOLUTION 104—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO THE AVAILABILITY OF UNLEADED GASOLINE AND RELATED EQUIPMENT

(Referred to the Committee on Public Works.)

Mr. BIBLE. Mr. President, I rise to submit a concurrent resolution expressing the sense of Congress that the Environmental Protection Agency by regulation permit reasonable extensions of time to small business gasoline marketers so that they may obtain the equipment and product necessary to dispense unleaded gasoline without being subject to a $10,000 a day penalty.

A proud achievement of this body over the past 25 years has been its continuing concern over the years for the American small businessman. Those hardy entrepreneurs, as has so often been said, constitute the backbone of the American economy. In the petroleum industry, as in other segments of our economy, they are vigorous competitors, providing a major source of innovation, flexibility, lower prices and better service. Their value to many of our constituents was demonstrated in the imaginative actions taken by independent and other service station operators during the fuel crisis of this past winter.

In common with largest industrial and business organizations—they are subjected to the myriad regulations promulgated by our numerous, and I might say, ever-growing number of Federal regulatory agencies.

Small business petroleum marketers are required to prepare and file voluminous reports for IRS, OSHA, the Department of Commerce and others. Additionally, the energy crisis and the drive to clean up our environment have spawned a host of new problems and new reporting requirements for those dealing in petroleum products, such as vapor recovery, spillage control, allocation programs, and price controls.

These marketers now confront an additional classic small business regulatory problem.

By July 1—Sept. 1, 1974, upon extension applied for—gasoline stations are required to have available unleaded gasoline under penalties of up to $10,000 per day. In many instances this means that a third storage tank and special nozzles are needed. The requirement arises because 1975 model automobiles have been built with catalytic air pollution converters, which in turn call for the use of only unleaded fuels.

However, 1975 cars available this autumn will only constitute 10 percent of the car population by September 1, 1975. Thus, reasonable extension of the deadline for small marketers will not damage either the quest for cleaner air or the ability of small marketers to provide substantial service.

The difficulty faced by the independent small firms is in obtaining physical delivery of the equipment. Major oil companies appear in many instances to be taking care of their own stations. Independents are therefore in competition not only with these firms but with other businesses, industries, and agriculture in acquiring these scarce products. Surveys taken among these segments of the industry project delays reaching into the autumn of 1974 and in some instances beyond this. Yet EPA seems to be moving in the opposite direction, moving the deadline closer for some rural service stations in a recent action.

The intention of this resolution is to promote compliance with EPA requirements by the smaller gasoline station owners in order to preserve them in business. They are an important factor in many smaller towns and rural areas. For instance, there are some 13,000 gasoline wholesalers or jobbers. These firms own an average of seven service stations. Some years ago the report of the Senate Select Committee on Small Business indicated that independent retailers marketed between 20 percent and 25 percent of all the gasoline in the United States

and were the balance wheel of competition in this industry.

The resolution is cast as a sense of Congress declaration of policy. Under such legislation, the Environmental Protection Agency would implement the policy by appropriate procedures and guidelines. EPA would presumably require a showing that the equipment and/or product involved has been ordered in good faith, so that the marketer has done everything he can do, and his inability to comply is due to factors beyond his control. This mechanism is apparent already in place under the current September 1 extension regulation.

The Agency has already proposed in its regulations that marketers who cannot obtain unleaded clear product on time can apply to EPA for an alternate supplier. This is a step in the right direction, and the language of the resolution as to products will provide congressional support for such a policy.

Mr. President, we are also familiar with the lines at service stations during the recent gasoline fuel crisis. Independent small gasoline retailers can, if equitably treated, be a substantial factor in avoiding such hardships in the future. The alternative would be that many good local businessmen would be forced to close their doors because of circumstances beyond their control. This resolution provides a reasonable means toward small business survival in this field. I hope the Senate can take expeditious action to enact the resolution.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks the full text of the concurrent resolution.

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

S. CON. RES. 104

Whereas motor vehicles for the model year 1975 will be built with air pollution control equipment which requires unleaded fuel;

Whereas 1975 model motor vehicles may constitute up to 10 percent of the motor vehicles in use by the beginning of 1975;

Whereas the regulations of the Environmental Protection Agency require gasoline marketers to provided unleaded gasoline for such vehicles by July 1, 1974 (or upon application by September 1, 1974) under a possible fine of up to $10,000 per day; and

Whereas service station operators, marketers, suppliers, and especially small businesses, who are in good faith attempting to comply with this requirement, face delays in delivery and installation of equipment or gasoline which are beyond their control; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the Administrator of the Environmental Protection Agency should, in the application of regulations pursuant to the Clean Air Act with respect to supplying, after July 1, 1974, unleaded gasoline for automobiles—

(1) grant reasonable extensions of time for compliance to retailers who are unable to obtain such gasoline or delivery systems for such gasoline; and

(2) consult with the Administrator of the Federal Energy Administration in order to obtain a fair allocation of such gasoline for all segments of the petroleum industry marketing structure.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1975—AMENDMENTS

AMENDMENT NO. 1612

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

Mr. NELSON (for himself and Mr. ERVIN) submitted an amendment, intended to be proposed by them, jointly, to the bill (H.R. 15404) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary and related agencies for the fiscal year ending June 30, 1975, and for other purposes.

THE SECURITY OF INDIVIDUAL PRIVACY

Mr. NELSON. Mr. President, I send to the desk on behalf of myself and the Senator from North Carolina (Mr. ERVIN) an amendment to House Resolution 15404 which provides that none of the funds appropriated by this title should be used for the installation, maintenance or operation of electronic devices for intercepting wire or oral communications not authorized by sections 2516 and 2518 of title 18, United States Code.

Mr. President, on July 11 the Senate, by an overwhelming vote of 64 to 31, repealed the "no knock" provisions of the Federal drug law and the D.C. Criminal Code. In so doing, the Senate signaled its intention to correct a past mistake and to insure that individual liberties are not sacrificed on the altar of political expendiency.

That same sensitivity to individual liberty should now move the Senate to end the wiretapping abuses perpetrated in the name of "national security." The Senate should adopt legislation which requires all wiretaps to have their prior approval of a neutral court.

The need for such legislation is beyond doubt. Attorney General Saxbe has already endorsed the concept of requiring prior judicial authorization of national security wiretaps. In its report, the Senate Watergate Committee likewise stated that "it is preferable" to have prior court approval of national security wiretaps.

Because the need is so clear, Senator ERVIN and I are proposing today an amendment to H.R. 15404, an appropriations bill for the Commerce, State and Justice Departments, which would prohibit the use of the appropriated funds by the Justice Department and the FBI for the installation, operation, or maintenance of wiretaps and electronic bugs which do not have the prior authorization of a judicial warrant. The effect of this amendment would be to put Congress on record as being against the Government's use of warrantless wiretaps for so-called "national security" reasons or for any other purpose. In so doing, it would help assure every American citizen that individual liberty—not unrestrained Government power—is the hallmark of our society.

This assurance would merely be a reaffirmation of the rights guaranteed to every individual by the fourth amendment to the Constitution. That amendment states explicitly that—

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

One need not be an historian or a lawyer to understand the basic purpose of this amendment. It is designed to protect an individual's privacy against unreasonable intrusions by the Government. To provide this protection, the amendment contemplates that a neutral court—not the Government—shall first determine whether any planned search is reasonable enough to justify the issuance of an approving warrant based on probable cause. This procedure makes eminent sense. Without prior court review, the Government would be both advocate and judge of its own case.

It is noteworthy, moreover, that the fourth amendment's protection applies to all Government searches. No exception is made for "national security" cases.

In 1967, the Supreme Court ruled that, as a matter of constitutional law, telephone wiretaps constitute Government searches which are subject to fourth amendment limitations. This ruling means that Government wiretaps must have the prior authorization of a judicial warrant based on probable cause. The Court has upheld this position in every subsequent wiretap case—even in those situations where it was claimed that the wiretapping was necessary to protect "domestic security."

Despite the clear meaning of the fourth amendment and interpretive decisions by the Supreme Court, the Government continues to authorize warrantless wiretaps in so-called national security cases. A Justice Department spokesman testified at a recent congressional hearing that approximately 100 warrantless wiretaps are operative at any given point of time. It was argued there and elsewhere that such wiretaps are necessary to protect the Nation's security.

The short but essential answer to that argument was offered more than 200 years ago by William Pitt. Responding to the Government's pleas that general search warrants were necessary for the Government to execute its responsibilities, Pitt declared that—

Necessity is the plea for every infringement of human freedom. It is the argument of tyrants; it is the creed of slaves.

That response applies with equal force to any argument in support of warrantless wiretaps. Such wiretaps pose a grave danger to the individual's right to privacy and other fundamental constitutional liberties.

Often they reflect nothing more than a desire to pry into an individual's private affairs. Generally they are not supported by concrete evidence to justify the invasion of an individual's privacy. And always they escape the scrutiny of the courts, the Congress, and the public at large because the Government is not re-

quired to disclose their existence unless it prosecutes the individual involved—a rare occurrence in the history of national security wiretaps.

In a word, warrantless wiretaps are dangerous because they confer unlimited and unreviewed power in the executive branch. There is virtually no way for either the Congress or the courts to check the exercise of that power. Warrantless wiretaps thus violate the basic premise underlying our Constitution that all power is "fenced about."

The dangers of warrantless wiretaps are not confined to the criminal and truly subversive elements within our society. Warrantless wiretaps are a serious threat to everyone, regardless of his or her station in life. Many distinguished Americans, for instance, have been subject to national security wiretaps.

Those wiretapped in recent years include Dr. Martin Luther King, Jr., who was wrongly suspected of being a Communist dupe in the early 1960's; Joseph Kraft, the syndicated newspaper columnist; 17 newspapermen and Government officials who were suspected of leaking or reporting sensitive information in 1969—despite the fact that some of those tapped did not even have access to such information; congressional aides who knew reporters involved in the publication of the Pentagon Papers; and friends of a White House official suspected of passing information to the Chairman of the Joint Chiefs of Staff of the U.S. Armed Forces.

These and other incidents show that often national security wiretaps have been used to protect an administration from adverse publicity rather than to protect the Nation against foreign attack or subversion.

The abuses of warrantless wiretaps have rightly aroused concern among the public. In a recent opinion poll for the Senate Subcommittee on Intergovernmental Relations, Louis Harris found that 75 percent of the public believes that "wiretapping and spying under the excuse of national security [are] a serious threat to people's privacy." Mr. Harris also found in another poll that more than 75 percent of the public now favors legislation to curb the Government's power to wiretap.

These opinion polls are not difficult to understand. The vast majority of the public instinctively recognize that lack of control breeds an official state of mind that condones the Government's invasion of a citizen's privacy. This official attitude is a dangerous threat to freedom. It led to Watergate and other illegal acts of political espionage.

The lesson of Watergate and other recent events is clear: warrantless wiretaps for so-called "national security" purposes should have no place in our society. It would indeed be ironic if the Government's invocation of national security could justify a violation of those constitutional rights and liberties which the Government is obligated to defend.

It is therefore incumbent on Congress to adopt action to prevent such wiretapping abuses and to alleviate public concerns. The amendment offered today provides the Senate with a timely opportunity to meet that responsibility. In essence, the amendment requires that wiretaps conducted by the Justice Department or FBI be subject to the court warrant procedures contained in title III of the Omnibus Crime Control and Safe Streets Act.

This requirement would not impinge on the Government's ability to install a wiretap when there is a legitimate need. Virtually every activity which endangers the Nation's security is a codified crime, such as treason or espionage. Section 2516 of title III explicitly allows for wiretaps to obtain information about such activities. Consequently, if the Government determines that it needs a wiretap to protect the Nation, it should be able to obtain the approving judicial warrant. This is particularly so since 6 years of experience under title III demonstrates that courts are very deferential to Government requests for wiretaps; of the thousands of wiretap applications made by the Government, the courts have denied only a handful.

This amendment, then, strikes a proper balance between the need to preserve fundamental constitutional liberties and the need to provide the Government with access to information concerning the Nation's security. For this reason, there should be no obstacle to Congress, approval of the proposed amendment. In fact, failure to adopt this amendment would be an admission to the American people that, for all their rhetoric, Members of Congress are unwilling to take concrete action to protect those rights and liberties which the Constitution guarantees to every individual. Mr. President, H.R. 15404 is now pending before the Senate Appropriations Committee. I ask that the amendment offered today be referred to that committee so that the amendment can be considered in the committee's deliberations.

I. THE SCOPE OF THE FOURTH AMENDMENT'S PROTECTION

To appreciate the need to prohibit the use of warrantless wiretaps, it is first necessary to understand the scope of the fourth amendment's protection. As noted earlier that amendment provides that—

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

This amendment thus restricts the Government's power over the individual. As James Madison observed, this amendment, as well as the other amendments in the Bill of Rights:

> "Limit and qualify the powers of Government, by excepting out the grant of power those cases in which the Government ought not to act, or to act only in a particular mode." 1 Annals of Cong. 483 (June, 1789).

In this light, the basic purpose of the fourth amendment is clear. It protects each citizen's privacy from unreasonable invasion by the Government.

The fourth amendment was borne from the American Colonies' bitter experience with their British rulers. The English king's officers—armed with nothing more than a general warrant and a desire to suppress political dissent—frequently entered an individual's home and rumaged through his personal effects. Those warrants, and the indiscriminate searches which they sanctioned, quickly became a subject of dread among the American Colonies. See N. Lasson, "The History and Development of the Fourth Amendment to the United States Constitution," chapters 3 and 4 (1937).

In drafting a constitution to govern their new Nation, the American citizens were concerned that there be no resurrection of those indiscriminate searches by the Government. The fourth amendment was therefore, adopted to meet that justified concern.

The fourth amendment's protection is twofold. On the one hand, it precludes unreasonable invasions of an individual's privacy by the Government. On the other hand, the fourth amendment guarantees that that privacy can be invaded only when there is a judicial warrant based on probable cause. The fourth amendment's twofold protection was aptly summarized in a recent issue of the Arizona Law Review:

> The fourth amendment was intended not only to establish the conditions for the validity of a warrant, but also to recognize an independent right of privacy from unreasonable searches and seizures. Justice Frankfurter, dissenting from the [Supreme] Court's decision in *Harris* v. *United States*, interpreted [t]he plain import of this [to be] . . . that searches are "unreasonable" unless authorized by a warrant, and a warrant hedged about by adequate safeguards.
>
> Note, "Warrantless Searches in Light of Chimel: A Return to the Original Understanding," 11 *Ariz. L.Rev.* 455, 472 (1969).

It is quite clear, moreover, that the fourth amendment's protections were not to be suspended in cases of national security. When the fourth amendment was adopted, our Nation was only 11 years old. Foreign threats to the Nation's newly won independence remained ever present. Yet the fourth amendment provides for no exception to its application. The compelling conclusion is that the amendment should be applicable to all situations, including cases involving national security crimes. This conclusion is supported by innumerable constitutional scholars, including Justice William O. Douglas, who has stated:

> There is, so far as I understand constitutional history, no distinction under the Fourth Amendment between types of crimes." *Katz* v. *United States*, 389 U.S. 347, 360 (1967) (concurring opinion).

Our Founding Fathers, of course, did not contemplate the advent of telecommunications. Consequently, the amend-

ment does not expressly include wiretaps of telephones within the ambit of its protection. But there is no question that the constitutional right to privacy is no less important in cases where the Government listens to a telephone conversation than when it physically enters an individual's home.

In the 1967 decisions of Berger against New York and Katz against the United States, the Supreme Court held that the fourth amendment therefore generally requires the Government to obtain a judicial warrant before it can wiretap a citizen's phone. In issuing the Katz decithat—

The fourth amendment protects people, not places.

The soundness of the Berger and Katz decisions has been reaffirmed repeatedly by the Supreme Court. See, for example, *Alderman* v. *United States*, 394 U.S. 165 (1969). Most recently, in *United States* v. *United States District Court* (407 U.S. 297 (1972)), commonly referred to as the Keith case, the Court held that the Government could not wiretap American citizens without a judicial warrant—even when the citizens' activities threatened the domestic security of the Nation. Again, the Court made clear that wiretaps must adhere to the safeguards delineated by the fourth amendment:

Though physical entry of the home is the chief evil against which the wording of the Fourth Amendment is directed, its broader spirit now shields private speech from unreasonable surveillance.

The Supreme Court has not yet decided whether the fourth amendment's protections apply to cases involving foreign powers and their agents. In the Keith case, the Court stated explicitly that it did not consider those situations where American citizens have a significant connection with foreign powers and their agents.

Because the Court has not ruled on these national security wiretaps, the present administration maintains that it may install warrantless wiretaps in certain stiuations. In a September 1973 letter to Senator WILLIAM FULBRIGHT, chairman of the Senate Foreign Relations Committee, then Attorney General Elliot Richardson stated that the administration would continue to install warrantless wiretaps against American citizens and domestic organizations if the administration believes that their activities affect national security matters.

Mr. Richardsons' comments apparently still reflect administration policy. A representative of the Justice Department testified at a recent congressional hearing that at any point in time approximately 100 warrantless wiretaps are operative. The representative stated, furthermore, that these wiretaps often include surveillances of American citizens. And that is precisely the problem of national security wiretaps.

The discretion to determine when such warrantless wiretaps are justified and properly executed has been the sole province of the executive branch. There has been virtually no opportunity for the Congress, a court, or any other public body to examine the exercise of that discretion in order to prevent abuses. The results are not surprising. Warrantless wiretaps have produced and continue to produce the very evils which the fourth amendment was designed to eliminate.

II. THE HISTORY OF WARRANTLESS WIRETAPS.

Warrantless wiretaps were first employed early in the 20th century. Almost from the very beginning, constitutional scholars and law enforcement officials recognized the serious dangers of warrantless wiretaps. In an early surveillance case, the venerable Justice Oliver Wendell Holmes referred to warrantless wiretaps as "dirty business" (*Olmstead* v. *United States*, 277, U.S. 438, 470 (1928) (dissenting opinion)).

In 1931, J. Edgar Hoover, who by then had been FBI director for 7 years, commented that —

While [the practice of warrantless wiretaps] may not be illegal, I think it is unethical, and it is not permitted under the regulations by the Attorney General.

In 1939, Mr. Hoover wrote to the Harvard Law Review that he believed wiretapping to be "of very little value" and that the risk of "abuse would far outweigh the value."

By 1939, however, pervasive reservations about wiretapping had inspired enactment of a law by Congress. In 1934, Congress passed the Communications Act. Section 605 of that act prohibits the "interception and divulgence" or "use" of the contents of a wire communication. From the moment of enactment, the provision seemed to erect a total prohibition to wiretapping and the use of information obtained from wiretapping. See *Nardone* v. *United States*, 308 U.S. 338 (1939); *Nardone* v. *United States*, 302 U.S. 379 (1937). As the Supreme Court stated:

[T]he plain words of the statute created a prohibition against any persons violating the integrity of a system of telephone communication and that evidence obtained in violation of this prohibition may not be used to secure a federal conviction. *Benanti* v. *United States*, 355 U.S. 96, 100 (1957).

This interpretation was shared by civil libertarians acquainted with the legislative history. Indeed, subsequent efforts in the 1940's and 1950's to legalize certain kinds of wiretapping were repeatedly rebuffed by those in Congress who feared the consequences which wiretapping would have for civil liberties. See Theoharis and Meyer, "The 'National Security' Justification for Electronic Eavesdropping: An Elusive Exception," 14 Wayne L. Rev. 749 (1968).

On the eve of World War II, however, President Franklin D. Roosevelt became convinced that use of warrantless wiretaps would be necessary to protect the Nation against the "fifth column" and other subversive elements. Roosevelt therefore instructed his Attorney General, Robert Jackson, to authorize wiretaps against subversives and suspected spies.

But Roosevelt was not insensitive to the risks which wiretapping could have for constitutional rights and liberties. In a memorandum to Jackson dated May 21, 1940, Roosevelt indicated that he was aware of section 605 and had read the Supreme Court's interpretive decisions. Roosevelt basically agreed with the restrictions against wiretapping:

Under ordinary and normal circumstances wiretapping by Government agents should not be carried on for the excellent reason that it is almost bound to lead to abuse of civil rights.

Roosevelt consequently instructed Jackson—

to limit these investigations so conducted to a minimum and to limit them insofar as possible to aliens.

Roosevelt's sensitivity to the dangers of warrantless wiretaps did not necessarily rescue their legality. Many legal scholars have suggested that until enactment of title III of the Omnibus Crime Control and Safe Streets Act of 1968, all wiretapping was illegal. See, for example, Navasky and Lewin, "Electronic Surveillance," in hearings before Senate Subcommittee on Administration Practices and Procedures. U.S. Senate, 92d Cong., 2d sess., pp. 173–74, 180 (June 29, 1972). Theoharis and Meyer, for instance, observed that until 1968:

All wiretapping violated the absolute ban of section 605 of the Federal Communications Act of 1934, and all other electronic eavesdropping which resulted in trespass of a constitutionally protected area was prohibited.

The questionable legality of wiretapping did not deter its use after World War II. In the 1950's and 1960's the Government's reliance on warrantless wiretaps mushroomed. No precautions were taken, though, to minimize the dangers to civil liberties recognized by Roosevelt. Concern for "national security" consequently led to the use of warrantless wiretaps against political dissidents—including Dr. Martin Luther King, Jr., who was wrongly suspected of being an unwitting dupe of the Communists.

The use of warrantless wiretaps had become a monster with its own momentum. Even the President did not always know the full extent to which such taps were used. Thus, upon learning of the taps on Dr. King and others, President Lyndon Johnson became irate.

One June 30, 1965, Johnson issued a directive placing severe restrictions on the use of warrantless wiretaps. Johnson initially made clear his general opposition to warrantless wiretaps:

I am strongly opposed to the interception of telephone conversations as a general investigative technique.

Johnson nonetheless ordered that wiretaps be permitted in national security cases—but only with the specific authorization of the Attorney General. Johnson apparently believed, in good faith, that authorization of warrantless

wiretaps by the Attorney General would prove to be an adequate safeguard for the individual's constitutional right to privacy and other constitutional liberties.

Sadly, but not unexpectedly, Johnson's belief proved to be illusory. Recent events have demonstrated that warrantless wiretaps—no matter how benign the Government's motives—cannot insure the sanctity of the individual's right to privacy. Reference to the examples cited in my statement of December 17, 1973—page 41864—makes this clear:

On December 5, 1973, Eugene LaRocque, a retired rear admiral in the U.S. Navy, revealed that the Pentagon currently has a unit which is authorized to engage in the same kind of surveillance activities conducted by the "Plumbers Unit" in the White House. The purported basis of these activities is a need to protect "national security." Rear Adm. LaRocque emphasized that there is currently no procedure for Congress, the courts, or the public to determine the scope—or lawfulness—of the Pentagon unit's surveillance activities.

In a report issued in October 1973, a House subcommittee found that certain White House officials invoked national security considerations to make the CIA their "unwitting dupe" in the burglary of Daniel Ellsberg's psychiatrist's offices and in other unlawful surveillance activities.

Recently it was learned that in 1969 the administration installed warrantless taps on 13 government officials and 4 newsmen, for the purported reason that these individuals were leaking or publishing sensitive foreign intelligence information. In virtually all the cases there was little or no concrete evidence to justify the taps. In many cases the evidence shows that the individual tapped did not even have access to such information. Indeed, in at least two cases the taps were continued after the individual had left Government service and had joined the Presidential campaign staff of Senator Muskie.

In 1969 the White House authorized the burglary of the home of newspaper columnist Joseph Kraft so that a warrantless tap could be installed. The alleged basis for this action was again national security. But there was and is no concrete evidence to establish that Mr. Kraft was acquiring or reporting any information which compromised our national security.

Testimony before the Senate Watergate Committee revealed that the White House authorized warrantless wiretaps "from time to time" when it was conducting an independent investigation of the publication of the "Pentagon papers" in 1971. The taps were placed on numerous citizens including aides of Members of Congress, whose only connection with the "Pentagon papers" was a personal relationship with some of the reporters involved. Again, the taps were justified on national security grounds and, again, there was and is no concrete evidence to support the need for the taps.

In 1970, the White House conceived and drafted a broad plan which proposed warrantless wiretapping, burglary, and other insidious surveillance practices. The staff assistant responsible for the plan stated in a memorandum to the President that certain aspects were "clearly illegal." Nonetheless, the plan was approved on the basis of national security, only to be scrapped shortly afterward when FBI Director J. Edgar Hoover objected.

In addition to these abuses, the Washington Post disclosed last January four more warrantless wiretaps conducted by the White House "plumbers" in 1972 against American citizens. The presumed basis for these taps was again national security. But there was no involvement of foreign powers or their agents. Nor were the taps in any way necessary to protect our Nation from foreign attack or subversion. The taps were instead justified on the grounds that a White House official was distributing certain information to the Chairman of the Joint Chiefs of Staff of the U.S. Armed Forces. In order to stop this distribution, the plumbers believed it necessary to wiretap the official's friends.

The abuses of warrantless wiretaps underscore the wisdom of the fourth amendment's protections. It would be naive to assume that the Government can make a disinterested judgment as to whether a planned search by Government agents is reasonable. The Government cannot properly be both advocate and judge of its own case.

Our Founding Fathers recognized this problem and adopted the fourth amendment. That amendment contemplates that a disinterested court will decide whether searches desired by the Government are reasonable. See, for example, the Keith case; *Coolidge* v. *New Hampshire* (403 U.S. 443 (1971)). The need for this disinterested judgment is no less necessary in cases involving the national security than it is in other cases. This essential point was advanced eloquently by Justice Douglas in the Katz case:

Neither the President nor the Attorney General is a magistrate. In matters where they believe national security may be involved, they are not detached, disinterested, and neutral as a court or magistrate must be. Under the separation of powers created by the Constitution, the Executive Branch is not supposed to be neutral and disinterested. Rather, it should vigorously investigate and prevent breaches of national security and prosecute those who violate the pertinent federal laws. The President and the Attorney General are properly interested parties, cast in the role of adversary in national security cases. They may even be the intended victims of subversive action. Since spies and saboteurs are as entitled to the protection of the Fourth Amendment as suspected gamblers like petitioner, I cannot agree that where spies and saboteurs are involved adequate protection of Fourth Amendment rights is assured when the President and Attorney General assume both the positions of adversary-and-prosecutor and disinterested, neutral magistrate. 389 U.S. at 359-60 (concurring opinion).

In short, regardless of how beneficient the Government's intentions, warrantless wiretaps—whether in national security cases or in any other kind of case—pose serious dangers to the right to privacy as well as other constitutional rights and liberties.

III. AMENDMENT TO PROTECT AGAINST WIRETAP ABUSES IN NATIONAL SECURITY CASES

The history of warrantless wiretaps for national security cases demonstrates the need for corrective action. For too long Congress has closed its eyes to the abuses of those wiretaps—perhaps in the hope that the country would be better served if implicit trust were placed in the executive branch to safeguard constitutional rights. The history underlying the fourth amendment should have given Congress pause before being so trusting.

But whatever the rationale for past inaction, the Watergate scandals make clear that Congress must act now to insure the preservation of precious constitutional rights—especially the right to privacy. Invocation of national security should not enable the Government to wiretap without regard to traditional constitutional limitations. The amendment offered today provides Congress with an opportunity to assure the sanctity of those limitations.

The amendment simply prohibits the use of appropriated funds for wiretaps which do not comply with the warrant procedures included within title III of the Omnibus Crime Control and Safe Streets Act of 1968. Under that title, a court will approve a Government wiretap if there is probable cause to believe that a certain crime has been or is about to be committed. Crimes for which wiretaps can be authorized include national security offenses, such as espionage, sabotage and treason.

The amendment is really a very conservative measure. It merely reasserts the traditional safeguards provided by the fourth amendment. That amendment states that the Government cannot invade an individual's privacy without first obtaining a judicial warrant based on probable cause. The history of the amendment suggests that, except in certain matters—such as housing inspections—the "probable cause" requirement must relate to the commission of a crime. See, for example, *Wyman* v. *James*, 400 U.S. 309 (1971); *Camara* v. *Municipal Court*, 387 U.S. 523 (1967).

The history of the fourth amendment also underlies the need for prior judicial authorization for national security wiretaps. In United States against Brown, Circuit Judge Goldberg explained the importance of the court's role in supervising such wiretap:

It remains the difficult but essential burden of the courts to be ever vigilant, so that foreign intelligence never becomes a pro forma justification for any degree of intrusion into zones of privacy guaranteed by the Fourth Amendment. 484 F. 2d 418, 427 (1973) (concurring opinion).

The Watergate scandals should teach us that the courts cannot carry this essential burden unless prior judicial approval is required for national security wiretaps.

There should be no concern that a requirement of judicial warrants for national security wiretaps will undermine the security of the Nation. Almost any activity which threatens the Nation's security is a codified crime for which a wiretap can be authorized. Courts, moreover, will be most responsive to Government requests for national security wiretaps. Past experience with title III indicates that judges are very deferential to Government requests for wiretaps to obtain information about do-

mestic crimes; that deference is bound to be just as great—if not greater—when the crime is one involving national security. The convergence of these factors, then, makes clear that the amendment will not impose any undue restriction on the Government's ability to protect against foreign attack or subversion.

IV. CONCLUSION

For decades the Government has used warrantless wiretaps to serve its view of the national security. These wiretaps have always posed a fundamental danger to the freedoms guaranteed by our Constitution. The Watergate scandals and other recent events have exposed that danger in a dramatic and clear fashion.

We should not fail to heed the warning signs. Constitutional provisions empowering the Government to protect the Nation's security were never thought to justify the subversion of individual freedoms afforded by other constitutional provisions. As Judge Ferguson declared in the United States against Smith, a case concerning the use of warrantless wiretaps for national security purposes:

To guarantee political freedom, our forefathers agreed to take certain risks which are inherent in a free democracy. It is unthinkable that we should now be required to sacrifice these freedoms in order to defend them. 321 F. Supp. 424, 430 (1971).

Congress cannot and should not tolerate governmental violations of the individual's constitutional rights to privacy by wiretaps or any other means. That right to privacy, as well as other constitutional liberties, are the cornerstone of our democratic system. If those rights and liberties are eroded, the very fabric of our constitutional system is imperiled. Congress should, therefore, act now to protect our cherished rights and liberties from abusive national security wiretaps.

Mr. President, I ask unanimous consent that the text of amendment offered today be printed in the RECORD.

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

On page 22, between lines 10 and 11, insert the following new section:

SEC. 208. None of the funds appropriated by this title shall be used for the installation, maintenance, or operation of electronic devices for intercepting wire or oral communications not authorized by sections 2516 and 2518 of title 18, United States Code.

WARRANTLESS WIRETAPPING AND INDIVIDUAL PRIVACY

Mr. ERVIN. Mr. President, I am pleased to join my colleague Senator NELSON in cosponsoring this amendment to the Justice Department appropriation bill, H.R. 15404, which would prohibit the use of appropriated funds for conducting warrantless wiretaps. By requiring that the Justice Department first obtain court approval before engaging in any wiretapping, this amendment seeks to protect the constitutional rights of all citizens and prevent against unwarranted invasions of their privacy.

To my mind, the purpose of this amendment is twofold. First, it is simply a stop-gap measure which would prohibit the Justice Department from engaging in any warrantless wiretap during this fiscal year, and second, by so doing, it recognizes the necessity for Congress to enact substantive legislation in the field.

That legislation to control national security wiretaps or any other kind of warrantless wiretap is necessary has long been recognized. In 1968 when Congress enacted title III of the Omnibus Crime Control and Safe Streets Act, the question of warrantless electronic surveillance for national security purposes was recognized but left unresolved. At that time, Congress only provided for court-authorized and stringently controlled use of wiretaps and electronic surveillance for certain major crimes. The comprehensive scheme adopted in the law prohibits the interception of wire or oral communications in such cases unless a court order based upon probable cause is first obtained. It was contemplated that whatever action the President deemed necessary to protect the national security would be taken under existing constitutional and legal procedures by the appropriate law enforcement agency of the Government.

But as succeeding events have graphically demonstrated, the critical area of national security wiretaps left unresolved in the 1968 act must now be addressed. Both the Keith decision and the case of the recently disclosed 17 national security taps have focused upon this particular area of wiretapping. In Keith, the Court rejected the President's assertion of an inherent power in domestic security cases to wiretap without a warrant. Writing for the Court, Justice Powell made the following points about the development of electronic surveillance:

Even when employed with restraint and under judicial supervision[,] [t]here is, understandably, a deep-seated uneasiness and apprehension that this capability will be used to intrude upon cherished privacy of law-abiding citizens . . . Though physical entry of the home is the chief evil against which the . . . Fourth Amendment is directed, its broader spirit now shields private speech from unreasonable surveillance . . . [B]road and unsuspected governmental incursions into conversational privacy which electronic surveillance entails necessitate Fourth Amendment safeguards.

National security cases, moreover, often reflect a convergence of First and Fourth Amendment values not present in cases of 'ordinary' crime. Though the investigative duty of the executive may be stronger in such cases, so also is there greater jeopardy to constitutionally protected speech. 407 U.S. 313,

The amendment we propose today would bring some temporary control over the practice while at the same time continue to permit the Justice Department to conduct wiretaps in national security cases. All that is required under the provisions of this amendment is that the Justice Department comply with the warrant requirement of title III before initiating any wiretaps.

At recent hearings held jointly by the Senate Judiciary Subcommittee on Constitutional Rights, and Administrative Practice and Procedure and the Foreign Relations Subcommittee on Surveillance, Attorney General Saxbe endorsed such a concept.

I would like to see the Congress take some action in this area. There are three things that could be done. First, you can just do away with all electronic surveillance and it would put us at some disadvantage but we would live with it. . . . The second would be to set up an impartial, . . . Board of Congress, the Executive, and the Judiciary, to sit on a continuing board and review week by week what should be done. . . . And the third would be to try to get statutory authority to work it under Title III. . . . We would be happy to live with that.

As an interim measure, the prior judicial authorization requirement proposed in this amendment strik. a fair balance between security and freedom. This warrant requirement may be the ultimate solution to the problem, but that remains to be seen. In any event, it is a practical and workable solution for the moment and I would urge the adoption of this amendment by the Appropriations Committee. To continue to permit an unrestrained power in the area of warrantless wiretapping until definitive legislation is enacted only encourages the misuse and abuse demonstrated in the recently disclosed national security wiretaps.

MILITARY CONSTRUCTION AUTHORIZATION, 1975—AMENDMENT

AMENDMENT NO. 1613

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

Mr. HOLLINGS (for himself and Mr. CRANSTON) submitted an amendment, intended to be proposed by them, jointly, to the bill (S. 3471) to authorize certain construction at military installations, and for other purposes.

TRADE REFORM ACT—AMENDMENT

AMENDMENT NO. 1614

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

Mr. HUMPHREY (for himself and Mr. BENTSEN) submitted an amendment, intended to be proposed by them, jointly, to the act (H.R. 10710) to promote the development of an open, nondiscriminatory, and fair world economic system, to stimulate economic growth of the United States, and for other purposes.

TRADE WITH THE DEVELOPING WORLD

Mr. HUMPHREY. Mr. President, an important issue in the upcoming multilateral trade negotiations is the role which the developing world will play in the attempt to equitably restructure the world trade order.

The multilateral trade negotiations have in the past largely been the domain of the developed countries. For the most part poorer countries have been only bystanders as the industrial countries ne-

gotiated between themselves for more open commercial exchange. While tariffs on products of the developed countries during the Kennedy round were reduced 36 percent on the average, the average tariff reduction for products of the developing countries was about 20 percent. According to Mr. Guy Erb of the Overseas Development Council:

> Tariff rates applied to products of developing countries are roughly twice as high as those applied to products of rich countries. For the United States, post-Kennedy round nominal rates were estimated at 6.8 percent on imports from developed countries, and at 12.4 percent on imports from developing countries.

Furthermore, the growth of trade with the developing world had been significantly smaller than the growth of trade worldwide. Between 1958 and 1972, for example, exports to Latin America, as a percentage total world trade, actually dropped from 10.4 to 5.3 percent.

Clearly, if the developing world is to pay for the external resources such as capital and technology necessary for economic progress, these countries must be able to expand markets for their own production abroad.

But, these same countries are at a competitive disadvantage compared to the rich countries, having neither the clout to secure concessions for their own products in the multilateral trade talks, nor the sophisticated marketing and distribution resources to compete against the big manufacturing concerns of the developed world.

Foreign assistance efforts aimed at improving the quality of life for the two-thirds of the world's population living in poverty will only be like "pouring water through a sieve" unless developing countries can establish a firm economic base upon which the domestic economy can expand. And, as Mr. Erb warns:

> Without a world economy which encourages the continuing growth of the exports of developing countries, many of their efforts to expand production and improve living standards will be hindered.

In recent years, developing countries have recognized trade as an important component in their economic development. "Trade not aid" has become a byword in the developing world to represent the importance of measures which countries can take to help their own economic development.

Not only does this concept of "self-help" preserve national dignity, but it represents sound economics. The development of export industries acts as a stimulus for the development of other sectors of a developing economy and provides a much more permanent base for economic development than direct grants from developed countries. And in the absence of much higher aid levels or accelerated private direct investment, exports must finance the bulk of imports needed for economic progress.

The expansion of export capability for the developing world also has significant implications for our own economy. The decline in the share of world trade enjoyed by the developing world means that these countries will have less to spend, in a real sense, in our own markets. Traditionally, the United States has realized a $2 billion trade surplus with the developing world. Yet this surplus dropped to $200 million in 1972 and will fall much further as most of the developing world diverts scarce foreign exchange to pay for the greatly increased costs of energy imports. Unless the developing world can increase their export markets and unless the oil producing countries adjust their prices to a more reasonable level, trade with much of the developing world could shrink to a negligible trickle.

An international plan, known as the generalized preference scheme, to promote the expansion of trade opportunities for the less developed world, was agreed to at the Second United Nations Conference on Trade and Development, 1968. The scheme is designed to assist developing economies realize their export potential by allowing duty-free or concessional rates on imports into developed countries for manufactured, semimanufactured and selected products of developing countries. Presently, the United States is the only major industrial nation which has not implemented this plan.

Title V of the proposed Trade Reform Act, currently before the Senate, would provide the President authority to extend duty-free treatment to certain imports from developing countries. This is an important step toward bearing our share of the responsibility under the worldwide generalized preference scheme. The scheme described in the Trade Reform Act represents a framework upon which meaningful trade preferences can be worked out with the less developed countries to assist them in their efforts to help themselves.

However, I feel that there are a few improvements which can be made in the scheme which is outlined in title V of H.R. 10710 to strengthen its mutual benefit.

Studies conducted by the United Nations Conference on Trade and Development and the U.S. Department of State show that the U.S. proposal is the most restrictive of the proposals yet implemented by other developed countries. It is estimated, for example, that even after the United States introduced our preference proposal the European Community and Japan would absorb three or four times more duty-free imports from less developed countries, as a percentage of GNP, than the United States.

At a time when the United States is encouraging regional economic development, the proposal penalizes less developed countries which require significant raw material inputs from other less developed countries in their manufactures. And the limitations on the level of exports which may receive beneficiary treatment, unduly restrict a potential for market growth. Instead of seeking an expanded level of trade, countries would be included to restrain exports to stay within the preferential margin.

There are several substantive adjustments, then, which must be made if we are going to participate in the worldwide scheme of generalized preference. Let us make our participation more than a token gesture.

When I began to consider measures to make U.S. participation in the generalized preference scheme more meaningful, I faced two important reservations. First, I wanted to be sure that tariff concessions to the developing world would not open up U.S. markets to a flood of cheap imports, impairing the competitiveness of industry and threatening the jobs of our own workers. I have become sufficiently satisfied that this would not be the case. The proposed Trade Reform Act, combined with existing statutory law, can achieve significant improvements in safeguarding American industry from an injurious level of imports irregardless of the source.

In addition, the Trade Reform Act requires the President to make individual determinations on the impact of extending tariff free status before a particular product can be included in the generalized preference scheme.

I believe that we must have safeguards which offer American industry protection across the board, and, if our general safeguards are inadequate, we should come up with safeguards that do the job on a fair and harmonious basis, instead of trying to apply a patchwork of safeguards which unduly encumber our trade agreements' programs.

A second reservation I encountered was whether the U.S. generalized preference scheme would encourage the large U.S. multinational corporations to shift manufacturing operations abroad to enjoy the benefits of the program. However, I found no evidence that generalized trade preferences would have such an effect. Studies conducted under the multinational project at Harvard University show that the multinational corporation has been consistently restricted from export industries by the governments of developing countries. The U.S. Tariff Commission points out that majority-owned affiliates of U.S. corporations "still represent a rather small share of world trade in manufacturers—8 percent."

The question that remains, however, is whether relatively minor tariff concessions on certain manufactured products selected on the basis of their relatively limited impact on the U.S. economy—and which could be withdrawn at any time—offer a strong enough incentive in any case for multinational companies to make a decision to invest several million dollars in the developing countries? I could not find evidence to convince me that the generalized preference scheme would encourage the multinational corporation to move to a developing country to enjoy a small and fragile tariff concession.

I am satisfied then that U.S. participation in the worldwide scheme of generalized preferences represents an appropri-

ate response to the needs of the developing world without burdening our own economy. Furthermore, I am convinced that the amendment which I and Senator BENTSEN are introducing today, would provide a fair and reasonable extension of the benefits under the scheme with little effect on U.S. interests.

First, I think it is reasonable to demand that the extension of trade preferences to developing countries be conditioned on assurances that beneficiary developing countries will act as responsible trading partners in the world economy. In view of the irresponsible action of a few countries to restrict access by other countries to their basic raw materials, we should insist that the President take into account the extent to which developing countries are willing to assure the United States equitable and reasonable access to their markets and basic commodity resources. The amendment revises section 502 of the proposed Trade Reform Act to do exactly this.

Section 502 would be further amended to allow a more reasonable time period for notification when the President decides to terminate a preferential arrangement. Presently, the President must notify the Congress 30 days before terminating an agreement with a less developed country. Our amendment would extend the time period for notification to a more reasonable 60 days and would stipulate that the country involved be informed, as well as the Congress. This would allow the countries affected to make adjustments necessitated by abrupt changes in the flow of trade. Furthermore, the provision for notifying the country involved is only consistent with international principles regarding multilateral consultation and represents the fairness and responsibility which the United States has always demonstrated in the international economy.

Section 503 would be amended to allow more flexible rules for determining which products may be included in the scheme. Presently the scheme excludes articles from the scheme if more than 35–50 percent—the exact figure to be determined by the Secretary of the Treasury—of the materials and cost of manufacturing comes from countries other than the country receiving the trade preferences on a particular article. However, a large part of the raw materials used in manufactures of a developing country typically come from other developing countries. The so-called rules of origin as presently written into the proposed Trade Reform Act tend to penalize regional trade ties since countries cannot afford to utilize too many raw materials from their neighbors without bumping the ceiling on materials coming from external sources. This clearly contradicts a goal of our foreign assistance programs to promote the development of regional economic ties. Our proposed amendment would correct this incongruity by simply permitting raw materials obtained from other developing countries, which have also been designated beneficiary countries under the scheme, to be included within the ceiling on that part of the value of an article which must come from the country benefiting from the trade preference.

Finally, the amendment includes provisions to insure that the benefits of the scheme are not denied to those countries which most need assistance. The poorest countries suffer greatest under the restrictions imposed by the so-called competitive need formula which places qualitative limitations which restrict eligible exports under provisions of the bill. This is because the poorest countries of the world have economies which often depend on only one or two products for their entire export earnings. And in many cases the United States is the principal market for such exports. Therefore, these countries would be the most likely to encounter the exclusion which prohibits preferences on products comprising more than 50 percent of all imports of such products into the United States.

I feel that it is reasonable to give attention to the particular situations of the poorest countries, subject of course, to market distribution safeguards contained elsewhere in the bill. The amendment would accomplish this by exempting from the 50-percent limit those countries designated by the United Nations as "least developed countries" and products which are not directly or indirectly competitive with domestic products.

The competitive need formula also excludes an article from the preference scheme if total exports of that particular article to the United States exceed $25 million in any calendar year. While it may be appropriate to have a dollar ceiling on the level at which a country may export a particular article into the United States and still enjoy duty-free status, the current provision does not reflect the need to adjust the ceiling for effects of inflation. The current provision states this ceiling in current dollars. This means that every year the ceiling, in relative terms, will sink lower and lower as inflation makes it evermore restrictive. At an annual rate of inflation of 5 percent, for example, $25 million would be worth only $15 million 10 years from now. A country making a decision on whether or not to invest its resources to expand its export capabilities would certainly be dissuaded by the ceiling. It just would not be worthwhile to develop a particular export industry, knowing that in a few years inflation will abruptly cut off any growth potential. Our proposed amendment would account for this inflation factor by stating the ceiling in terms which would be adjusted to keep it relatively constant.

The United States is the last major industrialized country to legislate a generalized preference scheme. However, it is crucial that our scheme, when it emerges, be a reasonable and fair one. If we are going to do a job, let us do it right. The proposed Trade Reform Act contains the basis for a constructive U.S. response to trade development needs of the less developed world. The amendment is meant to add to the strength of this plan.

As the nations of the developing world show a sincere willingness to take steps to help themselves, it is only reasonable that the developed world should fully support these efforts. Clearly, the direction of foreign assistance has been toward specific development programs which promise to lead toward the establishment of a sound and self-sustaining economic base. Only through such programs can we really expect to raise the standard of living of the citizens of the poorest countries of the world.

The focus of foreign assistance bills passed by the House and Senate in 1973 was on aid to meet critical development problems, to stimulate employment-intensive technologies, and to concentrate on such requirements as food production, rural development, health care and other important needs of people, in less developed countries. And such an emphasis upon creating the economic basis for a better standard of living for populations in less developed nations should be a fundamental intent of a generalized scheme of trade preferences.

I feel that it is singularly appropriate that the United States join the other developed nations of the world in assisting the poor nations to enter world markets on a meaningful basis. I strongly urge my colleagues to support the provisions of title V of the proposed Trade Reform Act as revised by the amendment which I and Senator BENTSEN are now offering.

Mr. President, I ask unanimous consent that the text of the amendment be printed at this point in the RECORD.

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

AMENDMENT No. 1614

On page 138, line 25, strike out "30 days" and insert "60 days".

On page 138, line 26, after "Senate" insert, "and has notified such country,".

On page 140, after line 17, insert the following:

(3) the extent to which such country has assured the United States of equitable and reasonable access to its markets and basic commodity resources;

On page 140, line 18, strike out "(3)" and insert "(4)".

On page 140, line 21, strike out "(4)" and insert "(5)".

On page 141, line 22, strike out "the" and insert "a".

On page 141, line 24, strike out "the" and insert "a".

On page 143, strike out lines 16 through 19 and insert the following:

(1) has exported (directly or indirectly) to the United States during any calendar year a guantity of an article having a total appraised value in excess of that amount which bears the same ratio to $25,000,000 as the gross national product (as determined by the Department of Commerce) for such calendar year bears to the gross national product (as so determined) for the calendar year 1974, or

On page 143, line 20, after "(2)" insert "except as provided in subsection (d),".

On page 144, after line 6, insert the following:

(d) Paragraph (2) of subsection (c) shall not apply—

(1) with respect to any country which is a least developed country, as designated by the United Nations, or

(2) with respect to any article if a like or directly competitive article is not produced in the United States.

On page 144, line 7, strike out "(d)" and insert "(e)".

Mr. BENTSEN. Mr. President, I am pleased to be introducing today with my distinguished colleague from Minnesota an amendment to the Trade Reform Act and one which addresses itself to the trade preference provisions of that legislation.

Mr. President, whether we like it or not this world has become an increasingly interdependent one. Conditions that threaten peace and stability in one part of the world loom as threats to peace and stability everywhere. Indeed one of the major problems facing the post-World War II political order is the North-South economic disparity which surfaced in the sixties and became a vivid reality in the seventies—witness the recent efforts of a number of raw material producers to form economic cartels in order to increase their share of the world's wealth.

This terrible and growing disparity in living standards between North and South cannot be tolerated as a permanent part of the international political and economic order. Barbara Ward has described the gap between the haves and the have-nots as "the most tragic and urgent problem of our day." Its urgency lies in its potential for political upheaval.

During the sixties, we offered foreign aid as a helpful panacea for the ills of the developing nations. That kind of aid is no longer feasible from our own point of view nor always desirable from the recipients' point of view. It encourages dependence rather than independence. It engenders the suspicion that we are trying to buy frendship.

In the search for an alternative means to stimulate development, attention has turned toward trade, which also happens to be mutually advantageous. For years the United States advocated trade preferences for the developing countries and I am pleased that the administration has finally requested authority from the Congress to develop a generalized system of preferences in the Trade Reform Act.

Trade preferences may well comprise a major part of the answer to the dilemma of development. At a time when foreign aid is no longer always a feasible developmental tool, it is worth experimenting with a system of preferences as long as adequate safeguards are maintained against disruptions of the domestic U.S. economy.

A directly related problem—and one which has received a great deal of attention since the Arab oil embargo was imposed last fall—is the trend toward pricing cartels among the LDC's. As chairman of the Senate Economic Growth Subcommittee, which has been holding a series of hearings on raw materials shortages and the potential for cartel formation among nonoil producer nations, I am convinced that the United States must develop a coordinated policy toward the producer nations which will discourage such cartelization.

Part of this policy should be to encourage diversification of the export economies of developing nations. Excessive reliance on exports of a single, or very few, commodities makes their entire economy more vulnerable to the frequent fluctuations of the international market in that particular commodity. Such dependence increases the temptation of producer countries to form pricing cartels in an effort to stabilize prices for their commodities and increase export earnings. Trade preferences will encourage needed diversification of the export economies of the LDC's.

Foreign trade accounts for about four-fifths of a developing country's foreign exchange earnings. The link between exports and economic growth is clear and the link between economic growth in the LDC's and demand for U.S. goods and services should be obvious as well. The more foreign exchange a country earns and the greater the size of its economy, the more it will need the goods and services we produce here in the United States. Therefore, a generalized system of preferences is an important stimulus to expanding international trade.

Mr. President, a generalized system of preferences will demonstrate our interest in developing a more cooperative world trading system. The amendment which my colleague from Minnesota and I are proposing is a modest effort to improve the trade preference provisions of the trade bill while at the same time insuring necessary safeguards against unfair market disruption in our own economy. This amendment is in the best long-term economic interests of the United States, Mr. President, and is designed to assure a more stable and satisfactory set of economic relationships between the United States and the developing world. I urge the Senate's support for our amendment.

NATIONAL HEALTH CARE ACT—AMENDMENTS

AMENDMENTS NOS. 1615 TO 1627

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

Mr. McINTYRE. Mr. President, I send to the desk amendments to S. 1100, the National Health Care Act.

I want to speak about the amendment which would add the services of qualified psychologists to the list of minimum standard benefits provided in my bill.

The benefits to citizens which are eventually included in national health insurance will, in the last analysis be meaningful benefits only if there are competent, qualified health professionals available to provide the benefits. It would be a cruel hoax to include mental health benefits in national health insurance and then, by precluding delivery of services by a large number of qualified service providers, create a situation in which services could not be delivered.

Professional psychologists in the United States represent a large pool of well qualified mental health service providers. Many significant developments and procedures in the provision of mental health services are technological applications of research and experimentation conducted by professional psychologists.

The private practice of psychology is governed by statute in 48 States and the District of Columbia. The continuing requirements for licensure or certification normally stipulate the doctorate in psychology plus 2 years of supervised experience. The conduct and practice of psychologists is further governed by the Code of Ethics of the American Psychological Association, a scientific and educational society which serves as the principal voice for American psychology. The membership of the association is now about 37,000 and includes approximately 90 percent of the doctorate psychologists and virtually all of the qualified health service providers. The association accredits doctoral health service training programs in psychology at over 100 universities, and these programs produce virtually all of the doctoral health service psychologists.

It is obvious that psychologists in the United States represent a significant pool of well trained, well regulated providers of mental health services. This critical professional manpower pool is distributed throughout the Nation at points where health services are needed and are being sought. Valuable health services are now being provided by this professional pool. It is essential that any program of national health insurance include provisions for direct access to professional psychologists by persons in need of mental health service.

CONSUMER PROTECTION AGENCY ACT—AMENDMENTS

AMENDMENT NO. 1628

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

Mr. ERVIN submitted an amendment, intended to be proposed by him, to the bill (S. 707) to establish a Council on Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

AMENDMENT NO. 1629

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

Mr. TAFT submitted an amendment, intended to be proposed by him, to the bill (S. 707), supra.

AMENDMENT OF EXPORT ADMINISTRATION ACT OF 1969—AMENDMENT

AMENDMENT NO. 1630

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

Mr. HARTKE. Mr. President, I submit an amendment to S. 3792, an act to amend and extend the Export Administration Act of 1969, and ask that it be printed and appear in the RECORD following my remarks.

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

Mr. HARTKE. Mr. President, on December 13, 1973, I detailed my concern about the critical short supply of iron and steel scrap and requested limiting exports of this commodity for the remainder of fiscal year 1974. Unfortunately, Congress was not able to act on this measure at that time. However, my proposal alerted the Department of Commerce to the critical situation and that Department made a weak attempt to alleviate the problem.

A critical short supply of iron and steel scrap still exists and in order to ease the present condition I am submitting an amendment to S. 3792 which would limit exports of this scarce commodity to no more than 5 million tons for the balance of fiscal year 1975.

The ferrous scrap situation threatens job stability, industrial growth and the American steel industry's ability to supply the Nation's need for steel.

Today, inventories of ferrous scrap have shrunk to their lowest level since World War II. As confirming evidence of shortages of scrap, especially in essential grades and sizes, scrap prices have soared far above their previous highs.

Unless the Federal Government acts now to further limit exports of iron and steel scrap, steel mills and foundries in the United States will incur additional disruption in their production scheduling, at a time when domestic demand for iron and steel scrap continues at the highest level in history.

For well over 3 years, the foundry and steel industries' warnings have been answered with inadequate measures by the Commerce Department. As a result, the crisis has so deepened that only strong measures will now suffice.

Ferrous scrap makes up almost one-half of the total metallic input used in steelmaking. The balance comes mostly from pig iron, produced in blast furnaces. The industry generates a large amount of scrap from in-plant sources. Nevertheless, it is heavily dependent on scrap processors and other outside sources for the balance of its needs.

This dependence is especially critical for electric-furnace plants; their metallic input is almost 100-percent scrap. Of the projected 51.7 million tons of purchased scrap needed by the steel industry and foundries in 1974, approximately 29 million tons will be required by hundreds of smaller companies without blast-furnace facilities.

In all, to produce 150 million net tons of raw steel in 1974—the same amount as last year—plus 18 million tons of castings, the steel and foundry industries will need 51.7 million net tons of purchased ferrous scrap, or 8 million tons more than in 1973.

The increased need stems from two main causes:

First, there will be less pig iron production in 1974. That is a consequence, among other things, of the tight supply of metallurgical coal, further compounded by the widespread shutdown recently of coal mines in West Virginia.

Second, there will be 2 million fewer tons of scrap available from in-plant sources in 1974 because of the heavy draw-down of inventories in 1973 to meet demand for finished steel.

The steel industry, with the support of the United Steelworkers Union and foundry companies is asking that present scrap exports currently authorized at a monthly rate of 700,000 tons—annual rate of 8.4 million tons—be reduced to assure an effective response to the scrap shortage. Part of the answer would be to limit exports of ferrous and stainless scrap to no more than 5 million tons for the balance of fiscal year 1975.

Based on its analysis of rising domestic and world steel demand, in late 1972 the steel industry warned the Commerce Department that a serious scrap shortage would develop in 1973 and that this situation could worsen as world demand for steel continued to increase. That is what happened.

In the last 6 months of 1972, exports of ferrous scrap were running well ahead of averages over the previous 10 years.

The pace quickened still more at the turn of 1973. Compared with 1 year earlier, export tonnage in December 1972 was up 90 percent; in January 1973 it was up 160 percent.

Translated into an annual rate, as the steel industry pointed out to a congressional committee in March 1973, this amounted to 13.3 million net tons. By contrast, the annual average over 10 preceding years was 7.4 million tons.

During the abnormal surge in exports of American ferrous scrap, demand at home for this essential raw material was mounting.

In December 1972, the steel and foundry industry asked the Commerce Department to limit exports to a reasonable level. Specifically, the industry asked that they be limited to an annual figure of about 7 million tons—600,000 tons a month.

The Government did not act until July 1973, and then it took only limited action. It was a case of too little, too late. When the books closed last year, 11.3 million tons had gone to export, badly depleting available domestic stocks.

To grasp the impact of high exports on domestic supply, consider this: last year, 5.3 million additional tons of ferrous scrap were added to the U.S. supply. Yet, of this increase, 3.9 million tons went abroad in exports, leaving only 1.4 million tons for domestic use.

In 1973, the supply of purchased scrap reached a level of 54.6 million net tons—including exports of 11.3 million tons. Part of this supply had been accumulated in late 1972, and shipped to coastal ports for export in 1973. Getting this much supply in 1974 is unlikely due to this year's projected decline in prompt industrial scrap—largely automotive—and to the fact that last year, high domestic demand combined with an unprecedented rise in exports caused a serious scrap shortage. This year, however, even if the supply of purchased scrap reaches the level achieved last year, projected domestic demand of 51.7 million tons in 1974 will require that exports be limited to 3 million tons this year—if domestic requirements are to be met. The alternative: scrap exports at a higher level will result in a proportionate decline in the amount of finished steel available to meet the needs of the domestic economy.

Finally, I ask my colleagues to consider what is done by countries of Western Europe and by Japan.

Except when home demand is low, they forbid or, at best, allow only minimal exports of scrap. Last year, for example, scrap exports out of the European Economic Community—a steel market comparable to our own—approximated only 400,000 tons, compared with the 11.3 million tons exported by the United States.

As worldwide demand was soaring, Britain, in September 1972, imposed an embargo closing off its exports of ferrous scrap except for a few low-quality grades.

Thus, while other industrial countries assure their own needs for ferrous scrap, the United States alone permits massive and unprecedented exports of this essential commodity. In doing so, it has, among other things, put its own steelmakers and foundries at an unfair disadvantage.

Certainly, in line with America's new realization that raw materials are in finite supply, Government on the one hand and concerned industries on the other, should develop long-term programs for scrap recovery. But longer term programs cannot answer the immediate need to maintain production operations.

Mr. President, the need for this amendment is clear. Potential adverse economic consequences of steel and iron shortages grow more severe with each passing week. The Congress must meet its responsibilities and take corrective action immediately.

AMENDMENT NO. 1630

On page 6, line 17, insert the following new section 6, renumbering section 6 as section 7 and subsequent sections accordingly:

SCRAP IRON AND STEEL

SEC. 6. Section 4 of the Export Administration Act of 1969, as amended by section 3 and section 5 of this Act, is amended further by adding at the end thereof the following new subsection:

"(h)(1) For the balance of fiscal year

1975, not more than five million tons of iron and steel scrap may be exported from the United States, including the District of Columbia, the Canal Zone, the Commonwealth of Puerto Rico, and all the territories, dependencies, and possessions of the United States.

"(2) The Secretary of Commerce is directed to allocate the iron and steel scrap that may be exported under (1) of this subsection consistent with the present allocation of iron and steel scrap exercised pursuant to the authority of this Act.

"(3) The Secretary of Commerce shall license exporters of iron and steel scrap in order to carry out this subsection.".

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS, 1975—AMENDMENT

AMENDMENT NO. 1631

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

Mr. HARTKE. Mr. President, I submit an amendment to the Labor-HEW appropriation bill which would provide $2 million to aid in the conquest of measles and rubella.

Over the years, I have urged that the Federal Government embark on a program to assure 100-percent immunization of all children against these two diseases. Both are highly dangerous, especially when contracted by adults. The only way we can stop these two diseases from causing blindness and sterility, as well as adversely affecting the unborn babies of expectant mothers who contract these diseases, is to make sure that every child in the country is vaccinated.

The Government has, unfortunately taken a more relaxed approach. It was that approach which saw the number of measles cases jump to 75,000 in 1971. The case rate is down now, but we cannot rest in our quest to conquer measles and rubella. The administration has testified that—

Our job will be harder than ever as we zero in on specific problem areas.

In other words, it will be hard to find those children who have not already been vaccinated. That job will take money, but the administration has actually decreased the amount of money it has requested for this important job within the past 3 years.

My amendment increases the expenditures for immunizations by one-third to $8,200,000—a very small amount when you consider the human lives which are involved.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 1553

At the request of Mr. ERVIN, the Senator from Georgia (Mr. NUNN) was added as a cosponsor of amendment No. 1553, intended to be proposed to S. 1361 for the general revision of the copyright law, title 17 of the United States Code, and for other purposes.

ANNOUNCEMENTS OF HEARINGS OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. JACKSON. Mr. President, I wish to announce for the information of the Senate and the public that open public hearings have been scheduled by the Subcommittee on Parks and Recreation on August 20, 1974, at 10 a.m. in room 3110, Dirksen Senate Office Building on the following bills: H.R. 10834, S. 2634, and S. 3187, to amend the act of October 27, 1972, establishing the Golden Gate National Recreation Area in San Francisco and Marin Counties, Calif., and for other purposes.

Mr. President, I wish to announce for the information of the Senate and the public that open public hearings have been scheduled by the Subcommittee on Parks and Recreation on August 20, 1794, at 10 a.m. in room 3110, Dirksen Senate Office Building, on the following bill: H.R. 11013, to designate certain lands in the Farallon National Wildlife Refuge, California, as wilderness; to add certain lands to the Point Reyes National Seashore.

Mr. President, I wish to announce for the information of the Senate and the public that open public hearings have been scheduled by the Subcommittee on Parks and Recreation on August 13, 1974, at 10 a.m. in room 3110, Dirksen Senate Office Building, on the following bill: S. 3536, to establish the Nantucket Sound Islands trust in the Commonwealth of Massachusetts, to declare certain national policies essential to the preservation and conservation of the lands and waters in the trust area.

Mr. President, I wish to announce for the information of the Senate and the public that open public hearings have been scheduled by the Subcommittee on Parks and Recreation on August 2, 1974, at 10 a.m. in room 3110, Dirksen Senate Office Building, on the following bill: S. 3413, to amend the Land and Water Conservation Fund Act of 1965, as amended.

Mr. President, I wish to announce for the information of the Senate and the public that open public hearings have been scheduled by the Subcommittee on Parks and Recreation on August 1, 1974, at 10 a.m. in room 3110, Dirksen Senate Office Building, to hear Government witnesses on following bill: S. 1270, to establish in the State of California the Santa Monica Mountain and Seashore National Urban Park.

NOTICE OF HEARINGS ON EXTENSION OF THE EMERGENCY PETROLEUM ALLOCATION ACT

Mr. JACKSON. Mr. President, on Wednesday, July 31, the Committee on Interior and Insular Affairs will consider S. 3717, a bill to extend the Emergency Petroleum Allocation Act of 1973. The Honorable William E. Simon, Secretary of the Treasury, and the Honorable John C. Sawhill, Administrator, Federal Energy Administration have been invited to appear before the committee to offer the administration's views on the question of the Allocation Act's extension.

The committee will convene at 10 a.m. in room 3110, Dirksen Senate Office Building.

ADDITIONAL STATEMENTS

I BELIEVE AMERICA

Mr. HOLLINGS. Mr. President, last week I had the pleasure of attending a performance of "I Believe America," a musical drama staged by the Performing Arts Association of Alexandria, Va., under the auspices of the Alexandria Bicentennial Commission's Festival of Independence. It is a superb production on a patriotic, upbeat note. Here, for a change, is theater which takes pride in America. Amidst the gush of doom and gloom and senationalist violence that theater-goers have been forced to endure in recent years, this is an exciting and welcome development. It is also encouraging evidence that we can celebrate our Nation's bicentennial in imaginative and creative ways.

I saw the response of the audience to this presentation. It can only be described as a genuine outpouring of enthusiasm. Anybody who says that Americans are not open to this kind of theater is sadly out of touch with the mood of the country. This is exactly what the people are thirsting for, because at heart America is strong and idealistic and still dedicated to the values and virtues which took us to greatness. It is not the people of America who have faltered—it is leadership that has not matched the greatness of the people.

The concept for "I Believe America" was developed by Sean Morton Downey, Jr. and Clova Demaine. Sean Downey, the director, has over 300 songs and 2 books to his credit. A many-faceted young man, Mr. Downey has been successful in the worlds of composing, singing, acting, business, and sports. He has also involved himself in many community and humanitarian activities. In the songs he has written for "I Believe America," he displays an understanding and a faith in America that is the most refreshing breeze from the world of entertainment that I have seen in many, many years.

Clova Demaine, who produced the play, has been a performer, conductor, director, and producer of many stage hits. She received an award from the State of Virginia for her "Most Valuable Contributions to the Performing Arts" in 1972.

Mr. President, everyone associated with this absolutley superb play is to be congratulated on his or her efforts.

And I am happy to learn that "I Believe America" will soon be a Broadway play. I have no hesitation in predicting it will be a huge success.

Mr. President, the title song for "I Believe America" could well be an anthem for the Bicentennial. I ask unanimous consent that the lyrics of this song be printed at this point in the RECORD.

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

I BELIEVE AMERICA

I believe that America is strong
With the power again to rise in song.
I believe we are a nation of 200 million strong
Who can crush the devil with a happy song.
In this land of good and plenty there are some
Who would make us all believe that we should run.
But we can't have the evening happiness without the morning strife.
As a nation, we are young in years, just beginning life,
And I believe that better days still lie ahead,
That the greatness of our people is not dead,
That the history books will sing our praises, justice, kind and strong
If we raise our voices in a happy song.
I believe the U.S.A. will rise again,
That we have learned our lesson and we are wise again,
That the wheatfields of the West
Will hold the hungry to her breast
I believe that Good is on the move again.
I believe the worker and the wealthy man
And all of us who share this fertile land
From the California ocean to the rocky coast of Maine
Will work to make the country great again.
I believe that America is strong.

RAIL TRANSPORT AND THE COAL INDUSTRY

Mr. HUGH SCOTT. Mr. President, recently, a revitalization has been taking place in the Nation's rail system. The rebirth of the railways as a vital, economical means of transportation is boosting the economy by adding jobs, and a new generation is being introduced to efficient passenger service.

The Nation's hope of energy self-sufficiency is largely dependent on the use of coal. Rail transport is vital to the coal industry. A recent story in the Pittsburgh Press by business editor William H. Wylie points out that because of the influx of demands for more coal cars, major producers of freight haulers such as the Pullman-Standard plant at Butler, Pa., are developing new lines and stepping up production.

The important role which the Nation's rail system plays in coal production is outlined in Mr. Wylie's in-dept article, and I ask unanimous consent that it be printed in the RECORD.

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

BUTLER PLANT TOOLING UP FOR COAL RAIL CAR BOOM

(By William H. Wylie)

"Diamond Jim" Brady couldn't sell freight cars any faster than they are moving today.

Since the Russian grain deal, American railroads have been frantically combing their yards for rolling stock.

Now that the grain crisis has passed, the coal boom is beginning. Pullman-Standard's Butler plant, which makes one-fifth of the Nation's freight cars and is the largest single producer, is tooling up to move coal.

Lewis H. Warheit, manager of the Butler complex, said a new production line to make gondolas and open-top hoppers is scheduled to start up around the first of the year.

To provide room for the new line, Pullman-Standard moved flatcar production to its Bessemer, Ala., plant.

A spokesman for Pullman Inc., the parent company in Chicago, refused to pinpoint the cost of the changeover but conceded it is in the millions. In fact, he said several million dollars have been spent at Butler since 1970.

A NEW PRODUCT

Flat cars—used for truck piggy-back hauling—are a hot item. Warheit said the switch to Bessemer will provide more room for flatcar production.

When Pullman's directors visited Butler last week, they saw a new riveted open hopper car that will be made on the new line.

Rivets provide more flexibility and endurance to resist the abuse of hauling coal, a spokesman said. Freight cars usually are welded, not riveted, together.

The Butler plant, which provides 3,400 jobs and is second only to Armco Steel as the city's largest employer, is running at "practical capacity."

SHORTAGES HURT

Warheit said order backlogs will sustain the current production rate well into 1975.

Actually, shortages of energy, steel and paint are limiting daily production to around 45 cars, the spokesman said.

The plant is capable of making 60 cars a day, but this would consume more than its allotment of power, he explained.

In making 10,900 freight cars last year, the Butler facility used 245,000 tons of rolled steel and 252,000 tons of steel components (wheels, axles, couplers, etc.). Most of this was bought in the Pittsburgh area, the source said.

Also, 400,000 gallons of paint—mostly from the district—were required. And the plant's 1,417 welding machines melted 16 tons of weld rod and wire and nine tons of welding flux.

FUTURE LOOKS GOOD

In addition to fabricating the cars, the plant makes most of the components for them in the 1.5 million-square-foot complex.

Pullman-Standard officials are optimistic about the future. They expect coal to take over from grain in boosting demand for rail cars.

They cite predictions that in the next 10 years there will be a three-fold increase in coal production to nearly 1.5 billion tons a year.

This would create demand for an estimated 150,000 new coal-hauling freight cars.

33 CENTS A POUND

The weight of rail rolling stock is coming down—a concession to the energy crunch. One of the new covered grain hoppers weighs about 60,000 pounds—a ton lighter than older models.

Incidentally, freight cars sell for about 33 cents a pound—well under the dollar a pound for standard-sized automobiles.

James Buchanan (Diamond Jim) Brady, who teamed up with a young engineer, John M. Hansen, to found the Butler plant in 1902, was a super-salesman. Even before the groundbreaking ceremonies, he had 6,000 cars on the order books.

But today's market is even livelier. The 10 per cent freight rate increase approved by the Interstate Commerce Commission (ICC) will generate an estimated $1.5 billion. All of this must be plowed back into capital improvements, including rail cars.

A MASSIVE OFFENSIVE AGAINST ALCOHOLISM

Mr. WILLIAMS. Mr. President, on July 10 I was privileged to attend a luncheon in connection with the first meeting of the National Council on Alcoholism's launching of a new and largely expanded labor-management committee. The new cochairmen of the committee are George Meany, president of the AFL–CIO, and James M. Roche, chairman of the board, General Motors Corp.

The purpose of the Labor-Management Committee of the National Council on Alcoholism, which has pioneered for many years in setting up alcoholism programs in industries in all parts of the country, is to mount a continuing nationwide movement by the leaders of labor, business, government, and other communities to restore the employed alcoholic to useful citizenship, good health and productive employment through the initiation of soundly designed union-management employee alcoholism programs.

Up until a few years ago literally thousands of workers and executives were discharged because of their disease of alcoholism despite the fact that as far back as 1956 the American Medical Association had declared alcoholism a disease.

A few enlightened companies have in the last several years set up joint labor-management programs which have achieved enormous success, but it is only fair to state that these companies represent a very small percentage of the 84 million workers in this country.

Government has begun to do its part largely under the leadership of Senator HAROLD HUGHES in the Senate. However, government cannot—and should not—attempt to do the entire job—there is a tremendously important role for the voluntary sector, and the National Council on Alcoholism is the only national voluntary health agency founded to combat the disease of alcoholism.

I was greatly moved by a letter which Senator WARREN MAGNUSON, chairman of the Senate Appropriations Subcommittee on Labor-HEW, which has jurisdiction over alcoholism funds, sent to George Meany when he learned that Mr. Meany had accepted the cochairmanship of the new labor-management committee. At this point I would like to include the text of Senator MAGNUSON'S letter to Mr. Meany:

Your kind invitation to attend the first meeting of the new labor-management committee to focus upon the problems of alcoholism was most appreciated. I know you will understand that the rigors of my own campaign schedule out home preclude my return to D.C. by next Wednesday.

I'm greatly impressed by what you and Jim Roche are doing to assist the National Council on Alcoholism. To place such an impressive legion of leaders from labor and industry behind the Council's pioneering efforts to establish company wide alcoholism programs that will help restore thousands to full and productive lives will surely advance the successes of that program. That alcoholism is an arrestable disease is still unknown or ignored by too many of our fellow citizens and you'll bring real hope to millions despite that sad fact!

Over the years, in our Hearings on Federal health programs, I've been impressed by

the leadership the National Council has given to the problems of alcoholism and alcohol abuse. There are limits to what any of us can accomplish singly or even collectively, but with what you and all of your asscciates are doing here I know a good bit more will be done. I wish you every success and will do whatever I can to help.

Needless to say, I share Senator MAGNUSON'S sentiments and as chairman of the legislative committee which has jurisdiction over alcoholism, I will do everywhere in my power to aid in this long overdue effort.

At the luncheon meeting previously referred to, the NCA Labor-Management Committee released a joint statement by George Meany and James M. Roche on the objectives of the new committee. I ask unanimous consent that the statement be printed in the RECORD along with a list of the top corporate and labor leaders who are the initial members of this new committee.

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

NATIONAL COUNCIL ON ALCOHOLISM, INC.,
New York, N.Y.

JOINT STATEMENT BY GEORGE MEANY AND JAMES M. ROCHE

We are here today to declare war on a disease which is a health threat to our nation outranked only by cancer and heart disease—but which too many otherwise well informed people pretend does not exist.

That disease is alcoholism. It is probably the most misunderstood illness known to mankind. It destroys families, causes thousands of deaths every day and is a serious drain on our economy.

Yet—in spite of its serious consequences and the fact that it is treatable—this nation has only scratched the surface in terms of dealing with the problem.

Some of the most influential union and business leaders in the United States are joining forces through the Labor-Management Committee of the National Council on Alcoholism to combat this disease.

We are calling for all unions and employers—big and small—to join us in this effort. We urge them to stop kidding themselves by saying "We don't have that problem here."

Alcoholics are in every organization. They can be helped—and, aside from humanitarian reasons, it is just plain good business to do so.

Consider these facts from the National Council on Alcoholism:

1. There are 9,000,000 alcoholics in this country. 5,000,000 are employed. That's more than 4% of our total work force.

2. Alcoholism costs American industry $12.5 billion annually.

3. The rock bottom average cost of each alcoholic to his employer is $2,500 per year.

4. Alcoholism can strike a Board Chairman as easily as a blue collar worker. Disastrous decisions can result.

5. 50% of all fatal accidents occurring on the roads today involve alcohol. 50% of these fatal accidents involve an alcoholic.

6. 31% of those who take their own lives are alcoholics.

7. 40% of all male admissions to state mental hospitals suffer from alcoholism.

In spite of these alarming statistics, few companies are concerned to the point where positive action is being taken to help their alcoholic employees. This is unfortunate and should be changed.

What do we propose doing to change things?

Working through the National Council on Alcoholism and its nationwide network of affiliates, we offer unions and management our help in establishing tested employee alcoholism programs. These progessive programs are working for such companies as General Motors, Hughes Aircraft, Firestone and DuPont.

Are employee alcoholism programs effective?

The General Motors recovery program which is being implemented with the full and complete cooperation of the United Auto Workers reports the following results with the employees who have gone through their program:

1. 80% recovery rate.
2. 85% reduction in lost man hours.
3. 70% reduction in sickness and accident benefits paid.
4. 47% reduction in sick leaves.

If every industry would use the knowledge available to deal with their alcoholics, just as they do with any other sick person, successful industry programs demonstrate that at least 3,000,000 alcoholics could recover over a six-year period.

This is a war we can win. People are our greatest resource. If we dissipate that resource, we have only ourselves to blame for the consequences.

NATIONAL COUNCIL ON ALCOHOLISM INC.—LABOR-MANAGEMENT COMMITTEE

James M. Roche (Co-Chairman), Director, General Motors Corporation, 767 Fifth Avenue, New York, New York 10022.

Nicholas A. Pace, M.D. (Mr. Roche's Alternate), Medical Director, General Motors, 767 Fifth Avenue, New York, N.Y. 10022.

Leonard H. Goldenson, Chairman, American Broadcasting Companies Inc., 1330 Avenue of the Americas, New York, New York 10019.

Edmund Martin, Suite 310, 437 Main Street, Bethlehem, Pennsylvania 18018.

Marion Sadler, Director, American Airlines, 1101 East Calle Elena, Tucson, Arizona 85718.

William P. Tavoulareas, President, Mobil Oil Corporation, 150 E. 42 Street, New York, N.Y. 10017.

George Meany (Co-Chairman), President, AFL–CIO, 815 16th St., N.W., Washington, D.C. 20006.

Mr. Leo Perlis, Director (Mr. Meany's Alternate), Dept. of Community Services, AFL–CIO, 815 16th St., N.W., Washington, D.C. 20006.

I. W. Abel, President, United Steelworkers of America, Five Gateway Center, Pittsburgh, Pennsylvania 15222.

Al H. Chesser, President, United Transportation Union, 15401 Detroit Avenue, Cleveland, Ohio 44107.

Pat Greathouse, Vice President, United Automobile Workers, 8000 East Jefferson Avenue, Detroit, Michigan 48214.

A. F. Grospiron, President, Oil, Chemical and Atomic Workers International Union, P.O. Box 2812, 1636 Champa St., Denver, Colorado 80201.

Charles H. Pillard, President, International Brotherhood of Electrical Workers, 1125 15th Street, N.W., Washington, D.C. 20005.

NEW GOVERNMENT IN GREECE

Mr. TUNNEY. Mr. President, it was with great joy and relief that I learned of the restoration of civilian rule to Greece. The ruling military junta there has long been a blight on the picture of justice and humanity in the world and its tactics have for years been an affront to people around the globe.

It gave me hope to read in the newspapers that the people of Greece crowded the streets of their country in order to give Constantine Karamanlis a hero's welcome. I think it is a tribute to the nation.

Before thousands, Prime Minister Karamanlis made his way through Athens, the fountainhead of Greece's ancient democratic tradition, and in an address to the crowds he called for that tradition's rebirth. He asked his countrymen for help in propelling Greece toward a new era of national prudence and toward a new time of national patience.

The task ahead for Mr. Karamanlis will be a difficult one. We are not entirely sure how far into the background the military leaders have receded. There is still a danger of future intervention. Greece, as all European countries, faces severe economic problems fueled by the massive, oil-driven inflation. But for the first time in 7 years, the Greek government will have the support of its people, and the support of freedom-loving nations elsewhere in the world. So I am truly hopeful that the dark shadow of the last 7 years will now be lifted from Greek life.

Mr. President, it is my hope that Mr. Karamanlis will realize that his first step should be the withdrawal of all troops and any other military presence from Cyprus. It is time for peace to return to that troubled isle and it is time for the armies of both Greece and Turkey to be removed. It is my hope and expectation that Mr. Karamanlis will help obtain for that country the good fortune that has so recently befallen his.

Mr. Karamanlis' recognition of constitutional government in Cyprus is most welcome, and should put an end to the scheming and undermining of the tripartite arrangements which have governed Cyprus since 1960. We all hope and pray for rapid success at the Geneva peace talks which are commencing today.

CONSUMER HAS A FRIEND IN SENATE BILL 707

Mr. PERCY. Mr. President, I call attention to an editorial appearing in one of the middle Atlantic's leading newspapers, the Charleston, W. Va., Gazette of July 20, 1974, entitled "Consumer Has a Friend in Senate Bill 707." The editorial reflects a concern we all have about setting up new agencies of Government and about expanding the Federal bureaucracy. But on examining the present flaws in the regulatory process, it concludes, as I do, that that process needs the input of an informed spokesman advocating the views of consumers.

The editorial reasons:

Regulatory agencies don't represent the mass of Americans; regulatory agencies represent Big Business America.

Although the Consumer Protection Agency may never justify expectations of its sponsors, if it functions as it is supposed to function, one federal authority finally will be standing up for the public rather than the special interests. Indeed if this agency performs as desired traditional regulatory agen-

cies will have to mend traditional habits and discharge their duties pro bono publico.

In reaching this conclusion, the editorial urges support for this bill on the part of my two very distinguished colleagues from the State of West Virginia—the highly judicious majority whip and the very talented and erudite chairman of the Public Works Committee.

Now, I do not know how my two colleagues will actually vote on this measure. But I do know that both have, in the past, lent consistent support for the concept of an independent consumer advocacy agency and for so many other measures which have had the effect of advancing the interests of over 200 million American consumers.

Mr. President, I ask unanimous consent to print in the RECORD the text of the excellent editorial from the Charleston Gazette, to which I have referred.

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

CONSUMER HAS FRIEND IN SENATE BILL 707

Most Americans are totally disenchanted with Big Daddy government, and rightly so. Big Daddy government is bumbling, dissipative, officious, arrogant, inbred.

That's why so many Americans are so suspicious about any call for action that provides for setting up another federal agency to do anything. They've had it up to their eyeballs with the alphabet-soup array of federal agencies established to handle every conceivable problem known to humanity (and more than a few not known) whose end result has been higher taxes and scant relief from whatever the agencies were founded to cure or to prevent.

Nevertheless, the Gazette urges Sen. Jennings Randolph and Senate Majority Whip Robert C. Byrd to support S-707 that creates a Consumer Protection Agency at the national level.

Senate Bill 707 provides the American consumer a champion, and the Lord knows the American consumer needs someone on his side for a change. The measure is an old, old dream of Ralph Nader and his dedicated Raiders.

We'll immediately concede that a federal consumer protection agency oughtn't to be necessary. Were federal regulatory agencies doing the job they should be doing and are required to do by law this brain child of Nader's wouldn't be needed.

But as everybody is, or should be aware, federal regulatory agencies—such as the Federal Power Commission, Interstate Commerce Commission, Federal Aviation Agency, the Federal Communications Commission to name but four of the many control agencies situated in Washington—no longer, if they ever did, exist to serve the public. At inception a regulatory agency is kidnapped and taken over by the enterprise it is charged to supervise.

Regulatory agencies don't represent the mass of Americans; regulatory agencies represent Big Business America.

Although the Consumer Protection Agency may never justify expectations of its sponsors, if it functions as it is supposed to function, one federal authority finally will be standing up for the public rather than the special interests. Indeed, if this agency performs as desired, traditional regulatory agencies will have to mend traditional habits and discharge their duties pro bono publico.

INFLATION BRANDED AS "PUBLIC ENEMY NO. 1"

Mr. TALMADGE. Mr. President, I have had occasion to read an address delivered by Gabriel Hauge, chairman of the Manufacturers Hanover Corp., at the Canadian Financial Conference in Toronto, in which Mr. Hauge brands inflation as "Public Enemy No. 1." This was an outstanding address, and it focuses attention on what I regard as the most serious problem facing the United States today, surpassing all others in its severity and long-range importance to the security of our Nation.

In an incisive analysis of the situation, Mr. Hauge points to excessive Federal spending as one of the major culprits. I could not agree more, and one did not have to be a Philadelphia lawyer or a Wall Street economist to be able to predict some years ago the disastrous results of multibillion-dollar deficit spending by the United States at home and all over the world. We have persisted in a domestic policy of spending money we do not have for programs we do not need and continuing to pour billions of dollars overseas in an effort to play policeman, banker, and Santa Claus for the whole world. The chickens are now coming home to roost, and we find the United States faced with a national debt of almost $500 billion, more than the indebtedness of all the rest of the world combined, and rampant inflation which robs the working people of their earnings and the elderly of their savings. Moreover, inflation has been a major force in contributing to a loss of confidence by the American people in their Government and in their elected leaders which is so prevalent throughout the Nation today.

Mr. President, I ask that Mr. Hauge's address be brought to the attention of the Senate, and ask that it be printed in the RECORD.

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

PUBLIC ENEMY NO. 1

(By Gabriel Hauge)

It has been well observed that, when the economic history of the 20th Century is written, considerable attention will be accorded the Great Depression of the '30s and the Great Inflation of the '70s. To be sure, prices have been climbing throughout the post-war period, but recently the nature of inflation seems to have changed. First, it began to spread from country to country, as depression did in the 1930s. Now, it may be reaching that psychological zone which, if penetrated, threatens substantial disturbance around the world. Inflation is Public Enemy No. 1, as the Vice President of the United States recently declared.

The reality is all the more acute for the United States, since our inflation rate has historically tended to be lower than that of most other countries. As recently as a year ago, the U.S. ranked better than nearly a score of major industrial nations. Since then, even as prices around the world spiralled upward, our inflation rate has moved ahead of almost half of these countries and now stands at 12 percent for this year. Understandably, this fact is of concern to Canadians, since your economy and ours are so closely interrelated.

That inflation in high dosage is now a worldwide phenomenon leaps out of the latest report of the Organization for Economic Cooperation and Development. In the year ending April 30, consumer prices in the 24 OECD countries spurted on average by 12.7 percent, compared with a rate of 7.7 percent for 1973.

THE CONSEQUENCES

We do not have to speculate about the pernicious effects of inflation, because we can see them all about us.

We see the best of our citizens, those who have saved and whose savings have built our country, suffering substantial losses in those savings. And we see those least able to fend for themselves, the poor and the elderly, forced to suffer disproportionately more than anyone else through the regressive taxation that inflation actually is. I agree with a leading spokesman for Congressional liberals in my country who said recently, "Inflation is the most reactionary force in the world."

We see people beginning to question the merit of saving. According to consumer surveys, they expect bad times. But in flat contradiction to all past normative behavior, they prefer to spend rather than see their savings erode. In this year's first quarter, the savings rate fell in the U.S. to 6¼ percent from the previous quarter's 7.3 percent. No other single figure poses so ominous a threat to the very heart of our economy, for it is with the savings of the people that the sinews of our productive strength are fashioned.

High rates of inflation seem to beguile at least some businessmen into thinking that their earnings are better than they are, and into the view that inflation isn't all that bad. Because of present accounting methods, profits tend to be overstated during a period of inflation. The practice involves charging only the historical cost of physical assets consumed (fixed assets and inventory), rather than current, higher replacement costs. When it comes time to replace these inventories or build new factories, many businessmen have found that these so-called profits are no more tangible than a mirage in the desert. Moreover, to the extent that they increase corporate tax liabilities, understatement of depreciation allowances and inventory profits may actually make the corporation worse off after taxes. To underline the point, in a report that appeared in *Business Week* not long ago, its editors concluded that after the effects of inflation were eliminated, U.S. corporate earnings, although nominally rising some 25 percent last year, were no better than levels reached as far back as 1965.

Inflation has so impacted our aggregate purchasing power that it has just about eliminated progress in reducing unemployment over the past dozen-and-a-half months. For example, in the autumn of 1972, the unemployment rate in the U.S. was about 5½ percent. Yet real disposable income, including transfer payments, dividends and interest, rents, and related items, was no higher at the end of the first quarter of 1974 than it was 18 months earlier. Income earned by the sweat of our collective brows has done even less well. If one looks at the purchasing power of earnings of the average worker in the nonfarm private sector of the U.S. economy, it is clear that he is no better off today than he was in January, 1965.

Inflation operates to distort economic policy and planning. For example, the way the leading economic indicators in my country are constructed, rising prices create an illusory appearance of strength. Our govern-

ment's series of such indicators, which are looked to as harbingers of economic activity, rose throughout most of 1973 and early 1974, tapering only slightly during the second half of last year. However, when the influence of higher prices is eliminated, the indicators are less favorable today than at any time since September, 1972.

Banking data also reflect the disorienting effects of inflation. This fact has made the Federal Reserve's job of conducting monetary policy, difficult enough in a time of chronic budget deficits, much more so. When inflation is high, loan demand is strong in order that businessmen can finance inventory accumulation and pay tax liabilities generated by inventory profits. Strong business loan demand can increase the money and credit aggregates over and above Federal Reserve intentions due to our fractional reserve system and the custom of requiring compensating balances. When you add to this the fact that most loans to business are made today on a variable rate basis so as to minimize the deterrent effect of high interest rates, the Federal Reserve's problem becomes even stickier.

Inflation is even more insidious. It erodes the very fabric of our society. It stimulates a race for pay, profit, and power. It sets group against group in a feverish contest for slices of the national pie. It accelerates treadmill consumer spending. It encourages speculation in such things as real estate and commodities as means of making money, and discourages the development of entrepreneurial skills vital to the functioning of our society. Moreover, its soaring cost threatens to socialize many private educational and charitable activities. Inflation is a dangerous disease, not "a bad itch" or an "annoyance," as it was recently characterized by two leading economists. I say to you with all gravity that it is a threat to our society that is real and deeply disturbing.

THE CAUSES

How did we get to this perilous point in our affairs? The question is in no way academic. It is, rather, the most practical question that practical men can ask.

It is true that inflation is worldwide in scope. Official spokesmen in many lands, in attempting to explain their own inflation, have made references to external forces, as if, in the words of Gottfried Haberler, "the inflation bacillus had flown in from outer space."

Increases in petroleum-related prices have, of course, contributed. But the Organization for Economic Cooperation and Development has calculated that less than a quarter of the consumer price increases in the past six months has come from higher prices for oil. And since the consumer price increases for these countries average 12.7 percent over the past year, that still leaves a good deal to be accounted for, even after noting the adverse weather conditions affecting agriculture in many areas during 1972, the disappearance of the anchovies off Peru, and the presence of a worldwide industrial boom.

There is, I believe, a growing understanding that the roots of inflation go deeper than these transitory events. Any canvass of the causes should first acknowledge that, historically, inflation has not been inherent in our system. For 150 years, ending in 1945, we enjoyed in the U.S., with only occasional spurts of short-lived inflation, a generally stable price structure. The wholesale prices on average in our country were no higher in 1945 than in 1795.

A jobs standard

After World War II, we heard more and more about what was magnificently termed "the revolution of rising expectations." With it came the emphasis on maximizing economic growth. This new accent took many forms in many places. In the U.S., a principal expression was the passage of the Employment Act of 1946, which directed public policy almost single-mindedly toward achieving national employment objectives. Coming on the heels of World War II and with terrible memories of the preceding Great Depression still fresh in mind, this preoccupation was understandable. Enactment of the law, however, put us, in effect, on a jobs-standard for judging the performance of the economy. The cost to us has become very great. With time, we have found that the unemployment rate is not an adequate measure of resource utilization.

It has been said that generals are always preparing to fight the last war. John Kenneth Galbraith has, in a similar vein, indicted economists. "To them," he says, "unemployment is the great enemy. They don't seem to realize that inflation is far more serious than unemployment." While I don't always—or often—agree with my friend, Ken Galbraith, he is right as rain on this vital matter. I suspect that the 95 percent of our work force now gainfully empolyed agree with him, too. And I suspect that they are far in advance of many economists and public officials on this point.

The inflationary bias imparted to the economy by this philosophy has ramified in many ways. In the private sector, it has served to provide industry and labor with a solvent for some of their problems. Business has accepted higher labor costs because it believed it could not resist them and could pass them along to the consumer; labor accepted higher prices because it hoped to get higher pay and in the process beat the game.

The public sector

Another manifestation of the inflationary bias is the huge government involvement that has resulted. Let me give you an example. In the 1920s, total government spending in the U.S. took 10 percent of the gross national product. In the last ten years, it took 22 percent. In the '20s, as in the last 10 years, unemployment stood at 4.6 percent. The difference is that in the '20s, the consumer price index was stable on average compared to an average annual rise of 4 percent in the last 10 years. These figures indicate that government did not reduce the rate of joblessness, although this was the paramount national objective.

What government did accomplish was to create and indeed to institutionalize a strong base for our present inflation. Its fiscal dimension is clear from a recent comment by Secretary of the Treasury William E. Simon, who pointed out that it took us 185 years to spend $100 billion annually, but only nine years more to get to $200 billion, and only four years after that to exceed $300 billion. Fiscal theory earlier had called for budget deficits in bad years, to be compensated for by surpluses in good years. In the past 30 years, however, we have had only six bad years but deficits in 21. Rationalizing this deluge of deficits was the replacement of the cyclically balanced budget by the full-employment budget concept, which calls for budget deficits when the economy is operating short of full employment. And that, by the present faulty criterion of 4 percent unemployment as defining full employment, has been most of the time.

Miscalculations

Inflation has resulted also from misjudging the ability of the U.S. economy to grow because we only dimly understood the impact of three forces.

First, there was a failure to perceive early enough that the structure of the labor force had changed significantly in recent years. Whereas a jobless rate of 4 percent may have correctly represented full employment during the 1950s and early 1960s, toward the end of that decade more people from higher unemployment-prone groups, such as women and teenagers, entered the labor force. These changes have had the effect of lowering effective full employment from 96 percent of the labor force to 95 percent or perhaps even less.

Second, there has been a misjudgment concernin growth in the capacity of American industry to produce. Since the middle 1960s, when laws were first passed concerning industry's impact on the environment, most business capital spending, after adjustment for inflation, has gone to pay for costlier machines and factories to comply with these environmental requirements. Actual aggregate expansion of capacity has proved to be less than was believed to be the case. Discovery of this and other capacity limitations has dawned, but late, and at severe inflationary cost.

A third factor affecting the availability of supplies to our domestic markets was the early misjudgment of the impact of the new regime of exchange rates on the U.S. Although promoting calmness on the international monetary seas, back on shore floating has tended in many cases to weaken discipline that governments should encourage in domestic economies. While minimizing widespread outflows of funds in response to differences in inflation rates, interest rates, of economic conditions in general, floating exchange rates, by their near-instantaneous reaction to these pressures in the form of changes in exchange rates, altered demand and supply in foreign trade. In the case of th U.S., last year the floating rate system permitted the dollar's value to sink so low that it had the effect of making U.S. products extremely attractive in world markets. This incentive sucked large supplies out of our country, while at the same time limiting imports since they became more expensive. Whatever floating did for our balance of trade, inflation was exacerbated.

Taking these three factors into account, it appears our potential to supply domestic markets has grown since 1969, not at the 4.3 percent recently stated by the President's Council of Economic Advisers—and not, I'm afraid, even at the 4 percent rate to which that figure was later reduced—but at closer to 3 percent. Even with the substantial $12 billion decline in real GNP in this year's first quarter, we appear to be still operating at or very near overall potential domestic capacity. That inflation was encouraged in this environment is not surprising.

THE BATTLE PLAN

Let me say at once that any lasting victory over inflation must begin with you and me, the citizenry. You and I must find ways to moderate the "revolution of rising expectations," lest is scorch us all in an inflationary firestorm. We must find effective ways of getting across this plain truth: if we try to achieve rapidly rising private and public standards of living at the same time, we are going to find it costly and abortive.

1. Commitment

I must acknowledge that there are those who would appease inflation by trying to devise ways to live with it, such as general indexation. I take strong exception to indexing or any other similar palliative. It does not get at the fundamental cause of inflation: the disequilibrium between the demand and supply of goods. By boosting incomes in proportion to price rises, indexing at best merely perpetuates the disequilibrium. Moreover, by making it easier for people to live with inflation, general escala-

tor arrangements would gravely weaken the discipline that is needed to conduct business and government affairs prudently and efficiently. For inflation anticipated is, indeed, inflation accelerated. The more people are promised a way to live with inflation, the less reason they have to take steps to correct it. The possibility of aggravating economic inequities seems great. Nor do I see how a comprehensive indexing of the U.S. economy would cope with the hundreds of billions of dollars of outstanding contracts and that savers now hold in bank deposits, savings and loan shares, and insurance reserves. It is worth noting that the most celebrated example of comprehensive indexation, Brazil, may well be in the process of coming apart at the seams.

Nor are price-and-pay controls the solution. In the U.S. we have taken a good look at what two freezes and four phases of this economic process have done to our economy and we do not like it.

2. Pacing Demand To Resources

Public attitudes are the fundamental underlying cause of our inflationary problem, and excess government spending translates these attitudes into a powerful force for raising prices. When I reflect on the benevolent role proclaimed by governments these days, I recall the words of a nineteenth century utopian socialist, Etienne Cabet, who wrote, "Nothing is impossible for a government that wants the good of the people."

Fiscal Policy

As citizens we have been demanding more from government than we are willing to pay for. As an essential part of any successful resistance to inflation, we must pay our way in the public sector and then some for the next few years. I recognize that much of the annual budget in my country consists of so-called "uncontrollables," programs for which increases in outlays are virtually mandated by law. But I agree with Treasury Secretary Simon when he declared in pretty uncomplicated language, "The idea that 75 percent of the budget is uncontrollable is a cop-out." The time has come when we must re-examine these programs in the interests of the overriding fight against inflation.

It is clear that we should have run a substantial budget surplus two years ago, instead of the $23 billion deficit actually recorded in fiscal year 1972–73. We should have had an even bigger surplus last year, but instead we ran a $14.3 billion deficit. For 1973–1974, the Administration projects a deficit of "only" $3½ billion, while for fiscal year 1975, beginning July 1, a rise in the deficit to $11½ billion is anticipated. Although the new fiscal year begins soon, it is not too late for the Administration and the Congress to tie into the task of eliminating this deficit. Moreover, Congress should hold the line against a tax cut which would be the wrong measure at the wrong time. As part of fiscal reform, we must rehabilitate or abandon the full-employment budget concept. It has been a fiscal mischiefmaker and worse.

In a related area, I am cheered that the Congressional budget process is about to be remedied. Bills that would integrate spending and taxing decisions have passed both our House and Senate and have been approved by a Conference Committee. This legislation would overhaul drastically the way Congress considers the federal budget and decides where funds are to be spent. If passed, this measure would mark the strongest Congressional effort in years to assert more control over the federal budget, now dealt with piecemeal by both houses. It may well prove to be a landmark in restoring fiscal responsibility.

MONETARY POLICY

Once fiscal discipline is restored, the task of monetary policy will be more easily accomplished. Although Federal Reserve Chairman Arthur Burns is doing a courageous job in conducting U.S. monetary policy in an effort to stem the inflation tide, the frequency and magnitude of government borrowings effectively circumscribe how tight monetary policy can be. The President's new chief economic coordinator, Kenneth Rush, is right when he says that monetary policy should remain restrictive long enough to work. In my view, the Federal Reserve should keep a steady hand on the monetary tiller, turning toward neither ease nor extreme tightness, and, most important, to stay the course. In terms of growth in the money and credit aggregates, the target range should gradually be lowered as the federal budget turns in a better performance. The "steady-state" target should be no more than half recent growth rates.

I have placed main emphasis on this prescription for dealing with the fever of inflation on pacing demand through effective fiscal and monetary policy, because without that nothing else will avail. That this policy is necessary but not sufficient, however, is becoming clearer as time goes on.

3. Supply Management

Other things can and should be done to reduce inflation and especially the expectation of inflation, such as encouragement to industry to expand capacity. Because of the ravages of inflation, even today's accelerated depreciation allowances do not permit businesses to establish a reserve sufficient to replace existing machinery and office and factory buildings. Tax laws and regulations should address themselves to this and related problems of business.

We should get rid of a mass of old laws, regulations, and programs that have tended to boost prices by promoting inefficiency. We have made great strides in dismantling the old farm program, but there remain such matters as featherbedding rules in labor-management agreements and in laws, restrictive local building codes, and some antitrust practices which tend to limit competition.

4. Employment goals

In order to give the battle against inflation the priority it deserves, the Congress should amend the Employment Act of 1946 to give price stability equal status with high employment. Pumping up aggregate demand sufficiently to help some more of the work force to obtain jobs at great inflationary cost to the 95 percent already employed is an obsolete view that deserves cold hard scrutiny and a search for alternatives.

Part of the answer to this dilemma lies in strengthening unemployment insurance measures. Another may be the acceptance by governments at all levels of the role of "employer of last resort." Many jobs that need doing require little skill, but in our technologically advanced system cannot be justified economically in the private sector. Such important tasks as helping to keep our cities clean, preserve and develop our national forests, and protect the ecological quality of our continent could be assisted through a well-conceived public employment program which could bring about a worthwhile cut in the unemployment rate at acceptable cost.

5. Monitoring stabilization

To help dampen inflation and the expectation of inflation, we may very well need to try out another tool. The Administration has proposed a surveillance function to watch and report price-and-pay trends in the economy. This strikes me as an idea worthy of a trial. Because of our unsatisfactory recent experience, I do not fear it would be a way to slip back into a system of permanent pay and price controls.

6. Private sector responsibility

The private sector as well has an important role to play in the inflation fight. Business and labor must look to the elimination of depression-born restrictions on production and services, and find other solutions to matters in their control than passing them on to consumers in constantly higher prices. Critical to this issue, of course, is the improvement of productivity. It is true that, "Anything we can do, we can do better."

Banking and financial institutions clearly have their responsibility. In the conduct of our affairs, we must strike a balance between lively entrepreneurship and plain old-fashioned prudence. In the financial business, so affected with the public interest, sound management is more than ever a compelling imperative today.

7. International Monetary Reform

Reform of the international monetary system should encourage effective stabilization policies in individual countries through a set of arrangements with incentives and sanctions, i.e., carrots and sticks. It would appear that the choice between a par-value system with flexibility and a floating system with rules is not all that great. However, neither will work unless each country puts forth its best efforts to maintain the health of its own currency. International cooperation is clearly more than ever the sine qua non of living together on this terrestrial ball. I cite the commitment against the use of trade restrictions to cope with oil-cost damage to balance of payment equilibrium in many countries. I note as well the recent progress of the C–20 in Washington. Indispensable as it is, however, international cooperation must never become an escape mechanism from the rigors of doing what each of us knows must be done at home.

THE CHALLENGE

Inflation can be subdued. It does not have the sanction of history. It is not inevitable.

In these remarks I have sought to set forth what might be called a consensus program of action. Its demands on any one of us or any group to which we and other citizens belong are modest. Its cumulative effect, however, can be decisive. It means tempering our aspirations with that degree of moderation that alone can insure their satisfaction; it means according a prime place in our economic goals to the integrity of our money; it means embracing confident policies toward the future instead of the fear and restrictionism born of depression; it means some throttling back of the pressure of demand on resources until they expand; it means doing not only "our best," but what we know is required in fiscal and monetary policy; it means widening supply bottlenecks; it means building an interdependent international economy on the foundation of sturdy national economies.

Success in this grand enterprise rides with you and me as citizens of our countries. We must commit our influence, whatever it be, wherever we are—in the corporate board room, in the councils of labor, of agriculture, of the professions—to rally opinion to the fight. You and I know that when economics is really important, it becomes politics, so as citizens we must make it politically rewarding for public officials to give primacy to the inflation battle. It makes no sense to blame them for what you and I ask them to do for the fiscal constituencies of which we are a part. With our support, they can array public priorities and reach a sen-

sible judgment for their achievement over time.

Without this commitment from you and me, the fight for an honest currency will be lost and the result will be economic frustration and social stress which can strain to the peril point the fabric of our common life. If that happens, the dire event will trace to a failure of nerve. But, with our commitment, I have no doubt that so honest a cause can prevail.

IMPOUNDMENT REPORT

Mr. HUMPHREY. Mr. President, the Office of Management and Budget has released its report on "Budgetary Reserves as of June 30, 1974." This is the last of the quarterly reports required by the Federal Impoundment and Information Act, as amended. A new series of impoundment reports will be required by the Congressional Budget and Impoundment Control Act of 1974, which was signed into law on July 12, 1974.

I have been concerned about effective reporting of impoundments for several years. I authored the Federal Impoundment and Information Act of 1972, and messages for proposed impoundments—ever since that time we have tried here in Congress to make those reports more comprehensive and more useful. A number of constructive changes were made in response to our recommendations. But the reports never lived up to what we felt was needed.

We are about to embark on a wholly new reporting procedure. Title X of the Congressional Budget and Impoundment Control Act requires two types of special one for rescissions and one for deferrals.

In the case of proposed rescissions, unless both Houses of Congress complete action on a "rescission bill" within 45 days, the budget authority must be made available for obligation. Thus, the President must receive the support of both Houses within a specified time period.

In the case of proposed deferrals, if either House passes an "impoundment resolution" disapproving the request, the budget authority must be made available for obligation. Under this procedure the burden is on one House to overturn a deferral request. The act also requires cumulative monthly reports of proposed rescissions, reservations, and deferrals.

On June 21, 1974, when the Senate acted on the conference version of the Congressional Budget and Impoundment Control Act, I engaged in an extensive colloquy with the senior Senator from North Carolina (Mr. ERVIN). That dialog spelled out in considerable detail our expectations with regard to future impoundment reports. In particular, the quality of reports for policy impoundments must be of the highest order, with special treatment and narrative in place of the generalized codes used in the quarterly impoundment reports. Policy proposals are to be highlighted and given individual attention, perhaps by being set aside in a separate section. This will enable a Member of Congress to focus his attention immediately on the significant actions.

Mr. President, I ask unanimous consent that this report be printed in the RECORD, along with the July 15 cover letter from OMB Director Ash to Vice President FORD.

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

EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, D.C., July 15, 1974.

Hon. GERALD R. FORD,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: The enclosed report is submitted pursuant to the Federal Impoundment and Information Act, as amended. In accordance with that Act, the report is being transmitted to the Congress and to the Comptroller General of the United States, and will be published in the Federal Register.

This is the final report under the Federal Impoundment and Information Act, which was repealed by the Congressional Budget and Impoundment Control Act of 1974. The reports required by the Congressional Budget and Impoundment Control Act will begin as soon as reporting procedures can be instituted.

Sincerely,

ROY L. ASH,
Director.

BUDGETARY RESERVES AS OF JUNE 30, 1974

THE APPORTIONMENT AND RESERVATION OF FUNDS PROCESS

The Antideficiency Act (31 U.S.C. 665) requires, with certain exceptions, that all appropriations, funds, and contract authority be apportioned so as to: prevent obligation of funds in a manner which would require deficiency or supplemental appropriations; achieve the most effective and economical use of amounts made available; provide for contingencies; and effect savings. The Act also requires that apportionments shall be reviewed at least four times each year, and it authorizes reapportionments and the establishment of reserves. The authority granted by this Act is exercised by the Director of the Office of Management and Budget under authority delegated by the President.

Apportionments specify the amounts that may be obligated during specific time periods, usually within the current fiscal year. In some cases, specific provisions of law provide that funds should be available over a period longer than one year. In cases where the amount of contract authority available a year in advance is specified by law, a distinction is made in the accompanying report (Attachment D) between the 1974 and 1975 programs.

The practice of withholding some amounts—"reserving" them—from apportionment, either temporarily or for longer periods, is one of long-standing and has been exercised by all recent administrations as a customary part of financial management. The Antideficiency Act authorizes the withholding of funds from apportionment to provide for contingencies or to effect savings made possible by or through changes in requirements, greater efficiency of operations, or other developments subsequent to the date on which the funds were made available. When funds are, by law, made available beyond the current fiscal year, they are generally not fully apportioned in the current year. The unapportioned part is withheld to be released later for use in subsequent years, as required.

In some legislative and appropriation actions, the Congress has required the withholding of specified funds. For example, the 1973 Agriculture-Environmental and Consumer Protection Appropriation Act (Public Law 92-399) explicitly required that an amount be placed in reserve pending an administrative determination of need. In other cases, notably the 1975 Labor-HEW Appropriations Act (Public Law 93-192), Congress has authorized the withholding from obligation and expenditure of specified amounts or percentages of appropriated funds. A table showing the amounts withheld under Public Law 93-192 is Attachment A to this report. A similar withholding was authorized by the 93rd Congress in the Agriculture-Environmental and Consumer Protection Appropriation Act of 1974. The Act provided an indefinite authorization to make insured loans in the Rural Electrification and Telephone Revolving Fund as follows (dollars in millions):

	Not less than--	Not more than--
Electric loans	618	750
Telephone loans	140	200
Total	758	950

The 1974 authority to spend debt receipts to finance loan activity was apportioned at the $758 million level.

In yet another case, Congress has made funds available only upon the arrival of certain contingencies. The 1974 Supplemental Appropriations Act (Public Law 93-245 sets aside a contingency reserve for the Interior Department's Office of Oil and Gas which is to become available only upon enactment of emergency energy legislation.

These Congressional directives are, however, the exception rather than the rule. Most reserves are established at the initiative of the Executive Branch and are based on operational knowledge of the status of specific projects or activities. For example, when a particular objective can be accomplished at less cost than had been anticipated when the appropriation was made, a reserve assures that savings can be realized and, if appropriate, returned to the Treasury. In other cases, apportionments sometimes await (1) development by the affected agencies of approved plans and specifications, (2) completion of studies for the effective use of the funds, including necessary coordination with the other Federal and non-Federal parties that might be involved, (3) establishment of a necessary organization and designation of accountable officers to manage the programs, or (4) the arrival of certain contingencies under which the funds must by statute be made available (e.g., certain direct Federal credit aids when private sector loans are not available). From time to time, reserves are established for the purpose of conforming to the requirements of other laws.

An example is the Executive's responsibility to stay within the statutory limitation on the outstanding public debt.

Most, but not all, funds provided by the Congress are subject to the apportionment process. Subsection (f) of the Antideficiency Act authorizes a series of exemptions. Temporary continuing appropriations are exempt from the apportionment process (Public Law 93-52, as amended, Section 103). Appropriations provided under such temporary continuing appropriation acts are usually indefinite in amount. In addition, some laws establish funding arrangements which are either outside the apportionment process or require Executive determinations before they become subject to apportionment. The Federal Water Pollution Control Act of 1972 (Public Law 92-500), for example, vests discretion in the Administrator of the Environmental Protection Agency to allot less than the maximum amounts au-

thorized by the Act*. Under the provisions of the Act, authority to make contracts does not exist until the allotment is made. Consequently, fund availability (budget authority) exists only when allotments are made and only allotted funds move through the apportionment process. At this date, funds authorized by the Federal Water Pollution Control Act have been allotted on the following basis (dollars in billions):

	Authorized	Allotted	Unallotted
Fiscal year—			
1973	5	2	3
1974	6	3	3
1975	7	4	3

Funding of certain housing programs of the Department of Housing and Urban Development (HUD) presents a unique situation with respect to the apportionment process. For five housing programs, the Congress provides commitment authority that allows the Secretary of HUD to sign long-term contracts requiring annual payments to specific housing units. The commitment authority is not subject to the apportionment (and thus the reserve) process since it does not represent obligational authority of a given year. Rather, it represents an authorization to enter into contracts which will result in a requirement for obligational authority (payments) in each of the years covered by the contract. Current plans anticipate that the commitments for annual payments will be some $299 million under the level made available by the Congress for four of these programs. If used, the $299 million of authority could result in outlays of up to $10 billion over the life of the contracts. As the payments under the contracts come due, they are met by annual appropriations (provided under the account "Housing payments" which also covers low-rent public housing). Thus, funds are only required to meet annual payments under the contracts. They are not required at the time the contracts are signed and are made available only when actually appropriated. Since reserves are established only on the basis of fund availability and since funds appropriated for this program are needed for making payments at an early date, no reserves have been established for the subsidized housing programs.

The amount of funds apportioned or held in reserve at any one time is heavily dependent upon events both preceding and following initial apportionment actions. Key among the predecessor events is the passage of the annual appropriation bills. Apportionments for most Federal programs are made within 30 days of enactment of the appropriation bills. The earlier in the fiscal year these apportionments occur, the greater is the chance that reserves will accompany them. Early in the fiscal year, program and project plans are incomplete and allowances need to be made for contingencies which may occur later in the year. As administrative plans are completed and other events occur during the year, the need for reserving funds diminishes. Thus, for any one fiscal year, the amount in reserve is relatively low at the beginning of the year (reflecting primarily multi-year funds), peaks 30 days after passage of most of the appropriation bills, and then steadily diminishes as the end of the fiscal year approaches.

RESERVES AS OF JUNE 30, 1974

Since the report on Budgetary Reserves as of April 20, 1974, total funds in reserve for the 1974 program have decreased $29 billion to a new total of $75 billion. This reduction is primarily accounted for by the release of reserves in three areas: Emergency security assistance for Israel ($2.2 billion); Rural water and waste disposal grants under the Farmers Home Administration, Department of Agriculture ($.1 billion); and the Federal-aid highways/1974 program of the Department of Transportation ($.5 billion). The balance of the reduction in 1974 program reserves results from releases made to meet end-of-year funding requirements in many programs.

The $7.5 billion remaining in reserve in the 1974 program as of June 30, 1974, largely represents the reservation of obligational authority that has been made available beyond 1974. These reserves have been maintained through June 30 to ensure fund availability in 1975 and subsequent fiscal years. All but $2 billion of the total is in three departments, Agriculture ($1 billion), Defense ($1.6 billion), and Transportation ($3.3 billion).

All of the $6.3 billion in reserve for 1975 is in the Federal-aid highways account and other highway programs.

REPORT REQUIRED BY LAW

This report is submitted in fulfillment of the requirements of the Federal Impoundment and Information Act, as amended, which provides for a report of "impoundments" and certain other information pertaining thereto. This report lists the budgetary reserves that were in effect as of June 30, 1974. The Congressional Budget and Impoundment Control Act of 1974 will, when enacted, bring an end to this series of reports and begin a new series.

The new Act will repeal the current reporting requirements under the Federal Impoundment and Information Act and substitute new reporting provisions.

The Antideficiency Act requires that all apportionments be reviewed at least quarterly, and that reapportionments be made or reserves be established, modified, or released as may be necessary to further the effective use of the funds concerned. Thus, in answer to item Number 5 of the Federal Impoundment and Information Act, the period of time during which funds are to be in reserve is dependent in all cases upon the results of such later review.

Attachment D lists, by agency, all accounts for which some funds are reserved. An asterisk (*) identifies those accounts added to the listing since the last report (i.e., such accounts contained no reserves on April 20, 1974). The listing:

Presents the amount currently apportioned for the fiscal year 1974;

Presents the amount in reserve as of June 30, 1974;

States whether the amount reserved will be legally available for obligation in fiscal year 1975;

Indicates the date of the reserve action and the effective date of the current reserve;

Presents a code which relates to the reason for the current reserve action, without necessarily exhausting all possible reasons; and

Presents a code which indicates the estimated fiscal, economic, and budgetary impact of the current reserve.

Codes used in the remainder of this report relating to the reasons for and estimated fiscal, economic, and budgetary impact of the reserve actions are described in Attachments B and C. The codes and footnotes listed for each entry relate to conditions which were in effect as of the date of the reserve action.

ATTACHMENT A

THE 1974 LABOR/HEW APPROPRIATIONS—FUNDS WITHHELD FROM OBLIGATION AND EXPENDITURE

The 1974 appropriations act for the Departments of Labor, and Health, Education, and Welfare, and related agencies (P.L. 93-192) contains the provision that "not to exceed $400 million, . . . may be withheld from obligation and expenditure. . . ." The appropriation language also specifies that no individual appropriation provision may be reduced by more than five percent. In addition, the conference report (H.R. 93-682) establishes dollar limitations for the reductions that may be made to specified programs.

The following table shows the effect of the amounts withheld from programs receiving appropriations under this act. A comparison is drawn between amounts authorized to be withheld in the conference report and actual amounts withheld.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[In thousands of dollars]

	Authorized to be withheld (conference report)	Amounts withheld (1975 budget)	Difference
Health:			
Health Services and Mental Health Administration:			
Mental health	26,874	9,567	−17,307
Health services planning and development [1]	17,509		
Health services delivery [1]	2,800	25,937	−16,649
Health manpower [1]	22,277		
Preventive health services	4,936	0	−4,936
Subtotal	(74,396)	(35,504)	(−38,892)
National Institutes of Health:			
National Cancer Institute	27,560	23,706	−3,854
National Heart and Lung Institute	15,145	13,365	−1,780
National Institute of Dental Research	2,278	1,607	−671
National Institute of Arthritis, Metabolism and Digestive Diseases	7,972	5,886	−2,086
National Institute of Neurological Diseases and Stroke	6,250	3,642	−2,608
National Institute of Allergy and Infectious Diseases	5,700	2,911	−2,789
National Institute of General Medical Sciences	8,838	8,449	−389
National Institute of Child Health and Human Development	6,512	4,799	−1,713
National Eye Institute	2,081	454	−1,627
National Institute of Environmental Health Sciences	1,443	482	−961
Research resources	6,672	4,046	−2,626
John E. Fogarty International Center	237	0	−237
National Library of Medicine	877	0	−877
Subtotal	(91,565)	(69,347)	(−22,218)
Total, health	165,961	104,851	−61,110

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—Continued
[In thousands of dollars]

	Authorized to be withheld (conference report)	Amounts withheld (1975 budget)	Difference
Education:			
Office of Education:			
Elementary and secondary education	96,725	94,979	−1,746
School assistance in federally affected areas	16,584	16,584	0
Education for the handicapped	5,325	5,325	0
Occupational, vocational, and adult education	26,354	26,354	0
Higher education	29,167	29,167	0
Library resources	8,585	6,261	−2,324
Educational development	4,487	4,487	0
Salaries and expenses	93	93	0
Total, education	187,320	183,250	−4,070
Welfare:			
Social and Rehabilitation Service:			
Grants to States for public assistance	2,500	2,500	0
Social and rehabilitation services	7,775	7,775	0
Subtotal	(10,275)	(10,275)	(0)
Office of Child Development: Child development	15,500	9,020	−6,480
Subtotal	(15,500)	(9,020)	(−6,480)
Total, welfare	25,775	19,295	−6,480
RELATED AGENCIES			
Corporation for Public Broadcasting	2,500	[2] 2,250	−250
Office of Economic Opportunity	17,315	[3] 9,800	−7,515
Total, related agencies	18,815	12,050	−7,765
Total, HEW and related agencies	398,871	319,446	−79,425

[1] The 1974 activities of these programs are divided between Health Services Administration and health resources in the 1975 budget appendix.

[2] This withholding does not appear in the 1975 budget appendix.

[3] In the 1975 budget appendix, this figure is shown as an unobligated balance lapsing.

ATTACHMENT B

REASON FOR CURRENT RESERVE

Code

1—"To provide for contingencies" (31 USC 665(c)(2)).

2—"To effect savings whenever savings are made possible by or through changes in requirements, greater efficiency of operations, or other developments subsequent to the date on which such (funds were) made available" (31 USC 665(c)(2)).

3—To reduce the amount of or to avoid requesting a deficiency or supplemental appropriation in cases of appropriations available for obligation for only the current year (31 USC 665(c)(1)). This explanation includes amounts anticipated to be used to absorb or partially absorb the costs of recent pay raises grant pursuant to law.

4—"To achieve the most effective and economical use" of funds available for periods beyond the currrent fiscal year (31 USC 665(c)(1)). This explanation includes reserves established to carry out the Congressional intent that funds provided for periods greater that one year should be so apportioned that they will be available for the future periods.

5—Temporary deferral pending the establishment of administrative machinery (not yet in place) or the obtaining of sufficient information (not yet available) to apportion the funds properly and to insure that the funds will be used in "the most effective and economical" manner (31 USC 665(c)(1)). This explanation includes reserves for which apportionment awaits the development by the agency of approved plans, designs, specifications.

6—The President's constitutional duty to "take care that the laws be faithfully executed" (U.S. Constitution, Article II, Section 3):

6a—"Obligation at this time of the amount in reserve is likely to contravene law regarding the environment; or the amount in reserve is being held pending further study to evaluate the environmental impact of the affected projects (activities) as required by law.

6b—"Existing tax laws and the statutory limitation on the national debt are not expected to provide sufficient funds in the current and ensuing fiscal years to cover the total of all outlays in these years contemplated by the individual acts of Congress.

6c—"Action taken consistent with the President's responsibility to help maintain economic stability without undue price and cost increases.

6d—"Amount apportioned reflects the level of obligations implicitly approved by the Congress in its review of and action on the appropriation required to liquidate obligations under existing contract authority.

6e—"Other." See footnote for each item so coded.

7—The President's constitutional authority and responsibility as Commander in Chief (U.S. Constitution, Article II, Section 2).

8—The President's constitutional authority and responsibility for the conduct of foreign affairs (U.S. Constitution, Article II, Section 2).

9—Other. See footnote for each item so coded.

10—Not applicable or no reason required. (In most cases where a previous reserve has been apportioned in its entirety.)

ESTIMATED FISCAL, ECONOMIC, AND BUDGETARY EFFECT

I. Same effect as set forth in the most recently submitted budget document, of which this item is an integral part.

II. The reserve action will bring the budgetary impact of this program to a level nearer or equal to that contemplated in the most recently submitted budget document and contribute to the reduction of inflationary pressures.

III. The change from the previous reserve is expected to contract the budgetary impact of this program and contribute to the reduction of inflationary pressures.

IV. The release or reduction of the previous reserve will facilitate use and expenditure of the available funds consistent with current program needs and economic conditions in the area affected.

V. Other. See footnote for each item so coded.

VI. Not applicable or no explanation required. (In most cases where a previous reserve has been apportioned in its entirety.)

ATTACHMENT D

SUMMARY OF BUDGETARY RESERVES [1]

[In millions of dollars]

Agency	Amounts as of— June 30, 1973	Sept. 30, 1973	Feb. 4, 1974	Apr. 20, 1974	June 30, 1974
1974 PROGRAM					
Executive Office of the President	2	----------	1	1	----------
Funds Appropriated to the President	126	96	2,507	2,398	60
Department of Agriculture	1,316	1,173	1,091	1,080	957
Department of Commerce	140	63	59	53	47
Department of Defense—Military	1,618	1,143	2,514	1,686	1,566
Department of Defense—Civil	33	1	4	5	5
Department of Health, Education, and Welfare	21	23	381	379	329
Department of Housing and Urban Development	460	456	823	467	467
Department of the Interior	478	162	219	202	206
Department of Justice	36	14	14	14	14
Department of Labor	----------	----------	21	21	157
Department of State	6	----------	86	50	50
Department of Transportation	2,885	3,838	3,817	3,761	3,341
Department of Treasury	22	22	23	23	22
Atomic Energy Commission	118	27	----------	----------	----------
Environmental Protection Agency	----------	----------	95	88	87
General Services Administration	262	258	38	38	38
National Aeronautics and Space Administration	2	2	2	----------	----------
Veterans Administration	44	43	----------	----------	----------
Other Independent Agencies:					
National Science Foundation	62	4	----------	----------	----------
Small Business Administration	50	31	31	31	31
All Other	51	90	89	89	110
Total	7,732	7,446	11,813	10,384	7,486
1975 PROGRAM					
Department of Agriculture	----------	----------	140	140	140
Department of the Interior	----------	75	190	190	190
Department of Transportation	----------	----------	5,994	5,995	5,994
Total	----------	75	6,324	6,325	6,324

[1] Details may not add due to rounding.

BUDGETARY RESERVES—Continued

[Dollar amounts in thousands]

[General notes: Amounts in parenthesis () indicate actions superseded by later apportionment actions. An asterisk (*) indicates an account added to the list since the last report. An account without an entry in the amount apportioned column indicates no apportionment has been made for fiscal year 1974.]

	Amount apportioned	Amount in reserve	Available beyond fiscal year 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated
Executive Office of the President/Funds appropriated to the President:							
Appalachian Regional Commission: Appalachian regional development programs	(209,000)	(225,000)	Yes	June 29, 1973	July 1, 1973	5, 6c	I
	(320,395)	(40,000)	Yes	Sept. 12, 1973	Sept. 12, 1973	5, 6c	I
	325,747	40,000	Yes	Oct. 23, 1973	Oct. 23, 1973	5, 6c	I
Agency for International Development: Prototype desalting plant	(.....)	(20,000)	Yes	Apr. 7, 1972	July 1, 1973	5	I
	(1)	20,000	Yes	Jan. 29, 1974	Jan. 29, 1974	5	I
Foreign Military Credit Sales	(78,940)	(246,060)	No	Jan. 23, 1974	Jan. 23, 1974	5	I
	(128,940)	(196,060)	No	Feb. 25, 1974	Feb. 25, 1974	5	I
	(150,190)	(174,810)	No	Mar. 18, 1974	Mar. 18, 1974	5	I
	(169,880)	(155,110)	No	Mar. 25, 1974	Mar. 25, 1974	5	I
	(181,990)	(143,010)	No	May 1, 1974	May 1, 1974	5	I
	(238,240)	(86,760)	No	May 13, 1974	May 13, 1974	5	I
	(240,740)	(84,260)	No	May 21, 1974	May 21, 1974	5	I
	(266,690)	(58,310)	No	May 24, 1974	May 24, 1974	5	I
	(300,115)	(24,885)	No	June 10, 1974	June 10, 1974	5	I
	(314,615)	(10,385)	No	June 13, 1974	June 13, 1974	5	I
	(322,115)	(2,885)	No	June 17, 1974	June 17, 1974	5	I
	325,000	.....	Not available	June 28, 1974	June 28, 1974	10	VI
Emergency Security Assistance for Israel	(.....)	[2] (2,200,000)	No	Feb. 1, 1974	Feb. 1, 1974	5	I
	(17,336)	(2,182,664)	No	Feb. 28, 1974	Feb. 27, 1974	5	I
	2,200,000	.....	Not available	Apr. 25, 1974	Apr. 25, 1974	10	VI
Council on Environmental Quality and Office of Environmental Quality	(1,930)	(536)	No	Nov. 7, 1973	Nov. 7, 1973	5	I
	(1,980)	(486)	No	Mar. 12, 1974	Mar. 12, 1974	5	I
	2,466	.....	Not available	May 24, 1974	May 24, 1974	10	VI
Special Action Office for Drug Abuse Prevention:							
Salaries and expenses	(3,800)	(1,200)	No	Dec. 26, 1973	Dec. 26, 1974	5	I
	5,000	.....	Not available	Jan. 11, 1974	Jan. 11, 1974	10	VI
Pharmacological research	(400)	(19,600)	No	Dec. 26, 1973	Dec. 26, 1973	5	I
	20,000	.....	Not available	Jan. 11, 1974	Jan. 11, 1974	10	VI
Special fund	(1,300)	(24,700)	No	Dec. 26, 1973	Dec. 26, 1973	5	I
	26,000	.....	Not available	Jan. 11, 1974	Jan. 11, 1974	10	VI
National Security Council	(2,502)	(300)	No	Nov. 16, 1973	Nov. 16, 1973	5	I
	2,532	270	No	May 9, 1974	May 9, 1974	5	I
The Inter-American Foundation: Inter-American Foundation	(5,000)	(35,652)	Yes	June 12, 1973	July 1, 1973	4	V[3]
	(5,000)	(35,735)	Yes	Dec. 4, 1973	Dec. 4, 1973	4	I
	10,000	(1)	Not available	Jan. 28, 1974	Jan. 28, 1974	10	VI[4]
Department of Agriculture:							
Agriculture Research Service: Construction	(.....)	(1,520)	Yes	June 29, 1973	July 1, 1973	4, 6b	I
	3,786	770	Yes	June 27, 1974	June 27, 1974	4, 6b	IV
Animal and Plant Health Inspection Service:							
Animal and Plant Health Inspection Service	(317,083)	(878)	No	Nov. 23, 1973	Nov. 23, 1973	1	I
	(317,583)	(378)	No	Feb. 8, 1974	Feb. 8, 1974	1	I
	321,673	378	No	Apr. 23, 1974	Apr. 23, 1974	1	I
Animal Quarantine Station	130	64	Yes	Nov. 23, 1973	Nov. 23, 1973	5	I
Extension Service: Extension Service	(201,429)	(3,200)	No	Nov. 23, 1973	Nov. 23, 1973	2	I
	201,737	2,892	No	June 10, 1974	June 10, 1974	2	I
Foreign Agricultural Service: Salaries and Expenses, Special Foreign Currency Program.	1,000	1,240	Yes	May 23, 1973	July 1, 1973	4	I
Agricultural Stabilization and Conservation Service:							
Salaries and expenses	(256,626)	(2,619)	No	Nov. 23, 1973	Nov. 23, 1973	1	I
	256,443	2,802	No	Jan. 21, 1974	Jan. 21, 1974	2	I
Rural Environmental Assistance Program/1973-74	(.....)	(210,500)	No[5]	Jan. 26, 1973	July 1, 1973	6b	I
	[6] 210,500	.....	Not available	Apr. 1, 1974	Apr. 1, 1974	10	VI
Rural Environmental Assistance Program/1974-75	90,000	85,000	Yes	Nov. 23, 1973	Nov. 23, 1973	4	I
Emergency Conservation Measures	20,453	10,000	Yes	Nov. 23, 1973	Nov. 23, 1973	1	I
Water Bank Act Program	(.....)	(11,391)	Yes	Jan. 26, 1973	July 1, 1973	6b	I
	10,006	11,645	Yes	Nov. 23, 1973	Nov. 23, 1973	6b	I
Cropland Adjustment Program	(50,300)	(1,600)	No	Nov. 23, 1973	Nov. 23, 1973	2	I
	51,900	.....	Not available	June 10, 1974	June 10, 1974	10	VI
Commodity Credit Corporation: Administrative Expenses	(.....)	(497)	No	Nov. 23, 1973	Nov. 23, 1973	1	I
	[7] 39,631	269	No	Dec. 21, 1973	Dec. 21, 1973	1	III
Rural Electrification Administration: Loans	(.....)	(456,103)	Yes	Jan. 26, 1973	July 1, 1973	2, 6b, 6c	I
	594	455,635	Yes	Feb. 21, 1974	Feb. 21, 1974	2, 6b, 6c	V[8]
Farmers Home Administration:							
Rural Water and Waste Disposal Grants	(.....)	(120,000)	Yes	Jan. 26, 1973	July 1, 1973	6b, 6c	I
	(.....)	(150,304)	Yes	Nov. 23, 1973	Nov. 23, 1973	6b, 6c	I
	(30,000)	(120,304)	Yes	Dec. 28, 1973	Dec. 28, 1973	6b, 6c	I
	150,304	.....	Not available	June 7, 1974	June 7, 1974	10	VI
Rural Housing for Domestic Farm Labor Grants	(.....)	(1,621)	Yes	Jan. 31, 1973	July 1, 1973	5, 6b	I
	(750)	(1,831)	Yes	Sept. 10, 1973	Sept. 10, 1973	5, 6b	V[9]
	(1,000)	(9,081)	Yes	Nov. 23, 1973	Nov. 23, 1973	5, 6b	I
	10,081	.....	Not available	Feb. 14, 1974	Feb. 14, 1974	10	VI
Mutual and Self-Help Housing Grants	(.....)	(832)	Yes	Sept. 22, 1972	July 1, 1973	4	I
	(700)	(133)	Yes	Aug. 22, 1973	Aug. 22, 1973	4	I
	3,832	1,001	Yes	Nov. 23, 1973	Nov. 23, 1973	4	I
Rural Housing Insurance Fund	(.....)	(133,000)	Yes	Jan. 26, 1973	July 1, 1973	4	I
	[10] 1,435,035	.....	Not available	Sept. 12, 1973	Sept. 12, 1973	10	VI
Soil Conservation Service:							
Resource Conservation and Development	24,189	4,439	Yes	Nov. 23, 1973	Nov. 23, 1973	4	I
Watershed Planning	13,268	535	Yes	Nov. 23, 1973	Nov. 23, 1973	4	I
River Basin Surveys and Investigations	16,587	60	Yes	Nov. 23, 1973	Nov. 23, 2973	4	I
Watershed and Flood Prevention Operations	169,448	17,454	Yes	Nov. 23, 1973	Nov. 23, 1973	4	I
Agricultural Marketing Service:							
Marketing Services, no-year	(1,422)	(818)	Yes	June 11, 1973	July 1, 1973	4	I
	(1,812)	(818)	Yes	Sept. 26, 1973	Sept. 26, 1974	4	I
	1,812	1,101	Yes	Jan. 22, 1974	Jan. 22, 1974	4	I
Perishable Agricultural Commodities Act Fund	(1,416)	(58)	Yes	June 11, 1973	July 1, 1973	4	I
	1,460	270	Yes	Dec. 26, 1973	Dec. 26, 1973	4	I
Forest Service:							
Forest Protection and Utilization	(3,791)	(2,128)	Yes	Nov. 2, 1973	Nov. 2, 1973	4	I
	3,846	2,073	Yes	Jan. 2, 1974	Jan. 2, 1974	4	I
Construction and Land Acquisition	(52,196)	(1,315)	Yes	Nov. 2, 1973	Nov. 2, 1973	5	I
	53,511	.....	Not available	Apr. 15, 1974	Apr. 15, 1974	10	VI
Youth Conservation Corps	(6,693)	(3,307)	Yes	Nov. 9, 1973	Nov. 9, 1973	4	I
	6,893	[11] 3,107	Yes	Jan. 11, 1974	Jan. 11, 1974	4	I
Forest Roads and Trails and Roads and Trails for States/1974 Program	(.....)	(278,398)	Yes	Mar. 28, 1973	July 1, 1973	4, 6b, 6d	I
	(117,164)	(208,934)	Yes	July 16, 1973	July 16, 1973	4, 6d [12]	I
	(123,558)	(342,894)	Yes	Nov. 2, 1973	Nov. 2, 1973	4, 6d	I
	131,815	334,637	Yes [12]	Jan. 23, 1974	Jan. 23, 1974	4, 6d	I

See footnotes at end of table.

BUDGETARY RESERVES —Continued

[Dollar amounts in thousands]

[General notes: Amounts in parenthesis () indicate actons superseded by later apportionment actions. An asterisk (*) indicates an account added to the list since the last report. An account without an entry in the amount apportioned column indicates no apportionment has been made for fiscal year 1974.]

	Amount apportioned	Amount in reserve	Available beyond fiscal year 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated
Forest Roads and Trails and Roads and Trails for States/1975 Program.	.....	140,000	Yes	Nov. 02, 1973	Nov. 2, 1973	4, 6d	I
Brush Disposal	(18,657)	(26,601)	Yes	June 8, 1973	July 1, 1973	5	I
	25,000	21,554	Yes	Nov. 2, 1973	Nov. 2, 1973	4	V [15]
Forest Fire Prevention	275	109	Yes	June 8, 1973	July 1, 1973	4	I
Department of Commerce:							
General Administration: Special Foreign Currency Program	1,885	1,055	Yes	Dec. 21, 1973	Dec. 21, 1973	2	II
Office of Assistant Secretary for Science and Technology: Scientific and Technical Research and Services.	(131,485)	(11,934)	Yes	Dec. 27, 1973	Dec. 27, 1973	5	I
	136,823	6,796	Yes	Feb. 15, 1974	Feb. 15, 1974	5	I
Social and Economic Statistics Administration: 1974 Census of Agriculture	(.....)	(1,360)	Yes	Nov. 24, 1972	July 1, 1973	2, 4	I
	1,360	.....	Not available	Sept. 12, 1973	Sept. 12, 1973	10	VI
Domestic and International Business:							
Financial and Technical Assistance, Trade Adjustment Assistance	15,000	11,780	Yes	Dec. 21, 1973	Dec. 21, 1973	2	I
International Activities, Inter-American Cultural and Trade Center	(292)	(5,067)	Yes	June 26, 1973	July 1, 1973	4, 5	I
	322	5,051	Yes	Apr. 16, 1974	Apr. 16, 1974	4, 5	I
Participation in United States Expositions (Spokane Ecological Exhibition)	(7,575)	[13] (1,105)	Yes	Oct. 5, 1973	Oct. 5, 1973	4, 5	I
	8,677	.....	Not available	Apr. 10, 1974	Apr. 10, 1974	10	VI
Office of Minority Business: Minority Business Development, no-year	(.....)	(16,768)	Yes	Jan. 26, 1973	July 1, 1973	4, 6b	I
	(9,080)	(14,330)	Yes	July 24, 1973	July 24, 1973	5	I
	26,752	.....	Not available	Oct. 16, 1973	Oct. 16, 1973	10	VI
National Oceanic and Atmospheric Administration:							
Operations, Research and Facilities [14]	(.....)	(31,005)	Yes	June 28, 1973	July 1, 1973	2, 4, 6b	I
	(29,868)	(2,392)	Yes	July 19, 1973	July 19, 1973	2, 4, 6b	I
	(30,082)	(2,178)	Yes	Sept. 26, 1973	Sept. 26, 1973	2, 4	I
	(406,694)	(2,178)	Yes	Dec. 27, 1973	Dec. 27, 1973	3	I
	(416,981)	(2,178)	Yes	Jan. 16, 1974	Jan. 16, 1974	3 [17]	I
	(423,166)	(2,178)	Yes	Apr. 30, 1974	Apr. 30, 1974	3	I
	437,799	.....	Not available	June 25, 1974	June 25, 1974	10	VI
Satellite Operations [16]	(.....)	(727)	Yes	June 28, 1973	July 1, 1973	5	I
	727	.....	Not available	Dec. 27, 9713	Dec. 27, 1973	10	VI
Promote and Develop Fishery Products and Research Pertaining to American Fisheries.	(7,191)	(3,159)	Yes	Mar. 29, 1973	July 1, 1973	4, 5, 6a	I
	(7,336)	(3,111)	Yes	July 26, 1973	July 26, 1973	4, 5, 6a	I
	7,450	3,627	Yes	Dec. 21, 1973	Dec. 21, 1973	4, 5, 6a	I
Coastal Zone Management	(5,200)	(6,800)	Yes	Dec. 21, 1973	Dec. 21, 1973	4	I
	(8,000)	(4,000)	Yes	May 24, 1974	May 24, 1974	4	I
	8,825	3,175	Yes	June 25, 1974	June 25, 1974	4	I
National Bureau of Standards:							
Plant and Facilities	.....	1,850	Yes	Nov. 24, 1972	July 1, 1973	2, 4, 6b	I
Research and Technical Services, no-year	.....	3,812	Yes	May 7, 1973	July 1, 1973	5, 6b	I
Construction of Facilities	(.....)	(740)	Yes	Jan. 26, 1973	July 1, 1973	4, 6b	I
	539	231	Yes	Dec. 21, 1973	Dec. 21, 1973	1	I
Maritime Administration:							
Ship construction	(.....)	(34,000)	Yes	June 29, 1973	July 1, 1973	4	III
	(9,137)	(24,863)	Yes	July 27, 1973	July 27, 1973	4	IV
	304,953	5,500	Yes	Dec. 21, 1973	Dec. 21, 1973	2	II
Research and Development	.....	5,000	Yes	Jan. 18, 1973	July 1, 1973	4, 6b	I
State Marine Schools	.....	127	Yes	Nov. 24, 1972	July 1, 1973	4	I
Federal Ship Financing Fund	(2,582)	(1,446)	Yes	June 27, 1973	July 1, 1973	5	I
	4,028	.....	Not available	Oct. 11, 1973	Oct. 11, 1973	10	VI
Department of Defense—Military:							
Procurement:							
Missile Procurement, Army, 1973–75	(.....)	(2,500)	Yes	Feb. 5, 1973	July 1, 1973	4	I
	163,382	.....	Not available	Sept. 11, 1973	Sept. 11, 1973	10	VI
Procurement of Aircraft and Missiles, Navy, 1973–75	(.....)	(13,281)	Yes	June 29, 1973	July 1, 1973	5	I
	(946,747)	(13,281)	Yes	Sept. 6, 1973	Sept. 6, 1973	5	I
	878,276	.....	Not available	Jan. 28, 1974	Jan. 28, 1974	10	VI
Aircraft Procurement, Air Force, 1972–74	(415,551)	(143,492)	No	Sept. 7, 1973	Sept. 7, 1973	5	I
	368,478	.....	Not available	Nov. 1, 1973	Nov. 1, 1973	10	VI
Aircraft Procurement, Air Force, 1973–75	(1,076,916)	(167,556)	Yes	Sept. 7, 1973	Sept. 7, 1973	5	I
	1,224,500	.....	Not available	Nov. 1, 1973	Nov. 1, 1973	10	VI
Shipbuilding and Conversion, Navy, 1971–75	(.....)	(145,672)	Yes	Nov. 24, 1972	July 1, 1973	4	I
	892,655	.....	Not available	Sept. 11, 1973	Sept. 11, 1973	10	VI
Shipbuilding and Conversion, Nevy, 1972–76	(.....)	(427,212)	Yes	Nov. 26, 1972	July 1, 1973	4	I
	738,000	148,081	Yes	Sept. 11, 1973	Sept. 11, 1973	4	I
Shipbuilding and Conversion, Navy, 1973–77	(.....)	(763,300)	Yes	June 29, 1973	July 1, 1973	4	I
	922,000	408,532	Yes	Sept. 11, 1973	Sept. 11, 1973	4	I
Shipbuilding and Conversion, Navy, 1974–78	2,731,300	826,000	Yes	Jan. 28, 1974	Jan. 28, 1974	4	I
Military Construction:							
Military Construction, Army	(.....)	(70,304)	Yes	June 27, 1973	July 01, 1973	5	I
	(648,440)	(90,954)	Yes	Aug. 16, 1973	Aug. 16, 1973	5	I
	(648,020)	(95,488)	Yes	Dec. 27, 1973	Dec. 27, 1973	5	I
	(762,670)	(558,958)	Yes	Jan. 18, 1974	Jan. 18, 1974	5	I
	(1,184,957)	(138,956)	Yes	Jan. 24, 1974	Jan. 24, 1974	5	I
	(1,203,724)	(124,579)	Yes	Mar. 22, 1974	Mar. 22, 1974	5	I
	1,265,561	62,742	Yes	May 07, 1974	May 07, 1974	5	I
Military Construction, Navy	(.....)	(68,133)	Yes	June 27, 1973	July 01, 1973	5	I
	(385,805)	(65,858)	Yes	Aug. 14, 1973	Aug. 14, 1973	5	I
	(334,948)	(64,674)	Yes	Oct. 11, 1973	Oct. 11, 1973	5	I
	(336,468)	(64,754)	Yes	Oct. 16, 1973	Oct. 16, 1973	5	I
	(336,848)	(64,774)	Yes	Nov. 14, 1973	Nov. 14, 1973	5	I
	(338,174)	(64,439)	Yes	Dec. 17, 1973	Dec. 17, 1973	5	I
	(412,974)	(598,931)	Yes	Jan. 09, 1974	Jan. 09, 1974	5	I
	(650,758)	(363,047)	Yes	Feb. 15, 1974	Feb. 15, 1974	5	I
	(939,681)	(74,124)	Yes	Mar. 07, 1974	Mar. 07, 1974	5	I
	947,813	65,992	Yes	May 10, 1974	May 10, 1974	5	I
Military Construction, Air Force	(.....)	(51,607)	Yes	June 27, 1973	July 1, 1973	5	I
	(130,860)	(49,773)	Yes	July 20, 1973	July 20, 1973	5	I
	(141,224)	(39,409)	Yes	Aug. 14, 1973	Aug. 14, 1973	5	I
	(160,501)	(39,409)	Yes	Oct. 16, 1973	Oct. 16, 1973	5	I
	(171,972)	(29,937)	Yes	Jan. 7, 1974	Jan. 7, 1974	5	I
	(218,426)	(232,760)	Yes	Jan. 17, 1974	Jan. 17, 1974	5	I
	(402,711)	(48,475)	Yes	Feb. 13, 1974	Feb. 13, 1974	5	I
	(431,445)	(19,741)	Yes	Mar. 19, 1974	Mar. 19, 1974	5	I
	(433,974)	(17,213)	Yes	May 10, 1974	May 10, 1974	5	I
	(451,037)	(149)	Yes	May 31, 1974	May 31, 1974	5	I
	459,303	149	Yes	June 3, 1974	June 3, 1974	5	I

Footnotes at end of table.

BUDGETARY RESERVES—Continued

[Dollar amounts in thousands]

[General notes: Amounts in parenthesis () indicate actions superseded by later apportionment actions. An asterisk (*) indicates an account added to the list since the last report. An account without an entry in the amount apportioned column indicates no apportionment has been made for fiscal year 1974.]

	Amount apportioned	Amount in reserve	Available beyond fiscal year 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated
Military Construction, Defense Agencies	( )	(58,415)	Yes	Feb. 15, 1973	July 1, 1973	5	I
	(8,000)	(58,215)	Yes	Aug. 23, 1973	Aug. 23, 1973	5	I
	(8,957)	(56,615)	Yes	Oct. 16, 1973	Oct. 16, 1973	5	I
	(10,277)	(54,895)	Yes	Nov. 14, 1973	Nov. 14, 1973	5	I
	(10,277)	(53,904)	Yes	Dec. 17, 1973	Dec 17, 1973	5	I
	(15,133)	(49,048)	Yes	Jan. 9, 1974	Jan. 9, 1974	5	I
	(15,133)	(46,763)	Yes	Jan. 24, 1974	Jan. 24, 1974	5	I
	31,683	28,313	Yes	Feb. 15, 1974	Feb. 15, 1974	5	I
Military Construction, Army National Guard	( )	(102)	Yes	June 14, 1973	July 1, 1973	5	I
	(3,051)	( )	Not available	Aug. 16, 1973	Aug. 16, 1973	10	VI
	(8,943)	(29,300)	Yes	Jan. 18, 1974	Jan. 18, 1974	5	I
	(29,903)	(8,340)	Yes	Mar. 7, 1974	Mar. 7, 1974	5	I
	(35,753)	(2,490)	Yes	May 28, 1974	May 28, 1974	5	I
	(37,969)	(274)	Yes	June 18, 1974	June 18, 1974	5	I
	38,068	175	Yes	June 26, 1974	June 26, 1974	5	I
Military Construction, Air National Guard	( )	(17)	Yes	May 29, 1973	July 1, 1973	5	I
	(5,256)	(17)	Yes	Sept. 6, 1973	Sept. 6, 1973	5	I
	(5,273)	( )	Yes	Oct. 23, 1973	Oct. 23, 1973	10	VI
	(9,273)	(16,000)	Yes	Jan. 18, 1974	Jan. 18, 1974	5	I
	(17,514)	(7,579)	Yes	Feb. 11, 1974	Feb. 11, 1974	5	I
	25,273	( )	Not available	May 14, 1974	May 14, 1974	10	VI
Military Construction, Army Reserve	( )	(7,109)	Yes	Mar. 8, 1973	July 1, 1973	5	I
	(25,423)	(7,109)	Yes	Sept. 10, 1973	Sept. 10, 1973	5	I
	(29,909)	(2,623)	Yes	Nov. 8, 1973	Nov. 8, 1973	5	I
	(34,709)	(38,523)	Yes	Jan 18, 1974	Jan. 18, 1974	5	I
	(57,320)	(15,912)	Yes	Mar. 18, 1974	Mar. 18, 1974	5	I
	(64,610)	(8,622)	Yes	June 18, 1974	June 18, 1974	5	I
	69,553	3,679	Yes	June 26, 1974	June 26, 1974	5	I
Military Construction, Naval Reserve	( )	(3,943)	Yes	May 3, 1973	July 1, 1973	5	I
	(17,640)	(1,842)	Yes	Aug. 8, 1973	Aug. 8, 1973	5	I
	(18,657)	(915)	Yes	Nov. 8, 1973	Nov. 8, 1973	5	I
	(20,099)	(22,373)	Yes	Jan. 14, 1974	Jan. 14, 1974	5	I
	24,469	18,003	Yes	Mar. 14, 1974	Mar. 14, 1974	5	I
Military Construction, Air Force Reserve	( )	(850)	Yes	June 20, 1973	July 1, 1973	5	I
	(2,415)	(850)	Yes	Sept. 6, 1973	Sept. 6, 1973	5	I
	(2,444)	(821)	Yes	Oct. 23, 1973	Oct. 23, 1973	5	I
	(3,444)	(9,821)	Yes	Jan. 18, 1974	Jan. 18, 1974	5	I
	(10,089)	(3,176)	Yes	Feb. 1, 1974	Feb. 1, 1974	5	I
	(10,858)	(2,407)	Yes	Mar. 29, 1974	Mar. 29, 1974	5	I
	12,208	1,057	Yes	June 18, 1974	June 18, 1974	5	I
Defense Civil Preparedness Agency:							
Research, Shelter Survey and Marketing	(24,617)	(1,110)	Yes	Nov. 27, 1973	Nov. 27, 1973	5	I
	25,717	( )	Not available	June 14, 1974	June 14, 1974	10	VI
Special Foreign Currency Program:							
Special Foreign Currency Program, Defense, 1972-74	( )	(2,477)	No	Dec. 18, 1972	July 1, 1973	5	I
	3,169	2,051	No	Aug. 31, 1973	Aug. 31, 1973	5	I
Special Foreign Currency Program, Defense, 1973-75	( )	(400)	Yes	Dec. 1, 1972	July 1, 1973	5	I
	2,998	400	Yes	Sept. 6, 1973	Sept. 6, 1973	5	I
Department of Defense—Civil:							
Corps of Engineers:							
General Investigations	( )	(150)	Yes	June 29, 1973	July 1, 1973	5	I
	(65,084)	(150)	Yes	Sept. 15, 1973	Sept. 15, 1973	5 [19]	II
	65,267	( )	Not available	Feb. 27, 1974	Feb. 27, 1974	10	VI
Construction	( )	(783)	Yes	June 29, 1973	July 1, 1973	5	I
	(9,100)	(333)	Yes	July 27, 1973	July 27, 1973	5	I
	(9,175)	(258)	Yes	July 30, 1973	July 30, 1973	5	I
	(1,114,829)	(258)	Yes	Sept. 15, 1973	Sept. 15, 1973	5 [19]	II
	1,114,937	108	Yes	Apr. 4, 1974	Apr. 4, 1974	5	I
Flood Control, Mississippi River and Tributaries	( )	(750)	Yes	June 29, 1973	July 1, 1973	5	I
	(151,819)	(750)	Yes	Sept. 15, 1973	Sept. 15, 1973	5 [19]	II
	(166,419)	(750)	Yes	Jan. 26, 1974	Jan. 26, 1974	5	I
	167,169	( )	Not available	Apr. 4, 1974	Apr. 4, 1974	10	VI
Soldiers' and Airmen's Home: Capital Outlay	2,169	612	Yes	Jan. 4, 1974	Jan. 4, 1974	5	I
Panama Canal: Canal Zone Government, Capital Outlay	( )	(700)	Yes	Sept. 8, 1972	July 1, 1973	5	I
	7,436	85	Yes	Sept. 14, 1973	Sept. 14, 1973	1	V [39]
Wildlife Conservation:							
Wildlife Conservation, Army	(598)	(107)	Yes	June 14, 1973	July 1, 1973	1	I
	606	342	Yes	Jan. 31, 1974	Jan. 31, 1974	1	I
Wildlife Conservation, Navy	(60)	(8)	Yes	June 14, 1973	July 1, 1973	1	I
	(69)	(22)	Yes	Oct. 3, 1973	Oct. 3, 1973	1	I
	69	37	Yes	Feb. 14, 1974	Feb. 14, 1974	1	I
Wildlife Conservation, Air Force	(124)	(40)	Yes	June 14, 1973	July 1, 1973	1	I
	(124)	(20)	Yes	Jan. 22, 1974	Jan. 22, 1974	1	I
	124	19	Yes	June 18, 1974	June 18, 1974	1	I
Salaries and Expenses: Cemeterial Expenses, Army	(14,448)	(2,053)	Yes	Sept. 14, 1973	Sept. 14, 1973	5	I
	13,033	3,468	Yes	Feb. 14, 1974	Feb. 14, 1974	5	I
Department of Health, Education, and Welfare:							
Health Services Administration:							
Health Services Delivery	(915,869)	(2,250)	Yes	Feb. 4, 1974	Feb. 4, 1974	5	I
	922,869	2,250	Yes	Mar. 14, 1974	Mar. 14, 1974	5	I
Buildings and Facilities	(19,804)	(7,000)	Yes	Mar. 13, 1974	Mar. 13, 1974	5	I
	26,804	( )	Not available	May 28, 1974	May 28, 1974	10	VI
Indian Health Services	(94,372)	(91,626)	No	Nov. 28, 1973	Nov. 28, 1973	5	I
	185,998	( )	Not available	Feb. 4, 1974	Feb. 4, 1974	10	VI
Indian Health Facilities	(3,482)	(848)	Yes	June 27, 1973	July 1, 1973	5	I
	(34,815)	(20,593)	Yes	Nov. 28, 1973	Nov. 28, 1973	5	I
	55,320	88	Yes	Jan. 30, 1974	Jan. 30, 1974	5	I
National Institutes of Health:							
Research Resources	(126,941)	(1,378)	No	Jan. 18, 1974	Jan. 18, 1974	3	I
	128,162	( )	Not available	June 28, 1974	June 28, 1974	10	VI
Buildings and facilities	(1,000)	(23,701)	Yes	Jan. 18, 1974	Jan. 18, 1974	5	I
	(10,680)	(14,021)	Yes	Feb. 27, 1974	Feb. 27, 1974	5	I
	14,260	10,441	Yes	June 14, 1974	June 14, 1974	5	I
Alcohol, Drug Abuse, and Mental Health Administration: Mental Health	(827,193)	(13,194)	No	Jan. 28, 1974	Jan. 28, 1974	1	I
	827,409	( )	Not available	June 28, 1974	June 28, 1974	10	VI

Footnotes at end of table.

BUDGETARY RESERVES—Continued

[Dollar amounts in thousands]

Key to notes: Amounts in parenthesis () indicate actions superseded by later apportionment actions. An asterisk (*) indicates an account added to the list since the last report. An account without an entry in the amount apportioned column indicates no apportionment has been made for fiscal year 1974.]

	Amount apportioned	Amount in reserve	Available beyond fiscal year 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated
Health Resources Administration:							
Health Services Planning and Development	(555,997)	(6,228)	No	Feb. 4, 1974	Feb. 4, 1974	3	I
	(585,497)	(6,228)	No	Apr. 3, 1974	Apr. 3, 1974	3	I
	585,277		Not available	June 28, 1974	June 28, 1974	10	IV
Health Manpower	(734,635)	(5,370)	No	Feb. 4, 1974	Feb. 4, 1974	3	I
	(768,910)	(5,370)	No	Apr. 3, 1974	Apr. 3, 1974	3	I
	768,701		Not available	June 28, 1974	June 28, 1974	10	VI
Assistant Secretary for Health: Office of International Health; Scientific Activities Overseas (Special Foreign Currency Program).	(13,505)	(21,714)	Yes	Jan. 30, 1974	Jan. 30, 1974	4	I
	16,034	21,714	Yes	Mar. 28, 1974	Mar. 28, 1974	4	I
Office of Education:							
Elementary and Secondary Education	(2,025,168)	(1,746)	No	Jan. 17, 1974	Jan. 17, 1974	1	I
	2,045,168		Not available	June 28, 1974	June 28, 1974	10	VI
Higher Education, 1974–76	238,000	237,000	Yes	Jan. 17, 1974	Jan. 17, 1974	4	I
Higher Education, no-year	( )	(1,889)	Yes	Nov. 30, 1972	July 1, 1973	5	I
	346,118	8,788	Yes	Jan. 17, 1974	Jan. 17, 1974	4	I
Library Resources	(163,124)	(4,897)	No	Jan. 18, 1974	Jan. 18, 1974	3	I
	163,124		Not available	June 28, 1974	June 28, 1974	10	VI
Educational Development	15,675	32	Yes	Jan. 18, 1974	Jan. 18, 1974	1	I
Educational Activities Overseas, Special foreign currency program	( )	(16)	Yes	Apr. 6, 1972	July 1, 1973	5	I
	2,539		Not available	Jan. 17, 1974	Jan. 17, 1974	10	VI
Social and Rehabilitation Service: Research and Training Overseas	3,700	7,490	Yes	Jan. 18, 1974	Jan. 18, 1974	4	I
Social Security Administration:							
Limitation on Salaries and Expenses (Trust fund)	1,878,883	13,580	No	Feb. 4, 1974	Feb. 4, 1974	1	I
Limitation on Construction (Trust fund)	( )	(12,095)	Yes	Apr. 27, 1972	July 1, 1973	4, 5	I
	(12,679)	(19,973)	Yes	Aug. 21, 1973	Aug. 21, 1973	4, 5	I
	(15,614)	(17,425)	Yes	Nov. 30, 1973	Nov. 30, 1973	4, 5	I
	17,645	15,393	Yes	Feb. 4, 1974	Feb. 4, 1974	4, 5	I
Special Institutions:							
Howard University	9,132	490	Yes	Jan. 17, 1974	Jan. 17, 1974	4	I
Model Secondary School for the Deaf	3,500	803	Yes	Mar. 5, 1974	Mar. 5, 1974	4	I
Office of Human Development: Child Development	(419,910)	(6,480)	No	Jan. 18, 1974	Jan. 18, 1974	3	I
	(420,000)	(6,480)	No	May 15, 1974	May 15, 1974	3	I
	424,670		Not available	June 28, 1974	June 28, 1974	10	VI
Department of Housing and Urban Development:							
Housing Production and Mortgage Credit: Nonprofit Sponsor Assistance		6,530	Yes	Apr. 15, 1973	July 1, 1973	5, 6b, 6c	I
Community Development:							
Model Cities Program	(50,055)	(100,012)	Yes	Nov. 26, 1973	Nov. 26, 1973	6c	V [21]
	(75,055)	(75,012)	Yes	Nov. 30, 1973	Nov. 30, 1973	6c	IV
	150,067		Not available	Apr. 15, 1974	Apr. 15, 1974	10	VI
Grants for Neighborhood Facilities		48	Yes	Nov. 27, 1973	Nov. 27, 1973	6c	I
Open Space Land Program	( )	(27,730)	Yes	Mar. 8, 1973	July 1, 1973	6b, 6c	I
		55,161	Yes	Nov. 9, 1973	Nov. 9, 1973	6c	I
Grants for Basic Water and Sewer Facilities	( )	(400,175)	Yes	Jan. 26, 1973	July 1, 1973	6b, 6c	I
		401,735	Yes	Nov. 27, 1973	Nov. 27, 1973	6b, 6c	I
Urban Renewal Fund	(613,500)	(311,314)	Yes	Nov. 26, 1973	Nov. 26, 1973	6c	V [21]
	(643,500)	(281,314)	Yes	Nov. 30, 1973	Nov. 30, 1973	6c	IV
	1,526,314		Not available	Apr. 15, 1974	Apr. 15, 1974	10	VI
Public Facility Loans	( )	(20,000)	Yes	Jan. 26, 1973	July 1, 1973	6b, 6c	I
	24,888	(22)	Not available	June 20, 1973	July 1, 1973	10	VI
Community Planning and Management: New Community Assistance Grants		1,799	Yes	Nov. 16, 1973	Nov. 16, 1973	6c	I
Office of Interstate Land Sales Registration: Interstate Land Sales	(1,460)	(1,981)	Yes	June 20, 1973	July 1, 1973	4	I
	(1,849)	(1,379)	Yes	Dec. 12, 1973	Dec. 12, 1973	4	III
	1,852	1,376	Yes	Feb. 20, 1974	Feb. 20, 1974	4	I
Department of the Interior:							
Office of Territorial Affairs: Trust Territory of the Pacific Islands	(71,550)	[23] (800)	Yes	Feb. 2, 1974	Feb. 2, 1974	5	I
	72,350		Not available	Feb. 22, 1974	Feb. 22, 1974	10	VI
Bureau of Land Management: Public Lands Development Roads and Trails/1974 Program.	(4,000)	(8,961)	Yes	June 8, 1973	July 1, 1973	6d	I
	5,205	18,961	Yes	Oct. 3, 1973	Oct. 3, 1973	6d	I
Public Lands Development Roads and Trails/1975 Program		10,000	Yes	Oct. 3, 1973	Oct. 3, 1973	4, 6d	I
Oregon and California Grant Lands		(1,150)	Yes	June 8, 1973	July 1, 1973	4	I
	28,750	5,243	Yes	Oct. 2, 1973	Oct. 2, 1973	4	II
Bureau of Indian Affairs:							
Road Construction/1974 Program	57,060	20,000	Yes	Sept. 12, 1973	Sept. 12, 1973	4, 6d	II
Road Construction/1975 Program		75,000	Yes	Sept. 12, 1973	Sept. 12, 1973	4, 6d	II
Bureau of Outdoor Recreation: Land and Water Conservation	(208,168)	(61,422)	(24)	June 8, 1973	July 1, 1973	6b	I
	(297,223)	(57,568)	(24)	Nov. 3, 1973	Nov. 3, 1973	5, 6b, 6d	I
	(324,763)	(30,000)	No	Feb. 2, 1974	Feb. 2, 1974	4, 6d	I
	305,463	30,000	No	Apr. 19, 1974	Apr. 19, 1974	4, 6d	I
Geological Survey: Payments from Proceeds, Sale of Water, Mineral Leasing Act of 1920.	(25)	(27)	Yes	May 6, 1973	July 1, 1973	426	I
	(25)	26	Yes	Nov. 19, 1973	Nov. 19, 1973	4	I
Bureau of Mines: Drainage of Anthracit Mines	200	3,575	Yes	June 8, 1973	July 1, 1973	4, 5	I
Bureau of Sport Fisheries and Wildlife:							
Migratory Bird Conservation Account (Receipt Limitation)	(9,000)	(981)	Yes	do	do	4	I
	(12,000)	(981)	Yes	Aug. 23, 1973	Aug. 23, 1973	4	I
	21,771		Not available	Nov. 2, 1973	Nov. 2, 1973	10	VI
Federal Aid in Wildlife Restoration	(45,300)	(7,863)	Yes	June 8, 1973	July 1, 1973	4, 5	I
	50,818	10,204	Yes	June 4, 1974	June 4, 1974	4, 5	I
Federal Aid in Fish Restoration and Management	(14,565)	(2,339)	Yes	June 8, 1973	July 1, 1973	4, 5	I
	16,203	3,846	Yes	June 4, 1974	June 4, 1974	4, 5	I
National Wildlife Refuge Fund	4,620	4,003	Yes	June 8, 1973	July 1, 1973	4, 5	I
Proceeds from Sales, Water Resources Development Projects	15	4	Yes	do	do	4, 5	I
National Park Service:							
Parkway and Road Construction/1974 Program	(16,338)	(34,610)	Yes	June 8, 1973	July 1, 9173	4, 6d [25]	I
	(16,338)	(229,610)	Yes	Oct. 1, 1973	Oct. 1, 1973	4, 6d	II
	51,183	108,115	Yes	Nov. 2, 1973	Nov. 2, 1973	4, 6d	II
Parkway and Road Construction/1975 Program		105,000	Yes	Nov. 2, 1973	Nov. 2, 1973	4, 6d	II
Planning and Construction	(28,100)	(14,500)	Yes	July 30, 1973	July 30, 1973	4	I
	(79,675)	(14,500)	Yes	Nov. 2, 1973	Nov. 2, 1973	4, 5	I
	(79,675)	(14,500)	Yes	Jan. 29, 1974	Jan. 29, 1974	4, 5	I
	94,175		Not available	Mar. 11, 1974	Mar. 11, 1974	10	VI
Operation, Management, Maintenance, and Demolition of Federally Acquired Property.	(17)	(65)	Yes	June 8, 1973	July 1, 1973	4, 5	I
	15		Not available	Nov. 2, 1973	Nov. 2, 1973	10	VI
Bureau of Reclamation:							
Construction and Rehabilitation	(16,970)	(1,055)	Yes	June 8, 1973	July 1, 1973	5	I
	228,857	1,055	Yes	Sept. 15, 1973	Sept. 15, 1973	5 [28]	I
Operation, Maintenance, and Replacement of Project Works, North Platte Project.	(26)	100	Yes	June 6, 1973	July 1, 1973	6e [29]	I

Footnotes at end of table.

BUDGETARY RESERVES - Continued

(Dollars amounts in thousands)

[General notes: Amounts in parenthesis ( ) indicate actions superseded by later apportionment actions. An asterisk (*) indicates an account added to the list since the last report. An account without an entry in the amount apportioned column indicates no apportionment has been made for fiscal year 1974.]

	Amount apportioned	Amount in reserve	Available beyond fiscal year 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated
Upper Colorado River Basin Fund	(9,072)	(1,390)	Yes	June 8, 1973	July 1, 1973	5	I
	64,911	1,164	Yes	Sept. 15, 1973	Sept. 15, 1973	5	I
Department of Justice:							
Bureau of Prisons: Buildings and Facilities	( )	(36,441)	Yes	Jan. 26, 1973	July 1, 1973	5, 6b	I
	49,923	13,591	Yes	Sept. 19, 1973	Sept. 19, 1973	5, 6b	I
Department of Labor:							
Manpower Administration:							
Comprehensive manpower assistance	2,301,191	50,500	Yes	June 21, 1974	June 21, 1974	4	I
Limitation on Grants to States for Unemployment Insurance and Employment Services	30,000	13,000	Yes	June 21, 1974	June 21, 1974	4	I
Employment Standards Administration: Special benefits	284,300	20,706	No	Jan. 17, 1974	Jan. 17, 1974	1	V [31]
Department of State:							
Acquisition, Operation, and Maintenance of Buildings Abroad	(62,248)	(44,521)	Yes	Dec. 31, 1973	Dec. 31, 1973	4	I
	63,993	44,521	Yes	June 19, 1974	June 19, 1974	4	I
Educational Exchange Fund, Payments by Finland, World War I Debt	383	31	Yes	Dec. 21, 1973	Dec. 21, 1973	4	I
Assistance to Refugees from the Soviet Union	( )	(36,500)	No	Feb. 2, 1974	Feb. 2, 1974	5	I
	36,500		Not available	Mar. 15, 1974	Mar. 15, 1974	10	VI
International Boundary and Water Commission, United States and Mexico: Construction	15,691	1,983	Yes	Dec. 18, 1973	Dec. 18, 1973	5	I
Department of Transportation:							
Office of the Secretary: Transportation, Planning, and Research and Development	( )	(5,300)	Yes	June 30, 1973	July 1, 1973	4, 6b	
	34,356		Not available	Sept. 13, 1973	Sept. 14, 1973	10	VI
U.S. Coast Guard: Acquisition, Construction, and Improvement	(30,946)	(10,609)	Yes	July 12, 1973	July 12, 1973	4, 6b	I
	(109,168)	(17,039)	Yes	Sept 14, 1973	Sept. 14, 1973	4, 6b	II
	102,889	19,326	Yes	Dec. 27, 1973	Dec. 27, 1973	4, 6b	II
Federal Aviation Administration:							
Civil Supersonic Aircraft Development Termination	( )	(3,575)	Yes	Jan. 23, 1973	July 1, 1973	4, 6b	I
	3,600	3,033	Yes	Sept. 10, 1973	Sept. 10, 1973	4	I
Civil Supersonic Aircraft Development	( )	(2,153)	Yes	Jan. 18, 1973	July 1, 1973	4, 6b	I
	800	2,755	Yes	Sept. 10, 1973	Sept. 10, 1973	4	I
Grants-in-aid for Airports (Airport and Airway Trust Fund)	13,000	2,000	Yes	Sept. 14, 1973	Sept. 14, 1973	5	I
Facilities and Equipment (Airport and Airway Trust Fund)	( )	(207,631)	Yes	Jan. 18, 1973	July 1, 1973	4, 6b	I
	293,675	261,919	Yes	Sept. 12, 1973	Sept. 12, 1973	4	I
Research, Engineering, and Development (Airport and Airway Trust Fund)	( )	(10,000)	Yes	Jan. 18, 1973	July 1, 1973	4, 6b	IV
			Not available	Sept. 14, 1973	Sept. 14, 1973	10	VI
Federal Highway Administration:							
Highway Beautification	(41,977)	(11,521)	Yes	June 29, 1973	July 1, 1973	4, 5	I
	50,000		Not available	Sept. 15, 1973	Sept. 15, 1973	10	VI
Darien Gap Highway	( )	(545)	Yes	Jan. 18, 1973	July 1, 1973	4, 5	I
	17,661		Not available	Sept. 14, 1973	Sept. 14, 1973	10	VI
Highway-Related Safety Grants	(10,459)	(7,897)	Yes	June 29, 1973	July 3, 1973	4, 5	I
	13,229		Not available	Sept. 15, 1973	Sept. 15, 1973	10	VI
Federal-Aid Highways 1974 Program	(1,617,000)	(2,791,841)	Yes	June 29, 1973	July 2, 1973	4, 5, 6a, 6c	I
	(4,742,497)	(3,414,149)	Yes	Sept. 14, 1973	Sept. 14, 1973	6a, 6c	I
	(4,741,018)	(3,414,619)	Yes	Feb. 1, 1974	Feb. 1, 1974	6a, 6c	I
	(4,791,047)	(3,364,590)	Yes	Apr. 3, 1974	Apr. 3, 1974	6a, 6c	IV
	(5,161,347)	(2,864,590)	Yes	June 14, 1974	June 14, 1974	6a, 6c	IV
	5,195,347	2,913,590	Yes	June 28, 1974	June 28, 1974	6a, 6c	I
Federal-Aid Highways, 1975 Program	(6,010,000)	5,956,500	Yes	Feb. 1, 1974	Feb. 1, 1974	4, 5	I
Rail-Crossings-Demonstration Projects	(22,322)	(3,053)	Yes	Sept. 15, 1973	Sept. 15, 1973	5	I
	21,700	75	Yes	Feb. 1, 1974	Feb. 1, 1974	5	I
Territorial Highways, 1974 Program	(4,000)	(1,602)	Yes	June 29, 1973	July 1, 1973	4, 6c	I
	(2,229)	(750)	Yes	Mar. 5, 1974	Mar. 5, 1974	4, 5	I
	4,275	563	Yes	June 28, 1974	June 28, 1974	4, 5	I
Territorial Highways, 1975 Program		1,500	Yes	Mar. 5, 1974	Mar. 5, 1974	4, 5	I
National Scenic Highways, 1974 Program		10,000	Yes	Feb. 1, 1974	Feb. 1, 1974	5	I
National Scenic Highways, 1975 Program		10,000	Yes	Feb. 1, 1974	Feb. 1, 1974	5	I
Trust Fund Share of Other Highway Programs, 1974 Program	(6,973)	(15,793)	Yes	June 29, 1973	July 3, 1973	4, 5	I
	(28,120)	( )	Not available	Sept. 15, 1973	Sept. 15, 1973	10	VI
	(27,933)	(10,000)	Yes	Feb. 1, 1974	Feb. 1, 1974	5	I
	28,250	10,000	Yes	June 28, 1974	June 28, 1974	5	I
Trust Fund Share of Other Highway Programs, 1975 Program		25,000	Yes	Feb. 1, 1974	Feb. 1, 1974	5	I
Forest Highways Trust Fund	(24,000)	(47,694)	Yes	June 29, 1973	July 1, 1973	2, 4, 6c	I
	26,000		Not available	Sept. 14, 1973	Sept. 14, 1973	10	VI
Public Lands Highways	(5,000)	(27,000)	Yes	June 29, 1974	July 1, 1973	2, 4, 6c	I
	(5,000)	(5,000)	Yes	Sept. 14, 1973	Sept. 14, 1973	4, 6c, 6d	I
	10,000		Not available	Mar. 5, 1974	Mar. 5, 1974	10	VI
Right-of-Way Revolving Fund	(48,000)	(73,782)	Yes	June 29, 1973	July 2, 1973	4, 5	I
	48,000	77,116	Yes	Feb. 1, 1974	Feb. 1, 1974	4, 5	I
National Highway Traffic Safety Administration:							
State and Community Safety	(26,993)	(1,299)	Yes	July 2, 1973	July 2, 1973	1	
	66,771		Not available	Sept. 13, 1973	Sept. 13, 1973	10	VI
Traffic and Highway Safety	(56,068)	(2,000)	Yes [34]	Sept. 14, 1973	Sept. 14, 1973	5	I
	86,405	2,000	Yes	Jan. 24, 1974	Jan. 24, 1974	5	I
Construction of Compliance Facilities	(35)	(9,018)	Yes	Jan. 19, 1973	July 1, 1973	4, 5	I
	(35)	18	Yes	Sept. 14, 1973	Sept. 14, 1973	5	V
Trust Fund Share of Highway Traffic Safety Programs	(16,848)	(2,589)	Yes	July 2, 1973	July 2, 1973	1, 5	I
	(96,167)	( )	Not available	Sept. 13, 1973	Sept. 13, 1973	10	VI
	(96,219)	[36] (37,202)	No	May 7, 1974	May 7, 1974	2	I
	95,547	[36] 37,202	No	June 18, 1974	June 18, 1974	2	I
Federal Railroad Administration:							
Emergency Rail Facilities Restoration	(27,100)	(7,648)	Yes [37]	July 27, 1973	July 27, 1973	2	I
	27,437		Not available	May 24, 1974	May 24, 1974	10	VI
High Speed Ground Transportation Research and Development		(15,000)	Yes	Jan. 19, 1973	July 1, 1973	4, 6b	I
			Not available	Sept. 14, 1973	Sept. 14, 1973	10	VI
Grants to the National Railroad Passenger Corporation		(10,000)	Yes	Jan. 19, 1973	July 1, 1973	4, 6b	I
	(54,500)	(48,100)	Yes	Sept. 13, 1973	Sept. 13, 1973	4, 6b	V [38]
	103,000		Not available	Nov. 23, 1973	Nov. 23, 1973	10	VI
Urban Mass Transportation Administration:							
Urban Mass Transportation Fund	(941,300)	(210,853)	Yes	July 6, 1973	July 6, 1973	4, 6b	I
	985,550		Not available	Sept. 14, 1973	Sept. 14, 1973	10	VI
Department of the Treasury:							
Office of the Secretary:							
Construction, Federal Law Enforcement Training Center	(383)	(21,517)	Yes	June 6, 1973	July 1, 1973	5	I
	668	21,234	Yes	May 20, 1974	May 20, 1974	5	V [38]
Bureau of Accounts:							
Subsidy Payment to Environmental Protection Authority	75	[39] 1,188	No	Nov. 29, 1973	Nov. 29, 1973	2	I

Footnotes at end of table.

BUDGETARY RESERVES—Continued

[Dollar amounts in thousands]

General notes: Amounts in parenthesis () indicate actions superseded by later apportionment actions. An asterisk (*) indicates an account added to the list since the last report. An account without an entry in the amount apportioned column indicates no apportionment has been made for fiscal year 1974.]

	Amount apportioned	Amount in reserve	Available beyond fiscal year 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated [a]
Atomic Energy Commission:							
Operating Expenses	(3,164,739)	(16,900)	Yes	Sept. 15, 1973	Sept. 15, 1973	5	I
	(3,174,154)	(7,500)	Yes	Nov. 19, 1973	Nov. 19, 1973	5	I
	3,181,386		Not available	Dec. 21, 1973	Dec. 12, 1973	10	VI
Plant and Capital Equipment	(48,470)	(1,830)	Yes	June 8, 1973	July 1, 1973	5	I
	(637,577)	(9,750)	Yes	Sept. 15, 1973	Sept. 15, 1973	5	I
	(637,912)	(9,400)	Yes	Nov. 4, 1973	Nov. 4, 1973	5	I
	(643,812)	(3,500)	Yes	Nov. 9, 1973	Nov. 9, 1973	5	I
	(645,812)	(1,500)	Yes	Nov. 12, 1973	Nov. 12, 1973	5	I
	677,312		Not available	Jan. 10, 1974	Jan. 10, 1974	10	VI
Environmental Protection Agency:							
Research and Development	(8,696)	(9,700)	Yes	Oct. 19, 1973	Oct. 19, 1973	5	IV
	(173,112)	(3,700)	Yes	Nov. 29, 1973	Nov. 29, 1973	5	IV
	(183,612)	(3,700)	Yes	Jan. 9, 1974	Jan. 9, 1974	5	IV
	(184,312)	(3,000)	Yes	Jan. 29, 1974	Jan. 29, 1974	5	IV
	(184,381)	(3,000)	Yes	Mar. 8, 1974	Mar. 8, 1974	5	I
	187,365		Not available	Apr. 10, 1974	Apr. 10, 1974	10	VI
Abatement and Control	(17,804)	(3,850)	Yes	Oct. 19, 1973	Oct. 19, 1973	5	IV
	(266,574)	(16,850)	Yes	Nov. 29, 1973	Nov. 29, 1973	5	IV
	(287,574)	(91,850)	(11)	Jan. 29, 1974	Jan. 29, 1974	5	I
	(287,674)	(91,850)	(11)	Mar. 8, 1974	Mar. 8, 1974	5	I
	(288,378)	(91,350)	(11)	Apr. 10, 1974	Apr. 10, 1974	5	I
	(291,528)	(88,200)	(11)	Apr. 19, 1974	Apr. 19, 1974	5	I
	(293,028)	(86,700)	(11)	May 9, 1974	May 9, 1974	5	I
	(292,739)	(86,700)	(11)	May 22, 1974	May 22, 1974	5	I
	294,945	86,700	(11)	June 27, 1974	June 27, 1974	5	I
General Services Administration:							
Real Property Activities:							
Sites and Expenses, Public Building Projects	(-----)	(22,206)	Yes	Jan. 26, 1973	July 1, 1973	4	I
	22,000	15,500	Yes	Nov. 29, 1973	Nov. 29, 1973	4	I
Construction, Public Building Projects	(-----)	(234,309)	Yes	Jan. 26, 1973	July 1, 1973	2, 4	I
	73,653	20,803	Yes	Nov. 29, 1973	Nov. 29, 1973	4	I
Property Management and Disposal: Operating Expenses, Sale of Rare Silver Dollars.	(-----)	(4,000)	Yes	Nov. 30, 1972	July 1, 1973	4	I
	3,400	1,386	Yes	Sept. 5, 1973	Sept. 5, 1973	4	I
Operating Expenses, Special Fund	(-----)	(850)	Yes	June 26, 1973	July 1, 1973	4, 5	I
			Not available	Aug. 16, 1973	Aug. 16, 1973	10	VI
National Aeronautics and Space Administration: Research and Development	(-----)	(2,200)	Yes	June 8, 1973	July 1, 1973	5	I
	(2,860,194)	(9,300)	Yes	Nov. 16, 1973	Nov. 16, 1973	5	I
	(2,867,294)	(2,200)	Yes	Jan. 23, 1974	Jan. 23, 1974	5	I
	2,869,494		Not available	Mar. 6, 1974	Mar. 6, 1974	10	VI
Veterans' Administration:							
Medical Prosthetic Research	(-----)	(3,648)	Yes	Feb. 15, 1973	July 1, 1973	5	I
	85,099		Not available	Nov. 23, 1973	Nov. 23, 1973	10	VI
Construction, Major Projects	(-----)	(34,710)	Yes	June 13, 1973	July 1, 1973	5	I
	114,626		Not available	Nov. 23, 1973	Nov. 23, 1973	10	VI
Construction, Minor Projects	(-----)	(5,000)	Yes	Dec. 20, 1972	July 1, 1973	5	I
	66,685		Not available	Nov. 23, 1973	Nov. 23, 1973	10	VI
Other Independent Agencies:							
Board for International Broadcasting: Board for International Broadcasting.*	115,000	10,000	No	May 20, 1974	May 20, 1974	1	I
District of Columbia:							
Loans for Capital Outlay, Metropolitan Area Sanitary Sewage Work Funds.	(-----)	(300)	Yes	Aug. 7, 1972	July 1, 1973	4	I
	3,900	5,300	Yes	Sept. 5, 1973	Sept. 5, 1973	4	I
Loans for Capital Outlay, Sanitary Sewage	(-----)	(4,285)	Yes	Aug. 7, 1972	July 1, 1973	4	I
	29,000	24,035	Yes	Sept. 5, 1973	Sept. 5, 1973	4	I
Loans for Capital Outlay, Water Fund	(-----)	(2,360)	Yes	Aug. 7, 1972	July 1, 1973	4	I
	8,000	7,460	Yes	Sept. 5, 1973	Sept. 5, 1973	4	I
Loans for Capital Outlay, Highway Fund	11,900	5,956	Yes	Sept. 5, 1973	Sept. 5, 1973	4	I
Loans for Capital Outlay, General Fund	(-----)	(6,758)	Yes	Jan. 26, 1973	July 1, 1973	4	I
	176,500	29,526	Yes	Sept. 5, 1973	Sept. 5, 1973	4	I
Foreign Claims Settlement Commission: Payment of Vietnam and USS Pueblo Prisoner of War Claims.	9,125	7,229	Yes	July 12, 1973	July 12, 1973	5	I
American Revolution Bicentennial Administration:							
Salaries and expenses*		[12] 12,375	Yes	June 25, 1974	June 25, 1974	5	I
Commemorative Activities Fund	(-----)	(5,690)	Yes	Nov. 28, 1972	July 1, 1973	5	I
	(4,556)	(3,510)	Yes	Feb. 1, 1974	Feb. 1, 1974	5	I
	6,100	2,010	Yes	June 3, 1974	June 3, 1974	5	I
National Science Foundation: Salaries and expenses	(56,900)	(3,500)	Yes	June 8, 1973	July 1, 1973	2	I
	(620,845)	(19,900)	Yes	Nov. 23, 1973	Nov. 23, 1973	5	I
	634,745		Not available	Dec. 6, 1973	Dec. 6, 1973	10	VI
Occupational Safety and Health Review Commission: Salaries and expenses.	(4,296)	(445)	No	Jan. 14, 1974	Jan. 14, 1974	1, 2	V [13]
	(4,242)	(445)	No	Feb. 6, 1974	Feb. 6, 1974	1, 2	V [13]
	4,442	245	No	June 27, 1974	June 27, 1974	1, 2	V
Railroad Retirement Board:							
Limitation on Railroad Unemployment Administration Fund	8,578	4,822	Yes	July 1, 1973	July 1, 1973	4	I
Limitation on Salaries and Expenses	20,830	500	No	Jan. 18, 1974	Jan. 18, 1974	1	I
Small Business Administration: Business Loan and Investment Fund	(173,100)	(41,316)	Yes	June 29, 1973	July 1, 1973	2, 4, 6b	I
	(178,100)	(48,294)	Yes	Aug. 31, 1973	Aug. 31, 1973	2, 4	I
	348,700	31,094	Yes	Sept. 27, 1973	Sept. 27, 1973	2, 4	I
Water Resources Council: Water Resources Planning	(8,611)	(27)	No [14]	Aug. 24, 1973	Aug. 24, 1973	2	I
	8,669	[15] (27)	Not available	Mar. 27, 1974	Mar. 27, 1974	10	VI
Temporary Study Commissions: Commission on American Shipbuilding, Salaries and Expenses	295	57	Not available	Dec. 10, 1973	Dec. 10, 1973	2	II [13]
National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance, Salaries and Expenses	167	165	Yes	Feb. 25, 1974	Feb. 25, 1974	4	I

[a] Estimated fiscal, economic, and budgetary effect (see code).

[1] Funds have not been apportioned pending review of plan.

[2] Funds reserved pending Presidential decisions.

[3] The amount apportioned is consistent with the limitation on the Foundation's activities according to Public Law 93-52 as amended.

[4] Funds in excess of $10,000,000 are not available in fiscal year 1974 pursuant to Public Law 93-240.

[5] The 1973-74 Rural Environmental Assistance Program funds lapsed on Dec. 31, 1973. The Sept. 30 report incorrectly listed the funds as available beyond fiscal year 1974.

[6] The funds in reserve have been apportioned pursuant to a U.S. District Court order which reinstated the 1973 REAP Program.

[7] The amount apportioned in this account is also apportioned in the Agricultural Stabilization and Conservation Service, salaries and expense account.

[8] The program level is above the amount reflected in the fiscal year 1975 Budget.

[9] The amount apportioned in this account was required to finance a loan approved at the end of fiscal year 1973.

[10] This apportionment action was inadvertently excluded from the Sept. 30 report.

[11] The fiscal year 1974 appropriation provides for program operation for the summer of calendar year 1974.

[12] Fiscal year 1972 contract authority in the amount of $23,700,000 will lapse on June 30, 1974.

[13] Code 6d was inadvertently excluded from the Sept. 30 report.

[14] Anticipated deposits were estimated at $5,000,000 more than anticipated in the budget estimates submitted to the Congress in January 1973.

[15] Funds were held in reserve to cover operating costs during the exhibition period.

[16] This account title was changed from "Research, Development, and Facilities" on Dec. 31, 1973.

FOOTNOTES—Continued

[14] The reserve was released to meet increased pay costs when transfer authority approved by Congress.
[15] This account was combined with the "Operations, Research, and Facilities" account on Dec. 31, 1973.
[16] Reason code 1 was incorrectly applied to the entries in the Sept. 30 report.
[17] The reserve was made at the request of the Canal Zone Government as a contingency for possible future inspection services.
[18] The apportionment increases the program level to a level greater than that contemplated in the most recently submitted budget document.
[19] The apportionment releasing the reserve was incorrectly excluded from the Sept. 30 report.
[20] The apportionment of funds in reserve was temporarily deferred until sufficient information was available for implementing the new public land survey program. The new program was funded for the first time in the 1974 supplemental (Public Law 93-245) enacted Jan. 3, 1974.
[21] Each reserve includes $30,000,000 of contract authority which becomes available at the first of each fiscal year and expires at the end of each fiscal year (16 U.S.C. 460 L-10a); all other funds are available beyond 1974.
[22] The Department of the Interior has no present plans for the use of these funds which are available only for the development of water wells on public lands.
[23] Reason code 5 was incorrectly included in the Sept. 30 report.
[24] Reason code 4 was inadvertently excluded from the Sept. 30 report.
[25] Reason code 6b was incorrectly included in the Sept. 30 report.
[26] No replacement or operation and maintenance work is currently necessary. (See footnote 30.)
[27] 66 Stat. 754 requires that certain miscellaneous revenues be deposited in a special fund to provide for the replacement of the project works and to defray annual operating and maintenance expenses when necessary.
[28] The reserve, made at the request of the Department of Labor, does not change expected payments for benefits as estimated in the latest budget document. The reserve reflects reimbursements from other agencies in excess of the amounts estimated in the budget document. The release of the reserve would increase availability above expected needs. The reserve is available for benefit payments if required benefit payments exceed current estimates.
[29] This reserve action was inadvertently excluded from the Feb. 4 report.
[30] This amount is potentially available for use under 1975 contract authority; the amount to be made available to each State for obligation in 1975 is anticipated to be announced by the Department of Transportation in July 1974.
[31] The Sept. 30 report incorrectly reported the reserve as unavailable beyond fiscal year 1974.
[32] $9,000,000 was transferred by the 1974 Department of Transportation Appropriation Act to the Traffic and Highway Safety account.
[33] Under the law (Public Law 93-87), apportionment of $25,000,000 in this account is contingent upon the enactment of mandatory seat belt use legislation in the States and Territories. Puerto Rico, the only jurisdiction which has enacted seat belt legislation in 1974, has been apportioned its incentive grant award. The balance will remain in reserve and lapse unless other jurisdictions enact seat belt legislation. This reserve action also includes $12,500,000 for incentive grants to jurisdictions for achieving exceptional highway fatality reductions. This incentive program will be initiated in 1975 and will base awards upon exceptional reductions in highway fatalities in calendar year 1974.
[34] The authority for loan approval expired on June 27, 1973.
[35] The amount apportioned is the full amount legally available until action is taken on the amendment to the Rail Passenger Service Act of 1970.
[36] The amount apportioned is below the obligational level planned in 1974 because of delays in resolving legal action over the adequacy of the environmental impact statement for this project.
[37] The reserve is required because the Congress previously provided permanent, indefinite authority (Public Law 92-500) for the subsidy payment. The funds in reserve will be written off in fiscal year 1974.
[38] Contract authority of $75,000,000 expires at the end of fiscal year 1974; the balance is available beyond fiscal year 1974.
[39] The amount available for state grant programs has been placed in reserve pending establishment of the American Revolution Bicentennial Board.
[40] This reserve action was taken at the request of the Occupational Safety and Health Review Commission due to hiring delays. The reserve is available as a contingency against an increase in future contested citations.
[41] The Sept. 30 report incorrectly reported the reserve as available beyond fiscal year 1974.
[42] The funds in reserve were not needed and written off on Apr. 8, 1974.
[43] The Commission on American Shipbuilding (authorized under the Merchant Marine Act of 1970, Public Law 91-469) was terminated on Dec. 20, 1973. The funds in reserve that are not needed in fiscal year 1974 will be written off.

USE OF SPECIAL TERMINATION COST CLAUSE ON DEFENSE RESEARCH AND DEVELOPMENT CONTRACTS

Mr. McINTYRE. Mr. President, there is a continuing need to make the most effective use of funds authorized and appropriated for the Department of Defense research and development program. One step in this direction was taken by the Senate Armed Servics Committee when it proposed the greater use of the special termination cost clause for major research and development contracts in its action on the fiscal year 1974 military procurement authorization bill. On pages 118 and 119 of Report No. 93-385 dated September 6, 1973, which accompanied that bill, the committee discussed the specific details of this clause and suggested that it be more widely used within the Department of Defense. The committee action was prompted by the recognition that a broader use of this clause would free up substantial amounts of money being tied up under certain research and development contracts for potential termination charges and provide the use of such funds for other important research and development programs. I will not go into any more specific details of this subject at this time because it has not as yet been fully resolved. However, there is a very broad interest in this matter throughout Defense industry and among the various Government agencies. It should also interest the Members of the Senate.

At the request of the Armed Services Committee, the General Accounting Office has conducted an analysis of this subject and has submitted the results, including inputs from the Department of Defense and industry. The Department of Defense has provided a report on the extent of the use of this clause by the military departments and yesterday I transmitted a copy of the GAO report to the Secretary of Defense for comment and appropriate recommendations regarding further actions to be taken, including legislative actions. The correspondence relating to these exchanges consists of a letter dated May 20, 1974, from the Office of the Assistant Secretary of Defense Comptroller—Program/Budget—a letter dated June 4, 1974, from the Comptroller General, and my letter of June 22, 1974, to the Secretary of Defense. I request unanimous consent that copies of these various letters be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. McINTYRE. When the Department of Defense responds to my letter, it is my intention to take whatever action is then considered to be appropriate in conjunction with the committee action on the fiscal year 1976 military procurement request. I will keep the Senate advised of further significant developments in this matter as they may occur.

EXHIBIT 1

OFFICE OF THE
ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., May 20, 1974.

MEMORANDUM FOR MR. HYMAN FINE

Subject: Use of special termination cost clause on research and development contracts

In response to the Senate Armed Services Committee Report 93-385 of September 6, 1973, which suggested greater use of the Special Termination Cost Clause for major R-D contracts, an analysis was made of the use of this clause by the military departments. The results of that analysis are attached for your information.

It should be noted that the ASPR clause governing the Special Termination Cost Clause is presently being reviewed. A DoD position will be available after the ASPR Subcommittee Report is submitted.

DAVID J. HESSLER,
Director for Research & Development.

DEPARTMENT OF THE ARMY

PE number and short title	*Special termination costs clause used*	*Explanation if clause not used*
6.42.07 AAH	No	It is not intended to insert the clause in the contract. The reason for this is that the contract is managed by the C/SCSC System and the contracts do not show any reserve or management reserve for termination. There is no allowance in the incremental funding for termination and there are no apparent benefits derived from this clause and no reductions to the incremental funding would occur if the clause was imposed upon the project manager.
2.21.52 Improved HAWK	Not Eligible	The major portion of the RDTE effort had been completed prior to the effective date of Section 8-712 of ASPR.
6.32.03 HLH	No	Contractor is not withholding any funds for this contingency. By the time Secretarial approval can be obtained and funds made available, this contract will be almost fully

DEPARTMENT OF THE ARMY—Continued

			funded. Clause is no longer applicable when contract is fully funded.
6.43.06	STINGER	No	Information available from the Cost/Schedule Control System Report in the STINGER contract indicates that no reserve has been established by the contractor for the purpose of covering potential termination charges, and it is considered, therefore, that the intended purposes of the special termination cost clause would not be served by its insertion in the contract at this time.
6.36.20	XM–1	Yes	Contractor: General Motors Contract No. DAAE07–73–C–0301 Contract Amount: $87.0 million
6.43.07	SAM–D	Yes	Contractor: Chrysler Motors Contract No. DAAE07–73–C–0300 Contract Amount: $68.1 million
2.36.26	TACFIRE	No	The Special Termination Clause prescribed in Section 8–712 of the ASPR was not included in the TACFIRE Contract awarded 8 December 1967. The Contract did, however, provide a clause as Article No. 82 "Limitation of Government Obligation (June 1963) (AFPI 7–4054)". The contract was originally awarded as a Total Package Procurement to Litten Systems, Inc., Van Nuys, California, for a ceiling price of $122.3 million. The contract was restructured effective 31 March 72 to a development only contract with priced options for IRIP and FSP. The restructured contract does include as Article No. 89 a clause, "Limitation of Government Obligation". In view of the fact that the contract does provide a termination clause, though not the Special Terminations Costs Clause prescribed by Section 8–712 of ASPR, it is not recommended that the special clause be included. The TACFIRE program is now approaching final phases of development and no obligation authority could be saved by inclusion of the clause.
6.33.10	HELLFIRE	Not eligible	No RDTE contractual actions have met the criteria defined in Section 8–712 of ASPR; i.e., the contractual terms are less than two years; RDTE contracts to date are less than $50 million.
6.42.06	UTTAS	No	The UTTAS contracts were let prior to the effective date of Section 8–712, ASPR. DA is considering the use of these clauses as modifications to the UTTAS contracts.
12514	SAFEGUARD BMD System	Not eligible	Procurement is by one-year supplemental agreements against a specified scope of work, and is *not* an incrementally funded contract with term of two or more years. Special "Wind-up Costs" clause incorporated in the SAFEGUARD development contract DA–HC60–71–C–0005 with the Western Electric Company has been accepted by the contractor in lieu of requiring financing to cover potential termination. FY 75 will be the fifth year under the contract and the final stages of the development effort. Use of the ASPR 7–108.3 clause would not reduce requirement for annual obligation authority.
63308	Site Defense Prototype Demonstration Program	No	Special "Wind-up Costs" clause incorporated in the Site Defense Prototype Demonstration contract DA–HC60–72–C–0080 with the McDonnell-Douglas Astronautics Company has been accepted by the contractor in lieu of requiring financing to cover potential termination.
63308	SPRINT II (Site Defense)	No	Special "Wind-up Costs" clause incorporated in the SPRINT II contract DA–HC60–72–C–0130 with Martin-Marietta Corporation has been accepted by the contractor in lieu of requiring financing to cover potential termination. "J–23. Wind-up Costs. Subject to the provisions hereinafter stated, the contractor shall pursue diligently the objectives set forth in the scope of work up to the end date of the period specified in section H; provided, however that unless

DEPARTMENT OF THE ARMY—Continued

the contracting officer notifies the contractor no later than 60 days prior to said date that the period of performance of the contract will be extended, the contractor shall reduce his diligent pursuit of the objectives of the scope of work as necessary to assure that allotted funds are sufficient for reimbursement of "wind-up" costs. Costs incurred in "wind-up" of the contract will be allowable notwithstanding that they may be incurred after the end date of the period of performance specified in Section H, subject to Section J–1—"Reimbursement of costs" and Part III—"General Provisions" Section L, Clause 2, "Limitation of Funds" and Clause 3—"Allowable Cost, Incentive Fee and Payment," provided there is no negligent or willful failure to discontinue such cost as promptly as possible, costs incurred by the contractor relating to closeout of the contract will also be allowable subject to Section J–1, "Reimbursement of Costs", Part III—"General Provisions", Clause 2—"Limitation of Funds" and Clause 3—"Allowable Cost, Incentive Fee and Payment"."

DEPARTMENT OF THE NAVY—SPECIAL TERMINATION COSTS CLAUSE ON R. & D. CONTRACTS (R. & D. COST REIMBURSEMENT CONTRACTS OF $50,000,000)

PE No.	Short title	Special termination cost clause	Explanation if clause is not used
64303-N	AEGIS	Not used	Since current contract does not include funding for termination liabilities, special termination cost clause not needed.
64564-N	NATO PHM	Used	Upon approval, clause will be included in modification to contract.
24281-N	ANBQQ-5 Sonar	Not used	Since current contract does not include funding for termination liabilities, special termination cost clause not needed.
63501-N	SSG Nuclear Attack Sub. Prop. Plant.	do	Do.
63508-N	Gas Turbine Prop. System	do	Do.
63534-N	SES	do	Do.
63566-N	Amphibious Assault Landing Craft.	do	Do.
63567-N	Hydrofoil Craft	d	Do.
63578-N	A-4W/AIG Nuclear Prop. Plant	do	Do.
63361-N	Sub-launched Cruise Missile	Used	Plan to amend 2 contracts to include STCC.
64363-N	TRIDENT Missile System	do	Plan to amend contract to use STCC.
63236F	Adv Med STOL Transport	Not used	Both contracts were renegotiated in March 1974 and neither contractor agrees to use of the clause.
64215F	B-1	Used	
64220F	EF-111A	do	
64225F	A-10 Aircraft	do	
64723F	Adv Airborne Cmd Post	do	
64744F	AWACS	do	
27130F	F-15 squadrons	Not used	The structure of the F-15 contract and the LOGO clause being used do not recognize or fund any costs which could be included under a special termination costs clause.
63225F	Air Launched Cruise Missile	Used	

Note: Used defined as in use in fiscal year 1974 except for Air Launched Cruise Missile where use of clause is planned for fiscal year 1975.

COMPTROLLER GENERAL OF THE
UNITED STATES,
Washington, D.C., June 4, 1974.

Hon. JOHN C. STENNIS,
Chairman, Committee on Armed Services,
U.S. Senate.

DEAR MR. CHAIRMAN: As requested in your October 4, 1973, letter (see enc. I), we examined the use of the special termination costs clause in the Armed Services Procurement Regulation (ASPR), sections 8–712 and 7–108.3. (See enc. II.)

We obtained background from the Department of Defense's (DOD's) ASPR Committee and its special subcommittee which was recently established to review the clause. Procurement officials of the Army, Navy, and Air Force gave us data on use of the clause and reasons why it has not been used more extensively. We also obtained industry associations' views on the use and adequacy of the clause as now stated and recommendations for changes they feel are needed to make the clause more acceptable.

The clause has been used in contracts only to a limited extent by the services, primarily the Air Force. None of these contracts have been terminated, so we could not evaluate the clause's effectiveness.

The major obstacles to increased use of the clause appear to be the small number of contracts which meet the required dollar criteria as stated in ASPR and the possibility of violating the Antideficiency Act if funds are not available to pay termination costs.

BACKGROUND

In early 1968 the Aerospace Industries Association recommended to DOD's ASPR Committee that a termination costs clause be established in ASPR. This clause would allow contractors to effectively use all money obligated to a program rather than having to limit their costs to maintain a reserve to cover potential termination costs. The Association suggested that the DOD establish a termination funding reserve account to pay termination costs. The amount of the account would be based on prior DOD experience and would total much less than the cumulative potential termination costs being reserved under individual contracts.

The ASPR Committee studied the recommendation and prepared a proposed special termination costs clause. The clause did not include the termination funding reserve account suggested by the association, but did include a maximum termination cost liability.

Industry associations felt that a maximum termination costs liability should not be included in the clause because the contractor's risks would be increased since the Government's liability would be limited to the negotiated amount. They also felt that the optional use of the clause should be extended to lower dollar value contracts—$5 million for research, development, test, and evaluation (RDT&E) contracts and $10 million for production contracts rather than the $25 million and $100 million levels proposed. Neither suggestion was included in the clause put into ASPR in early 1970. (See enc. II.)

In June 1973 the minimum limits for optional use of the clause were raised from $25 million to $50 million for RDT&E contracts and from $100 million to $200 million for production contracts. These new minimums were established to meet the funding level criteria which defines a major weapon system.

DOD USE OF THE CLAUSE

As noted previously, the special termination costs clause has been used only in a limited number of contracts, none of which have been terminated.

The Air Force is using the clause on the Advanced Airborne Command Post, B–1, and AWACS contracts. It plans to use it on several other contracts, including the A–10, if the program is approved, and the STOL program. The Army is using the clause on the XM–1 tank program and plans to use it on SAM–D contracts. Other uses will be considered on a case-by-case basis. The Navy has not used the clause but plans to use it on the Trident program.

Officials of the services said the clause has not been used more often because:

The clause is not authorized for use on the numerous RDT&E contracts under $50 million and production contracts under $200 million.

Use of the clause was not justified on some RDT&E contracts because of low potential termination costs.

The Antideficiency Act would be violated if funds were not available to pay termination costs (use of the clause does not automatically provide funds to pay termination costs).

The increased use, or planned use, of the clause appears to be the result of the Senate Armed Services Committee Report on the

DOD Fiscal Year 1974 Procurement Authorization Bill (S. Rept. 93-385, Sept. 6, 1973) in which the committee suggested that the services use the clause more. Shortly after this report was issued, the Deputy Assistant Secretary of Defense (Procurement) requested that the ASPR Committee review ASPR 8-712 to see if any changes in the criteria for using this clause are warranted.

PROPOSED CHANGES TO THE CLAUSE

In late 1973 an ASPR Subcommittee began reviewing the special termination costs clause to determine if changes were needed. We were informed that the Subcommittee plans to recommend that (1) the minimum contractual amount be reduced to the previous levels of $25 million for RDT&E contracts and $100 million for production contracts and (2) the clause not be used on contracts with minimal potential termination costs. The ASPR Committee will request comments on proposed changes from industry associations before formally revising the clause—tentatively scheduled for the end of 1974.

The major recommendation by the industry associations in their response to our inquiry (see enc. III) was to allow termination costs to exceed the maximum allowed by the clause if unused program funds are available to pay the additional costs.

CONCLUSIONS

The availability of funds to cover potential terminations appears to be a major obstacle to the increased use of the special termination costs clause. The problem arises from the possibility of violating the Antideficiency Act, which prohibits the incurrence of contractual obligations in excess of authorized amounts.

When a contract using the clause is terminated, funding of termination costs can come from three sources: (1) residual program funds, (2) funds transferred from other programs (reprograming), and (3) funds received through a supplemental appropriation.

The first two sources are the most expedient means of paying termination costs when these funds are available. However, if a contract is terminated at or near the end of a fiscal year, unobligated funds from these sources may be limited. Requesting a supplemental appropriation would be a last resort.

As stated in the Senate Armed Services Report on the DOD Fiscal Year 1974 Procurement Authorization Bill, the risks of not having unobligated balances available in the appropriations to meet potential termination costs are minimal. From a purely legal viewpoint, however, use of the clause does not relieve procurement officials from the possibility of violating the Antideficiency Act because the availability of unobligated funds is not insured.

Alternative solutions to overcome this obstacle include (1) authorizing the incurrence of termination costs under this clause to insure that additional funds will be made available if unobligated appropriation balances are not sufficient to cover these costs (this approval could be included in the annual DOD appropriation authorization) or (2) legislation could be enacted to exempt costs incurred under the clause from the Antideficiency Act.

We have no objections to the ASPR Subcommittee's proposal to allow use of the clause on lower dollar value contracts ($25 million RDT&E and $100 million production) and to prohibit its use on contracts with minimal potential termination costs, such as research contracts consisting primarily of personal services.

The industry associations suggested that the clause be modified to permit the contractor's claim for termination costs, when added to all other costs incurred, not to exceed the sum of the funds allotted to the contract for performance *plus* the amount allowed by the clause.

We do not agree with this suggestion. We believe termination costs should not be permitted to exceed the maximum allowed by the clause even if unused program funds are available. Such a change could encourage the contractor to reserve funds by limiting costs incurred under the contract rather than to negotiate a higher termination costs ceiling. This would defeat the purpose of the clause.

We did not obtain formal comments from the Secretary of Defense on this report; however, the information contained herein was discussed with DOD officials during the review.

This report completes the work you requested. The reports dealing with (1) contractors' independent research and development, (2) incremental programing of RDT&E, and (3) development of major weapon systems under cost-type contracts were previously sent to you.

We plan no further distribution of this letter unless you agree or publicly announce its contents.

Sincerely yours,

R. F. KELLER,
Comptroller General of the United States.

ENCLOSURE I

U.S. SENATE,
Washington, D.C., October 4, 1973.

Hon. ELMER B. STAATS,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

DEAR MR. STAATS: The committee has completed and published its report (93-385) on the fiscal year 1974 procurement authorization bill.

There are a number of items in the report which involve actions to be taken by the General Accounting Office. Information on each of these items follows:

1. *Independent Research and Development*

Page 104 of the subject report states,

"While there is general satisfaction to date in the Department of Defense and in industry, additional time is needed to complete the implementing actions and acquire more experience as a basis for any changes which may be indicated as necessary to existing law. The General Accounting Office is in agreement with the need for additional time, and has expressed its intention to continue with the examination of this subject.

"The committee intends to follow these actions closely and consider the requirement for any possible further legislative actions in conjunction with the review of the fiscal year 1975 authorization request."

Request that the General Accounting Office conduct this further investigation including follow-up on the recommendations contained in your report B-167034, dated April 16, 1973. The opinions and recommendations of both the Department of Defense and appropriate industry associations should be obtained and reflected in your report. Discussions should be held with other governmental agencies such as the Department of Transportation, Atomic Energy Commission, and the National Aeronautics and Space Administration, all of whom have substantial research and development programs to determine the desirability and practicability of extending the independent research and development policy to include their organizations on a uniform basis with the Department of Defense. The investigation of this subject also should include consideration of the possibility of broadening the definition and application of relevancy to include all Federal agencies while at the same time extending the IR&D provisions as represented in the applicable Military Procurement Authorization Acts to these various agencies. The results of these discussions together with appropriate recommendations also should be included in your report.

2. *Incremental Programing of RDT&E*

Pages 112-115 of the subject report cover this subject and set forth a consolidated and current policy statement, including definitions which resulted from the coordinated efforts of the committee staff, the Department of Defense, and the General Accounting Office. In fact, as the report states, the revised incremental programing policy was worked out to the mutual satisfaction of the committee and the Department of Defense. In accordance to the committee report, you are requested to continue with your review of the implementation of this policy, as a follow-on to your earlier efforts as reported in General Accounting Office reports B-167034 of April 18, 1973, and May 15, 1973. Your study should include a reexamination of the Trident weapon system and such other major weapon systems which would represent an equitable sampling of the programs of each of the military departments. the extent to which first-tier subcontractors are being addressed should be made a matter of specific treatment since this is a new significant item covered under the revised policy. Comments should be submitted on the results of your findings together with any recommendations which you may deem appropriate.

3. *Major Weapon Systems Developed Under Competitive Cost Reimbursement Type Contracts*

This subject is covered on pages 115 and 116 of the committee report which includes an expression of the concern of the committee that there may be a need for the Department of Defense to examine the criteria, policy, and procedures contained in the Armed Services Procurement Regulations and other directives to insure that the source selection process is being uniformly applied and that the interests of all parties involved including the government are equitably considered and fully protected. The report requests that the Department of Defense conduct such an examination and advise the committee what if any changes should be made as a result of the committee's views. As indicated in the report, the General Accounting Office is requested to participate in this review and submit its independent findings and recommendations to the committee.

4. *Use of Special Termination Costs Clause on Certain Research and Development Contracts*

On pages 118 and 119 of the committee report the committee explains the use of the special termination costs clause on research and development contracts and encourages the use of this clause to a greater extent by all of the military departments. The General Accounting Office is requested to examine the use of this clause to the extent that it has been included in recent contracts and obtain the opinions of the various industry associations, and the Department of Defense on the wider application of this clause in future Department of Defense contracts. Comments with appropriate recommendations will be submitted to the committee.

Informal meetings have been held between the committee staff and the representatives of your agency to discuss each of the items contained in this letter. In order for your reports to be useful to the committee in its consideration of the fiscal year 1975 military procurement authorization request, such reports should be submitted by March 1, 1974.

Sincerely,

JOHN C. STENNIS,
Chairman.

ENCLOSURE II

[7:150 April 16, 1973]

CONTRACT CLAUSES

7-109.3 *Special Termination Costs.* In accordance with 8-712, insert the following clause.

SPECIAL TERMINATION COSTS (1970 FEB)

(a) Notwithstanding the clause of this contract entitled "Limitation of Costs/Limitation of Funds," the Contractor shall not include in his estimate of costs incurred or to be incurred, or of the total amount payable by the Government, any amount for Special Termination Costs, as herein defined, to which the Contractor may be entitled in the event this contract is terminated for the convenience of the Government. The Contractor agrees to perform this contract in such a manner that its claim for such Special Termination Costs will not exceed $____. The Government shall have no obligation to pay the Contractor any amount for such Special Termination Costs in excess of such amount. Special Termination Costs for the purpose of this contract are defined as costs only in the following categories:

(i) severance pay as provided in ASPR 15-205.39(b)(ii);

(ii) reasonable post-termination plant maintenance and operation costs, if expressly made allowable under other provisions of this contract;

(iii) settlement expenses as provided in ASPR 15-205.42(f);

(iv) cost of return of field service personnel from sites;

(v) costs in categories (i), (ii), (iii), and (iv) above to which subcontractors may be entitled in the event of termination.

(b) In the event of termination for the convenience of the Government, the amount of such Special Termination Costs shall be determined in accordance with the provisions of the contract and this clause shall not be construed as affecting the allowability of such costs in any manner other than limiting the maximum amount payable therefor by the Government.

(c) This clause shall remain in full force and effect until this contract is fully funded.

7-108.3—Armed Services Procurement Regulation.

8:58 April 16, 1973

TERMINATION OF CONTRACTS

8-712 Special Termination Costs Clause.

(a) The clause set forth in 7-108.3 is authorized for use in fixed-price incentive contracts and incrementally funded cost-reimbursement contracts when:

(i) the contract term is two years or more; and

(ii) the contract is estimated to require total RDT&E financing in excess of $25 million, or total production investment in excess of $100 million; and

(iii) the use of the clause in the contract is approved by the Secretary of the Department concerned or his designee.

(b) The contractor and the contracting officer shall agree upon an amount that represents their best estimate of the total special termination costs to which the contractor would be entitled to in the event of termination of the contract. Such amount shall be inserted in the clause.

(c) A provision allowing for negotiated adjustments of the amount reserved for special termination costs may be inserted as paragraph (d) of the clause. Contract provisions for periodic adjustments by mutual agreement of the parties may be established based on, among other things, (i) set time periods within the contract, (ii) the Government's incremental assignment of funds to the contract, or (iii) the time when certain performance milestones are accomplished by the contractor. Provisions for such adjustments may be considered desirable in contracts containing unusually long production schedules, or in contracts where the contractor's cost risk in the event of Government termination fluctuates extensively over the period of the contract, depending on the scope of work to be performed during a certain period of the contract or the amount of funds to be assigned to the contract during any one increment.

8-712—Armed Services Procurement Regulation.

ENCLOSURE III

COUNCIL OF DEFENSE AND SPACE INDUSTRY ASSOCIATIONS (CODSIA).
Washington, D.C., February 21, 1974.

HAROLD H. RUBIN,
Deputy Director, U.S. General Accounting Office, Procurement and Systems Acquisition Division, Technology Advancement, Washington, D.C.

DEAR MR. RUBIN: This is in rsponse to your letter of January 18, 1974, requesting the views of the Council of Defense and Space Industry Associations (CODSIA) concerning the Department of Defense's use of the special termination costs clause, Armed Services Procurement Regulation Section 8-712.

Because of the limited time afforded to respond, CODSIA has quickly checked with industry concerning the two questions mentioned in your letter. One question related to industry's experience following CODSIA's letter of September 22, 1969 to the ASPR Committee and since the clause was put into effect; the other requested any changes which industry believes are required to make the clause more acceptable.

Commenting on the first inquiry, it is noted that there has been little experience wherein the clause was actually required to be put into use. In other words, there have not been many major terminations in this time frame, which have involved this clause. This lack of experience limits our ability to discuss the use or adequacy of the clause as now stated.

Only one example of the clause becoming operative was discovered. In this instance, the final settlement fell within the dollar limitations set forth therein; therefore, no problem was confronted on allowable and allocable terminations costs being incurred beyond the dollars set forth in the clause.

There are companies which have current contracts that contain this clause. Several of these companies find it necessary to adjust the dollar limitations from time to time due to the fact potential termination costs are never static in an on-going contract. Such a right to do this is recognized within ASPR 8-712, but the clause itself, ASPR 7-108.3, does not recognize this aspect.

Industry concerns regarding the special terminations clause were expressed in our September 22, 1969 letter and again in the CODSIA study report of July, 1971, "Government Contract Terminations". The report had the following observations and recommendations:

"In this situation we have a double cost limitation—a ceiling on these kinds of special costs plus a restriction as to the kinds of costs that can be considered.

"The purpose of the special termination costs clause can hardly be faulted—to permit full utilization of contract funds for productive work and to exclude the limitation of Cost Funds clause in the contract. However, it should be made more flexible.

"RECOMMENDATION

"Revise the special termination costs clause, ASPR 7-108.3, to provide more flexibility with the ceiling subject to upward as well as downward adjustment, and with the categories of costs broadened to include all post-termination costs, not just limited categories."

(To assist you in your review, a copy of the CODSIA report of July, 1971 is attached—see pages 13 and 14.)

In line with the thought expressed above, and addressing specifically the subject of changes believed essential to make the clause more acceptable, the following changes are offered for consideration:

1. Within the clause (ASPR 7-108.3, lines 4 and 5 are the words, ". . . in the event this contract is terminated for convenience of the Government. . . ." It is strongly believed the words "for the convenience of the Government," should be revised to read "for the convenience of the Government on fixed price contracts and for convenience of the Government or default on cost reimbursement contracts." A similar treatment of these words is also required in paragraph (b) of this clause.

Reason: The sole purpose of this clause is to permit full use of incremental contract funds for productive work. This is primarily for the benefit of the Government. The clause is not intended to cause the contractor to assume additional risk by not holding the normal reserve of contract funds against a possible termination as he would do if this clause were not used. Nevertheless, there is always the risk, however remote, of a default termination. In the case of a cost reimbursement contract the allowability of termination costs for either default or convenience is basically the same, subject only to availability of contract funds. It is therefore apparent that in the cost reimbursement case the special termination costs clause, as currently limited to a convenience termination, imposes additional risk of loss to the contractor in the event of a default termination. In all fairness this limitation should be elimination. In all fairness this limitation should be eliminated to enhance the use of the clause and to preclude the clause from being self-defeating.

2. The "Recommendation" cited above and contained in the reference CODSIA study report suggested that the categories of costs defined in ASPR 7-108.3 be broadened to include all post-termination costs and not be limited to the categories currently covered in the clause. It is recommended that the clause be revised by eliminating the limited categories and adding after the words "are defined as costs", the following: "are defined as costs as covered by ASPR 15-205.12(b)(ii) Idle Facilities, ASPR 15-205.39(b)(ii) Severance Pay, and ASPR 15.205.42, Termination Costs."

Reason: Because the present clause covers only limited types of post-termination costs, it is incumbent upon a prudent contractor to hold a termination reserve for all categories of termination and post-termination costs not now listed in the clause but otherwise allowable under ASPR Section XV. The wording of the present special termination costs clause therefore, partially defeats the intended purpose of the clause. As the Committee on Armed Services of the U.S. Senate recognized (Report No. 93385 dated September 6, 1973, pages 118 and 119), the purpose of the clause is to enable the contractor to more fully utilize contract funds without the need for a reserve against possible termination.

3. In addition to eliminating the restrictive list of types of termination costs, ASPR 7-108.3 should be further modified by changing the second sentence thereof to read: "The contractor agrees to perform this contract in such a manner that its claim for termination costs, when added to all other costs incurred, will not exceed the sum of the funds allotted to this contract for performance plus $———— covered by the Special Termination Costs clause."

Reason: Without such a change, the clause has the characteristic of an advance understanding and limitation on termination costs even if, at the time of termination, the funds allotted to the contract were not exhausted. This is not the purpose for which the clause is intended. Such clarification will not in-

crease the Government's liability but it will eliminate potential administrative confusion.

4. As will be noted in the CODSIA study report of July, 1971, as well as in CODSIA's letter of September, 1969 to the ASPR Committee, industry did not then, nor does it now, take issue with the purpose of the clause, but it must be recognized that it creates concern as to whether the dollar limitation will be adequate as the contract progresses. In this respect it is recommended that a paragraph (d) be added to the ASPR clause 7-108.3 (as Permitted by ASPR 8-721 (c)) to provide for periodic adjustment by mutual agreement of the parties.

In closing, we wish to express our appreciation for the opportunity to provide these comments as the consensus of the opinions expressed by the member associations of CODSIA and trust that they will receive due consideration in the course of your review. We would welcome the opportunity to have our representatives discuss with you in greater detail the views and recommendations which have been presented here.

Sincerely,

J. A. CAFFIAUX,
Staff Vice-President, Electronic Industries Assn.

FRANCIS P. ROONEY,
Manager, Defense Liaison Department, Motor Vehicle Manufacturers Assn.

ROBERT E. LEE,
President, National AeroSpace Services Assn.

JOSEPH M. LYLE,
President, National Security Industrial Assn.

KARL G. HARR, Jr.,
President, Aerospace Industries Assn.

EDWIN M. HOOD,
President, Shipbuilders Council of America.

JOHN C. BECKETT,
WEMA.

U.S. SENATE,
Washington, D.C., July 22, 1974.

HON. JAMES R. SCHLESINGER,
Secretary of Defense,
Washington, D.C.

DEAR MR. SECRETARY: Senate Armed Services Committee Report 93-385 dated September 6, 1973, suggested greater use of the Special Termination Cost Clause for major research and development contracts to permit the more effective and timely use of appropriations for research and development. The General Accounting Office, by letter dated October 4, 1973, was requested to look into this matter and to provide comments with appropriate recommendations to the Committee.

The Office of the Assistant Secretary of Defense Comptroller (Program/Budget), on May 20, 1974, provided the Committee with an analysis of the use of this clause by the military departments. The letter stated that the Armed Services Procurement Regulations (ASPR) clause governing special termination costs is presently being reviewed and that a Department of Defense position would be available after the ASPR subcommittee report on the subject is completed.

The Comptroller General advised the Committee by letter dated June 4, 1974, of the results of the examination of this matter and included certain proposed changes to the ASPR clause and other conclusions.

I request that the Department of Defense review the Comptroller General letter of June 4, 1974, copy of which is attached, and provide comments including any possible effect on the ongoing DOD review of the ASPR clause. Will you also indicate any actions that may be contemplated by the Department of Defense on this subject, including proposals for legislative action which may be appropriate during Congressional consideration of the fiscal year 1976 military procurement authorization request.

Sincerely,

THOMAS J. MCINTYRE,
Chairman, Subcommittee on Research and Development.

EDUCATION OF HANDICAPPED CHILDREN

Mr. MATHIAS. Mr. President, with the Senate adoption of the conference report on H.R. 69 by the vote of 81 to 15, on July 24, 1974, this body once again expressed its approval for, among other provisions, an amendment which I offered to the education bill which provided additional funding for education of handicapped children.

The so-called Mathias amendment was cosponsored by 19 other Senators. Briefly, this amendment amended sections 611 and 612 of the Education of the Handicapped Children Act as to change the system of assistance under part B, for fiscal year 1975 only from a system of State allotments to a system of entitlements based on $15 per student on average daily attendance. The amendment provided that such assistance to States for initiating, expanding, and improving programs and projects for the preschool, elementary, and secondary school levels was for the purpose of providing full educational opportunities to all handicapped children.

The conference report, which we adopted yesterday, changed the distribution of such entitlements to $8.85 per child, age 3-21, and added a provision that payment under part B may be used for early identification and treatment of handicapped children under 3 years of age. I would point out that under my original amendment, it was estimated that $631 million are required to fully fund this program for fiscal year 1975. As modified by the conferees, this amendment would now provide approximately the same amount.

This morning I had the privilege of appearing before the Labor HEW Subcommittee of the Senate Appropriations Committee. Although I am a member of that committee I felt it was important to appear as a witness before that subcommittee to testify on behalf of the provision which this body adopted only yesterday.

As part of my testimony I included a letter which I received from the Council for Exceptional Children which eloquently speaks on behalf of millions of handicapped children in this country.

Mr. President I ask unanimous consent that a letter which I received from the Council for Exceptional Children dated July 24, 1974, be printed in the RECORD.

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

THE COUNCIL FOR EXCEPTIONAL CHILDREN,
Reston, Va., July 18, 1974.

Senator CHARLES MCC. MATHIAS,
460 Old Senate Office Building,
Washington, D.C.

DEAR SENATOR MATHIAS: Permit me, initially, on behalf of the membership of The Council for Exceptional Children, to express our deepest gratitude for your role as initiator and primary sponsor of that provision in the Education Amendments of 1974 (H.R. 69) which authorizes a one-year, emergency entitlement under ESEA, Title VI-B, Education of the Handicapped, Aid to the States. Your forceful advocacy could not have been more timely, and we are delighted that your proposal was approved without a single objection by your colleagues in the Senate and was subsequently approved unanimously in a House-Senate conference on H.R. 69.

We now wish to offer our wholehearted endorsement for the position which you lay before your colleagues on the Senate Appropriations Committee, namely, appropriation at full entitlement under the "Mathias Amendment" for fiscal 1975.

As you are well aware, Senator, the long struggle to end the exclusion of/or inappropriate education of this Nation's approximately seven million handicapped children is now reaching monumental proportions. Numerous parents and other advocates for handicapped children have in the past three or four years sought redress in the courts. In point of fact, there are at least 36 cases now filed and/or completed in twenty-five of the states of the Union. Aside from the vital and immediate consideration that the courts are affirming the right to an education, the very fact that so many suits have been brought is in itself eloquent testimony to that severe neglect which is at long last coming to an end.

Moreover, at the close of the 1972 regular state legislative sessions across the United States, a total of 43 states had in place some form of legislation mandating the availability of public educational services to all handicapped children. In that regard, you will find enclosed a chart detailing the nature and extent of mandatory legislation in the states. It is important to observe that, of the nineteen states with specific statutory dates of compliance, seven become effective in 1974, one becomes effective in 1975, four become effective in 1976, four become effective in 1977, and two become effective in 1979.

However, while these statutes and their compliance dates represent a forceful statement of legislative intent, they do not guarantee actual program delivery. The same is true of court decrees, as may be witnessed in the District of Columbia where the plaintiffs have returned to court charging substantial non-compliance with that historic decree resulting from Mills v. D.C. Board of Education.

This is not to suggest lack of goodwill on the part of state and local officials; quite the contrary, it is simply to acknowledge a pressing financial crunch in the states and localities exacerbated by the ever-accelerating pace of those court orders and legislative mandates just cited. If I may borrow a phrase from your remarks on May 20 in the Senate Chamber: too many of the states are unable "to put their money where their laws are."

Justice delayed is nonetheless justice denied; as a consequence, parents, public officials, and educators have appeared before panels of both the Senate and House in the last two years to plead for enlarged federal assistance. A recent resolution of the National Governors' Conference succinctly summarizes the message being conveyed from the states to the National government:

The National Governors' Conference believes it should be the responsibility of each state, as an integral part of a free public education, to provide for special education services sufficient to identify and meet the needs of all handicapped children.

Recognizing the tremendous additional

financial burden which would be incurred in providing for the education of all handicapped children, the National Governors' Conference calls upon the federal government to increase its assistance to the states in fulfilling this commitment. Federal assistance, however, should allow maximum flexibility and discretion to the states in providing the essential services they deem appropriate, since these services in many states are administered by more than one agency.

But certainly for the Senate of the United States, with its long history of conscientious attention to the "vulnerables" in our society, it is the basic reality of continuing lack of equal educational opportunity, regardless of the reason, which must ultimately offer the most compelling argument for Congressional action. That reality is bluntly portrayed in the report which accompanied the Senate version (S. 1539) of the Education Amendments of 1974:

There are 7 million (1 million of pre-school age) deaf, blind, retarded, speech-impaired, motor-impaired, emotionally disturbed, or other health-impaired children in the United States who require special education programs. Although these children represent approximately 10 percent of the school age population (a conservative estimate), and although the number of children receiving special help has grown from 2.1 million to nearly 3 million in the past 5 years, current data indicates that less than 40 percent are receiving an adequate education—

The current federal impact on the education of handicapped children has been of excellent calibre, characterized by sound leadership and the successful delivery of vital supportive services. But certainly the situation which now obtains in the states and their school districts argues forcefully for the evolution to a "second generation" in the federal partnership.

With its stipulation that there be a priority in the use of funds for those children not yet being served, the "Mathias Amendment" would be a tremendous boost toward achieving equal educational opportunity for handicapped children. We therefore must strongly urge the Senate Appropriations Committee to appropriate at full entitlement and we have been informed that the following organizations concur in that recommendation:

American Speech and Hearing Association.
National Association of Coordinators of State Programs for the Mentally Retarded.
American Foundation for the Blind.
American Association of Workers for the Blind.
Blinded Veterans Association.
United Cerebral Palsy Association.
Association for Children with Learning Disabilities.
National Association for Retarded Citizens.
Council of State Administrators of Vocational Rehabilitation.
National Society for Autistic Children.

Sincerely yours,

WILLIAM C. GEER,
Executive Director.

State	Type of mandation	Date of implementation	Date of passage	Ages of eligibility	Categories excluded
Alaska	Full planning and programing			6 to 20	
Alabama	Mandatory	1977	1971	6 to 21	
Arizona	Selective planning and programing	1976		5 to 21	Gifted and emotionally handicapped.
Arkansas [1]	Full planning and programing	1979–80		6 to 21	
California	Mandatory			3 to 21	Emotionally handicapped.
Colorado [2]	Full planning and programing	1975	1973	5 to 21	
Connecticut	Mandatory	1973		do	
Delaware	do			4 to 21	
District of Columbia	No statute (Mills v. Board of Education mandatory).	1972	1971	School age	
Florida	Mandatory	1973	1973	13 years guaranteed, 3 to no maximum	
Georgia	Full planning and programing	1976		3 to 18	
Hawaii	Mandatory		1949	5 to 20 (except under early admission plan)	
Idaho	do		1972	Birth to 21	
Illinois	do		1961	3 to 21	
Indiana	do	1973	1973	Deaf—6 mo; 6 to 18	
Iowa	Selective mandate		1970	Birth to 21 (to 24 if necessary)	Deaf, blind, or severely handicapped may be educated in State schools.
Kansas	Selective planning and programing	1979	1974	Birth to 21	
Kentucky	Planning and programing	1974		do	
Louisiana	Mandate by petition (5 or more)			3 to 21	
Maine	Mandatory	1975	1973	5 to 21 (speech handicapped—birth to 21)	
Maryland	Planning and programing	1979 [3]		Birth to 18	
Massachusetts	do	1974	1972	3 to 21	
Michigan	do	1973		Birth to 25	
Minnesota	Mandatory		1972	Deaf, blind, (R or SI—4 to 21) MR 5 to 21, ED 6 to 21.	
Mississippi	Mandate by petition (5 plus)			Birth to 21	
Missouri	Mandatory	1974		5 to 21	
Montana [4]	(a) Selective conditional—(at least to EMR, TMR or PH).	1979	1974	PH—birth to 25; TMR—birth to 21; EMR—legal school age.	
Nebraska	Mandatory	1976	1973	5 to 18	
Nevada	do		1973	5 to 21 [5]	
New Hampshire	do		1965	5 to 21; deaf 4 to 21; PH-5 to 31	
New Jersey	do			5 to 20	
New Mexico	Planning and programing	1977		By Jan. 1—6 to 21	
New York, court order	Mandatory		1973	5 to 21	
North Carolina	do		1974	Birth to adulthood deaf 18 or 21 if need exists	
North Dakota	do	1980	1973	6 to 21	
Ohio	Petition (8 or more crippled or EMR)			5 to 21	
Pennsylvania, court order	EMR		1971	From 5 years of age	
Oklahoma	Mandatory		1970	4 to 21 (until 25 if necessary)	
Oregon	do		1973	Birth to 21; EMR 6 to 21	
Rhode Island	do		1971	3 to 21	
South Carolina	Planning and programing	1977		6 to 21, HI 3 to 21	
South Dakota	Mandatory		1969	Birth to 21	
Tennessee	Planning and programing	(6)		4 to 21	
Texas	Petition			3 to 21	
Utah	Mandatory		1973	5 to 21	
Vermont	do		1968	Birth to 21	
Virginia	Planning	1976–77 [7]	1973	2 to 21	
Washington	Mandatory		1971	Legal school age	
West Virginia	do	(8)	1974	5 to 23	
Wisconsin	do	(9)	1973	Birth to 21	
Wyoming	do		1969	Legal school age	

[1] Current statute is conditional; or 5 or more similarly handicapped children in district. AG opinion says new law effective July 1973.
[2] Except PH-3 to 21.
[3] Court order suggests present rights.
[4] Petition—(at least 4 EMR, TMR or PH).
[5] Aurally handicapped, 3 to 21.
[6] September 1974.
[7] Established by regulation.
[8] July 1, 1974.
[9] Aug. 9, 1973.

TRIBUTE TO FORMER SENATOR WAYNE MORSE

Mr. HOLLINGS. Mr. President, it was with much sadness that I learned of the passing of our good friend and former colleague, Wayne L. Morse, of Oregon. News of his death came as a shock to all of us who were following his typically energetic campaign to regain a seat in the U.S. Senate.

When I remember Wayne Morse, I recall a man who said what he thought and did what he said. He pulled no punches. And he was capable of a mighty wrath. I believe we have lost much of our capacity for righteous indignation. And I think our inability to get really stirred up—to get mad—is a loss for the country. When Government fails to perform—when those in high office become more devoted to individual advancement than to public service—and when all around us we see the public interest being

subordinated to the special interests—we ought to get mad. Wayne Morse got angry about such things, and he did something about them. His was not a petty anger. It was an indignation that grew out of his unflinching dedication to right. He was, of course, a controversial man, and his out-spokenness led him into many frays. But through it all, he remained true to his principles and true to himself.

Wayne Morse's name will be writ large when the legislative history of the 1940's, 1950's, and 1960's is written. In education, in agriculture, in labor, in efforts to avoid the pitfalls of Southeast Asia, and in countless other areas, Wayne Morse was active, and the reform measures of the past quarter century more often than not bear his imprint.

Mr. President, I served for only a brief time alongside Wayne Morse in this Chamber, but I often saw him in subsequent years. I valued his counsel and I will always treasure his friendship. He was a fine public servant. And he was a good man. I join my colleagues in extending deepest condolences to his family.

TRIBUTE TO SENATOR WAYNE MORSE

Mr. KENNEDY. Mr. President, Hal Gross worked for Senator Wayne Morse in Oregon and then came to Washington in 1968 to serve under Senator Morse's chairmanship on the staff of the Special Subcommittee on Indian Education. He continued working for the subcommittee under my chairmanship and that of my brother Robert, and he has recently been consultant to my administrative practice and procedure subcommittee.

Mr. Gross has shared with me his moving thoughts on the death of Senator Morse, and I would like to share them with my colleagues:

I ask unanimous consent that the eulogy by Mr. Gross be printed in the RECORD.

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

EULOGY OF SENATOR WAYNE MORSE

Wordsworth, speaking of another, described Wayne Morse:

"The monumental pomp of age
Was with this goodly personage;
A stature undepressed in size,
Unbent, which rather seemed to rise
In Victory o'er the weight
Of seventy years, to loftier height."

Wayne Morse died, as he would have chosen, fighting with all his great strength to restore moral leadership to his nation, and rule of law to the world.

Behind him he leaves the only immortality he sought: his great influence on the lives of us who knew him, and to whom he taught so much.

For he was many things: devoted husband, father, grandfather; statesman, moral leader, constitutional lawyer, teacher. But, of these, he was a teacher first, and he often saw fellow Senators as students—who were neither apt nor anxious to learn. Repetition, he often said, is a teacher's best ally.

His teacher's role was best exemplified by the case that history will remember best—his opposition from its inception to the unconstitutional and immoral participation of this nation in the Vietnam war. While others at first found it necessary or convenient to compromise or vacillate, or simply to remain silent, Wayne Morse, with Ernest Gruening, alone resisted.

His loyalty questioned by self-styled patriots, Senator Morse remembered and repeated Carl Schurz' words, with the lines others had forgotten:

"Our country, right or wrong:
When right, to be kept right;
When wrong, to be put right."

Happily, he lived to see not "peace with honor", for there is neither peace nor honor in Vietnam, but at least our disengagement from the war; and he lived to see the nation persuaded of the view that he and Senator Gruening had once maintained alone. Appropriately, his last trip to Washington from Oregon was to eulogize his late, long-time friend and colleague, Ernest Gruening, whose death preceded his own by just three weeks.

Wayne Morse lived his life from beginning to end as a demonstration of those high principles in which he so strongly believed: the unflinching courage of his convictions, uncompromising integrity, determined devotion to duty. The nation will long feel his loss, for who is there to replace him?

His death comes at an historic moment when the Members of Congress, who were his students so often, will be tested to show whether those lessons that Wayne Morse taught, by word and by deed—courage, integrity, duty and a devotion to the Constitution—have been learned. His memory will best be served if Congress can pass that test.

NEED FOR AGENCY FOR CONSUMER ADVOCACY—A TRAGIC ILLUSTRATION

Mr. PERCY. Mr. President, a most moving letter to me from Mr. Elizabeth Greenwold, of Washington, D.C., points up the need for a Consumer Protection Agency—now renamed Agency for Consumer Advocacy.

Mrs. Greenwold describes a July 11, 1974, automobile accident in which her friend, Mrs. Pat Kiley, and Mrs. Kiley's 2-year-old daughter, Jessica, were tragically burned to death. Chris Kiley, Mrs. Kiley's 4-year-old son, who was to begin nursery school in September also suffered severe burns. He remains in critical condition at the Boston Hospital for Burns. Mrs. Greenwold writes:

If he survives, only God knows in what condition.

Possibly the most tragic aspect of this deplorable misfortune is that it might have been prevented by responsible Federal agency action.

The Kiley car was struck from the rear by a vehicle traveling at a relatively low speed. Instantaneously, the fuel tank erupted into flames. The impact force of the crash was not sufficient to have killed and injured members of the Kiley family.

The Department of Transportaton's National Highway Traffic Safety Administration should have taken action to alter the design characteristics of gas tanks and their placement, which appears to have been a prospective cause of this crash. It almost did 4 years ago. Recognizing the inadequacy of then-existing fuel tank flammability standards, NHTSA in August 1970 issued a proposed rulemaking. Under the proposal, rear-end collision tests would have been required by January 1, 1972. I note that Mrs. Kiley's car was struck from the rear in 1974. Also, the rulemaking proposed that standards for permissible leakage of gasoline following a crash be made more stringent.

NHTSA received 34 comments on this proposed rulemaking. Only one comment, a 1½-page letter, from Consumers Union was supportive. By contrast, automobile manufacturers and their trade associations filed thousands of pages of comment strongly opposed to the proposal. Cost of testing and producing sturdier fuel tanks, the stringency of the proposed standards, and an early implementation date were the industry's primary objections.

In the face of this barrage of industry criticism, which constituted virtually all public input into the agency's decision-making process, NHTSA withdrew the proposed standards altogether. To this day there is no requirement for rear-end testing for fuel tank safety.

This example dramatically illustrates the need to redress the balance of representation in the Federal regulatory process. Organized consumer input is essential if regulations truly in the public interest are to be promulgated. I fervently hope that the Senate will act to safeguard against future tragedies of this kind. I strongly recommend expeditious enactment of the Agency for Consumer Advocacy. The health, safety, and economic welfare of 210,000,000 Americans is at stake.

Mrs. Greenwold writes concerning enactment of ACA:

Some may see this bill as a conflict between interest groups or a conflict of abstract ideas. I see it in terms of a specific human tragedy that cuts through the abstract concepts and the political maneuvering to the heart of the issue: when mothers are buried and their children lie in pain on the brink of death, those with the power to help prevent this from happening again must act to do so. If effective consumer representation saves the life of one child, creation of the Consumer Protection Agency will have been worthwhile.

Mr. President, a shortened version of Mrs. Greenwold's letter appears in the July 25, 1974, edition of the Washington Post. I will include the full text of the letter as I received it at the conclusion of my remarks. One portion of the letter edited out in the Post reprint identifies Mrs. Kiley as having been an active participant in public affairs. Among other political involvement, Mrs. Kiley worked for many years for former Senator Jack Miller of Iowa. Senator Miller earned high regard from all his colleagues for his resolute and forward-looking legislative stands. I might add that Senator Miller voted to break the filibuster being waged against the CPA bill in 1972.

Mr. President, I ask unanimous consent that the full text of Mrs. Elizabeth Greenwold's letter to me dated July 17, 1974, be printed in the RECORD.

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

Washington, D.C., July 17, 1974.

EDITOR,
The Washington Post,
Washington, D.C.

DEAR SIR: On Thursday, July 11, Mrs. Pat Kiley and her two-year-old daughter, Jessica, were killed in an automobile accident in New York. Their obituary appeared in the Post on Saturday, July 13. Pat had worked for many years for Senator Jack Miller of Iowa and for the Republican Governors Association, and had been vigorously involved in Republican politics throughout her career. She and her husband, Bob, had many friends in the Washington area. The way she and her little girl died—so needlessly—raises urgent questions of public policy. Ironically, the very day after they were buried, the Senate began debate on a bill that could have helped to save their lives.

Pat and Jessica were killed when their car was struck from the rear by a vehicle traveling at a relatively low speed. Their deaths were not caused by the impact of the collision, which was slight, but by the fire that broke out when their fuel tank erupted in flames. Pat's four-year-old son, Chris, who was to have begun nursery school with my daughter beginning in September, remains in critical condition at the Boston Hospital for Burns. Doctors there say his injuries are among the most severe they have ever seen. He may not survive. If he does, only God knows in what condition.

The National Highway Traffic Safety Administration has authority to regulate automobile safety, including the safety of fuel tanks. In 1968, NHTSA set forth standards and test procedures governing fuel tanks. The test procedures provided only for front-end collision testing, and there was no requirement for rear-end collision tests, in spite of the fact that when such collisions do occur, they pose a more serious hazard of fuel tank fires. Recognizing that their existing standards and testing procedures were inadequate to protect the public, NHTSA in August 1970 issued proposed new standards and testing procedures that would have required rear-end collision testing by January 1, 1972 and toughened the standard for permissible leakage of gasoline after the crash.

When the proposed new standards were published, NHTSA received 34 comments on them. Of these, only one comment, a 1½ page letter from Consumers Union, supported the proposed standards or suggested more stringent ones. By contrast, automobile manufacturers and their trade associations filed a host of comments, totaling nearly a thousand pages, strongly opposing the proposed standards. The companies opposed them on the ground that the testing would be too expensive, the standards too strict, and the implementation date too soon.

In the face of this barrage of industry criticism, which represented nearly all the public input into the agency's process, NHTSA retreated and withdrew the proposed standards altogether. *As a result, to this day there is no requirement for rear-end collision testing for fuel tank safety.* NHTSA currently has under reconsideration a proposal for rear-end collision testing, less stringent than the 1970 standards, that would not go into effect until September 1, 1975.

There is no question that the virtual unanimity of the comments received by the agency in 1970 is responsible for the fact that no rear-end collison standards are currently in effect. It may be that NHTSH's decision in this matter can be justified, but it is a fact that the issue was never really fought out by effective spokesmen for all positions because virtually the only input into NHTSA's decision-making process came from automobile companies.

I do not know whether implementation of the 1970 standards would have kept Pat Kiley's car from bursting into flames. I do know that there is no justifiable reason why such tragedies should occur, and I am appalled that to this day and henceforward until late 1975 no automobile model will be required to undergo a test to show that it can safely withstand a rear-end collision without becoming a flaming death trap.

This terrible tragedy has a direct and immediate bearing on a bill currently pending before the Senate. The bill, S. 707, would establish a Consumer Protection Agency, the primary function of which would be to present arguments on behalf of consumer interests—such as the interest in not having one's car catch fire—to federal agencies such as NHTSA. A Consumer Protection Agency, if it had been in existence in 1970, could have supported the position that rearend collision standards should go into effect promptly and provided an effective counterforce to the unanswered arguments of the automobile industry. Since such arguments were not made, the position of the industry prevailed by default.

It appears to me to be absolutely essential that consumers—who are the real Silent Majority in this country—be able to look to an organization that has the means and the responsibility to provide a reasonable degree of consumer input into the decisions of regulatory agencies. Right now that input just doesn't exist, and it isn't likely to come into existence in the foreseeable future unless an agency like the Consumer Protection Agency is created.

A bipartisan majority of the Senate favors S. 707. However, a determined filibuster is underway, backed by, among others, the major automobile companies, to prevent the Senate from voting on the bill. The real vote on the bill will be the vote on cloture, and that vote will be close. According to all reports, the votes of about a dozen Senators will decide the outcome.

Some may see this bill as a conflict between interest groups or a conflict of abstract ideas. I see it in terms of a specific human tragedy that cuts through the abstract concepts and the political maneuvering to the heart of the issue: when mothers are buried and their children lie in pain on the brink of death, those with the power to help prevent this from happening again must act to do so. If effective consumer representation saves the life of one child, creation of the Consumer Protection Agency will have been worthwhile. And if the tragedy that has already occurred puts the issue before the Senate in this sharp focus, then "these dead shall not have died in vain."

Sincerely,

ELIZABETH S. GREENWOLD.

INFLATION

Mr. CASE. Mr. President, earlier this month, the Senate passed Senate Concurrent Resolution 93, authorizing the Joint Economic Committee to conduct an emergency study of the economy and to recommend legislative remedies to the Congress.

Tuesday, we passed Senate Resolution 363 calling for a domestic summit conference on the economy.

Although each of these resolutions has merit, I believe there is one more highly constructive and necessary step the Senate must take in this area. I believe we must pass Senate Concurrent Resolution 88, introduced by Senators NELSEN, HART, HUMPHREY, and JAVITS, establishing a 20- to 30-member Joint Economic Committee Advisory on the economy.

When I announced my cosponsorship of Senate Concurrent Resolution 88 on June 24, I said:

I think we need to give the Joint Economic Committee the resources to study this situation, to look at this new set of circumstances, and perhaps to devise new approaches to the perplexing problems that are upon us.

The Nation's economic planners last year were unprepared for the effect of foreign demand on domestic prices. The oil embargo and subsequent dramatic rise in fuel prices placed a tremendous strain on the economy. Shortages have cropped up in basic materials; bottlenecks have hamstrung areas of industrial output. The prime rate is up, housing construction is down, and our dollar is losing purchasing power every month. The total rate of inflation is the sum of many parts—years of accumulated pressure for a "growth" economy rather than a stable economy, increasing worldwide affluence accompanied by rising worldwide demand, competition for dwindling supplies, a price-hike wage-hike spiral.

These are new problems, and simply calling for continued tight money or a balanced budget or reduced Federal spending does not address any of them. And both of the resolutions we have already passed simply urge existing institutions to do their jobs. This is not enough. We must be prepared to reach for new ideas, to call on new sources of information, possibly to reappraise much of our old thinking about the causes of and cures for inflation. I urge the Senate to pass Senate Concurrent Resolution 88, to give the Joint Economic Committee—and the Congress—the additional expertise to act affirmatively to slow down inflation and restore a stable economy.

SENATOR WAYNE MORSE

Mr. HUMPHREY. Mr. President, Wayne Lyman Morse was a man of the people and for the people.

He worked tirelessly for them.

He believed in their goodness and decency.

He shared their hopes and fears.

Yes, he fought their battles. He raised his voice so often on their behalf.

Senator Wayne Morse walked that extra mile for his people—the people of his beloved Oregon, the American people.

On Friday, we will lay to rest my dear friend and colleague of so many years and so many struggles—the champion of progressive causes, gifted lawmaker, legal scholar, respected arbitrator, brilliant teacher, harsh critic, dissenter, lover of rural life, champion of human rights, and devoted husband and father. Wayne Morse was certainly all these things. And he was more.

Those of us who were close to him understood the drive, the stamina, the moral, and intellectual strength of this good man.

Wayne Morse had his roots in the rural heartland of our Nation. He was nurtured on turn-of-the century populism. Early on he knew the meaning of hard times. Though his education took him a long way from his father's Wisconsin farm, he never forgot his rural heritage. He never forgot what men like Bob LaFollette, George Norris, and William Jennings Bryan meant to so many

millions of Americans. Throughout his long career of public service, he personified the independence, the courage, the might of these men.

To his everlasting credit, he took midwestern populism and transplanted it in the great Northwest where he and it flourished so well.

Yes, when remembering Wayne Morse, we must speak of his staunch independence.

His trademark was his shameless sense of being beholden to no one political party, to no single group or interest, to no single political figure.

To be sure, Wayne was combative because he was unwilling to yield on his convictions. He was unwilling to compromise on principle. In the political world where all too often lack of conviction gives way to political expediency. Wayne Morse fiercely stood his ground. His friends knew this. His enemies knew it as well.

Wayne Morse's achievements are both of spirit and of substance.

To his life's work, he brought tireless energy and relentless pursuit of his goals. Wayne Morse never gave up.

He never gave up his struggles against policies and people he believed to be wrong or injurious to the strength of the Republic.

He never gave up his commitment for civil rights and economic justice for all Americans whether these battles were waged in Oregon or in the halls of Congress.

He never gave up in his efforts to protect the rights of labor and the needs of the working people.

He never gave up the quest for quality education for the children of America.

He never gave up his belief that America could not be the world's policeman and that our involvement in Vietnam was morally wrong. Yet, he consistently supported our efforts to aid the weak and the needy in the post-war world.

But most important of all, he never abandoned his desire to serve the people of Oregon. Political defeat did not deter him. Setbacks never caused his sure steps to falter.

In the fall of 1971 he expounded on his spirit of determination. He said:

I have always said, I said before I was defeated, that I would never retire, that I was going to continue with my boots on. That happens to be my blood chemistry. I think it is very important that we recognize that you can't, shouldn't in the interest of the public, say that somebody should not continue to serve the people of his state and country simply because he's reached the age that some people retire.

And he was taken from us as he campaigned, as he participated in the process so vital to our democracy.

This Nation of ours was in such desperate need of Wayne Morse. We needed him at a time when so few people seem to have faith in the political process. He could have helped restore that faith because the people believed Wayne Morse.

We needed him at a time of moral decay and wrongdoing in the highest office of the land. Wayne Morse would not have been afraid to condemn those who have betrayed the public trust.

Yes, we needed Wayne for his sense of vision and purpose, for his integrity, for his courage. We needed that old tiger back in the Senate.

I mourn the loss of a good friend. His dear wife Mildred and his children have lost a husband and father. America has lost a man who dared to fight for what he believed was right.

American life and American politics at midcentury were made better by Wayne Morse's ceaseless endeavors on our behalf. His contribution to our lives was only a small measure of what he still intended to give.

NATIONAL DIABETES MELLITUS RESEARCH AND EDUCATION ACT

Mr. SCHWEIKER. Mr. President, I am pleased that the President has signed into law the National Diabetes Mellitus Research and Education Act, which I introduced in the Senate. This act will at long last focus the full attention of public and private research on the fifth leading killer and one of the leading causes of blindness among Americans. Diabetes is also related to heart disease, hypertension, and kidney disease, but until now there has been no coordinated effort to combat it the way we are attempting to fight diseases like cancer and heart disease.

This law sets up a National Commission to formulate a long-range plan to combat diabetes, creates the position of Associate Director for Diabetes within the National Institute of Arthritis, Metabolism and Digestive Diseases, and creates a committee within the National Institutes of Health composed of representatives of each of the Institutes concerned with health problems relating to diabetes.

The enactment of this legislation is the culmination of a long effort to get the government committed to curing diabetes. My original bill, S. 17, was introduced on January 4, 1973. S. 2830, based on my bill, passed the Senate December 20, 1973, and the House passed similar legislation March 19, 1974. Two weeks ago the House passed the conference report by an overwhelming vote of 356 to 4, and the Senate by 94 to 0. I am especially pleased to have authored this legislation which will accelerate and coordinate national efforts against diabetes.

Mr. President, I ask unanimous consent that the text of the final bill, now law, be printed in the RECORD.

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

NATIONAL DIABETES MELLITUS RESEARCH AND EDUCATION ACT

SHORT TITLE

SECTION 1. This Act may be cited as the "National Diabetes Mellitus Research and Education Act".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress makes the following findings:

(1) Diabetes mellitus is a major health problem in the United States which directly affects perhaps as many as ten million Americans and indirectly affects perhaps as many as fifty million Americans who will pass the tendency to develop diabetes mellitus to their children or grandchildren or to both.

(2) Diabetes mellitus is a family of diseases that has an impact on virtually all biological systems of the human body.

(3) Diabetes mellitus is the fifth leading cause of death from disease, and it is the second leading cause of new cases of blindness.

(4) The severity of diabetes mellitus in children and most adolescents is greater than in adults, which in most cases involves greater problems in the management of the disease.

(5) The complications of diabetes mellitus, particularly cardiovascular degeneration, lead to many other serious health problems.

(6) Uncontrolled diabetes mellitus significantly decreases life expectancy.

(7) There is convincing evidence that the known prevalence of diabetes mellitus has increased dramatically in the past decade.

(8) The citizens of the United States should have a full understanding of the nature of the impact of diabetes mellitus.

(9) The attainment of better methods of diagnosis and treatment of diabetes mellitus deserves the highest priority.

(10) The establishment of regional diabetes research and training centers throughout the country is essential for the development of scientific information and appropriate therapies to deal with diabetes mellitus.

(11) In order to provide for the most effective program against diabetes mellitus it is important to mobilize the resources of the National Institutes of Health as well as the public and private organizations capable of the necessary research and public education in the disease.

(b) It is the purpose of this Act to—

(1) expand the authority of the National Institutes of Health to advance the national attack on diabetes mellitus; and

(2) as part of that attack, to establish a long-range plan to—

(A) expand and coordinate the national research effort against diabetes mellitus;

(B) advance activities of patient education, professional education, and public education which will alert the citizens of the United States to the early indications of diabetes mellitus; and

(C) to emphasize the significance of early detection, proper control, and complications which may evolve from the disease.

DIABETES PLAN

SEC. 3. (a) The Director of the National Institutes of Health shall, within sixty days of the date of the enactment of this section, establish a National Commission on Diabetes (hereinafter in this section referred to as the "Commission").

(b) The Commission shall be composed of seventeen members as follows:

(1) The Directors of the seven Institutes referred to in subsection (e).

(2) Six members appointed by the Secretary of Health, Education, and Welfare from scientists or physicians who are not in the employment of the Federal Government and who represent the various specialties and disciplines involving diabetes mellitus and related endocrine and metabolic diseases.

(3) Four members appointed by the Secretary of Health, Education, and Welfare from the general public. At least two of the members appointed pursuant to this paragraph shall be diabetics or parents of diabetics.

The members of the Commission shall select a chairman from among their own number.

(c) The Commission may appoint an executive director and such additional personnel as it determines are necessary for the performance of the Commission's functions.

(d) Members of the Commission who are officers or employees of the Federal Government shall serve as members of the Commission without compensation in addition to that received in their regular public employment. Members of the Commission who are not officers or employees of the Federal Government shall each receive the daily equivalent of the rate in effect for grade GS–18 of the General Schedule for each day (including traveltime) they are engaged in the performance of their duties as members of the Commission. All members of the Commission shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Commission.

(e) The Commission shall formulate a long-range plan to combat diabetes mellitus with specific recommendations for the utilization and organization of national resources for that purpose. Such a plan shall be based on a comprehensive survey investigating the magnitude of diabetes mellitus, its epidemiology, and its economic and social consequences and on an evaluation of available scientific information and the national resources capable of dealing with the problem. The plan shall include a plan for a coordinated research program encompassing programs of the National Institute of Arthritis, Metabolism, and Digestive Diseases, the National Eye Institute, the National Institute of Neurological Diseases, the National Heart and Lung Institute, the National Institute of General Medical Sciences, the National Institute of Child Health and Human Development, and the National Institute of Dental Research, and other Federal and non-Federal programs. The coordinated research program shall provide for—

(1) investigation in the epidemiology, etiology, prevention, and control of diabetes mellitus, including investigation into the social, environmental, behavioral, nutritional, biological, and genetic determinants and influences involved in the epidemiology, etiology, prevention, and control of diabetes mellitus;

(2) studies and research into the basic biological processes and mechanisms involved in the underlying normal and abnormal phenomena associated with diabetes mellitus, including abnormalities of the skin, cardiovascular system, kidneys, eyes, and nervous system, and evaluation of influences of other endocrine hormones on the etiology, treatment, and complications of diabetes mellitus;

(3) research into the development, trial, and evaluation of techniques and drugs used in, and approaches to, the diagnosis, treatment, and prevention of diabetes mellitus;

(4) establishment of programs that will focus and apply scientific and technological efforts involving biological, physical, and engineering science to all facets of diabetes mellitus;

(5) establishment of programs for the conduct and direction of field studies, large-scale testing and evaluation, and demonstration of preventive diagnostic, therapeutic, rehabilitative, and control approaches to diabetes mellitus;

(6) the education and training of scientists, clinicians, educators, and allied health personnel in the fields and specialties requisite to the conduct of programs respecting diabetes mellitus;

(7) a system for the collection, analysis, and dissemination of all data useful in the prevention, diagnosis, and treatment of diabetes mellitus;

(8) appropriate distribution of resources between basic and applied research.

The long-range plan formulated under this subsection shall also include within its scope related endocrine and metabolic diseases and basic biological processes and mechanisms, the better understanding of which is essential to the solution of the problem of diabetes mellitus.

(f) In the development of the long-range plan under subsection (e), attention shall be given to means to assure continued development of knowledge, and dissemination of such knowledge to the public, which would form the basis of future advances in the understanding, treatment, and control of diabetes mellitus.

(g) The Commission may hold such hearings, take such testimony, and sit and act at such time and places as the Commission deems advisable to develop the long-range plan required by subsection (e).

(h) (1) The Commission shall prepare for each of the Institutes whose programs are to be encompassed by the plan for a coordinated diabetes research program described in subsection (e) budget estimates for each Institute's part of such program. The budget estimates shall be prepared for the fiscal year ending June 30, 1976, and for each of the next two fiscal years.

(2) Within five days after the Budget for the fiscal year ending June 30, 1976, and the Budget for each of the next two fiscal years is transmitted by the President to the Congress the Secretary shall transmit to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Labor and Public Welfare of the Senate, and the Committee on Interstate and Foreign Commerce of the House of Representatives an estimate of the amounts requested for each of the Institutes for diabetes research, and a comparison of such amounts with the budget estimates prepared by the Commission under paragraph (1).

(i) (1) The Commission shall publish and transmit directly to the Congress (without prior administrative approval) a final report within nine months after the date funds are first appropriated for the implementation of this section. Such report shall contain the long-range plan required by subsection (e), the budget estimates required by subsection (h), and any recommendations of the Commission for legislation.

(2) The Commission shall cease to exist on the thirtieth day following the date of the submission of its final report pursuant to paragraph (1) of this subsection.

(j) There are authorized to be appropriated to carry out the purposes of this section $1,000,000.

"DIABETES RESEARCH AND TRAINING CENTERS CONTROL PROGRAMS

SEC. 4. Section 317 of the Public Health Service Act is amended—

(1) by striking out "communicable disease control" each place it occurs and inserting in lieu thereof "communicable and other disease control";

(2) by striking out "communicable diseases" in subsection (a) and inserting in lieu thereof "communicable or other diseases";

(3) by striking out "communicable disease program" in subsection (a) and inserting in lieu thereof "communicable or other disease control program";

(4) by striking out "communicable disease" in subsection (b) (2) (C) (i) and inserting in lieu thereof "communicable or other disease";

(5) by striking out "Rh disease," in subsection (h) (1) and by inserting "diabetes mellitus and Rh disease and" before "tuberculosis" in that subsection; and

(6) by striking out "COMMUNICABLE" in the section heading.

RESEARCH AND TRAINING CENTERS; DIABETES COORDINATING COMMITTEE AND GENERAL AUTHORITY

SEC. 5. (a) Part D of title IV of the Public Health Service Act is amended by adding at the end thereof the following new sections:

DIABETES MELLITUS PREVENTION AND

"SEC. 435. (a) Consistent with applicable recommendations of the National Commission on Diabetes, the Secretary shall provide for the development, or substantial expansion, of centers for research and training in diabetes mellitus and related endocrine and metabolic disorders. Each center developed or expanded under this section shall (1) utilize the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such research and training qualifications as may be prescribed by the Secretary; and (2) conduct (A) research in the diagnosis and treatment of diabetes mellitus and related endocrine and metabolic disorders and the complications resulting from such disease or disorders, (B) training programs for physicians and allied health personnel in current methods of diagnosis and treatment of such disease, disorders, and complications, and (C) information programs for physicians and allied health personnel who provide primary care for patients with such disease, disorders, or complications. Insofar as practicable, centers developed or expanded under this section shall be located geographically on the basis of population density throughout the United States and in environments with proven research capabilities.

"(b) The Secretary shall evaluate on an annual basis the activities of centers developed or expanded under this section and shall report to the Congress (on or before June 30 of each year) the results of his evaluation.

"(c) There are authorized to be appropriated to carry out this section $8,000,000 for fiscal year ending June 30, 1975, $12,000,000 for fiscal year ending June 30, 1976, and $20,000,000 for fiscal year ending June 30, 1977.

"DIABETES COORDINATING COMMITTEE

"SEC. 436. For the purpose of—

"(1) better coordination of the total National Institutes of Health research activities relating to diabetes mellitus; and

"(2) coordinating those aspects of all Federal health programs and activities relating to diabetes mellitus to assure the adequacy and technical soundness of such programs and activitis and to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities, the Director of the National Institutes of Health shall establish a Diabetes Mellitus Coordinating Committee. The Committee shall be composed of the Directors (or their designated representatives) of each of the Institute and divisions involved in diabetes-related research and shall include representation from all Federal departments and agencies whose programs involve health functions or responsibilities as determined by the Secretary. The Committee shall be chaired by the Director of the National Institutes of Health (or his designated representative). The Committee shall prepare a report as soon after the end of each fiscal year as possible for the Director of the National Institutes of Health detailing the work of the Committee in carrying out the coordinating activities described in paragraphs (1) and (2).

(b) Section 434 of the Public Health Service Act is amended by adding at the end the following new subsection:

"(d) The Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases, working through the Associate Director for Diabetes (if that position is established), shall (1) carry out programs of support for research and training in the diagnosis, prevention, and treatment of diabetes mellitus and related endocrine and metabolic diseases, and (2) establish programs of evaluation, planning, and dissemination of knowledge related to research

and training in diabetes mellitus and related endocrine and metabolic diseases."

ASSOCIATE DIRECTOR FOR DIABETES

SEC. 6. The Secretary of Health, Education, and Welfare may establish within the National Institute of Arthritis, Metabolism, and Digestive Diseases the position of Associate Director for Diabetes who would report directly to the Director of the Institute and who, under the supervision of the Director of the Institute, would be responsible for programs with regard to diabetes mellitus within the Institute.

TRIBUTE TO YANCEY BROS. CO., OF GEORGIA

Mr. TALMADGE. Mr. President, Dixie Business magazine recently paid tribute to Yancey Bros. Co. of the Atlanta area, the Nation's oldest dealer in Caterpillar tractors.

Yancey Brothers has, since 1914, been supplying Georgia's farmers and agribusinessmen with quality machinery, and over the past 5 years their sales have grown by over 100 percent.

Still a vital part of the Atlanta economy and still growing, Yancey Bros. was written up by Dixie Business editor Hubert Lee. I ask that this article, along with a Rotary Club biography of Goodloe Yancey III, be printed in the RECORD.

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

[From Dixie Business magazine]

YANCEY BROS. CO. CELEBRATES 60TH ANNIVERSARY

(By Hubert Lee)

The signs read "Take Another Look At Yancey . . . 60 Years."

The celebration was that of the nation's oldest Caterpillar dealer's, Yancey Bros. Co., Sixtieth Anniversary Open House at headquarters on I–20 at Six Flags exit, just west of Atlanta.

Chairman of the Board Don A. Yancey and President Goodloe H. Yancey, III were greeting guests at the door as they registered and ladies received lovely corsages.

Over 1500 people saw the first public demonstration of the new small Caterpillar utility machines (Caterpillar D3 Track-Type Tractor, 910 Wheel Loader, 931 Track Loader), toured the Parts and Service product support facilities, and enjoyed a barbecue lunch.

"Yes, Yancey Bros. Co. certainly has come a long way since 1914, when Goodloe and Earle Yancey first merchandised county supplies and machinery," said Don Yancey.

"In those days, Goodloe and Earle traveled to see all their customers, then mainly counties.

"With the advent of the automotion and gasoline buggies, public demand for quality roadways drew the Yanceys to switch from the J.B. Adams mule grader to a mechanized tractor by Holt Manufacturing Company." "Thus with only a picture of a $4,750 tractor, Goodloe Yancey sold every available tractor not going to the U.S. Army, Holt's only customer."

In 1919, Yancey Bros. became the first U.S. dealer of Holt Manufacturing Company, which later merged with Best Tractor Co. to form Caterpillar Tractor Company.

"Yancey Bros. territories then covered Georgia, Alabama, Florida and South Carolina. As sales mushroomed Caterpillar reorganized territories, assigning Yancey Bros. Georgia.

Later, they reassigned 83 counties in North and Central Ga. However the Yanceys continued to set new sales and distributor records."

A 1919 Holt Memo reads, ". . . the most satisfactory distributing connection yet made is that with Yancey Bros. at Atlanta, Georgia.

"They are strikly hustlers and we could not ask for better representatives . . ."

In 1921, Yancy Bros. moved to 634 Whitehall Street, S.W.

Business boomed and building expansion kept pace to meet customer demands.

The depression slowed sales, but Yancey Bros. still looks back on the 30s with a smile.

"Mr. Goodloe (as friends called the founder) was always proud of the fact that not a single employee was laid off; we unplugged the Western Union clock to save $1.25 and reduced telephone service to cut expenses," continued Don.

As the economy strengthened, Yancey Bros. again responded to the needs of their customers, opening sales/product support branches in Augusta, 1947, and Macon, 1957; new headquarter facilities were built at 1540 Morningside Drive, . . . NW in 1951.

However, before long, the most energetic and aggressive Caterpillar dealer had soon outgrown their facilities and moved to their present 22 acre Cobb County headquarters.

The next year, Mr. Goodloe Yancey died, and President Don A. Yancey was elected Chairman of the Board.

Don Yancey carried forth the company insight and equipment leadership with which Yancey Bros. once was instrumental in providing initial organization for the Georgia Association of County Commissioners and the Georgia State Highway Department. His direction led to acquiring the assets of the Baily Co. in Mountain View, with which Yancey Bros. became the Towmotor lift truck dealer.

In 1973, Yancey Bros. again began expansion, breaking ground for a new 9½ acre facility in Augusta and adding 10,000 sq. ft. to their Towmotor products support branch.

President Goodloe H. Yancey, III, elected in January, continues to set new horizons for Yancey Bros. . . . seeing future growth in five areas:

(1) increased general product line market penetration:

(2) Towmotor lift trucks:

(3) engine sales:

(4) the recently introduced hydraulic excavators and

(5) small utility machine lines.

The young President admits to chills in his spine while pondering Yancey Bros. growth of tomorrow.

"Our aggressiveness and innovativeness will be our only limits to future developments," challenges Goodloe.

Under the Yancey spirit. Don and Goodloe now lead an organization of 467 employees, with sales growing over 100% in the past five years.

Both Yanceys are members of the Rotary Club of Atlanta, Georgia Highway Contractors Association, American Road Builders Association, SE Caterpillar Dealers Association.

Goodloe Yancey, III, is past president of the SE Towmotor Dealers Association and the Georgia Equipment Distributors Association.

Don A. Yancey, chairman, began his career with the Yancey Tractor Company in Albany, Ga. in 1935.

After serving in World War II, he resumed his business career in 1946 with Yancey Bros. Co.

In 1948, he was named vice president and in 1958 was elected president.

In January 1974, he was elected chairman.

Goodloe Yancey, III, was elected president in January 1974.

He served as executive vice-president since 1972, as well as general manager.

Goodloe Yancey, III, joined Yancey Bros. Co., in 1954 after graduating from the University of Ga. and serving as First Lieutenant in the U. S. Air Force.

Since 1954 he has held positions in Sales Training, Part Sales, General Line Sales, and served as Sales Promotion Manager, Vice President, and Executive Vice President and General Manager.

In 1972 he attended Harvard University. where he completed the advanced management program.

[From Rotary in Atlanta, Mar. 17, 1969]

GOODLOE H. YANCEY III

ADDITIONAL ACTIVE

(By Chet Covey)

You'll recognize that name for it is the same that has held membership in our club for 34 years, however our earlier Goodloe Jr. is the uncle of Goodloe III. Both are named for Goodloe Harper Yancey, father and grandfather.

Our three prized Yanceys come from an illustrious family of Confederates. The grandfather of Goodloe, Jr. and great-grandfather of Goodloe III was William Lowndes Yancey, from South Carolina, born in 1814. He attended Williams College one year then studied law in Greenville, South Carolina. He was elected to Congress and served until the Union was dissolved. He was a strong proponent of the "Alabama Platform," which advocated permission and protection of slavery in all territories. He walked out of the national Convention in Baltimore when they failed to adopt the resolution, and as early as 1850 openly advocated secession. When the South finally seceded William Lowndes Yancey delivered the address of welcome to Jefferson Davis on his arrival in Montgomery, in which the famous statement "The man and the hour have met" was made. The South needed sympathy and help from abroad so Davis asked Yancey to head a commission to go to Europe for the purpose. Two other members who were following him, J. M. Mason and John Slidell, were removed from the British ship "Trent," but later joined him. By the time Yancey returned home the Federal Government had blockaded the southern coast. Yancey was put ashore near Mobile and set out to walk all the way home to Montgomery. Our beloved Goodloe Jr. has the canteen that he carried on that memorable occasion.

Well, so much for the progenitors of this new member. It might be added that the bulldog tenacity of the family was further demonstrated when Goodloe Jr. and brother Earl set out for the north intent on talking Caterpillar into permitting them to retail their machines. All sales had previously been made direct to the consumer. The brothers failed in their first few interviews, but they refused to go home and after a week came away with a contract and franchise. They were Caterpillars first dealers and remain one of their largest.

Goodloe III was born in Albany. Brother Don is much older, having married when Goodloe was a mere smidgen of 4 or 5. Goodloe finished high school in Albany, then took a year at G.M.C. in Milledgeville. From there he entered Georgia University majoring in Business Administration. He joined the Air Force after graduation, two years state-side. He joined the family business 15 years ago, and is now Vice President.

On a double date he met lovely Delores Ann Taylor, an Agnes Scott student. She happened to be the date of the other fellow, but Goodloe cut in and was persistent. They were married about a year later. Today they are the parents of three boys, Goodloe IV (you guessed it) 10, James 7, and Allen 6. The family attends St. Ann's Episcopal Church.

I am told that this youngster is one of the hardest workers in these parts, but he does

have time for the passion of his Uncle Goodloe, flower cultivation. He does some boating. He hopes soon to build a greenhouse.

The Yancey Company operates businesses in Atlanta, Macon and Augusta. They are now building a very massive installation far out on the north side, having outgrown their present establishment on Northside Drive.

Goodloe, if you can be just as good a man as your wonderful namesake Uncle and your capable and genial brother Don, Rotary will come to be as proud of you as it is them. Welcome.

DANGERS OF EXPORTING NUCLEAR POWER PLANTS

Mr. TUNNEY. Mr. President, the House was to have followed the Senate's lead this week and voted on a bill granting Congress the right to rescind administration proposals to send nuclear technology abroad. Unfortunately, they have been concerned with another matter and a vote is not expected until later in the month.

The measure, which passed the Senate unanimously, gives the American people and the world much needed extra insurance that no nuclear technology agreement will in the future become a passport for the proliferation of nuclear weapons.

The Joint Committee on Atomic Energy in the past has reviewed all proposals for nuclear transfer and, I might add, it has done so very competently. But its powers and Congress as a whole have been limited to study and not action, a situation the current legislation would correct.

Of course, the Congress did not decide to act on this situation without provocation. The President's nuclear proposals in June exacerbated the concerns that many of us have had for a long time.

A statement eloquently addressing these concerns was delivered to two House subcommittees last week by a distinguished expert in the field, Mason Willrich. I would like to recommend that statement and bring it to the attention of my colleagues.

Mr. Willrich is eminently qualified to discuss these nuclear proposals and the nuclear energy situation in general. He is a professor of law at the University of Virginia and has served as a consultant to the Ford Foundation, the RAND Corp., the U.S. Arms Control and Disarmament Agency, the Naval War College, and various private corporations. He is currently chairman of the International Energy Policy Study Group of the American Society of International Law and is a member of the Joint Board of Energy Studies of the National Academy of Science and the National Academy of Engineering. His most recent book, "Nuclear Theft: Risks and Safeguards," was published this year.

In his statement, Mr. Willrich sets forth three nonnegotiable provisions which he feels must be included in any upcoming agreement for nuclear cooperation:

First. Egypt and Irsael must ratify the Nuclear Nonproliferation Treaty.

Second. Egypt and Israel must guarantee that the reactors will be effectively protected against sabotage.

And third. Both countries must agree that the extremely dangerous plutonium produced in their reactors will not be reprocessed, stored, or fabricated on their territories without U.S. consent.

Mr. President, I agree with Mr. Willrich that we must have these three assurances before we should even begin to consider nuclear agreements. He states the case very well and he rebuts convincingly the argument that we should throw caution to the wind and conclude an arrangement now before a country like the Soviet Union beats us to it.

But I go beyond Mr. Willrich. His three provisions are essential but I think the world deserves even more protection. The dangers of these proposals are so great and the benefits so subject to debate that I wonder whether any assurances could ease my fears or soothe my conscience.

Mr. President, the Middle East war is anything but over and regardless of the safeguards that will be imposed or could be imposed, public opinion will justifiably link these agreements with the potential for atomic weapons. It is just too easy, no matter how extensive our precautions, for one of these countries to break the agreement and build a bomb, or for a terrorist group to seize a nuclear plant. The attack and destruction of a plant by conventional weapon or terrorist bomb would ruin a nearby city. According to the Atomic Energy Commission, it would kill an incredible number of people and render an area of thousands of square miles contaminated and uninhabitable for decades. Development of a tactical nuclear weapon in the Middle East would be even more disastrous.

We are preparing to put nuclear reactors in the hottest spot in the world at the same time that we are having trouble even convincing ourselves of their safety here at home. It does not make a great deal of sense and I am afraid that this move may bring us nearer to a horrible war, not closer to a lasting peace.

It is essential that the Congress have the right to annul these agreements and that is why the Joint Committee's bill is and I look forward to its speedy passage in the House.

Mr. President, I ask unanimous consent that Mr. Willrich's statement be printed in the RECORD.

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

STATEMENT OF MASON WILLRICH, BEFORE THE SUBCOMMITTEE ON INTERNATIONAL ORGANIZATIONS AND MOVEMENTS AND ON NEAR EAST AND SOUTH ASIA OF THE HOUSE FOREIGN AFFAIRS COMMITTEE, JULY 18, 1974

Mr. Chairman: The Arab oil embargo and the OPEC oil price explosion during last fall and winter gave fresh impetus to the development of nuclear power in many countries. The Indian nuclear explosion in May was a grim reminder of the close link between civilian and military uses of nuclear energy, notwithstanding the Indian government's declarations of its peaceful intentions. Then in June, President Nixon's offers of nuclear power reactors and fuel to Egypt and Israel was followed closely by the announcement of a Franco-Iranian barter of nuclear reactors for oil. Nuclear power was thus dramatically introduced into the Middle East, a region plagued by periodic outbreaks of conventional warfare and wracked by continuous terrorist violence, and also a region that contains over half of the world's proven oil reserves. In view of these events, U.S. foreign policy related to the development and use of nuclear power merits close review and, where appropriate, modification. I am pleased, therefore, to appear before you and I hope I can assist you in your review.

In this statement I will focus on some specific suggestions concerning, first the implementation of President Nixon's nuclear offers to Egypt and Israel and, second, the development of U.S. foreign policy in the nuclear market in light of the new world energy situation and the evolving nuclear weapon proliferation issue. My emphasis throughout will be on political and institutional concerns.

U.S. NUCLEAR POWER OFFERS TO EGYPT AND ISRAEL

Until the Nixon-Sadat statement in Cairo on June 14, 1974, I believe the prevailing view among knowledgeable persons was that nuclear power would not be introduced into the Middle East until after a political settlement had been reached. In fact, dual purpose nuclear plants to generate electricity and desalt saline water were suggested from time to time over the years as inducements for a settlement. Since the 1956 war, and especially after the 1967 war, numerous official and unofficial studies were made and various proposals were discussed. Nothing came of these efforts, however, because the generally understood prerequisite for implementation—a Middle East political settlement—remained far from achievement.

In this connection, I believe President Nixon's nuclear offers were premature. We all welcome the recent progress toward a more stable situation in the Middle East. Secretary Kissinger in particular has played a crucial catalytic role in the steps that have been taken. At the same time, however, we all recognize that agreements on permanent territorial boundaries and a solution to the problem of the Palestine refugees will be much harder to achieve than were the agreements on separation of military forces. Until the boundary and refugee problems are solved in a manner acceptable to all parties to the conflict, the Middle East situation will remain explosive.

Though premature in my judgment, the nuclear power offers have nevertheless been made. I believe it would be counterproductive if they were now withdrawn. In fact, the Nixon Administration now has an opportunity to implement the offers in a way which will serve the cause of peace and stability in the Middle East (and Congress can, if it will, find legislative avenues for insisting that this be done).

Therefore, I recommend that implementation of the U.S. nuclear power offers to Egypt and Israel should be subject to three special conditions.

First, Egypt and Israel should ratify the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). Egypt has signed the NPT, but not ratified, whereas Israel has neither signed nor ratified. Egypt would clearly welcome Israeli willingness to renounce nuclear weapons. In fact, President Nixon's nuclear power offers precipitated accusations from Cairo and denials from Tel Aviv regarding Israel's present nuclear weapon capabilities. Egyptian and Israeli ratification of the NPT would be a major step toward ensuring that the Middle East remains a nuclear weapon free zone. If, on the other hand, the U.S. offers are implemented without NPT ratification, the ambiguity of Israel's existing nuclear program and future plans will continue to cloud the political-military atmosphere. Israeli use of the plutonium produced over the years in the Dimona reactor is an especially troublesome issue that requires

clarification. Faced with a situation of continual ambiguity, Egypt might well feel compelled to establish its own nuclear research and plutonium production capabiltiy free of safeguards against nuclear weapon acquisition. Egypt could, of course, do this without necessarily violating safeguards contained in a bilateral agreement with the United States covering nuclear power assistance. However, the technical expertise developed with assistance from the U.S. would be an invaluable asset in a future Egyptian military program.

The requirement of Egyptian and Israeli ratification of the NPT would also put the U.S. nuclear power deals in the Middle East on the same footing as the French deal with Iran. Iran is already a party to the NPT, and it has been reported that the French government's nuclear reactor swap for oil rests on an understanding that Iran will continue to adhere to its Treaty obligations. Moreover, a requirement of NPT adherence would support Iran's July 12 initiative requesting the United Nations General Assembly to consider the "establishment of a nuclear-free zone in the region of the Middle East." Indeed, absence of such a U.S. requirement could appear to undercut Iran's welcome foreign policy move.

Second, the Egyptian and Israeli governments should guarantee that the power reactors will be effectively protected against sabotage. Appropriate arrangements should be made for the U.S. government to monitor the implementation of this guarantee. Without effective safeguards against sabotage, the nuclear power plants would provide tempting targets for terrorist attacks. If successful, a terrorist attack against an operating nuclear power reactor could result not only in the destruction of a facility worth hundreds of millions of dollars, but also in the dispersal of radioactive debris over a large area. Such widespread radioactive contamination would constitute a serious health hazard and necessitate a costly cleanup. In this respect, we should also recognize that a nuclear power reactor might become a tempting target in a future large-scale war in the Middle East. Given Israel's experience with Arab terrorism, the U.S. might in fact learn a great deal from the Israelis about how to protect nuclear power reactors against sabotage—a problem that the U.S. AEC and electric utility industry have only recently begun to deal with.

Third, both Egypt and Israel should agree that plutonium produced in their respective power reactors will not be reprocessed, stored or fabricated in facilities on their respective territories without the consent of the U.S. Government. Moreover, it should be the declared U.S. policy not to consider giving its consent until a comprehensive political settlement in the Middle East had been agreed and implemented. The U.S. government should obtain special access rights as necessary in order to verify that these conditions are being observed. The risks of theft of plutonium by a terrorist group appear higher in the Middle East than elsewhere. Thus, the U.S. government's nuclear power offers should be implemented only in a way that will not result in the presence of significant amounts of plutonium in Egypt or Israel in a concentrated form that could be used directly in nuclear explosives.

If the three conditions I have outlined are included, then I believe the benefits of implementing the Nixon Administration's nuclear power offers to Egypt and Israel will outweigh the risks. Indeed, I think agreement by Egypt and Israel to implement the offers on these conditions would signify the determination of their governments to move toward the creation of a political climate in the Middle East compatible with nuclear power development. On the other hand, implementation of the U.S. nuclear power offers without such conditions would increase the risk of nuclear violence in the Middle East. Hence these requirements should be non-negotiable.

More broadly, we must ask how U.S. actions appear to countries outside that region. If we do not now insist on NPT ratification, other countries may well interpret our actions, in the wake of the Indian nuclear explosion, as signifying a retreat from the NPT. Our present eagerness to make bilateral nuclear power deals with Egypt and Israel also seems inconsistent with Secretary Kissinger's eloquent pleas, in February at the Washington Energy Conference and again in April at the U.N. General Assembly's special session on raw materials, for a multilateral approach to the world energy situation.

I would also like to note that, if implemented, the nuclear power deals with Egypt and Israel would both be subsidized by U.S. taxpayers. It is my understanding that the reactor and fuel sales are likely to be financed either through the Export-Import Bank or the U.S. foreign aid program, in either case at favorable interest rates. Furthermore, the uranium fuel enrichment services to be provided will preempt enrichment plant capacity that could otherwise be used to meet future requirements of U.S. electric utilities or of long standing foreign customers at costs which are lower than the costs of enrichment services at plants to be built in the future. Thus, we are preferring Egypt and Israel to our own electric power industry, and to a number of other countries which years ago launched nuclear power programs based on U.S. technology, partly in reliance on U.S. assurances of the continued availability of low cost uranium enrichment.

Finally, the Nixon Administration has argued that if the U.S. did not make these offers, then some other country would offer to provide nuclear power reactors without reasonable safeguards against diversion. This argument is reminiscent of the justification for U.S. sales of military equipment which all too often seem to fuel both sides in local arms races in politically unstable regions of the world. Which countries, if any, were actually competing with the U.S. in this matter and the nature of the offers pending remain unclear to me. Without full disclosure of the facts, it is impossible to separate fact from fantasy. However, if it ever becomes generally understood that U.S. foreign policy regarding nuclear power assistance is responsive to such competitive pressures, it would then be impossible to develop an orderly world nuclear market. If nuclear reactors are used as bargaining chips in the game of power politics, the economic benefits of nuclear energy will never be fully realized and the security of the world community will be substantially diminished.

WORLDWIDE NUCLEAR POWER CONTEXT

The dynamics of nuclear power development on a global scale are determined largely by the technical and economic characteristics of the nuclear fuel cycle, the duality of nuclear fission, and the structure of the world political system.

The use of nuclear fission to generate electric power involves a complex series of interrelated steps known as the nuclear fuel cycle. The power reactors currently in commercial use are based on the uranium-plutonium fuel cycle. One type of reactor, known as the light water reactor (LWR), uses low-enriched uranium as fuel and ordinary water as moderator. Another type, the heavy water reactor (HWR), uses natural uranium as fuel and D_2O as moderator. A type of power reactor based on the thorium-uranium-233 fuel cycle and using high-enriched uranium as fuel initially, the high temperature gas reactor (HTGR), is likely to receive widespread commercial use, starting in the near future. The uranium-plutonium fuel cycle for the LWR, the reactor type developed in the U.S., involves uranium exploration, mining and milling, enrichment, fuel fabrication, irradiation in a power reactor, chemical reprocessing, recycling produced plutonium and depleted uranium, and disposal of radioactive waste. For the HWR, the enrichment step is omitted, but a heavy water manufacturing plant is required.

The duality of nuclear energy derives from the fact that the steps in the nuclear power fuel cycle are substantially the same as those required to produce fissionable materials for nuclear explosives. In fact, the use of nuclear power inevitably involves the processing, production, and use as fuel of very large amounts of certain materials that could be used in nuclear explosives. For example, the Atomic Energy Commission estimates that by 1980 the U.S. electric power industry alone will be producing plutonium at a rate of more than 26,000 kilograms annually, and the rate worldwide will, of course, be much higher. Beyond 1980 the annual plutonium output from nuclear power programs throughout the world will increase rapidly to hundreds of thousands of kilograms and eventually reach millions of kilograms, assuming nuclear power forecasts are fulfilled. Yet five kilograms, or less, of plutonium is enough for a bomb capable of destroying a medium-sized city. Even a small natural uranium fueled research reactor, such as the Cirus reactor in Trombay, India, or the Dimona reactor in Israel, produces enough plutonium every year for about one nuclear explosive equivalent to the device detonated by the Indian government on May 18, 1974.

Finally, we live in a world in which political power is decentralized, and in which the ingredients of wealth and political power are very unevenly distributed. The primary political units are nation-states, which are territorially defined, and the main actors are national governments. International organizations play more or less important roles, depending on the national policies and capabilities of their member states. Similarly, multinational corporations enjoy more or less autonomy, depending on the policies and capabilities of the national governments of the territories in which they operate.

It must also be recognized that national governments are never of one mind and their policies result from the interplay of contending political factions. Moreover, depending on their particular circumstances, national governments are able to exert varying degrees of influence over the course of events in the world at large, and also varying degrees of control over their economic and social development as a nation. In short, the world political system is not only decentralized, but vulnerable and potentially unstable.

The distribution of nuclear resources and capabilities throughout the world is a special case of the wide disparities among nations in every respect. A large number of nations have small research reactors. For the most part, these reactors use relatively small amounts of high-enriched uranium as fuel and produce insignificant quantities of plutonium. Two important exceptions, previously mentioned, are the natural uranium fueled "research" reactors in India and Israel. Fifteen nations now have nuclear power reactors, which produce large amounts of plutonium, and that number is expected to increase to about thirty by 1980 (see chart 1 attached). It is important to understand, however, that most nations with power reactors are, and for some years at least will continue to be, dependent to some extent on other countries for raw materials or nuclear fuel cycle services.

The vast bulk of the world's proven low cost uranium reserves are concentrated in a relatively few countries—the United States,

Soviet Union, Canada, France, South Africa, Australia, Gabon and Niger. Hence, the most economical deposits of uranium for nuclear power so far discovered are concentrated in fewer countries than in the case of oil. A larger number of countries have small reserves of low cost uranium and some, such as Sweden, have very large reserves of higher cost uranium. Nevertheless, a number of industrially advanced countries with large nuclear power programs such as Great Britain, the Federal Republic of Germany, Italy and Japan will be dependent on foreign countries for uranium, as they are now for oil.

With respect to uranium enrichment, until quite recently, the U.S. was in a monopoly position with its very large gaseous diffusion capacity originally constructed to produce high-enriched uranium for nuclear weapons. The smaller diffusion plants in Great Britain and France could not compete with the U.S. AEC's price for enrichment. However, under a tripartite agreement, Great Britain, the Federal Republic of Germany and the Netherlands are now aggressively pursuing the development and commercial demonstration of the gas centrifuge process for uranium enrichment; France is playing the leading role in a project to construct a large gaseous diffusion plant in Europe under multinational ownership, and South Africa is reportedly developing its own enrichment capability, possibly based on the jet nozzle process. Meanwhile, the Soviet Union is offering uranium enrichment services at prices reportedly five percent lower than the U.S. price and on more flexible commercial terms, though Soviet policy has been, if anything, more cautious than the U.S. with regard to safeguards arrangements.

It is noteworthy that a gaseous diffusion plant involves very complicated technology, must have a very large capacity to be economical, and requires a large amount of electric power to operate. On the other hand, gas centrifugation, though also very complex technologically, can be used in smaller plants and the process requires substantially less electricity per unit of separative work output. It is also noteworthy that the use of laser techniques to separate uranium isotopes is under intensive scientific investigation in a number of countries, including Israel.

Commercial fuel fabrication facilities and chemical reprocessing facilities are presently concentrated in a few countries. An economically efficient size for a fuel fabrication or reprocessing plant is one that serves a relatively large operable nuclear power capacity of at least 10,000 megawatts. Thus, there is a strong economic argument against the construction of nuclear fuel cycle facilities—enrichment, fuel fabrication or chemical reprocessing—in any country until it has a large nuclear power capacity. Nevertheless, several nations have already constructed pilot or demonstration facilities, and this trend will probably be difficult to curb in the future.

MOTIVES FOR NATIONAL NUCLEAR POWER PROGRAMS

Given these realities of the world context, there are a variety of motives for national governments to establish nuclear power programs. These include: low-cost electric power; increased energy security; creation of a nuclear weapon option; and prestige.

The economic case for nuclear power has been strengthened and expanded by the fourfold increase in world oil prices in 1973. Nuclear power reactors in the 1,000 megawatt range, the most efficient size given economies of scale, now appear to have a large competitive edge over fossil-fueled alternatives. Thus, a compelling economic case for nuclear power can be made in industrially advanced countries with relatively large electric power grids. Moreover, nuclear power reactors in smaller, less efficient sizes appear also to be competitive with oil-fired electric power generation at current world oil prices. The high oil price thus provides an economic rationale for nuclear power in a much larger number of countries with smaller electric power grids. Given the desperate financial circumstances of many countries in the wake of the oil price explosion, however, relatively few may be able to exercise the nuclear option in the near future without a substantial subsidy. This is, of course, especially true in less developed countries.

Nuclear power can offer increased security of energy supply basically in two ways. First, nuclear fuel can be substituted for oil for electric power generation, thereby diminishing a country's dependence on the world oil market that has, for the near term at least, been effectively cartelized by OPEC. Second, nuclear power can be exploited in a way that will lead to the eventual development of a maximum degree of national nuclear self-sufficiency. It is difficult to stockpile more than a few months of current requirements of oil. A handful of pellets of nuclear fuel are, however, equivalent to 85 tons of coal or 15,000 gallons of fuel oil.

Because the energy contained in a given volume of nuclear fuel is so concentrated, it is physically quite possible to stockpile several years worth of nuclear fuel in advance of need. Moreover, if successfully developed, breeder reactors, which produce more fuel than they consume as they generate electric power, would substantially reduce the amount of raw materials—uranium or thorium—required to sustain a growing nuclear power capacity. However, in most national circumstances for the foreseeable future, nuclear self-sufficiency could be achieved only if industry in the country involved were able to acquire and operate sophisticated fuel cycle technologies and if the government were willing to pay a very large economic penalty.

Nuclear power can result in a nuclear weapon option in a large number of ways. The basic requirement is the availability in the country concerned of plutonium or high-enriched uranium. In earlier testimony in these hearings, Theodore B. Taylor pointed out several technical paths and I will not, therefore, cover the same ground. However, I do wish to make a few additional points.

The spread of nuclear power has already dramatically changed the way in which nuclear weapon proliferation in the world must be perceived. The first five nations to acquire nuclear weapons—the U.S., the U.S.S.R., Great Britain, France and China—established major military programs motivated primarily by national security and prestige considerations. Indeed, most of the civilian nuclear power technology generally available today is an extrapolation from technology developed earlier for essentially national security purposes. The sixth nation to explode a nuclear device—India—is the first to do so using plutonium diverted from a reactor constructed ostensibly for "peaceful purposes." India is in this respect the first of a potentially long list of countries that may in the future acquire nuclear explosive capabilities as relatively cheap "spin offs" from their civilian nuclear power programs.

It is also important to understand that the pursuit of self-sufficiency in a nuclear power program leads inevitably to the creation of a nuclear weapon option, and at the same time nuclear self-sufficiency reduces external political constraints which might prevent a government from exercising that option. Thus, one nation's pursuit of nuclear energy self-sufficiency may well appear provocative to another.

Finally, a nation may believe that its prestige—domestically, internationally, or in both respects—will be enhanced if it embarks on a nuclear power program. From its inception the development and use of nuclear power has been afflicted by prestige considerations. The U.S. Atoms for Peace decision in 1953 was based on overly optimistic economic assumptions, but it nevertheless stimulated demand in many developing countries for research reactors and nuclear training grants. It also paved the way for a technological race between the United States, Soviet Union, Great Britain, France, and Canada, for a commercial nuclear power reactor, a race in which each of the participants appeared motivated largely by considerations of national prestige and international political aspirations. Today prestige factors continue to enter overtly into government decisions concerning the pace of breeder reactor development programs.

In this connection, it is indeed regrettable that the U.S. nuclear power offers to Egypt and Israel apparently rest primarily on grounds other than economic.

THE RISK OF GOVERNMENTAL NUCLEAR WEAPON PROLIFERATION: THE IAEA AND THE NPT

(See chart 2 attached.)

Of course, governments make up their own minds—and change them from time to time—about the nuclear weapon proliferation issue. We start with the fact that the U.S. and Soviet Union, locked in a nuclear arms race that has thus far proved quite uncontrollable, continue to be the major proliferators of nuclear weapons in the world. With the example of the two superpowers before them, and the necessity of existence in a world in which organized violence is frequently used to deal with conflicts of national interest, it is perhaps remarkable that so far in the nuclear age only four other countries have overtly acquired a nuclear explosives capability. However, the essential fissionable ingredients for explosives are only now for the first time becoming readily available in a large number of countries. In the future, how slowly or rapidly the number of governments armed with nuclear weapons increases will depend less on technical and economic considerations and more on how governments perceive their own particular political, security and prestige interests.

Though the possibilities for governmental nuclear weapon proliferation are likely to increase dramatically as nuclear power industries are developed on nationalistic lines, the capacity of international organizations or treaty arrangements to slow, if not halt, proliferation may also increase by giving national governments incentives and means to pursue common security interests in a broader multilateral framework. As the SALT I agreements are modest steps by the U.S. and Soviet Union toward limiting their nuclear arms race in particular, so the NPT and IAEA safeguards constitute initial steps in a long term effort to restrain nuclear arms competition in general. Both types of nonproliferation effort—vertical and horizontal—rest ultimately on self-restraint, given the weakness of the political capacities of international institutions. Both types of effort have also been outpaced so far by technological development and deployment.

The International Atomic Energy Agency (IAEA) was established in 1957 as an outgrowth of President Eisenhower's Atoms for Peace proposals. After a slow start, it is now an international organization, headquartered in Vienna, with a global membership of over 100 countries, including parties and nonparties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). The IAEA has a two-fold mission: to promote the peaceful uses of nuclear energy; and to ensure that nuclear assistance intended for civilian purposes is not diverted to military programs. To verify that diversion has not occurred, the IAEA has developed a materials accountancy system. Internationally administered materials accountancy cannot prevent a nation from diverting materials.

Neither the IAEA itself, nor any other United Nations organ, contains a security force capable of action to prevent a national government from diversion.

Moreover, the uncertainties in an accounting system applied to large nuclear material flows results in a detection threshold which is quite high compared with the small quantities of materials that could be strategically significant, and possibly a detection time that is quite long in relation to the time it takes to fabricate nuclear explosives with diverted materials. Finally, if a government decides to divert nuclear materials from a civilian to a military program, it is unlikely that it would structure the diversion action in such a way that the IAEA inspection process would ever yield clear-cut evidence of a violation. More likely, the government would use tactics which would delay or frustrate the operation of the IAEA inspectorate, and confuse or obfuscate the matter as it was considered by the member governments on the IAEA Board of Governors and elsewhere.

IAEA material accountancy safeguards do, however, have an important role to play in connection with efforts to prevent or slow the spread of nuclear weapons. They enable a nation with a nuclear power program to offer as much evidence as practical, without interrupting commercial operations, of the exclusively civilian nature of its activities. The nation can do so by fully subscribing to and cooperating with the IAEA safeguards system. Moreover, a nation can offer its evidence to an impartial international agency for verification to the world community, rather than having to satisfy a hostile and suspicious neighbor on a bilateral basis. In recognition of the basic quality of nuclear energy, IAEA safeguards can thus help those nations who wish to do so to develop and use nuclear power in a less ambiguous and potentially threatening way than would otherwise be possible. Of course, national governments change and their policies change, so that a nuclear power program in one country will always appear somewhat ambiguous to the governments of other countries.

The Treaty on the Non-Proliferation of Nuclear Weapons (NPT), though intended to erect a legal barrier against nuclear proliferation throughout the world, has suffered from the fact that its principal authors were the two nuclear superpowers—the U.S. and the U.S.S.R. The Treaty was the product of almost five years of intricate negotiations following agreement on the Limited Nuclear Test Ban Treaty in 1963. It was primarily developed during the Johnson Administration and ratified by the Nixon Administration. It rests on the premise that fewer is better with respect to the number of nations possessing nuclear weapons or explosives.

The NPT requires a non-nuclear-weapon party to formally renounce its right to manufacture or acquire nuclear weapons or explosive devices, and it also requires such parties to accept the application of IAEA safeguards on all their civilian nuclear activities. Every party—nuclear-weapon and non-nuclear-weapon alike—may export nuclear materials and equipment for peaceful purposes to non-nuclear-weapon countries only if the importing country accepts IAEA safeguards with respect to that particular transaction. This restriction applies to exports to non-parties as well as to NPT parties.

Of course, every government makes up its own mind about the NPT framework for multilateral management of the nuclear weapon proliferation issue. Neither the U.S. alone, nor the U.S. and U.S.S.R. together, nor any likely combination of states, can coerce others to adhere. Thus, it is something of an accomplishment that 83 nations are now full-fledged parties to the NPT. There are also 23 signatories and a number of these have large nuclear power industries or programs planned. Two signatories, the Federal Republic of Germany and Japan, will play key roles in determining the NPT's future development or demise. Among the countries which have thus far spurned the NPT entirely are three nations which have conducted nuclear explosions—France, China and India; four with substantial nuclear power programs or ambitions—Spain, South Africa, Argentina and Brazil; and one which is technically very sophisticated—Israel.

At this time, it is unclear what effect the Indian nuclear explosion (and any further nuclear explosions the Indian government may carry out in the meantime) will have on the willingness of signatories or holdouts to adhere fully to the Treaty and on the general incentives and disincentives for for nuclear weapon acquisition. Though the overall trend may appear discouraging, I believe it would be a mistake to conclude at this juncture that the Indian nuclear explosion has wrecked the NPT and the IAEA safeguards developed especially for it. India remains as far today as it was prior to May 18 from solving any genuine security problem with nuclear weapons, or from using nuclear explosives in commercial applications. The Indian explosion, thus interpreted, could serve to alert other nations to the futility of developing nuclear explosives for prestige. In any event, India's action coupled with the acceleration of national nuclear power programs in the wake of the OPEC oil price explosion have created a sense of urgency about nuclear proliferation. The NPT review conference now scheduled to be held in May 1975 provides a convenient date and forum for tackling the major challenges that civilian nuclear technology poses.

THE RISK OF NUCLEAR THEFT: NATIONAL SAFEGUARDS INTERNATIONALLY COORDINATED

The flows through nuclear power industries of very large quantities of materials that could be used to make nuclear explosives poses a two-fold challenge to governments. Not only must they develop international institutions and arrangements to ensure that the use of nuclear power by one nation does not threaten or appear to threaten another nation's security, they must also ensure that none of the nuclear weapon materials involved in their electric power industries are stolen. National governments and the societies they try to govern have, over the centuries, lived with a relatively high level of criminal and terrorist activity. Even persons in positions of governmental responsibility sometimes turn out to be criminals and yesterday's feared terrorists too often become tomorrow's respected governmental leaders.

With the widespread use of nuclear power, governments have a grave new responsibility. They must provide their citizens with effective assurance that not even a few kilograms of the tens of thousands, hundreds of thousands, and eventually millions of kilograms of plutonium in their nuclear power industries fall into the hands of criminal or terrorist groups. Otherwise, nuclear blackmail and acts of nuclear violence could become much too commonplace. This is a challenge that all governments share jointly.

The U.S. AEC has recently strengthened its safeguards against nuclear theft applicable to the U.S. nuclear power industry. However, much more needs to be done in this regard before the American people are reasonably safe in this regard. More discouraging, however, is the fact that almost no serious discussion of this problem has occurred at the international level, though there have been a few preliminary technical efforts. Nevertheless, the risk of nuclear theft affects us all since plutonium or high-enriched uranium from the U.S. nuclear power industry could be used in a terrorist attack in some other country and material stolen in another country could be used to hold hostage a city in America. The time our political leaders have to deal with the problem is rapidly running out, and leadership in this area is so far lacking.

U.S. FOREIGN NUCLEAR POLICY: RECOMMENDATIONS

In light of the present energy situation and related nuclear proliferation situation, I recommend the U.S. government consider adopting the following course of action with respect to its nuclear export policy, the NPT, and safeguards against nuclear theft.

First, the U.S. government would announce that, as an interim measure pending completion of the NPT review conference in May 1975, it would not enter into new umbrella agreements for nuclear cooperation or specific contracts for the export of nuclear materials or equipment to any country not a party to the NPT. Existing contractual commitments would be honored, however.

Second, prior to the review conference, the U.S. government would consult with NPT parties and also with NPT signatories who have started their ratification processes with a view to developing a series of nuclear export/import policy options. These options would then be considered within the IAEA initially and at the NPT review conference. The U.S. would seek in this way to negotiate on a multi-lateral basis a set of policies for the conduct of international nuclear commerce. Such international policies would be negotiated and implemented on a multilateral basis, involving both exporters and importers of nuclear materials and technology and using existing international organizations and treaty mechanisms.

If it develops that one effect of the Indian nuclear explosion has been to delay completion of the NPT ratification process in a number of key non-nuclear-weapon Treaty signatories with large nuclear power industries, consideration should nevertheless be given to inviting these signatories to attend the NPT review conference with the right to participate in the conference debate. This would encourage NPT signatories to participate fully in the formulation of policies for the future conduct of international nuclear commerce, without discouraging them from completing their respective ratification processes.

I believe the U.S. government should seek to develop with other governments specific policies in the following areas affecting the future development of a worldwide nuclear power industry:

First, circumstances in national nuclear power postures that may appear to another nation to threaten its security interests. These circumstances, depending on a nation's overall nuclear posture, might include: stockpiles of plutonium or high-enriched uranium under exclusively national control; facilities for uranium isotope enrichment, plutonium chemical separation or plutonium fuel fabrication under exclusively national control, especially in countries with small nuclear power capacities; and nuclear reactors or fuel cycle facilities under national control and not subject to IAEA safeguard requirements. Presumably, manufacture or detonation of a nuclear explosive device for whatever ostensible reason would be a circumstance that could appear to other nations as a threat to their security interests.

Second, rules specifying unfair competition among sellers in the world nuclear market. Unfair competitive practices might include sales of nuclear materials or equipment that would tend to create circumstances threatening to other nations. One example of such a transaction might be a sale to a country of a few hundred ultracentrifuges—enough for a small uranium enrichment plant but not enough for a commercial plant. It is interesting that the seller's profit in such a small transaction would be minimal and, therefore on both sides the transaction would rest on primarily political grounds.

Another example of possible unfair competition would be cartelization of the world uranium market or cartelization of the world uranium enrichment capacity. In the future, the industrially advanced countries of Western Europe and Japan will look to a relatively few countries for the vast bulk of their uranium supplies—Canada, South Africa, Australia, Gabon and Niger. Moreover, despite the diminution of U.S. control over the enrichment market that is anticipated, in the decades ahead there may still be only a few sources of commercial enrichment services—the United States, the Soviet Union, the British-Dutch-West German tripartite entity and the French led Eurodif entity. Though the possibility of an effective cartel emerging in any sector of the world nuclear market may seem remote at present, the same possibility with respect to crude oil seemed just as remote a decade ago when there was a glut on the world oil market and OPEC was formed.

In any event, the unfair competitive practices specified would be designed to facilitate the development of a world nuclear market on a sound economic basis, including obtaining the full benefits of economies of scale inherent in fuel cycle operations, and to minimize the occurrence of international nuclear transactions for noncommercial reasons.

Third, IAEA safeguards applicable to nuclear power industries and to international nuclear transactions in order to provide assurance against the risks of governmental diversion. Internationally administered safeguards would build on the existing IAEA and NPT global system, including the relationship between that system and respective national and Euratom and Latin American regional systems. One major issue would be the costs and benefits of materials accountancy as a verification measure when large nuclear material flows are involved and the possible development of additional or alternative approaches to ensure, as nuclear power industries grow, the continued efficacy of the system.

A second major issue would be whether NPT parties should create a double standard in their international nuclear transactions: one applicable to transactions among Treaty parties; and a second more restrictive safeguards standard or set of requirements for transactions between an NPT party and a non-party. It is sometimes suggested that the application of IAEA safeguards to all civilian nuclear facilities in a non-nuclear-weapon country would be simpler than the application of such safeguards only to nuclear materials and equipment that were imported. And, from this premise, it is argued that the increased simplicity of international safeguards administration would itself be a substantial inducement for countries to adhere to the NPT. I doubt this inducement will be sufficient. If the NPT parties were to develop a double standard, however, care should be taken that all dealings with NPT parties were still kept on a commercial basis. Adherence to the NPT should not entitle any nation to demand nuclear assistance on uneconomic terms.

Fourth, nationally administered and internationally coordinated safeguards to ensure against theft from nuclear power industries of materials that could be used to make nuclear explosives. Regardless of their attitudes toward the NPT and its international safeguards requirements, all governments have a common interest in safeguards against nuclear theft from their own nuclear power industries and also from the industries of other countries. The application of effective safeguards against nuclear theft is an extremely sensitive police function and, accordingly, it is a responsibility of national governments primarily. Indeed, any effective delegation of police power in this regard from a national to an international authority would imply revolutionary consequences for the world political system.

Nevertheless, international coordination is necessary since a nuclear theft in one nation could well have security ramifications for a number of others, and since, if a black market in nuclear materials develops in the future it is likely to have international dimensions. Such international coordination could perhaps be achieved through the IAEA. Indeed, as material flows build up in nuclear power industries in a large number of nations, it may well develop that the requirements for safeguards against governmental diversion and complementary measures to prevent theft will increasingly overlap.

CONCLUSION

In conclusion, I believe that the U.S. policy regarding exports of nuclear materials and technology should have three central aims:

First, the U.S. should seek the worldwide development and use of nuclear power on a sound economic basis. Regardless of the conduct of other countries, the U.S. government should avoid the use of nuclear power reactors as political bargaining chips in the Middle East or elsewhere in the world.

Second, the U.S. government should seek to prevent acts of nuclear violence using materials obtained from nuclear power industries. In view of the acceleration of nuclear power development in a number of countries in the wake of the OPEC oil price increases and in view of the Indian nuclear explosion, the U.S. government, in cooperation with other governments favorably inclined, now has an opportunity to convert the NPT review conference in May 1975 from a sterile debate into a forum for decision. Indeed, it may well be our last such opportunity. Moreover, in view of the forecast rapid buildup in nuclear material flows throughout the world, effective safeguards against theft must be developed and implemented in all countries with large nuclear power industries. Otherwise, terrorists may well be armed with nuclear explosives in the future.

Third, the U.S. government should seek to develop the capacity of international institutions for effective decisionmaking regarding nuclear power policy in particular and world energy policy in general. The gap between U.S. rhetoric urging multilateral cooperation to deal with the world energy situation and U.S. action in concluding special bilateral nuclear deals is apparent for all to see. Yet in the nuclear era, it is clear from an economic viewpoint, and even more from a security viewpoint, that the interests of all nations are becoming increasingly interwoven into an interdependent world.

CHART 1.—FOREIGN NUCLEAR POWER, BY COUNTRY

Country	Number of power-plants	Installed capacity (MW(e))	Number of power-plants	Installed capacity (MW(e))
Japan	5	1,756	41	31,636
West Germany	7	2,082	22	14,995
United Kingdom	28	5,335	43	14,479
USSR	10	2,457	23	11,997
Sweden	1	440	13	10,060
France	6	2,481	12	7,281
South Africa			8	6,898
Canada	5	1,974	9	5,482
Switzerland	3	1,006	6	3,406
Taiwan			4	2,808
Korea			4	2,328
Italy	3	597	5	2,163
East Germany	1	70	5	1,830
Czechoslovakia			4	1,760
Belgium			3	1,650
India	3	600	8	1,610
Argentina			3	1,518
Finland			3	1,480
Mexico			2	1,200
Netherlands	1	55	3	1,105
Spain	3	1,100	3	1,100
Romania			2	880
Bulgaria			2	880
Austria			1	700
Brazil			1	626
Yugoslavia			1	600
Thailand			1	500
Philippines			1	420
Pakistan	1	125	1	325
Other (not yet announced)				28,000
Total	67	20,078	231	161,000

Note: 1974 to early 1980's.

CHART. 2.—*NPT/IAEA Status*

NPT Parties: 83

NPT/IAEA safeguards agreements in force or negotiated: 43.

No safeguardable nuclear material on their territories: 33.

Nuclear-weapon states: 3.

Middle East parties: Iran, Iraq, Syria, and Tunisia.

NPT Signatories: 23

No safeguardable nuclear material: 9.

Substantial nuclear power programs: Japan, Federal Republic of Germany, Italy, Belgium, Netherlands, and Switzerland.

Middle East signatories: Egypt, Libya, Kuwait, and Yemen.

NPT Non-Signatories: 39

No safeguardable nuclear material: 26.

Nuclear power programs: Argentina, Brazil, India, Israel, Pakistan, South Africa, and Spain.

Nuclear-weapon states: 2, China and France.

Nuclear explosives tested: 1, India.

Middle East non-signatories: Algeria, Bahrain, Israel, Oman, Qatar, Saudi Arabia, and United Arab Emirates.

PRIVACY SURVEY INDICATES WIDESPREAD PUBLIC SUPPORT FOR LEGISLATION

Mr. PERCY. Mr. President, on July 18, Louis Harris reported the results of his nationwide survey on the uses and abuses of personal information. Mr. Harris concludes that—

Fundamentally, people are in rather deep revolt against having their names and telephone numbers, given for one purpose, exploited for others. . . . What people resent is vital information about themselves being passed on without their express permission or being used in a way they are unaware of.

Mr. President, I hope that my colleagues in the Senate will join me in recognizing the strength of Mr. Harris' conclusion.

The Harris findings corroborate a growing conviction in Congress and throughout America: The right of privacy is fast becoming a vanishing legacy. The American people are awakening to the realization that there is virtually no item of deservedly confidential personal data that cannot be found out by the snooping credit investigator, insurance detective, or Government intelligence agent. An impressive 75 percent of Americans favor congressional action to safeguard their right of privacy.

Senator ERVIN, Senator MUSKIE and I have introduced S. 3418 to establish these needed safeguards. S. 3418 would, among other thiings, extend to every American the right to review and correct

inaccurate or outdated information held in files about him. The fact that 82 percent of the Harris poll respondents strongly favor such a right is a clear indication of public support for this legislative effort. Because the Harris poll is important evidence of public sentiment about the right of personal privacy, Mr. President, I ask unanimous consent that it be printed in the RECORD.

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

MAJORITY FAVORS LEGISLATION ON CREDIT INFORMATION

(By Louis Harris)

The American people are so apprehensive about the use credit bureaus make of information on private individuals that by a lopsided majority of 75–14 percent they favor legislation which "would spell out what kinds of personal information credit companies can collect and hold in their files."

The growing practice of selling lists of names, addresses, and telephone numbers also meets with stiff consumer objections these days.

Sizable majorities are ready to spell out the ground rules they would like to see followed in legislation dealing with credit checks:

By 82–13 percent, Americans agree with the statement that "an individual should be given the opportunity to review and correct inaccurate information on his credit record." Many persons complained during the survey that they feel they have been rated a poor credit risk with no chance to correct such a charge.

By 78–16 percent, they also agree that legislation should make credit bureaus "notify an individual when an unfavorable report has been made about him, and tell that individual the name of the agency making that report."

By 76–17 percent, they want a law which would "prohibit credit information from being given to non-creditors, such as the government, without the permission of the person involved." People reason that since the information is about themselves, they should have the right to control who has access to it.

By 74–17 percent, they think legislation should contain "procedures for removing information from an individual's credit file." Many feel that once a bad credit rating has been entered, even if an individual becomes a good credit risk, there is no way to expunge the negative information from the record.

By 71–22 percent, they endorse the general proposition that as a matter of law "credit bureaus should establish effective procedures to protect the privacy of individuals on whom they have collected information."

A majority of 69 percent, however, say they do not feel that their personal right to privacy has been violated by credit bureaus. Nevertheless, a substantial 28 percent feel they have been victims of either misleading, damaging, or incorrect information stored in a credit bureau's files. By 48–43 percent, a plurality go along with the statement that they "begin losing their privacy the day they open their first charge account, take out a loan, buy something on the installment plan, or apply for a credit card."

The credit bureau business has burgeoned in recent years and the consensus of the average citizen is that most of them "do more harm than good," particularly those that service retail outlets.

Basically what people resent is vital information about themselves being passed or without their express permission or used in a way they are unaware of. Public attitudes toward the traffic in mailing lists and selling over the telephone are also negative.

Recently a nationwide cross section of 1,512 households was asked:

"Many people have been seriously concerned that their names and phone numbers are passed on from various sources without their permission. For each of the following actions, tell me if you personally would find it a serious violation, a minor violation, or no violation at all as far as your personal privacy is concerned? (Read list.)"

VIOLATION OF PERSONAL PRIVACY

[In percent]

	Serious	Minor	No	Not sure
Business organizations selling lists of their clients' names to other organizations	60	29	7	4
A real estate agent who gets your name from a credit bureau and phones you, trying to sell you land	54	33	10	3
Random digit dialing of telephones which allows research companies to get people on the phone who are not even listed in a phone directory	53	30	12	5
Motor vehicle registration bureaus providing lists of names to research companies	48	29	15	8
People using addresses from a phone directory to send you junk mail—that is, nonrequested mail which tries to sell you a product or service	47	33	17	3
People using phone numbers from a phone directory for the purpose of selling a product or service	40	37	20	3

Fundamentally, people are in rather deep revolt against having their names and telephone numbers, given for one purpose, being exploited for others, such as further information gathering and solicitation for products and services. This activity has also burgeoned in recent times.

The commercial use of information on private individuals obviously is disturbing the American people and is fast becoming a major sphere for consumerism in America today.

THE MILITARY PROCUREMENT AUTHORIZATION BILL

Mr. STENNIS. Mr. President, I am happy to report to the Senate that the conference committee has agreed on a conference version of the annual military procurement authorization bill (H.R. 14592). A formal conference report was filed yesterday in the House.

I want the Senate to know that this was a tough conference. We began our meetings on June 20 and held 15 sessions on 10 meeting days—sessions in which conferees from both the Senate and House argued strongly for the positions of their respective Houses.

No one is ever wholly pleased with the results of a Senate-House conference, but I believe the conference has come up with a good bill under the circumstances. Before outlining some of the features of the conference agreement I would like to talk briefly about some of the circumstances which arose in this conference.

CONFERENCE CONSIDERATIONS

In the first place Senators should understand that House conferees are subject to a tight rule of germaneness.

Amendments are not in order, for bills pending in the House, which do not relate to the purpose of the pending bill.

In the past this conference difficulty has been eased somewhat by waivers requested by the House conferees from the House Rules Committee on this point. This year, however, the House Armed Services Committee determined before the conference began that conferees would not request any such waivers.

I ask unanimous consent that I may have printed at the end of my remarks in the RECORD a letter from the chairman of the House Armed Services Committee, who was conference chairman, on this point of germaneness.

I also ask unanimous consent that I may have printed at that point in the RECORD a list of Senate amendments which were not adopted in conference. It will be apparent from this list that several Senate amendments were ruled out on this point of germaneness.

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

(See exhibit 1.)

Mr. STENNIS. Beyond that, Mr. President, I would like to note that there were 21 amendments added to this bill on the Senate floor after our committee had made its amendments. Senate conferees backed all these amendments to the hilt, and, under the circumstances, I think we did quite well in support of Senate positions. Ten of the twenty-one Senate floor amendments were approved in some form, despite the germaneness problem, and our committee language amendments were incorporated to some degree.

Senators should understand, however, that each difference must be resolved and that a large number of wide-ranging Senate amendments complicate conference deliberations even if the amendments are germane. House conferees are often able to concentrate on a smaller number of goals in a clear and definite priority, while Senate conferees seek to represent each Senate position faithfully.

MONEY ITEMS

In dollars and cents, I believe we did very well in conference. The $22.159 billion conference version is $340.1 million more than the $21.8 billion Senate bill, and $483.6 million less than the $22.6 billion House bill.

In round numbers, the compromise total for procurement, $13.258 billion, compares with about $12.9 billion in the Senate bill, and $13.6 billion for the House version.

In research and development the compromise total, $8.901 billion, compares with $8.952 in the Senate bill and $9.0 billion in the House bill.

MANPOWER ITEMS

NATO

In the field of manpower, I am glad to say that Senate conferees fought successfully for the Senate-approved NATO concept requiring reductions in support troops in Europe and permitting corresponding increases in combat troops.

Under the conference provision, a reduction of 18,000 troops from noncombatant military components in Europe will be required within 2 years—6,000 of them by next June 30 with correspond-

ing combat increases permitted. The Secretary of Defense will apportion the cuts among the Services at his discretion.

ACTIVE DUTY

With respect to the strengths of the active military services at the end of fiscal year 1975, the Senate approved a total of 2,103,100 in round numbers and the House approved about 2,149,300.

This was one of the extensively debated, sharply contested points of the conference. It became clear, however, that House conferees would not approve meaningful reductions in active duty end strengths this year. The conference finally agreed on the cut of 2,800 positions in the Air Force as voted by the House.

In that connection, I can further report that, during the conference, Secretary Schlesinger informed the conferees that he has already cut support manpower 7,000 spaces below the budget request and will make more reductions beyond that figure. The Secretary plans to convert manpower saved by support cuts into combat strength. These conversions are to be effected worldwide, not only in Europe as required in the conference NATO provision.

The Senate Armed Services Committee plans to watch these projected support reductions very carefully.

CIVILIAN MANPOWER

I want to remind the Senate the civilian employment by service components is addressed this year for the first time in this bill. The Senate bill recommended specific reductions totaling 44,600 from the 1,027,327 recommended by the Defense Department. The House bill cut the total by 15,000 with the Secretary of Defense authorized to apportion the reductions among the services.

The conferees, I am glad to say, approved an overall cut of 32,327 from the recommended total. The Secretary will allocate the reductions, and, under a provision approved by the conference, he will be empowered to exceed the civilian manpower ceilings by one-half of 1 percent—about 5,000 positions—in emergency situations if he reports the circumstances to the two Armed Services Committees.

VIETNAM

As Senators know, this military procurement authorization bill has authorized funds for the Indochina war over the years, in a program called military assistance service funded (MASF).

Now that program has narrowed down to military aid for South Vietnam.

This year, for fiscal 1975, the Senate reduced the $1.6 billion requested for that military aid for Vietnam to $900 million. and included language requiring better accounting and a separate appropriation for these funds. The House bill set the total at $1.126 billion—the total approved for MASF in the 1974 fiscal year.

Conferees approved a total of $1 billion and the language tightening up on administration of the funds.

HARDWARE PROGRAMS AND AMENDMENTS

Mr. President, I have distributed a news release detailing the major actions in procurement and R. & D. and also the action on some of the important language differences between the two bills.

Rather than go into detail on each of these points I propose to insert the news release into the RECORD. With these explanatory remarks, and the materials previously discussed, I believe the Senate will be well informed on the conference actions.

I ask unanimous consent that this news release on the bill be printed in the RECORD at this point along with the items I have described.

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

Senate and House conferees have agreed on a $22.159 billion compromise version of the annual Military Procurement Authorization Bill for Fiscal 1975, Senator John C. Stennis, Chairman of Senate conferees, announced today.

The compromise was $340.1 million more than the $21.8 billion measure voted by the Senate. It was $483.6 million less than the $22.6 billion bill approved by the House.

The conferees set the total for military aid to South Vietnam at $1 billion for the fiscal year beginning July 1.

The compromise, in summary:

[In billions of dollars]

	Administration request	House bill	Senate bill	Conference report
Procurement	13.8	13.6	12.9	13.258
R.D.T. & E	9.325	9.0	8.952	[1] 8.901
Total	23.1	22.6	21.8	22.159

[1] Plus $35,700,000 to be obtained from reimbursement for foreign sales.

For Vietnam.—The aid program previously known as Military Assistance Service Funded (MASF)—the Defense Department had requested $1.6 billion for the 1975 fiscal year. The House voted $1.126 billion, the same total approved by Congress, for the current year, and the Senate reduced the total to $900 million.

In approving the $1 billion authorization, the conferees also approved Senate language which sets up a separate appropriation for these funds and requires that obligations be approved by the Secretary of Defense.

MANPOWER

NATO

The conferees approved new language which would require a reduction of 18,000 troops from U.S. non-combatant military components in Europe within two years—6,000 of them by June 30, 1975—and authorize a corresponding increase in combat components. The Secretary of Defense would have discretion to apportion these adjustments among the services.

The Senate had approved a reduction of 20 percent (about 23,000) from headquarters and other non-combatant U.S. Army personnel in Europe over two years—with half to be completed this year—and with authorization for corresponding increases in combat forces. The House bill contained no such provision.

Also approved by the conferees was an amended Senate-approved provision freezing the number of tactical nuclear weapons in Euope for one year while the NATO role of tactical nuclear weapons is studied by the Secretary of Defense.

Active duty manpower

With respect to active duty military manpower at the end of fiscal 1975, the Senate had voted two percent cuts in strength of each of the services, for a total reduction of 49,000 from the 2,152,000 recommended by the Defense Department. The House had recommended a cut of 2,800 positions in the Air Force.

The conferees, after extensive discussion, accepted the House reduction.

Civilian manpower

In the area of civilian employment in components of the Defense Department, the conferees recommended a cut of 32,327 from the 1,027,327 year end strength requested by the Department. The Senate had recommended a four percent reduction specified by service, to total 44,600. The House voted a 15,000 position cut in the force proposed by the end of fiscal 1975, with the reductions to be apportioned by the Secretary of Defense. The conferees agreed to let the Secretary apportion the 32,000 reduction among the services.

The conferees also approved a modified House amendment which would let the Department temporarily exceed the civilian manpower ceiling by one-half of one percent—about 5,000 positions—to meet emergency needs if the Secretary of Defense reported on the circumstances to the Armed Services Committees.

Reserve manpower

For military reserves, the conferees agreed on the following totals:

	House bill	Senate bill	Conference report
Army:			
Guard	408,000	390,000	400,000
Reserve	225,000	220,000	225,000
Navy Reserve	117,000	110,000	117,000
Marine Reserve	36,000	36,703	36,703
Air Force:			
Guard	95,000	93,412	95,000
Reserve	51,319	51,319	51,319
Total, DOD	934,319	901,434	925,022
Coast Guard	11,700	11,700	11,700

MAJOR WEAPONS IN DISPUTE

B–1 Bomber—The Senate bill reduced the $499 million request for development of the B–1 by $44 million, to $455 million, limiting the approved program for Fiscal 1975 to three prototype aircraft to permit flight testing and technical progress before further Congressional action. The House approved the full request which included starting a fourth prototype aircraft in Fiscal 1975.

The conferees voted $455 million, with language which would defer the fourth aircraft until after the first has been successfully flight-tested. At that time reprogramming within available B–1 funds could be requested to begin the fourth prototype.

Site Defense—The Senate had reduced to $110 million the Defense Department's $160 million request for R&D on Site Defense, the follow-on ABM program. The House voted $150 million for Site Defense.

Conferees voted $123 million in authorizations for Site Defense technology.

New nuclear missile-firing submarine—The Administration requested $16 million to begin development of a smaller ballistic missile submarine to complement the projected Trident force. The Senate bill deleted this authorization on grounds that approval this year would be premature. The House approved the full authorization.

The conferees deleted the $16 million in authorizations for development of this new submarine now.

Pershing II—The Senate bill rejected the request for $11.2 million in R&D authorizations for Pershing II, a tactical missile which would carry a nuclear warhead. The House approved the $11.2 million.

The Conference Committee approved $5 million in authorizations for Pershing II.

AWACS—The Senate approved the procurement of 12 E–3A AWACS radar warning

airplanes at a cost of $549.8 million, and added a restriction in the bill which provides the funds are available *only* for the AWACS program. The House approved six of the planes and a total program of $292.1 million.

The conferees approved six planes, long lead time procurement for the other six, and provided for a one-a-month delivery schedule which will protect the present contract. The conferees approved a $405.1 million program for Fiscal 1975.

A–10/A–7 Close Air Support—The Senate voted $192.7 million to be used for A–10 aircraft or A–7D aircraft depending on which won the fly-off then in progress between the two. Also approved was a procurement authorization for 4 additional A–10s transferred from R&D funding. An additional R&D authorization of $81.4 million was approved for use if the A–10 won the fly-off competition. The House voted a $173.8 million program for the A–10 and separately voted $100.1 million for 24 A–7Ds for the Air National Guard.

The conferees approved $192.7 million for the A–10 plus the $81.4 million R&D authorization and also included $104.9 million for the 24 A–7Ds plus certain spare parts.

F–14—The Senate reduced the 50 aircraft, $639.3 million F–14 request, by $22 million, to $617.3 million because of lower costs attributable to sales to Iran. The House had voted the full request.

The conferees approved the $617.3 million program.

Shipbuilding—The Senate approved a $2.856 billion total for the Navy's shipbuilding and conversion authorization deleting one of three proposed nuclear attack submarines (—$167.5 million); completion of the first Sea Control ship (—$142.9 million); four of seven proposed patrol frigates (—$250.5 million); and a destroyer tender (—$116.7 million). The House approved a $3.539 billion shipbuilding total including all those vessels.

The conferees approved a $3.156 billion shipbuilding and conversion authorization, restoring the submarine and the destroyer tender, but eliminating four of the frigates and reducing authorizations for the Sea Control ship (—$126.9 million) to $16 million.

Airlift—Conferees approved the $31 million procurement authorization voted by the Senate (but not the House) for stretching out the C–141 to increase cargo space. The Department had requested $50 million.

The conferees deleted the $25 million voted by the House (not the Senate) to begin a prototype program for modifying commercial jumbo-jetliners so that they could be used for airlift in an emergency. The DoD had requested $132.9 million for the program.

Acting on language provisions of the differing bills, the conferees also:

Approved a redrafted version of a Senate-approved amendment designed to *prohibit research with poison gases and other chemicals on dogs* for weapons research. Language in the report will state that the provision is not to inhibit research aimed at preserving human life.

Approved a Senate amendment barring, for fiscal 1975, *tests of Minuteman missiles* from operational silos in the northwest United States.

Combined provisions, separately approved by the House and Senate, into a new provision which will require 91 flying units in the Air National Guard in Fiscal Year 1975 and states the policy of Congress that the components of the *reserve*, rather than increases in active duty forces, should be tapped to increase the ratio of airlift crews to *airlift* planes.

Redrafted *"Nuclear Navy" language*, included in the House bill, to require that the Navy utilize nuclear power plants for future major combatant vessels—submarines, carriers, cruisers, frigates and destroyers—unless the President reported that this would not be in the national interest.

Dropped a Senate-approved amendment limiting the number of *enlisted aides* assigned to flag officers in the military services to 218. Substitute language will require the Defense Department to report within 90 days on 1) the military commands which require assistance of the type provided by enlisted aides; and 2) alternative methods by which such assistance might be provided. After the report is received one or both Armed Services Committees, will hold hearings on the matter.

Modified a Senate-approved amendment requiring statutory authorization for selling or otherwise *disposing of naval vessels*, larger than 2,000 tons or less than 20 years old, to another nation. Other vessel disposals would require 30 days notice to the Congressional Armed Services Committees.

Dropped a Senate-approved restriction on *domestic activities of the Central Intelligence Agency* on grounds that the proposal was not germane to the procurement bill under rules of the House.

Dropped a Senate-approved provision for *recomputation of certain military retired pay* on grounds that it was not germane under House rules.

Redrafted a Senate-approved amendment designed to assure careful *review of certain exports of goods, technology and industrial techniques* to Warsaw Pact nations and such other nations as the Secretary of Defense may determine. The conference provision would require the Secretary of Defense to make recommendations to the President on licensing such exports. If the President overrules a negative recommendation by the Secretary, Congress could deny the export by passing a concurrent resolution within sixty days.

Dropped a Senate-approved amendment requiring specific congressional authorization for transfer of *stockpiled defense materials* to any Asian nation.

Approved a redrafted Senate provision requiring the Navy to negotiate with Puerto Rican authorities for an alternate site for *weapons training* now conducted *on the Island of Culebra*. The report will note that, while the bill was in conference, the Department announced that weapons training would end by July 1, 1975, on Culebra and by December 31, 1975, on the adjoining keys.

EXHIBIT 1

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., July 8, 1974.

HON. JOHN C. STENNIS,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with your request, I will attempt to outline in summary form the general problem confronting the House conference on H.R. 14592 on the substance of certain Senate amendments which, under the Rules of the House of Representatives are considered non-germane.

The authority of the Managers on the Part of the House at a conference is, generally speaking, limited by two considerations. The first limitation relates to the scope of the matter to be considered by the conferees. The conferees on the part of the House are limited to the differences between the House and Senate versions of the bill, and they are precluded therefore from accepting any matter which would have the effect of broadening the scope of the matter in disagreement.

The second limitation is concerned with germaneness. The Managers on the Part of the House must, as a matter of principle, oppose any matter which would be in violation of the provision of Clause 7 of Rule XVI. That Rule states that "no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment." Stated another way, the fundamental purpose of an amendment must be directly related to the fundamental purpose of the bill. Therefore, if the House conferees accept an amendment which is non-germane, such matter, in accordance with Clauses 4 and 5 of the Rule XXVIII, and Clause 7 of Rule XVI, is automatically subject to a point of order on the question of germaneness. Therefore, under Clause 4 of Rule XXVIII, a separate vote may be demanded on any such Senate amendment and if the Senate amendment is rejected the conference agreement as a whole is considered rejected.

Although it would appear that accepting a meritorious and popular non-germane amendment would ordinarily receive House approval, such a practice raises grievous hazards because it gives opponents of the conference agreement, for whatever reason, several chances to defeat the conference report.

The rule of germaneness in the House is a matter of long standing and was established to facilitate the orderly processing of legislative business. It prohibits the consideration of legislative propositions or amendments which are not "germane" to the fundamental purpose of the bill under consideration. Thus, even those amendments that may be related to the subject matter of the bill might be ruled non-germane if they are not directed to the basic purpose of the legislation. For example, in a bill proposing to sell two battleships and build a new battleship with the proceeds, a proposed amendment to direct the proceeds of the sale of the battleships to the building of new roads was ruled to be non-germane.

Similarly, in a proposition to relieve destitute citizens of the United States in Cuba, an amendment declaring a state of war in Cuba would be non-germane.

The fundamental purpose of H.R. 14592 is to fulfill the statutory requirements of Section 138 of Title 10, United States Code, i.e., to provide annual authorization for appropriations for the Armed Forces. Therefore, any amendments not specifically directed to this general purpose of the legislation as expressed by the text of the House bill either in scope or germaneness is, under the Rules of the House, subject to a point of order.

As I had indicated earlier, though the Managers on the Part of the House may in some instances be persuaded as to the merits of a non-germane amendment, the likelihood of such an amendment receiving House approval is, at best, unpredictable. The reason for probable unfavorable House action stems from a variety of circumstances not the least being the traditional objection of House members to the acceptance of non-germane amendments to a legislative proposition. Obviously, the acceptance of non-germane matter, in almost every instance, automatically establishes a precedent for ignoring established House procedures and tradition and encourages the addition of extraneous matter to House-passed bills. Thus, this type of precedent frustrates the legislative process of the House by by-passing established Committee jurisdiction, avoiding public hearings and precluding the House members from amending propositions on the matter. In short, acceptance of non-germane amendments by House conferees would seriously erode the traditional legislative process of the House and contribute to, in the view of many House members, legislative chaos.

These are the circumstances therefore which require my fellow House conferees and me to reject non-germane matter in H.R. 14592.

The House/Senate conference on H.R. 14592 has been a very challenging, interesting, and rewarding experience. I am sure that I speak for all of my conferees when I observe that

the conference has proceeded in a true sense of compromise and achievement. Therefore, it is with great reluctance that my conferees and I are forced by the circumstances outlined above to oppose the acceptance of any non-germane matter in the Senate amendment to H.R. 14592. I would further like to take this opportunity to point out that this policy on rejection of non-germane Senate amendments will continue in the future.

I trust this will be helpful to you in understanding my position on this matter.

With best wishes and warmest personal regard.

Sincerely,

F. EDW. HÉBERT, *Chairman.*

SENATE AMENDMENTS AND COMMITTEE AMENDMENTS DROPPED

(H.R. 14592)

Amendment added by the Senate:

Title—Section, Sponsor, Amendment, and Reason Senate Receded:

VI–602, Javits, ROTC, The House insisted—colleges which unilaterally withdrew from ROTC should not receive military funds.

VII–703, Proxmire, CIA—restrict domestic activities. Non-germane—House has agreed to introduce comparable legislation.

VII–706, Biden, Prohibit all DoD Economic pump-priming. Non-germane.

VII–708, Hughes, Continuation pay to medical corps officers in initial residency training. Non-germane.

VII–710, Bayh, Use all forms of media in recruiting advertising. House insisted amendment unnecessary.

VII–712, Kennedy, Stockpiling for allies. House insisted amendment complex and deserving of further studying.

VII–714, Metzenbaum, Formal advertising required on contracts for medical supplies. Non-germane.

VII–715, Fong, Study to find island other than Kahoolawe for target practice. House insisted Kahoolawe essential for target practice.

VII–717, Metzenbaum, Require reports on competitive bidding. Non-germane.

VII–719, McGovern, Congressional awards for POWs. Non-germane; House will support bill.

VIII, Hartke, Recomputation. Non-germane.

Amendments added by committee.

The Conferees accepted all amendments added by the Senate committee.

CANADIAN OPPOSITION TO TRANS-CANADA GAS PIPELINE

Mr. STEVENS. Mr. President, in the continuing debate between proponents of a trans-Alaska versus a trans-Canada route for the first pipeline to carry Alaskan natural gas to market, little has been said of the feelings of Canadians toward the Arctic Gas Co. proposal.

In a recent conference in Ottawa, several strong Canadian-oriented arguments against the present trans-Canada gas line proposal were voiced. Major points of opposition were that Canadian manufacturing and engineering capacity would be overtaxed by the massive project, leaving the major portion of the work in the hands of American firms; that Canada would need for its own use most of the Mackenzie Delta gas and would have little excess for export to the United States; that acceleration of development of Canada's northern gas is of itself not necessarily advantageous to Canada; and that resolution of Canada's still unsettled native land claims could greatly slow the project.

The Federal Power Commission is now considering the gas line route issue. The final decision, however, is likely to come from Congress.

Mr. President, I strongly urge that the FPC—and, when the time comes, Congress—take a long, hard look at the objections brought up in the Ottawa conference.

For this Government to be lulled into believing that whichever route we finally approve will sail through on that basis alone would be a tragic mistake. That kind of naive decisionmaking could lead us to a delay even longer and more costly than that associated with the trans-Alaska oil pipeline.

This subject is dealt with in a recent editorial published in the Fairbanks Daily News-Miner. This editorial suggests that the FPC should not even consider the trans-Canada proposal a viable alternative until the serious problems within Canada have been overcome.

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

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

CANADIANS SEE SOME FAULTS WITH TRANS-CANADA GAS LINE

Americans, particularly Alaskans, have been receiving the hard sell on the benefits which would come from the construction of a trans-Canada natural gas pipeline as opposed to a plan for a trans-Alaska line.

Canadians have also received the selling points, but not everyone is buying them. Some strong arguments against the construction of a trans-Canada line by Canadian Arctic Gas Study Ltd. came up at a recent conference in Ottawa sponsored by Canadian Arctic Resources Committee.

The overriding theme at the conference seemed to be in a difference on selling points. Canadians, apparently, are being sold the pipeline idea because of its ability to provide them with gas from the Mackenzie Delta. Americans are also being told that the line through Canada will provide us with gas from the delta reserves. Some at the conference took the stand for "Canadian gas for Canadians."

The major points brought out in opposition to the pipeline plans of Canadian Arctic Gas Study Ltd. (the Canadian version of Alaska Arctic Gas Co. in our state) included:

Canadian contractors and manufacturers are too small to gear up quickly for the construction and machinery and material for the pipeline would be built in American plants;

Engineering management would be dominated by Americans because only Americans can deal with a project of that size;

Canada needs most, if not all, of the gas the pipeline could bring south during the next decade just to avoid a substantial increase in Canadian energy costs, leaving no excess reserves for use in the U.S.;

Acceleration of the delta development to coincide with Prudhoe Bay is of no economic advantage to Canada unless it is a great deal cheaper than the proposed trans-Alaska plan;

Native land claims settlements are still up in the air in Canada and development could be greatly slowed, thus pushing up costs, just as happened in the case of the trans-Alaska crude oil pipeline.

Alaskans have been under a barrage of "selling" propaganda by officials of both the trans-Canadian proposal (Arctic Gas) and the trans-Alaska proposal (El Paso Natural Gas Co.) for about one year.

However, in almost all of the discussion which has taken place little reference has been made to the Canadian attitude toward the pipeline.

Instead it has been deliberated at will from the standpoint that whichever route is approved by the Federal Power Commission will automatically be built.

Not so, as the points above show. Not included in that list is the opposition which is sure to come from environmentalists as the trans-Canada line covers five times the virgin territory the trans-Alaska oil line does. We all know that the latter project was held up 4½ years because of environmental objections.

With the many unknowns on the Canadian side of the line it seems almost unnecessary for us to continue to debate the issue.

The FPC would be wise to adopt a position of having all of the hurdles within Canada cleared before even considering that routing.

The trans-Alaska proposal would have the gas line pretty much following the route of the oil pipeline, and those hurdles have already been cleared.

When, and only when, all of the Canadian obstacles are out of the way should the FPC make any kind of decision on which of the plans—the two prominent ones or any others—should be approved for a transportation system of natural gas from the North Slope.

ETHIOPIA CELEBRATES NATIONAL DAY

Mr. HARTKE. Mr. President, the oldest independent nation on the African continent, Ethiopia, celebrated its National Day yesterday. Out of respect for their beloved leader, Emperor Haile Selassie, the citizens decreed that July 23, Selassie's birthday, be declared the National Day.

Born on July 23, 1892, Haile Selassie has been Emperor of Ethiopia since 1930 and has governed his country for over 50 years, the world's longest reigning monarch. He has been internationally renowned since his famous speech at the League of Nations in 1936 when he pleaded for assistance in the face of an Italian invasion of his country. The League failed to respond to his request and Ethiopia was occupied by the Italians for 5 years.

The Emperor's abilities have enabled him to institute reforms to bring Ethiopia out of her international isolation and economic underdevelopment. He has established hospitals, abolished slavery, and encouraged agricultural development. He gave Ethiopia its first written constitution and also founded its parliament.

A leader in the formation of the Organization of African Unity, Haile Selassie has been called the "Father of African Unity." Because of his stature he has helped mediate several intra-African disputes. He has also been a strong proponent of mutual security and supporter of the peace-keeping actions of the United Nations.

A long standing, close friend of the United States, Haile Selassie has visited this country many times. A major U.S. communications facility, Kagnew Station, has been located in Ethiopia since the 1940's. Kagnew is being phased down as the new communications facility on Diego Garcia in the Indian Ocean becomes operational.

Recent months have been a difficult

but challenging period for Ethiopia. A very serious drought caused thousands of deaths and much suffering. Historical social and economic problems led to the downfall of former Prime Minister Aklilu's government and the military has assumed a larger role in the country's affairs. It is noteworthy, however, that the military has pledged its allegiance to the Emperor.

Emperor Haile Selassie has agreed to the recent political changes which have occurred in Ethiopia. While no one can predict the outcome with certainty, it now appears that these changes may usher in a new period of social progress and economic development.

I wish to extend my best wishes to the Emperor and people of Ethiopia on the occasion of Haile Selassie's 82d birthday, as well as my hope that the country will be able to find a solution to its current problems and emerge from them stronger than ever.

SUPPORT FOR 55-MILES PER HOUR SPEED LIMIT GROWS

Mr. PERCY. Mr. President, although our country is still faced with the very real possibility of fuel shortages, we have in recent months been fortunate in having adequate fuel supplies available. Our return to a near normal fuel situation would not have been possible were it not for the continued cooperation of individuals and State and local governments with Federal efforts to reduce fuel consumption and to distribute equitably those supplies that have been available.

On June 12, I wrote to the Governors of the 50 States commending their policies and programs of fuel conservation and urging their continued dedication to making energy conservation a habit of American life. In addition, I solicited the Governors' comments on S. 3556, a bill I introduced with Senators RANDOLPH, STAFFORD, and WEICKER to extend indefinitely the 55-miles per hour speed limit on the Nation's highways.

I have now received responses from 27 Governors. I am pleased to report that most of them share my conviction that the reduced speed limit is helping us save some 73 million barrels of fuel a year and is to a great extent responsible for the dramatic decline in traffic fatalities and disabling injuries we have witnessed since the 55-miles per hour speed limit went into effect. Most of the Governors are therefore enthusiastic in their endorsement of S. 3556, and several others support the general goals of that legislation.

In addition, Claude Brinegar, the Secretary of the Department of Transportation, recently endorsed the extension of the 55-miles per hour speed limit in a letter to the Senate Public Works Committee. Secretary Brinegar clearly outlines the reasons behind his endorsement of my proposed legislation, and I ask that excerpts from his letter to the committee be included in the RECORD.

I would also like to share with my colleagues the correspondence I have received from the Governors and I ask that their letters be printed at this point as well.

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

BRINEGAR

The temporary speed reduction was originally established to aid the national effort to conserve energy. The implementation of the Emergency Highway Energy Conservation Act has since shown that there is a separate substantial benefit flowing from the reduction, that is, the saving of thousands of lives. The reduced fatality tolls first appeared in the States that voluntarily reduced their speed limits late last year. The 16 States with reduced speed limits had a 15 to 20 percent reduction in fatalities in November 1973 as compared to November 1972, while the 34 States without reduced speed limits had only a 2 percent reduction. Subsequent statistics for the two groups of States provide a similar picture. For example, the figures for February 1974 versus February 1973 reveal a 30 percent reduction for the 33 States with reduced speed limits and a 3 percent reduction for the other 17 States. All of these 17 States adopted lower speed limits in late February and most registered substantial reductions during March.

In all, nearly 7,000 fewer people were killed during November 1973 through June 1974 than during the same 8-month period the year before. The current figures for the 1974 reductions in the 50 States are as follows:

ESTIMATED TRAFFIC FATALITIES AND CHANGES (50 STATES ONLY)

	1974	1973	Percent change
January	2,950	3,834	−23.1
February	2,625	3,479	−24.5
March	3,192	4,328	−26.2
April	3,442	4,454	−22.7
May	3,732	4,813	−22.5
June[1]	4,111	5,129	−19.8

[1] Pennsylvania estimated.

We believe that the primary contributing factors to these consistent reductions are public cooperation with and State enforcement of the lower speed limits. As the above discussion demonstrates, the substantial fatality reductions on a State-by-State basis correlate positively with the reduction of the limits. We estimate that the lower speed limits themselves are responsible for a 15 percent reduction. The balance of the reduction may be attributed to reduced highway travel. The slightly lower fatality reductions in the past several months may be due to gradual increases in highway travel and average highway speeds.

In view of the safety benefits of the speed reduction, we support the extension of the lower speed limits. While there are competing economic considerations, we believe at this time that they are outweighed by the increased safety on the highways. We would continue to study the impact that a permanent reduction in the speed limit is likely to have and, if necessary, would recommend appropriate amendments.

OFFICE OF THE GOVERNOR,
Augusta, Maine, June 17, 1974.

HON. CHARLES H. PERCY,
U.S. Senator, Illinois,
Washington, D.C.

DEAR SENATOR PERCY: Thank you for your complimentary remarks about Maine's energy conservation efforts. We are continuing our efforts to sustain the public's appreciation for this serious problem.

Because I am persuaded that lower speeds will save lives as well as gasoline, I fully support perpetuation of the national 55 mile per hour limits.

Sincerely,

KENNETH M. CURTIS,
Governor of Maine.

COMMONWEALTH OF VIRGINIA,
OFFICE OF THE GOVERNOR,
June 19, 1974.

HON. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: Governor Godwin has asked me to thank you for your kind letter of June 12 and to respond on his behalf.

We do share your concerns about the continued conservation of energy and I am particularly aware of the problems facing the motorists in Virginia, not only in the availability of gasoline but the extremely high costs which they are called upon to pay. The impact of the 55 mph speed limit in the area of conservation, when added to what we consider to be obvious safety advantages, make it, I feel, important that we continue to retain a reduced speed limit.

Our current experience is that the 55 mph speed limit is not being observed by the average motorist, particularly on the interstate systems in Virginia, and as a result, our arrests for speeding violations have gone up dramatically. Even recognizing this fact, however, the current speeds appear to us to be approximately ten miles per hour slower than the speeds at which the public was traveling prior to the imposition of the 55 mph speed limit.

We do agree, of course, that this is a problem which must be dealt with in a cooperative way, with the states carrying the brunt of the responsibility. At the present time, I feel that I can support the legislation which you are proposing.

We do appreciate being kept advised of legislative activities such as this.

Sincerely yours,

WAYNE A. WHITHAM.

OFFICE OF THE GOVERNOR,
Frankfort, Ky., June 19, 1974.

HON. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: I agree with your position that we are going to have to have a vigorous energy conservation program for years to come. This will require coordinated Federal and State programs.

I have read your statement on retention of the 55 miles per hour speed limit. Kentucky's highway death rate for this year is some twenty-four percent under last year's.

Sincerely,

WENDELL FORD.

OFFICE OF THE GOVERNOR,
Des Moines, Iowa, June 19, 1974.

HON. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: Governor Ray has asked that I acknowledge receipt of your letter.

We appreciate very much your letter and information relative to the energy crisis. Governor Ray is in the process of setting up an Office of Energy Management and he certainly agrees with you that the energy crisis is far reaching and will take a great deal of effort on into the future.

Thank you for writing Governor Ray.

Sincerely,

ELMER H. VERMEER,
Administrative Assistant.

OFFICE OF THE GOVERNOR,
Salt Lake City, June 19, 1974.

HON. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: I am in strong and substantial agreement with the intent and purpose of the Highway Energy Conservation and Safety Act of 1974 as you introduced it in the Senate. I concur in your assessment that the easing of the energy crunch is only

a reprieve and that the hard decisions are still ahead of us as a nation. The development of new sources of energy is essential and the conservation of already existing sources is vital if we are to be free from dependence on foreign sources of crude oil. The imposition of a continuing 55 miles per hour speed limit with rigorous enforcement will temper us to the discipline we need to develop in our consumption of energy.

Additionally, there is the savings on human life that has resulted under a reduced speed limit. Utah has experienced a reduction in highway fatalities of 47 percent since implementation of the 55 m.p.h. speed limit. It makes good sense from this standpoint alone, and I plan to ask the legislature to consider making it the permanent speed limit in Utah.

Sincerely.

CALVIN L. RAMPTON,
Governor.

STATE OF MARYLAND,
EXECUTIVE DEPARTMENT,
Annapolis, Md., June 19, 1974.

Hon. CHARLES H. PERCY,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: Thank you for your letter concerning the proposed legislation to extend the 55 mph maximum speed limit.

I am strongly in favor of such legislation, and for reasons which go far beyond energy conservation. Like you, I feel that we can anticipate continued shortages of petroleum products, and the maintenance of the 55 mph limit is one way to hold down the conservation of gasoline.

Even more important, in my judgment, is the benefit of the increased highway safety. In Maryland, our experience has been startling—a very significant reduction in accidents and fatalities since we lowered the speed limit. I am sure this has been true across the country, and I think its another excellent reason to continue the 55 mph limit.

Sincerely.

MARVIN MANDEL,
Governor.

STATE OF VERMONT,
EXECUTIVE CHAMBER,
Montpelier, June 21, 1974.

Hon. CHARLES H. PERCY,
U.S. Senator,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: Thank you for your recent letter in regard to the legislation extending the 55 mile per hour speed limit. I am in full accord with the need to maintain present restrictions. As you may know, the National Safety Council Board of Directors has recently contacted all Governors indicating that the Council was committed to a vigorous campaign to persuade American motorists to drive at reduced speeds.

In the interest of both safety and energy conservation, I believe that we should retain present limitations. As your letter indicates, it is of utmost importance that Federal-State policies be coordinated and efforts such as yours will do much not only to effect coordination, but also to lend credence to state policies.

Sincerely.

THOMAS P. SALMON.

STATE OF SOUTH CAROLINA,
June 24, 1974.

Hon. CHARLES H. PERCY,
U.S. Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: Thank you very much for your letter of June 12, 1974, concerning continuation of the 55 mile per hour speed limit.

I am personally committed to the maintenance of the 55 mile per hour limit both because of the gasoline conservation effects and the reduction in highway accidents. We are enforcing the 55 mile per hour speed limit in South Carolina and shall continue to do so as long as there is evidence that the lower speed saves lives and energy.

Sincerely.

JOHN C. WEST.

STATE OF RHODE ISLAND AND
PROVIDENCE PLANTATIONS,
Providence, June 24, 1974.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: This is in response to your recent letter regarding the proposed extension of the 55 MPH speed limit beyond June 30, 1975.

It is most important that, while we work to insure that adequate supplies of energy will be available at reasonable prices, that we also limit the growth of our energy needs. The continuation of the 55 MPH speed limit on our nation's highway is clearly a measure which will effect substantial energy savings. Also, as you have mentioned, increased safety is an important additional benefit resulting from the lower speed limit.

Both short and long term energy problems are of first priority importance and demand immediate and continuing consideration at all levels of government. We must continue to develop and implement aggressive energy conservation programs and, at the same time, to work to provide energy to meet our long term needs.

I appreciate your advising me concerning the legislation which you have introduced to extend the 55 MPH speed limit.

Very truly yours.

PHILIP W. NOEL,
Governor.

STATE OF ALABAMA,
GOVERNOR'S OFFICE,
Montgomery, June 24, 1974.

Hon. CHARLES H. PERCY,
Senator, State of Illinois, U.S. Senate, Senate Office Building, Washington, D.C.

DEAR SENATOR PERCY: I appreciate your sharing your thoughts on the national energy matter with me in the form of your recent letter and a copy of the "Congressional Record" of May 30.

In Alabama we have established an Alabama Energy Management Board which is seeking to work out programs and methods of conserving all forms of fuel in this State. Under the circumstances, we feel that a commendable job has been done with a minimum of hardships to our citizens. It is my belief that at the state level, we have accomplished about all that is possible as the problem is a national, if not international, one.

In reference to the 55 mile per hour speed limit, we find that there have been fewer highway deaths since the beginning of the felt fuel shortage. Although the lowering of the speed limit is one of the factors in the serious reduction in highway deaths, there appears also to be a connection between such fewer deaths and the reduction in a corresponding number of vehicles traveling the highways. The National Safety Council is presently making a study of all the facts involved in the highway death rates and our Department of Public Safety is also analyzing these facts. At the present time, therefore, I would prefer to have the benefit of these studies prior to commenting on an indefinite 55 mile per hour speed limit.

I appreciate your giving me the opportunity to correspond with you in this regard.

With kind personal regards, I am

Sincerely yours,

GEORGE C. WALLACE,
Governor, State of Alabama.

STATE OF MINNESOTA,
OFFICE OF THE GOVERNOR,
Saint Paul, June 25, 1974.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: Thank you for your kind words relative to Minnesota's approach in establishing an Energy Agency to deal with the energy crisis.

I read with interest your remarks in the May 30th Congressional Record. I support your proposal for extending indefinitely the 55 miles per hour speed limit. This limit will help make our citizens aware of the energy crisis.

With warmest personal regards.

Sincerely,

WENDELL R. ANDERSON.

STATE OF OHIO,
OFFICE OF THE GOVERNOR,
Columbus, June 25, 1974.

Hon. CHARLES H. PERCY,
U.S. Senator, U.S. Senate, Washington, D.C.

DEAR SENATOR PERCY: Thank you for your June 12 letter and the copy of your May 30th statement in the Congressional Record. Since the energy situation is of vital interest to all of us I am grateful for your comments and suggestions.

With warmest regards,

Sincerely,

JOHN J. GILLIGAN.

STATE OF ILLINOIS,
OFFICE OF THE GOVERNOR,
Springfield, June 25, 1974.

Hon. CHARLES H. PERCY,
U.S. Senate, Dirksen Office Building,
Washington, D.C.

DEAR CHUCK: Thanks for the kind words on our conservation efforts.

My staff will be reviewing your bill on the 55 miles per hour speed limit and I'll be glad to give you my reactions.

Sincerely,

DAN WALKER.

EXECUTIVE CHAMBERS,
Honolulu, June 26, 1974.

Hon. CHARLES H. PERCY,
U.S. Senator, U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: Thank you for your letter of June 12 addressed to Governor Burns. Thank you also for the enclosure regarding S. 3556, of which you are a sponsor, that would extend indefinitely the 55 mph speed limit on the Nation's highways. I feel this is reasonable legislation and would generally be acceptable in Hawaii because we traditionally have had lower speed limits than the mainland States. Not too long ago, our maximum speed limit in Hawaii was 45 mph. It was then raised to 60 mph on completed sections of our Interstate highway and on a very few other links of the State highway system.

During the energy crisis, we attempted to lower our limit to 50 mph but were prohibited from doing so by the penalty of loss of Federal highway funds if we did not conform to the 55 mph limit imposed by Congress. We think the legislation should have allowed non-continguous States and territories to impose a lower speed limit than 55 mph if deemed appropriate by their legislative bodies.

The lowered speed limits have improved the highway safety record as evidenced by all the statistics; they have reduced the volume of traffic a little. And they have reduced the demand for vehicular fuel. I believe it is necessary for us in government to lead the way to a conservation ethic so that the rate of growth of energy consumption is reduced.

Energy shortages will face the Nation for

a number of years and it is doubtful if alternate sources other than petroleum can be developed in less than a decade. Certainly, ground and air transportation is the largest user of petroleum products and every effort should be made to reduce this consumption.

With warm personal regards, I remain,

Yours very truly,

GEORGE R. ARIYOSHI,
Acting Governor.

STATE OF ARKANSAS,
OFFICE OF THE GOVERNOR,
Little Rock, June 27, 1974.

Hon. CHARLES H. PERCY,
U.S. Senator,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: Thank you for your letter with which you enclosed a copy of your bill, S. 3556, regarding the need to extend the 55 mile per hour speed limit on the Nation's highways.

Our Department of Public Safety has issued a statistical report showing a drop in highway accident fatalities and serious injury since the implementation of the 55 m.p.h. limit. In Arkansas, highway speed limits are set by the Arkansas Highway Commission. I am sending a copy of your letter and S. 3556 to the Director of the Highway Department so that it can be brought to the attention of the Commission for their information and review. Copies also will be sent to our State Energy Office.

I share your belief that the energy crisis is still a reality and that we must go forward with our programs to develop new energy resources and at the same time devise more ways to conserve them.

I appreciate your writing and sharing your views with me.

Kindest regards.

Sincerely,

DALE BUMPERS.

STATE OF DELAWARE,
EXECUTIVE DEPARTMENT,
Dover, June 27, 1974.

Hon. CHARLES H. PERCY,
U.S. Senate Washington, D.C.

DEAR SENATOR PERCY: May I commend you on your introduction of S. 3556 which would extend indefinitely the 55 mph speed limit on the nation's highways.

I think the fact that my administration implement a 50 mph speed limit at the onset of the energy crisis is an indication that we in Delaware appreciate the numerous benefits of a reduced speed limit. Our highway fatalities are 55% lower this year than last.

As you indicated to your colleagues, the wisdom of a compromise for the trucking industry's sake became evident, so that we have realigned our thinking along those lines, and have instituted a 55 mph limit.

In recognition of the tremendous savings in human life as well as our precious natural resources, I most wholeheartedly endorse a continuation of the present 55 mph limit and would urge the active support of our Congressional Delegation.

Sincerely,

SHERMAN W. TRIBBITT,
Governor.

STATE OF CONNECTICUT,
EXECUTIVE CHAMBERS,
Hartford, June 28, 1974.

Hon. CHARLES H. PERCY,
U.S. Senator, New Senate Office Building, Washington, D.C.

DEAR SENATOR PERCY: Thank you for your kind letter of June 12, 1974, and for providing me with a copy of Senate Bill 3556, "The Highway Energy Conservation and Safety Act of 1974" of which you are a co-sponsor.

After having reviewed Senate Bill 3556 in its entirety, I feel that the retention of the 55 mile per hour speed limit will result in phenomenal fuel savings over an extended period of time and will also result in a drastic reduction of the fatality rate on our nation's highways.

Further, I agree with your statement that "making the 55 mile per hour speed limit a continuing feature of Americans life is by no means an extreme measure, as driving slower is a habit most Americans have readily acquired in the past few months."

Again, thank you for providing me with this information, and should you find that I can be of assistance to you in the future, please do not hesitate to call upon me.

With best wishes,

Sincererly,

THOMAS J. MESKILL,
Governor.

STATE OF MICHIGAN,
OFFICE OF THE GOVERNOR,
Lansing, July 1, 1974.

Hon. CHARLES H. PERCY,
U.S. Senator,
Washington, D.C.

DEAR CHUCK: Thank you for your letter of June 12 regarding S. 3556 which would indefinitely extend the 55 mile per hour speed limit on the Nation's highways.

I also support the extension of the 55 mph speed limit for the reasons you mentioned: the savings in both gasoline consumption, and more importantly, in human lives. As you point out, the energy crisis is serious and is not likely to abate for some time and therefore we must all concentrate on methods of reducing energy consumption. In Michigan we continue to urge individual citizens to conserve energy, including strict adherence to the 55 mph speed limit. The figures available to us indicate that since the imposition of the 55 mph speed limit we have realized substantial savings of gasoline and, of course, there is a resulting savings in gasoline cost incurred by the individual motorist.

The savings in human life are also impressive. The accident, injury, and fatality figures for Michigan for the first four months of 1974 show a substantial reduction from the same time period in 1973. Total accidents were reduced by 12 percent, from 112, 306 to 98,624; injuries dropped 25 percent, from 51,521 to 38,454. Most importantly, the number of fatalities dropped from 644 to 431—a drop of 33 percent. It is most interesting to note that the greatest reduction was in the number of fatalities, although all three safety indicators showed a decline.

For these reasons, I shall continue to support the 55 mph speed limit. Passage of legislation to continue this speed limit can do much toward reducing the carnage on our highways, as well as conserving much-needed fuel.

Thank you again for communicating your thoughts to me.

Warm personal regards.

Sincerely,

WILLIAM G. MILLIKEN.
Governor.

STATE OF NORTH CAROLINA,
GOVERNOR'S OFFICE.
Raleigh, July 2, 1974.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR CHUCK: I was pleased to receive your letter of June 12th on the subject of energy conservation and your Senate Bill to extend indefintely the nationwide 55 mph speed limit.

This matter has been the subject of discussions between personnel of our Energy Division in the Department of Military and Veterans Affairs and the Department of Transportation. All agree that your idea is a sound one from the standpoint of lives which may be saved and the reminder that there is an energy problem. However, in traveling over the highways of our State, we note that large numbers of our citizens are tending to increase their speeds beyond the 55 mph limit. Unfortunately, it will probably require that we undergo another critical situation, as experienced this past January and February in regards to the gasoline shortage, to impress upon the public that the problem is not a temporary aberration.

Sincerely,

JAMES E. HOLSHOUSER, JR.

STATE OF KANSAS,
OFFICE OF THE GOVERNOR,
Topeka, Kans., July 2, 1974.

Hon. CHARLES H. PERCY,
U.S. Senator of Illinois,
Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: Thank you for your recent letter alerting me to legislation you are sponsoring to extend indefinitely the 55 mph speed limit on United States Highways.

I certainly agree with the need for safety measures on our highways to reduce accidents, and the need for energy conservation measures. In Kansas, we have taken steps to achieve both objectives. I know that your proposal to extend indefinitely the highway maximum speed has been developed with the best of intentions, I oppose the federal government dictating to the states.

Too many times, it seems to me, the federal government resorts to blackmail in attempting to coerce the states into accepting legislation. I am opposed to the "gun to the head" approach used by the federal government to force the states to pass certain legislation developed in the Congress for all 50 states does not necessarily fit the needs of all 50 states; what is good legislation for New York or Massachusetts is not necessarily good legislation for Nevada or Kansas.

In my state, our problem is distance. Many persons oppose the 55 mph speed limit here because of the hardship it works on many persons and businesses.

Conservation and safety measures are needed. My request is that the federal government and the Congress allow the states to develop legislation that will achieve these goals with the best interests of their citizens foremost in mind.

Thank you for allowing me this opportunity to comment on your proposal for extending indefinitely the 55 mph speed limit.

With every good wish.

Yours sincerely,

ROBERT DOCKING,
Governor of Kansas.

THE COMMONWEALTH
OF MASSACHUSETTS,
EXECUTIVE DEPARTMENT,
Boston, Mass., July 8, 1974.

Hon. CHARLES H. PERCY,
New Senate Office Building,
Washington, D.C.

DEAR CHUCK: Many thanks for your letter and legislation concerning the 55 mph speed limit.

Last winter's energy crisis taught us much. Perhaps most importantly, we learned that our energy resources are finite and that they must be conserved. We learned that we must break our old, wasteful energy habits. And we learned that if we are ever to properly balance the energy equation of supply and demand, we've got to hold consumption down.

These are lessons which must not be forgotten—whether lines at filling stations are short or long. Conservation must be a permanent part of our lives, this summer and the year-round.

Driving a little slower is a vital part of that effort. The highway safety benefits of

the 55 mph speed limit, which you so properly emphasize, give us all the more reasons to hold our driving speed down. I certainly continue to support this effort to save energy and lives.

Last winter the people of Massachusetts did a magnificent job of conserving energy. As Governor, I will make every effort to see that conservation is an essential part of this state's energy future.

With best wishes,

Sincerely,

FRANCIS W. SARGENT.

STATE OF CALIFORNIA.
GOVERNOR'S OFFICE.
Sacramento, Calif., July 10, 1974.

Hon. CHARLES H. PERCY,
Members of the Senate, Senate Office Building, Washington, D.C.

DEAR CHUCK: Thank you for your letter concerning the 55 mph speed limit. I am pleased to have the opportunity to give you my comments on the bill S. 3556 you have introduced with Senators Randolph, Stafford, and Weicker.

In a recent report on energy needs for the future, our California Energy Planning Council stated:

"While economics may reduce demand and the importation of refined petroleum products may further reduce the short-fall, energy conservation measures will continue to be necessary. . . . A complete relaxation of energy conservation measures must be avoided lest we do to ourselves what the Arab nations could not."

California motorists are saving between 300 million and 350 million gallons (about 7.7 million barrels) of fuel per year. These figures confirm the estimate of 73 million barrels a year nationally that you quoted in your May 30 speech. California uses roughly 10% of the nation's highway fuel, and a much larger proportion of California travel takes place on urban freeways than would be the case nationally.

California's experience in the first five months of 1974 parallels the nation's experience with regard to traffic fatalities.

I am in favor of holding the speed limit at 55 mph at this time because of (1) energy conservation, and (2) until we can determine to what degree the reduction in fatalities is statistically linked to the speed limit.

Thank you again for your thoughtful letter. We seem to be in general agreement on the goals to be accomplished.

Sincerely,

RONALD REAGAN.
Governor.

OFFICE OF THE GOVERNOR.
Indianapolis, Ind., July 15, 1974.

Hon. CHARLES H. PERCY,
U.S. Senator,
Washington, D.C.

DEAR SENATOR PERCY: I am sorry I have been delayed in answering your letter concerning your remarks on the 55 mile per hour speed limit. I read with great interest your remarks which were inserted in the Congressional Record on May 30, 1974. I am an advocate of retention of the 55 mile per hour speed limit. We have, even before the 55 mile per hour speed limit went into effect, called attention to the traffic fatalities and its probable relation to speed. Obviously, many other factors were involved but speed, I believe, has proved to be one because we have in Indiana reduced the traffic fatalities by about 37 percent in the last year. We are saving right at 50 lives per month in Indiana and when this is coupled with the fact that for approximately every 1 that is killed 40 more are injured, one does not have to study long to see the savings in suffering, property damage, medical bills, hospital bills and lessened insurance costs to say nothing of the great lessening of man-hours of work lost. We are trying to gather other information to substantiate our advocacy of the 55 mile per hour speed limit.

Kindest personal regards.

OTIS R. BOWEN, M.D.,
Governor.

STATE OF FLORIDA,
July 16, 1974.

HON. CHARLES H. PERCY,
U.S. Senator,
Washington, D.C.

DEAR SENATOR PERCY: Thank you for your recent letter relating to Senate Bill 3556 to extend indefinitely the 55 miles per hour speed limit on the Nation's highways. Your attached comments supporting the provisions of this bill are most interesting and informative.

Reports here in Florida and throughout the Nation have proven beyond doubt that the reduced speed limit on our Nation's highways has been a significant factor in reducing the traffic deaths and incapacitating injuries. As you know, Florida was one of the first states to reduce its highway speed limit to 55 miles per hour in view of the energy crisis. The results not only showed a reduction in energy consumption, but conservation of a more precious commodity—human lives. Taking these facts into consideration, it would be our desire to see a retention of the 55 miles per hour speed limit for an indefinite period of time.

With kind regards.

REUBIN ASKEW.
Governor.

STATE OF NEW YORK.
EXECUTIVE CHAMBER.
Albany, July 17, 1974.

Hon. CHARLES H. PERCY,
Senate Office Building,
Washington, D.C.

DEAR CHUCK: Thank you for your recent letter enclosing a copy of the Congressional Record for May 30th concerning energy conservation, particularly as it related to S. 3556.

Your thoughts and comments on the continuing need for both the public and private sectors to maintain the energy practices developed over the last several months are indeed well taken. I agree that it is most important to ensure that the "crisis" situation of last winter is never again allowed to develop and that our future needs will always be met. I am, therefore, pleased to note the federal government's actions to assure that our national energy goals are reached and that such actions are predicated on a close and coordinated working relationship with state governments. You may be assured of New York's continued cooperation in developing and implementing needed policies and programs in this area.

In view of the uncertainty concerning the fuel supply, I believe it would be prudent for Congress to extend the 55-mile-per-hour speed limit. I would favor a definite time extension rather than an indefinite extension so that positive action by the Congress would be required at the end of the extension period. A reappraisal of both the fuel and safety experience should then clearly indicate whether further extension would be in the national interest.

Kindest regards.

Sincerely,

MALCOLM WILSON.

EXECUTIVE OFFICE,
STATE OF MISSOURI,
Jefferson City, July 17, 1974.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR CHUCK: Thank you for your letter of June 12, 1974. Please excuse my belated reply pertaining to Senate Bill 3556 and the indefinite extension of the 55 mile-per-hour speed limit on the nation's highways. I have been evaluating the effects of the 55 mile-per-hour speed limit in Missouri and have worked with state agencies to determine its impact.

Our review indicates that the experience in Missouri on the 55 mile-per-hour speed limit to date has been most favorable. Traffic fatalities and accidents have been significantly reduced, and there has been a reduction in the over-all usage of motor fuel. However, we will continue to monitor this situation as results are obtained through the summer and into the fall.

At this point, I favor continuing the 55 mile-per-hour speed limit, but we shall continue to analyze the impact of the energy problems on the citizens of Missouri.

Sincerely,

CHRISTOPHER S. BOND.
Governor.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the primary objections which have been raised during the 25 years since the Genocide Convention was first submitted to the Senate have concerned constitutional and other legal points.

Over the years, however, these objections have gradually subsided as it became apparent that the Genocide Convention in no way challenges or violates the Constitution or any Federal laws. As Supreme Court Justice William Rehnquist said when he was Assistant Attorney General:

Twenty years ago Solicitor General Perlman provided a detailed and scholarly statement to a subcommittee of the Foreign Relations Committee on the constitutional and other legal questions surrounding the Genocide Convention. In 1950 some of the questions concerning Federal jurisdiction and the treaty power were considered somewhat novel. However, developments in the intervening years—the extensive use of the treaty power and the growth of Federal criminal jurisdiction—have, it seems, illuminated both these areas to the point where I believe I can safely say that the questions before the Committee and the Senate are more matters of policy than questions of legal power.

It seems to me that the only matter of policy left is whether or not we want to oppose genocide as strongly and as officially as the United Nations Convention does. I can see many benefits in this position in terms of enhanced prestige abroad, and no drawbacks. Mr. President, I again call for the immediate ratification of this convention.

NEITHER BORROWER NOR LENDER BE—CAN AMERICA TURN CLOCK BACK?

Mr. GOLDWATER. Mr. President, Wisconsin's loss was Arizona's gain when Mr. Loyal Meek left Milwaukee about a year ago to become editor of the Phoenix Gazette. I say this not only because I have known of Mr. Meek over a long period of years, but because he has a knack of placing things in their proper perspective. For example, recently he informed the readers of the Gazette—and very graphically—on just how this country has changed in recent years. He did

it by drawing a picture of how shocked his parents would be if they could see how we "live it up" today.

Mr. President, we need more articles like the one Mr. Meek wrote for the readers of the Phoenix Gazette. We need a great deal more wisdom in the handling of our everyday problems.

Because of its great importance to the Members of this body, I ask unanimous consent to have Mr. Meek's article entitled "'Neither Borrower Nor Lender Be'—Can America Turn Clock Back?" printed in the RECORD.

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

"NEITHER BORROWER NOR LENDER BE"—CAN AMERICA TURN CLOCK BACK?

(By Loyal Meek)

My parents, God rest their souls, would be shocked out of their shoes if they could see how we live it up today.

How much people are paying for their houses, their food, their clothing, their pleasures.

How deep they are plunging into debt, not only for necessities, but for luxuries, such as a second car, a boat, a vacation, a swimming hole in the back yard.

They would be shocked, it should also be noted, by the other side of the ledger.

By how much money people make per hour.

By learning that what would have been regarded as a very comfortable annual income for a family in their day is now regarded as a poverty level income.

My reincarnated parents would also be mightily impressed to be shown through a shopping center. The choice of things to buy would, I'm sure, bedazzle them. Likewise the ease of purchasing anything a body could ever want—simply with a small plastic card—would fill them with wonderment.

Given time to recover from such initial shocks, my parents might begin to ask for explanations, at which point their surviving offspring would like find the going tough.

To begin with, how to explain that this country—which, to them, would appear to be made up of swarms of shoppers partaking of the abundance around the clock and twice on Sunday—is in sort of a recession?

A recession, one would have to explain, is, well, like the first stages of what in your day was called a depression—you know, hard times.

A resurrected Mom and Dad, seeing the manifestations of wealth all around us, would probably—I can almost see them now—shake their heads in bewilderment.

"You see," one might stumble on in trying to explain things, "our economy is trapped in this thing called inflation. You remember, like when ravaged Germany in the Twenties, only ours is not that bad—yet."

Washington, one might go on to explain, is to blame. The government has for years on end been spending more than it takes in—and you wouldn't believe how much the tax collectors take in, more than most folk's total income in your day.

Anyway, to make up for these deficits, the federal government simply prints more money, which keep getting to be worth less and less.

Of course, getting deeper into this explanation, the majority of the people have consistently voted for these deficit spenders. Besides, the people themselves have been no slouches at going into debt.

America's total debt, would you believe, is now about $2.5 trillion, of which $1.1 trillion is owed by corporations, some $821 billion by individuals and $593 billion by government.

Along about here in the explanation, I imagine, Mom would ask what ever happened to the advice: neither a borrower, nor a lender be.

Dead, I'd have to answer, almost as long as you. The thrift ethic has been buried by the "fly now, pay later" ethic—epitomized by those wonderful little plastic cards that let you buy so easily whatever you desire and for which you can keep putting off paying most of the cost, so long as you keep meeting the 18 per cent interest on the balance due.

As I said, I'd then have to tell my parents, we're trapped in this inflation thing, and nobody seems to know how to get us out—to stop our slide down this increasingly steeper and slipperyer slope.

If you have any ideas, I'd say to them, my generation would certainly like to hear them.

My long-deceased parents, I rather imagine, could only shake their heads some more, in disbelief at what has come to pass in their and our America the Beautiful—so materially rich and yet so poor and confused in spirit.

If they would respond at all, it would probably be to repeat those things they told us in the long ago when we were trying to scrounge a nickel for all the root beer we could drink. Such as:

"Money doesn't grow on trees:

"Waste not, want not.

"A penny saved is a penny earned."

If we all had only heeded such words of wisdom. But it's too late now. Or is it?

Or maybe my parents might say that to them it looks as though we must be spoiled by prosperity.

In spite of what your figures (they weren't worshipped as statistics in their day) show, they might say, you all appear to us to be mighty well off.

If you are in a mess, I can almost hear them conclude, the only way out is to do it yourself—don't expect the government that you blame for getting you into it to get you out of it—in other words, practicing self-discipline and buckling down to work!

How about that? To think that my departed parents would hit us with a four-letter word.

RALPH NADER: WAS HE MISREPRESENTED?

Mr. ALLEN. Mr. President, I received a remarkable letter from Mr. Ralph Nader earlier this week, a letter in which he asked me to make a public statement concerning a remark that I made July 22 during a discussion of the Consumer Protection Agency bill with the distinguished senior Senator from Connecticut (Mr. RIBICOFF) on the NBC-TV "Today Show."

I shall be glad to give Mr. Nader his due.

In his letter to me, a copy of which I shall append to these remarks, Mr. Nader, first, accuses me of an "unconscionable distortion" and "misrepresentations" of his views, and, second, he finds it "inconceivable" that I should be unfamiliar with his thinking on this subject.

Mr. Nader, third, also comments disparagingly upon a memorandum from my office which he managed to get his hands on without understanding its purpose or content.

As to Mr. Nader's first concern, he charges me as follows:

(Y)ou stated that I have denounced the Consumer Protection Agency (CPA) bill as a "consumer fraud." * * * The remarks to which you refer were made at least two years ago and were directed at the sharply weakened bill which passed the House of Representatives in October 1971.

I have secured a copy of the transcript of the TV show discussion in question, and will also append that to these remarks.

But let me quote here from my comments which Mr. Nader alleges are "unconscionable" because, according to him, I stated that he opposed this current bill now before us in 1974. Quoting from the transcript:

Senator RIBICOFF. * * * And, of course, Ralph Nader, the greatest consumer advocate that this Nation has, says it's (S. 707) the most important consumer's bill that's ever been before Congress.

Senator ALLEN. I'm glad you mentioned Ralph Nader because just in 1971, he denounced that consumer protection bill as a fraud on consumers. And it hasn't been pointed out how this is going to improve things. Mr. Nader says that the Consumer Advocacy Agency, and that's what this would be, is the way to reform the Government apparatus and to revolutionize Government. Those are his words. Well I don't want to reform Government along the lines suggested by Mr. Nader, adding bureaucracy to an already oversized Federal bureaucracy.

Two things are obvious from reading the transcript and comparing it with Mr. Nader's charges. The first is that he was wrong, I clearly distinguished between the two CPA bills, and the second is that Mr. Nader does not challenge my quotation of him as saying that this bill is intended to reform and revolutionize the Government—statements which are on the public record.

Another further observation may also be made. Many of the proponents of S. 707 have been fond of stating that this bill—this bill—has been before Congress for 5 or 6 years, that this bill—this bill—passed the Senate by a vote of 74 to 4 in 1970, that this bill passed the House in 1971 by a vote of 344 to 44, and that this bill passed the House again last year by a large margin.

Of course, none of the bills are the same. Indeed, the Senate Government Operations Committee majority report on the 1972 bill specifically disavowed the 1970 bill which passed this body.

Let me give you a recent example of such a misrepresentation by someone in a position to know better. Referring to S. 707, this person stated:

In 1970, the Senate passed this bill by the lopsided vote of 74 to 4. * * * Earlier in the session (of this Congress) the House passed the CPA bill by a three-to-one margin.

The person who made those misrepresentations is none other than Ralph Nader, in his syndicated column of June 9, 1974, which appeared in the Washington Star-News, in which he attacked Senator SAM ERVIN and others as "radical reactionaries" who dared to disagree with him.

Thus we see, when it suits them, Mr. Nader and other proponents of S. 707 will state or imply that it is identical to other, different bills which must be considered on their own merits, or lack of them, as would be a more appropriate characterization.

Now, let me turn to Mr. Nader's second problem, as to its being inconceivable that I should not know his views on the CPA. Perhaps I should first note that I find it inconceivable that Mr. Nader does

not know my views, seconds after hearing them on national television.

However, there is a very good reason for my not knowing Mr. Nader's views on this bill. Mr. Nader refused to personally appear and testify before our subcommittee on this bill, even though specifically invited and even though—Mr. Nader considers this bill to be the most important consumer legislation ever to come before Congress.

I was very disappointed when we learned that Mr. Nader had refused to appear before us, as I was looking forward to asking him the same tough questions which were put to businessmen, agency spokesmen, consumer advocates, and other public witnesses, who responded—often with reluctance—to invitations to appear before us.

Instead, Mr. Nader saw fit to send us a short letter declining the subcommitee invitation and making several comments on the bill, one of which was to urge us not to put any special interest exemptions in the bill—such as the ones for big labor and for broadcasters—which were later added to the bill and of which Mr. Nader, evidently, is unaware, judging from his unqualified support of the bill and, more important, his failure to criticize these exemptions when they emerged from the Senate Commerce Committee.

Mr. Nader's third concern, as you will see from his letter, has to do with a memorandum, and clearly a memorandum, from my office. He says that it is "being handed out by your staff to summer interns working in Washington."

Of course, there is nothing in this memorandum that is either embarrassing or inaccurate, but standing by itself without explanation could possibly confuse someone. I suppose, especially someone with Mr. Nader's perceptive abilities.

The memorandum is an outline intended for my personal use in debates on the bill, including my TV discussion with Senator RIBICOFF. It was typed from my handwritten notes to myself and is in memorandum form.

Among other things, the memorandum relates to the fact that in 1972 Mr. Nader and Congressman BENJAMIN ROSENTHAL were adamantly opposed to the bill which had passed the House the previous year. Mr. Nader, as he acknowledges, called it a fraud, and Mr. ROSENTHAL, after attempting to kill the bill on the House floor, voted against it.

In any event, Mr. Nader is again in error. The simple truth of the matter is that the memorandum was not and is not being handed out by my staff to summer interns as Mr. Nader categorically states in his letter.

The memorandum was given out by me personally to a group of summer interns who called by my office a few days ago to discuss S. 707. It should be pointed out that these interns are employed this summer by Mrs. Virginia H. Knauer, the President's Consumer Adviser.

Not that it makes any difference or comes as a surprise, I think it should also be noted that the memorandum found its way from Mrs. Knauer's office to the office of Mr. Nader. Presumably, there is quite an extensive exchange of paperwork and views between these two offices, even though the administration is publicly opposed to this bill.

By the way, this 1971 House-passed bill, which Mr. Nader considered a fraud on the consumer, is the only bill which the American Bar Association specifically endorsed—I repeat—the only such bill that the ABA endorsed.

Anyway, in this memorandum, I noted that opponents of a CPA bill in the last Congress apparently did Mr. Nader, Mr. ROSENTHAL, and consumers a service in defeating the bill.

If you will recall what happened during the last Congress when it became clear that the Senate bill would never pass, and that the administration was opposed to that bill, one of the leading proponents of a CPA, the senior Senator from Illinois (Mr. PERCY) made valiant efforts to get Senate and White House agreement on the House bill which both Mr. Nader and I considered a fraud.

Mr. President, I shall also include the memorandum in the RECORD at the conclusion of my remarks so that all may read and digest its contents.

Mr. President, I have now responded in public to Mr. Nader, as he requested. I now ask him to respond, perhaps with an apology, at least with a public recognition that he misrepresented the facts concerning the CPA bill and my comments and observations in connection therewith.

I ask unanimous consent that the letter I received from Mr. Nader, the transcript of the NBC Today Show, and the memorandum be printed in the RECORD.

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

WASHINGTON, D.C., *July 22, 1974.*

Senator JAMES B. ALLEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLEN: This morning on the NBC-TV Today show, you stated that I have denounced the Consumer Protection Agency (CPA) bill as a "consumer fraud". It is inconceivable to me that someone as closely associated with the struggle to defeat Consumer Protection Agency legislation as you have been would be unfamiliar with my views on this subject. Since my support of S. 707 is fully known to you, it can only be assumed that your statement was an unconscionable distortion of my views.

A document being handed out by your staff to summer interns working in Washington has also come to my attention. Among other serious misstatements about CPA the following paragraph appears: "In 1972, when CPA died in (sic) Senate, apparently opposition thinking was similar to Ralph Nader's because he denounced (sic) bill as (sic) consumer fraud on consumers, and consumer advocate Rosenthal in (sic) House voted against the bill. So apparently opponents in 1972 performed (sic) service for Nader, Rosenthal and consumers in defeating (sic) bill. It has not been pointed out to me how (sic) present bill improves on (sic) 1972 bill."

The remarks to which you refer were made at least two years ago and were directed at the sharply weakened bill which passed the House of Representatives in October 1971. That bill differed substantially both from the bill passed by the House this year (H.R. 13163) and from the bill currently being debated by the Senate (S. 707). Your apparent unawareness of these differences should no longer serve as the basis for your misrepresentations of my position on the creation of a viable CPA.

In view of these facts, I would expect you in the interests of accurate representation to offer the proper public corrections.

Sincerely,

RALPH NADER.

AN INTERVIEW WITH SENATORS RIBICOFF AND ALLEN

JIM HARTZ. Impeachment is not the only item on the agenda for the Congress this week. The Senate will be taking up a bill that would set up a Consumer Protection Agency, a bill that is caught now in a crossfire between consumer organizations and business interests, not to mention facing a probable filibuster.

We want to talk about this now with Senator Abraham Ribicoff, a Democrat of Connecticut, the author of the bill, and one of its major opponents, Senator James B. Allen, Democrat of Alabama. They are in our Washington studio now with Today Washington editor Bill Monroe.

BILL MONROE. Senator Ribicoff, the consumer agency that you propose would not serve as a regulatory agency, but would be a spokesman for consumers. Would you give us an example of how it would work?

Senator ABRAHAM RIBICOFF. That is correct. Well, if you had the CAB raising the price of air travel, they could come in and object to it. If you had the Food and Drug Administration doing something on unsafe food or drugs, they could come in and be an advocate to present the other point of view. Or the Federal Power Commission raising gas and electricity rates, they could come in and talk about the position of the consumer.

MONROE. Sort of be a lawyer or a lobbyist for consumers before government agencies.

Senator RIBICOFF. That is right. It would be the advocate for the consumer to present the consumer's position. Today, there is no consumer position, and we find in our studies that the consumer is overweighted by 100-to-1 by business interests.

MONROE. Senator Allen, you feel this bill would do more harm than good.

Senator JAMES ALLEN. Of course I do. What I believe the consumer needs protection from is inflation, and this bill would just work at cross-purposes to that because it would set up a vast new bureaucracy. And I might point out that there are 32 Senate sponsors of this legislation, not a single conservative among that number, not but one Southern senator as one of the co-sponsors. These co-sponsors, by and large, are the big spenders in the Senate, the senators who want to see more big government, more regulation of our daily lives.

And I'm glad that Senator Ribicoff says that it's not a regulatory agency. It will not help the consumer back in Alabama that has problems with his radio or his icebox or his aluminum siding or his automobile. It's an agency that would seek to force its views of what the consumer wants, and how it would find out, nobody knows because there's no input by the consumers into the CPA. The CPA, the administrator, would have the sole right to decide what's best for the consumers.

So this vast new bureaucracy, spending millions of dollars of the taxpayers' money every year, in order to do the work that's already provided for by existing government agencies, certainly is not in the public interest, in my judgment.

Senator RIBICOFF. I say this, Bill. This vast bureaucracy that my friend Senator Allen talks about is an agency of about 250 people, $15 million. The Commerce Department has a budget 60 times that. The—15 of the biggest corporations—17—spend $15 million just on legal fees alone.

So, you can't talk about a vast bureaucracy. It's a small organization. Virginia Knauer is for it, 31 governors . . .

MONROE. The President's consumer adviser.

Senator RIBICOFF. Consumers [sic] adviser is for it. Thirty-one governors are for it. The United States Conference of Mayors are for it. The United States Conference of Attorneys General. Some 10 organizations are for it. And, of course, Ralph Nader, the greatest consumer advocate that this nation has, says it's the most important consumer's bill that's ever been before the Congress.

MONROE. Senator . . .

Senator ALLEN. I'm glad you mentioned Ralph Nader because just in 1971, he denounced that consumer protection bill as a fraud on consumers. And it hasn't been pointed out how this is going to improve things. Mr. Nader says that the consumer advocacy agency, and that's what this would be, is the way to reform the government apparatus and to revolutionize government. Those are his words.

Well, I don't want to reform government along the lines suggested by Mr. Nader, adding bureaucracy to an already oversized federal bureaucracy.

MONROE. Senator . . .

Senator ALLEN. I feel we need to cut down on the bureaucracy, rather than add to it.

MONROE. Senator Allen, what about the theory that businessmen have their lobbies in Washington, well-paid? They're pretty well fixed for spokesman in Washington, but consumers are not as well fixed. Therefore, a government agency, speaking for consumers, would help balance things.

Senator ALLEN. Well, this agency would have far more power than any other agency in government. It would seek to force its will on all of government activity.

I was very much interested in one of the Senate sponsors just the other day, in a speech on the Senate floor, saying that one function it would do would be to go before the Federal Tariff Commission and advocate lower tariffs on shoes in order that we could get the cheap imports of shoes into this country. Well, I'm surprised that Senator Ribicoff, with a sick shoe industry there in New England, would advocate something that would encourage the import of shoes.

We have the situation—we'd have the same situation Bill, on steel and textiles in my home state of Alabama. We have voluntary imports of textiles, but these foreign steel mills can lay steel products down in my home town of Gadsden cheaper than they can be produced in our own steel mills.

Senator RIBICOFF. That isn't quite so, Bill. I mean what you have . . .

Senator ALLEN. Well, where is it wrong?

Senator RIBICOFF. The consumer advocate comes in where there's a clear-cut consumer's interest. Where there's a question of two sides, he presents both sides of the question and allows the agency to make the choice.

But the basic purpose of the consumer advocacy is to present the facts, which the agency depends generally now—the Federal Power Commission, the Federal Trade Commission, the FDA—on the lobbyists for big business and industry, without the consumers coming in and bringing the facts.

Well, the average consumer doesn't have the money, he doesn't have the knowledge to come before these great bureaucratic agencies and do the job. So what you have here is the time has come to have a spokesman for the consumer, 210 million people in this country. And a Harris poll just last week indicated that the overwhelming number of people in this nation feel that they are being taken. They have no protection against fraud, against high prices, against safety [sic], feeling they are powerless. And they are powerless.

MONROE. Senator Ribicoff, Senator Allen indicates that this agency that you propose to set up would be so independent as to be sort of freewheeling. There'd be no guaranty it would speak for consumers. It would be speaking more or less for itself.

Senator RIBICOFF. No, it would speak for consumers because consumers could make complaints. They could make surveys. They are appointed by the President. They have supervision by the Congress. In three years after the agency is formed, the GAO makes a survey to see if it's doing its job.

So generally, it has to be—you have a spokesman in this new agency for the consumers, and we feel that the consumer, 210 million people, are powerless. Every group in American society has someone speaking for it, except the lone consumer, who is being taken with high prices, bad quality, without knowing how to protect himself. The average person can't protect himself. He doesn't have the means or the time to do . . .

MONROE. Senator . . .

Senator ALLEN. I'll think he'll want to retract his statement where he said that the administrator would present both views to the regulatory agencies. That's absolutely wrong. That's what I proposed in the [unintelligible]* approach, which Senator Ribicoff helped defeat.

This requires the administrator to decide, for all consumers, what is the consumer interest in a particular question. And it assumes that all consumers think alike, they're motivated the same, they have the same interests, the same hopes, the same desires. And without any input by the consumers, this one man decides what's best for all consumers, and he proceeds accordingly.

MONROE. Let me see if Jim Hartz can get a question in. Jim?

HARTZ. We've got less than one minute, Senator Allen. I wanted to ask you—you said in your opening statement that this agency would promote inflation, and I want to know how an agency whose ostensible purpose would be to keep prices down and quality up would promote inflation.

Senator ALLEN. Well, they've already authorized $60 million for three years. Now these federal agencies have a way of escalating in size. There's one service that Senator Ribicoff and others put into the HEW Department just 10 years ago at an appropriation of $40 million. That mushroomed in less than 10 years to $2½ billion. So this would cost more money for regulation. It would cost business more money. It would cost individuals more money, and it would cost the government and the taxpayers . . .

MONROE. One sentence.

Senator RIBICOFF. . . . The consumers of America are being taken for billions of dollars by fraud and fly-by-night schemes. And the consumer advocate would be the man to protect the interest and save billions of dollars at a cost of $15 million.

Senator ALLEN. Well, how would he reach them? How would he reach them? Tell me that.

MONROE. Thank you very much, gentlemen, for being with us, Senator Ribicoff of Connecticut and Senator Allen of Alabama.

MEMORANDUM

1. The name is a *misnomer*. Everyone is for the protection of consumers. But any protection afforded a consumer as such term is commonly used under S. 707 is purely incidental. Furthermore, we already have a Consumer Products Safety Commission that is doing a good job in the field of consumer protection against unsafe products. Perhaps the powers of the Consumer Products Safety Commission could be expanded without setting up a new separate federal agency which would be a policing agency interfering with the orderly conduct of governmental functions.

2. The *consumer* interest should not be paramount to the *general public* interest for it is only an integral part of the all-encompassing consideration—the general public interest. If we set up a consumer interest as separate from general public interest, how can we answer demands for separate agencies such as Taxpayers Protection Agency, Labor Protection Agency (Labor is exempt under S. 707), Environmental Advocacy Agency and Small Business Protection Agency.

3. The CPA Administrator would have the unchallengable right to determine what is best for consumers. Consumers aren't just a bloc of people with the same views, motivations and interests. A matter might have a number of aspects presenting different consumer interests. An automobile has consumer interests in cost, safety, power, appearance, fuel consumption, speed, size, impact on the environment. Which interest would the CPA advocate? Trade negotiations might present the interests of cheap foreign goods versus American jobs. The consumer interest might be cheap goods but the American worker would lose.

4. CPA, a supposedly non-regulatory agency can challenge at will final decisions of regulatory agencies in court. The power to seek the overthrow of *final* governmental decisions at the request of another Government agency would have a coercive effect on agency decisionmaking and would overburden the courts and delay resolution of question in dispute. CPA would dominate all federal agencies with rare exception.

5. CPA would in effect be a fourth branch of the government unaccountable to any of the other three. We do not need this added eschelon of federal bureaucracy. If regulatory agencies are not doing their jobs replace members and step up Congressional oversight, don't just set up another agency to police them. Suppose CPA fails to please consumers or other advocates will we just set up more bureaucracy to police it? Where do we stop?

6. In agency proceeding, adding CPA as a party would constitute dual prosecutor with agency and CPA both being prosecutors with perhaps conflicting approaches to prosecution.

7. I favor *amicus* approach with CPA serving in advisory capacity to agencies making information and counsel available to agencies but not giving CPA power to intervene as party.

8. Being responsible to no one, a Consumer Protection Agency would speak the voice of its administrator and the specially annointed people he might select and not the consensus view of consumers. With all the divergence of opinion among the citizenry (consumers), it is impossible for there to be one representative voice.

9. In 1972, when CPA died in Senate, apparently opposition thinking was similar to Ralph Nader's because he denounced bill as fraud on consumers, and consumer advocate Rosenthal in House voted against the bill. So apparently opponents in 1972 performed service for Nader, Rosenthal and consumers in defeating bill. It has not been pointed out to me how present bill improves on 1972 bill.

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*["Amicus"]

WASHINGTON INFORMATION: NATIONAL HEALTH INSURANCE

Mr. FANNIN. Mr. President, my colleague, Senator CLIFFORD P. HANSEN recently participated in an exclusive interview with Jeffrey A. Prussin, editor of Washington Information: National Health Insurance, during which he discussed his perspectives on the congressional situation of national health insurance.

I ask unanimous consent that the special report be printed into the RECORD.

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

SPECIAL REPORT: INTERVIEW WITH SENATOR HANSEN

SENATOR HANSEN SUPPORTS MEDICREDIT IN WINHI INTERVIEW

Senator Clifford P. Hansen (R-Wyo.) is the fourth ranking minority member of the Senate Finance Committee and one of the more vocal cosponsors of the American Medical Association's Medicredit proposal.

Hansen remains flexible

In an exclusive interview with Washington Information: National Health Insurance editor Jeff Prussin, Senator Hansen indicated that he is not wedded to Medicredit and "if it appears that chances of reasonable legislation being passed can be improved by cosponsoring something else, I will."

Final NHI bill will be a "conglomeration"

"Whatever kind of bill is passed . . . will be a conglomeration of the specific ideas contained in several different bills." The three major bills from which compromises will be made, according to Hansen, are the Kennedy-Mills CNHIA plan, "not because it is necessarily all that good, but because of the prominence of its two major sponsors," the Administration's CHIP proposal, and the Long-Ribicoff catastrophic plan.

Hansen leans to CHIP

If forced to choose among the three, Hansen would lean more towards CHIP than the other two. Of major concern to Hansen, however, are the rate regulation and compulsory employer participation provisions of CHIP which he feels would be better left out.

Chances for NHI pegged at 50 percent this year: Better next year

Chances for NHI passage in 1974 are 50-50, according to Hansen, because there is a "likelihood of impeachment being voted by the House and the Senate then having to sit in judgment." In addition, "the fact that this is an election year, with the obvious desire on the part of many members of Congress to get out and campaign, indicates that the Congress will shoot for an adjournment date in October. However, this is as much a spur to get something done as a detriment."

Hansen does feel that chances of an NHI plan being enacted in 1975 are "fairly good"; and since he does not "think that the need is so great and so pressing that we ought to pass almost any bill, I would hope that with more deliberation than we may . . . be able to give this year, we could come up with a better answer to our health problems than we might be able to formulate under the pressure of trying to get something passed just to say that we have passed a bill before we adjourn."

Deductibles necessary to contain utilization

Hansen believes that deductible provisions are necessary under National Health Insurance to contain unnecessary utilization. "If people have to pay part of the costs of their care, it would seem to me that you avoid the likelihood that people are going to abuse the privilege of a health care program by going in for needless consultations and medical procedures. I think that having a deductible makes awfully good sense." Without deductibles, NHI would "indeed overtax and strain the medical care delivery mechanisms we have in this country, including doctors, nurses, hospitals and the whole gamut."

However, individuals who are "completely indigent"—who are "at the very bottom of the economic scale" and cannot realistically pay anything toward medical care—should not have to pay deductibles.

Deductibles will not inhibit use of preventive services

Deductibles will not, however, act as a barrier to the use of preventive services, according to Hansen. Indeed, "the whole thrust of Medicredit is to try to bring about a program that will take advantage of the good judgment that I think is implicit in preventive medical care."

NHI must be a voluntary program

Hansen is opposed to making an NHI program mandatory. He cannot "escape the deep basic conviction that we have responsibilities as individuals to do certain things for ourselves; and if people do not have enough interest to do those things that they ought to do for themselves—well—you cannot spoonfeed good health or good society into people." Thus, while National Health Insurance should provide universal entitlement, it should definitely not force people to enroll in the program, Hansen said.

Alternative health delivery systems and health resources development funds should not be included under NHI

When questioned on whether or not a National Health Insurance plan should appropriately include specific funding for development of alternative delivery systems and health resources, Hansen referred to the "Analysis of the President's FY 1975 Budget and Preliminary Minimum Appropriation Recommendations for Federal Health Programs", published by the Coalition for Health Funding (Suite 322, 2233 Wisconsin Avenue, N.W., Washington, D.C. 20007), which itemized the Administration's $4.8 billion Fiscal Year 1975 request for Federal health program funds (exclusive of Medicaid and Medicare).

According to Hansen, innovative delivery systems and health resources development are already being funded by other legislation. For example, the President's requests for Fiscal Year 1975 include $60 million for HMOs, $9 million for the National Health Service Corps, $199 million for Community Mental Health Centers, $75 million for health resources planning, etc. "It does not appear that these programs need to be duplicated." He believes that funds for development of innovative delivery systems and health resources should be provided separately from National Health Insurance, as is currently being done, and that NHI should be limited to regulating and administering payments for health services. "The danger is that we may bite off more than we can chew."

Medical professions should be self-policing: Hansen opposes use of PSROs under NHI

While "it is not inappropriate for the Federal government to have some mechanism to assure that there aren't abuses of an NHI program, such as doctors performing procedures which are not necessary or hospitalizing patients for a longer period of time than is medically required," Hansen supports the idea that, within the framework of a peer review concept, professional organizations can be self-policing. He does not "think it necessarily has to be structured by a single mandated program that is inflexible." Indeed, PSROs disturb Hansen because they might often leave final judgments of a medical nature "to administrators, Federal bureaucrats, department heads, the Secretary of HEW, or lesser persons under him, who would be making professional judgments in areas outside of their training and professional competence." Therefore, according to Hansen, peer review should "be left as nearly exclusively as possible to doctors themselves, without putting a bureaucratic overlay on top of it."

States should be regulatory bodies under NHI

As the former Governor of Wyoming, Hansen strongly believes that NHI regulatory authority should be placed at the state, rather than the Federal, level so that the program can be tailored to meet the specific needs of the states. The price of medical care, for example, varies from state to state and region to region and therefore could not be made uniform throughout the country.

Hansen supports comprehensive benefits

Hansen generally supported a comprehensive benefit package which would include long-term care, comprehensive mental health services, with "good guidelines to prevent people from over utilizing the benefit just for their own personal satisfaction," comprehensive dental services, "which we will have to work into gradually and learn as we go along," and comprehensive prescription drug services since drugs are "as real a cost in health care as anything else."

Medicredit will be a major influence in final NHI bill

Even though Medicredit has over 180 cosponsors in the House and Senate, more than any other NHI proposal, it has, for the most part, been ignored as a viable alternative by witnesses before the House Ways and Means Committee and the Senate Finance Committee—except, of course, for the major sponsors of the bill. The reason for this, according to Hansen, may be that the prime sponsors of Medicredit do not "have the political sex appeal equal to that of those on the other bills. . . . For example, there has been talk of a Kennedy-Mills presidential ticket in 1976." However, Hansen expressed "enough confidence in the good judgment of the American people to believe that we might come up with a pretty good National Health Insurance plan—despite the political sex appeal that sponsors of some of the measures might have at the present moment." Therefore, when the final NHI plan is actually written, Hansen believes that Medicredit will exert a strong and productive influence.

DEMOCRACY, DEMOCRACY

Mr. HARTKE. Mr. President, today, the people of Greece are again shouting "Democracy, Democracy" in the streets of the nation that originated democracy. After 7 long years of military control, the military junta has begun the restoration of free government by returning Greek elder statesman Constantine Karamanlis to Athens to be sworn in as the premier of a government of the national union.

The human interest in, and understanding so vital to a democratic state were evident throughout the streets of Athens this week when it was learned that Karamanlis was coming home.

Mr. President, I ask unanimous consent to have printed in the RECORD following my remarks an article appearing in the July 24 Washington Post entitled "Greek Junta Bows Out, Civilian Rule Restored" depicting the joy of the people of Greece in their opportunity to regain civilian democratic rule.

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

(See exhibit 1.)

Mr. HARTKE. No free society or free man can tolerate the suppression of a free mind by military force. Since the 1967 military coup, which I had predicted a year earlier, I have continuously opposed the establishment of a military dictatorship in Greece, truly the cradle of democracy.

I have fought consistently for freedom for the Greek people, and against the disastrous policy pursued by American leaders of support for the dictatorship. The decision this week removes the burden of tyranny from millions of Greeks

who cannot contain their emotions at the realization that freedom is again at hand. The anti-American slogans that may have appeared during the Greek demonstration are the burden we must bear for a foreign policy that supported a military dictatorship. The history of people and their governments is replete with instances of suppression, coercion, tyranny, and dictatorships which ignore the democratic faith that the power to govern lies with the people. It is only when the people are able to decide their own destiny through the democratic process that military ventures like Cyprus will not be tolerated.

We must hope that the swing to representative government will prevail during the tense parleys now going on between the former military leaders and the new civilian officials. Until democracy has been fully restored, the Government of Greece cannot fully represent the ideals laid down more than 2,000 years ago by the classic Greek political thinkers.

EXHIBIT 1

GREEK JUNTA BOWS OUT, CIVILIAN RULE RESTORED

ATHENS, July 24.—Greek elder statesman Constantine Karamanlis was called home from exile and sworn in as premier of a government of national union following the military's junta's decision yesterday to restore civilian rule in Greece.

Shaken by the crisis it set off by backing a coup in Cyprus that has led to the brink of war with Turkey, the junta called upon Greece's conservative and moderate politicians to form a government to rescue the situation.

After conferring with the major opponents of the junta still inside the country, President Phaedon Gizikis called Karamanlis in Paris and urged him to come home to head the new government.

Arriving to find an enthusiastic crowd of thousands waiting for him at the Athens airport, Karamanlis said, "I feel greatly moved at finding myself back in the country again. . . . I know that the Greek people in difficult moments are united, and, together, I hope to be able to construct a new democracy."

Troops and police at the airport to control the crowd joined in the emotional shouting of "Long Live Karamanlis," "Democracy, Democracy" and other slogans.

As premier for eight years from 1955 to 1963, Karamanlis enjoyed the longest continuous rule as political leader of Greece since the country won its independence from Turkey in 1830.

Karamanlis, 67, has been both a measured critic of the junta and a measured supporter of Constantine, the deposed king. The new premier has for some time been considered the only figure who could reconcile the armed forces and the politicians.

As the news of the forthcoming transfer of power raced through Athens yesterday there were scenes of joyous pandemonium. Thousands of Athenians surged into the streets around the huge Constitution Square, the center of the city. People hugged each other, cheered, waved Greek flags and made victory signs.

During the breaks in a conference between the military and the politicians, young people mobbed the civilian leaders, hugging and kissing them.

Not since Greece was liberated from the Nazi occupation in 1945 had there been such mass demonstrations of joy in Athens.

Although it was not immediately clear just how much power the junta was willing to surrender to the civilians, today's developments may mark the end to more than seven years of military dictatorship in Greece.

"The Greek armed forces, in view of the situation in which the country finds itself, have decided to entrust a civilian government with the running of the country," an official announcement said.

It seemed unlikely that Karamanlis would have agreed to return unless he had been given a relatively free hand.

"Pray for me," Karamanlis asked newsmen as he boarded a plane provided by the French government for the four-hour flight to Athens.

Thousands of Athenians rushed to the airport to welcome him hours before he could possibly arrive. "He is coming, he is coming," chanted another crowd around the presidential palace.

The junta held long sessions during the day with a group of civilian politicians representing every major non-leftist group. Those who attended the session included practically all of the leaders who headed a succession of weak governments from 1963 until the junta took power in 1967.

All of the civilian participants opposed the 1967 military takeover.

Conspicuously absent from the meeting was junta leader Brig. Gen. Dimitrios Ioannides, chief of the national police and leader of the group that took over the junta in November.

There were numerous immediate signs of liberalization. The newspaper Vradyni, banned in December for violating the censorship, put out a special edition yesterday with a full-page photograph of Karamanlis and the banner headline "He's Coming."

It was announced that two other newspapers, Imera and Athaniaki, which have not been published at all during the seven-year military rule, would soon reappear.

Karamanlis denounced the Athens-backed coup, July 15, against the leftist-leaning President Archbishop Makarios of Cyprus as a "national disaster."

Karamanlis called upon the armed forces last week to restore democracy as "a national necessity of the highest importance" and placed himself "at the disposal of the nation for such an effort to restore normality and achieve national reconciliation."

In an earlier statement that created a major stir last year, Karamanlis said that King Constantine should be returned to power to reign over an "experienced and strong government."

The implication was clearly that Karamanlis meant to forestall any attempt by the exiled king to resume a policymaking role. The young King's attempts to influence the country's politics were among the reproaches that preceded his downfall.

But Karamanlis supported an abortive countercoup against the junta eight months after it came to power in 1967 to restore Constantine's position.

The armed forces' announcement of a return to civilian government came during a break in a meeting at the office of Premier Adamantios Androutsopoulos between the generals and the politicians.

The politicians in the talks were ex-Premier Panayotis Kanellopoulos, leader of the National Radical Union, the party that Karamanlis headed until he resigned the premiership in 1963; George Mavros, leader of the left-of-center Center Union Party; ex-Premier George Athanasslades-Novas; ex-Premier Stephanos Stephanopoulos, former prominent Cabinet ministers Evangelos Averoff-Tossitsa, Petros Garoufalias, Solon Gikas and Spiros Markezinis; and the former governor of the Bank of Greece, Xenophon Zolotas.

One of the politicians who attended the session told a Reuter correspondent that he thought the military men were sincere in their desire to give up power.

Premier Androutsopoulos submitted the resignation of his mixed civilian and military government, but he will remain in office until a new Cabinet has been named.

One of the new government's first priorities will be to decide what line it should pursue at the forthcoming talks in Geneva with Turkey and Britain to restore peace to embattled Cyprus.

Unconfirmed reports in Athens said that the key man responsible for the change in government was Lt. Gen. Ioannis Davos, commander of the Greek 3d corps headquartered in the northeastern port city of Salonika.

Gen. Davos took part in the meetings yesterday between the generals and the politicians.

During the current crisis, his troops were shifted from their usual positions along the border with Bulgaria to be massed on the frontier with European Turkey.

The Turkish official radio had reported yesterday that Davos had staged a coup and set up a new government in the town of Larissa in central Greece.

Even though the reports of Davos's coup came, from enemy broadcasts in the midst of a near-war situation, they received wide credence in Greece.

The rumors of a change in government were officially denied by Constantine Rallis, a Cabinet minister without portfolio, in a special radio-TV address just before noon yesterday in Athens.

"Foreign radio stations known for their anti-Greek tactics are systematically distorting the truth and drawing conclusions detrimental to our country," he said on behalf of the government while behind-the-scenes negotiations were already under way for the Cabinet to step down.

The crowd in Constitution Square today was estimated at about 100,000. Among the slogans that were chanted were, "Democracy, Democracy"; "Out With the Americans"; "Makarios, Makarios" and "Down With the Torturers and Military Police."

Police forces cordoned off the square and called over loudspeakers for the crowds to disperse, warning that the country is still under martial law and that demonstrations are forbidden. But the police were ignored.

The armed forces issued a later statement saying, "As was announced previously, the country is obtaining a civilian government. We advise the people to keep their calm and self-control for the sake of the nation."

The mood of delirious joy was in complete contrast to the muted reception given just over a year ago to the announcement that King Constantine had been deposed and a republic declared.

As cars jammed the roads, driving around in circles and orchestrating the din with their horns, one young man did a slalom run through the traffic, bare-chested and waving his blue shirt above his head. Such nudity violates the moral code laid down by the junta. Police made no move to stop him.

In a quieter expression of joy, some women walked through the streets carrying lighted candles.

Gen. Gizikis, who presided over the change in regime, is the former 1st Army commander. He is considered a rightist and a friend of King Constantine. Gizikis became president in November in a bloodless coup that overthrew President George Papadopoulos.

A communique at the time said that Papadopoulos was ousted because he was pushing Greece toward parliamentary rule too fast and straying from the goals of the 1967 military coup that put the former colonel into power.

NATIONAL SOCIETY OF ARTS AND LETTERS

Mr. PERCY. Mr. President, I was recently honored by an invitation from the National Society of Arts and Letters to speak at a luncheon meeting of its 30th anniversary convention here in Washington.

Apart from my great personal interest in this organization—my talented concert violinist and delightful mother is a vice president of the Chicago chapter and I am pleased to be a member of its advisory council—I think it should be singled out generally for its truly dynamic and determined support of hundreds of talented young Americans whose careers might have otherwise floundered or never come to flower. Talent needs a friend; it needs encouragement; it needs a chance. It needs recognition and appreciation. And talent needs financial help. All of these things the National Society of Arts and Letters has provided, and in doing so, has enriched our own lives and our national culture as well. Its scholarships to young musicians, writers, actors, dancers, and artists have in turn given the rest of us the gift of enjoyment to intellect, senses, and spirit. A nation that does not nurture its talent becomes arid and bleak. I am proud that this is a nation that is both technically sophisticated to an unparalled degree and yet one that can rejoice in things of the mind and the soul.

Mr. President, as one who grew up with the sound of music and a love of literature in his own home, I am pleased to have the opportunity to salute an organization, its officers, directors, and members that work so tirelessly to make these things a part of every citizen's life.

Mr. President, I ask unanimous consent that my remarks and the minutes of the 30th Anniversary Convention of the National Society of Arts and Letters be printed in the RECORD.

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

REMARKS BY SENATOR CHARLES H. PERCY

INTRODUCTION

It's a pleasure to be here with you this afternoon. You know, if you are going to be doing any public speaking, you should always try to be introduced by your mother, as I was.

I can assure you that no one else is as aware of your accomplishments or more confident of your potential than a mother.

In 1972 in the Senate campaign in Illinois it was a Percy versus Pucinski race, but I wasn't always sure which Percy was running for office—Mother or me.

I though Loraine and I campaigned awfully hard, but Mother was always one step ahead of us playing her violin at nursing home after nursing home to entertain the residents and—not always incidentally—to urge them to vote for me.

In that way, Mother was a brilliant example of incorporating the arts into our national life. But she has always had music and literature in her life, and because of that her family and her friends have regarded her as a complete person.

I would like to see the enrichment that the arts have brought to Mother's life extend to all Americans, as I know you would. The arts give a meaning to our lives that nothing else really can.

You will appreciate the truth of an observation made by a great artist, Isaac Stern. The violinist pointed out that the arts are *not* "a casual adornment to an affluent society, but truly basic to the civilizational needs and aspirations of a great society."

There has been, from the time of the first settlers in this country, a spirit of daring-do which has worked both to our development and our detriment. I read recently a fascinating analysis of that American urge to "do something."

Daniel Boorstin, the historian, suggested that when the first settlers came to this country they brought with them the culture of 17th Century London and tried to establish it in a wilderness that had not even gone through the equivalent of the Middle Ages.

Certainly the ingenuity of those pioneers led us to make technological and economic progress that was amazing, but it also left little time for development of the spirit. That is the tragedy of it: We Americans, by tradition, devote only a small part of our time and energies to encouraging the arts. We have always been too busy solving problems, building and expanding.

I think one of the most promising aspect of our Bicentennial celebration will be a renewed interest in our American cultural endeavors. After all, our artists, writers and musicians do have a flair that is truly American. Georgia O'Keefe, Walt Whitman, and Rodgers and Hammerstein, just to name a few, have brought a new scope to their respective arts that are clearly part of the American experience.

As we celebrate the Bicentennial, celebrate all that is American, we will want to place special emphasis on the achievements of our artists.

For many years the cultivation of the arts in this country was left to private groups such as yours. From these endeavors, we have seen great accomplishment, but that wasn't really enough. There has always been a place for the federal government in supporting the arts and, finally, the government seems to be assuming its role.

In the last decade federal funding for the National Endowment for the Arts has grown from $2.5 million to a record $111,775,000. That latter figure, I'm sure you will agree, is more in line with our needs.

During President Nixon's first term in office, the appropriations for the Endowment for the Arts rose from $8 million in fiscal 1970 to nearly $40 million in FY '74.

Last year that figure swelled to nearly $112 million. Even that high figure was $25 million less than the amount authorized by the Senate. As a major supporter of the Senate figure, I was disappointed in the cut, but still I realize what great progress was made.

I have the privilege to serve as Chairman of the Trustees of the Kennedy Center, and in that position I have worked hard to secure funding for it. The Kennedy Center has brought a new spirit to the nation's capital and added a dimension that our city needed badly.

President Nixon must be given credit for urging funding for the arts as strongly as he has. He has worked hard through legislative channels and through his own personal appearances at artistic events to encourage more support.

It seems that with the encouragement of the President's interest in this matter, the Congress has finally come to its senses regarding expenditures for this vital area of our lives.

I would think that particularly in these dark days of our national life when crisis tumbles down upon crisis, we all—Congressmen and private citizens alike—are recognizing the need to seek ways to sooth our thoughts and to emphasize the works that set man apart from his everyday troubles. Surely if we have ever needed to be transported, it is now. Through all the art forms we can look up and thank heaven for our imagination which sets mankind apart from all other living things.

I see only good things ahead for the arts in this country. As I indicated earlier, the President and the Congress finally seem determined to allocate the necessary funds for support of the arts. There has also been a surge of participation by state and local governments. And, we can all hope that groups such as yours will continue their support and encouragement.

We cannot survive as a society without the gracious presence of the arts in our lives. They are not the frosting on the cake; they must be at the very heart of our civilization. We must continue to strengthen our cultural lives just as we do the technological aspects of our lives.

If you have visited the beautiful Kennedy Center, you undoubtedly have seen the quote from President Kennedy carved on the outside of the building. President Kennedy acknowledged the balance that must be struck between culture and technology when he said:

"There is a connection, hard to explain logically, but easy to feel, between achievement in public life and progress in the arts. The Age of Pericles was also the Age of Phidias. The Age of Lorenzo de Medici was also the Age of Leonardo de Vinci. The Age of Elizabeth was also the Age of Shakespeare."

I believe that with the combined efforts of the government and private citizens to support our artists and a love of art we can make this a golden age in American arts.

MINUTES OF 30TH ANNIVERSARY CONVENTION

The National Society of Arts and Letters (NSAL) held its 30th Anniversary Convention in Washington, D.C., May 14-19, with headquarters at the Washington Hilton Hotel.

There were about 205 members in attendance including delegates and alternates, representing some 2,000 members of the Society. Twenty-five of the thirty-two chapters throughout the United States were represented, with the Honolulu Chapter of Hawaii travelling the furtherest distance. Other states represented were: Alabama, Arizona, Arkansas, California, District of Columbia, Florida, Illinois, Indiana, Kentucky, Louisiana, Missouri, Minnesota, New Jersey, New York, Ohio, Pennsylvania, and Texas.

In addition, there was a guest representative from a new chapter being formed in Connecticut. Another chapter is being added in Boston.

NSAL is an organization of individuals who are engaged professionally in one or more of the arts or who are actively sponsoring the work of young artists.

The National Society of Arts and Letters was founded 30 years ago—October 21, 1944—in Chevy Chase, Maryland, by two dynamic, capable women, with vision and inspiration, Mollie Davis Nicholson of Chevy Case, and Francesca Falk Miller Nielsen of Chicago, Illinois.

Mrs. Nicholson, a columnist, editor and lecturer, was also active in civic, patriotic and political organizations. Mrs. Nielsen paralleled the diverse interests and abilities of her co-founder, being an accomplished concert soprano and an equally successful author of poetry, plays and books.

They envisioned an organization which would not only uphold standards in the various fields of arts and letters, but also provide financial assistance to young people pursuing their goals. Thus, the organization was born, which became a pioneer in the field of private scholarships in all the fields of the arts and letters.

The national organization, together with its local chapters, has given an estimated half a million dollars in awards and scholarships since its founding in 1944. Scholarships are given in all five categories—art, dance, drama, literature, and music—each year in the local chapters, with a national award rotating between the different categories on the national level every five years. Scholarship and award winners have included such talents as Malcolm Frager, Jessye Norman, and Diane Young (Summerfield).

"The Washington Post," in an article during the convention, described NSAL as a kind of "privately supported National Endowment for the Arts...."

The Society also provides occasions to showcase the talents of their scholarship winners.

The stated aims and objectives of the Society are:

Encourage and assist young artists.

Give scholarships and awards to non-members after competition in any of the creative arts.

Create opportunities for artistic endeavor and expression.

Conduct or assist non-competitive exhibitions in art, dance, drama, literature, and music.

Encourage higher standards of professional ethics.

Promote a greater public interest in the creative arts.

Carrying on in their own Chapters of NSAL now are two daughters of the two founders—Dorothy Nicholson Stabell of the Washington, D.C. Chapter, daughter of Mrs. Nicholson, and Mrs. Bruce Strong of the Chicago Chapter, daughter of Mrs. Nielsen.

Chairman for the 1974 Convention was Mrs. MacKenzie Gordon of Washington, D.C.; the Assistant Chairman was Mrs. W. Allan Saylor, Silver Spring.

Activities began with a pre-convention party Tuesday evening, May 14, at the South African Embassy. The occasion honored the National NSAL Board and was hosted by The Ambassador of South Africa and Mrs. Botha and the daughters of the two founders of the organization, Mrs. Dorothy Stabell and Mrs. Bruce Strong.

Robert Portney, violinist, who was first prize scholarship winner in violin in 1973 for the Washington, D.C. Chapter and national fourth place winner the same year, performed for the group. He now plays concert tours across the nation, plus carrying a regular college program at Harvard University.

Following the opening business session with the National President, Mrs. Carleton A. Reeves (Alice), presiding on Wednesday morning, May 15, John Ciardi, poet, critic, member of NSAL National Advisory Council gave the keynote address "The Act of Language" at a luncheon at the hotel honoring Chapter Presidents and founders of Local Chapters. The luncheon event began with a presentation of colors and a musical salute by the United States Air Force Ceremonial Band. Marilyn Hoffman from *The Christian Science Monitor*, who had just returned from Asia, made a few remarks.

The cultural fest continued at 4:30 p.m. with a "Forum on the Arts", with Ciardi as moderator. Panelists were Fannie Taylor, Director of Program Information, National Endowment for the Arts; Dr. Robert W. Miller, Senior Associate Administrator of The American Bicentennial Administration; Dr. Alexander Hollander, Internationally known biologist, member of The Academy of Sciences and Consultant to the National Institutes of Health.

Dr. Gordon H. Smith, Professor of Music at The American University in Washington, D.C., spoke to the group following a buffet supper at the Cosmos Club at 7:30 p.m. Victoria Noyes, second prize violin scholarship winner for the Washington, D.C. Chapter, 1973, presented a short recital.

Business sessions continued Thursday, May 16, with members and delegates breaking for a 4:00 p.m. tour of The Department of State Diplomatic Reception Rooms, hosted by the Assistant to the Curator, Mrs. Patrick Daly.

"Scholarship Night" was the title, with displays of talent and past winners from the Washington area, for dinner that evening at The International Club. There was an exhibit of sculpture and painting. Francis Conlon, now a piano instructor at Catholic University, performed. There was poetry reading by Robert Wickless, now a student at The University of Maryland. Christine Wright, a student at The Washington School of Ballet, danced. This was followed by an informal talk by Richmond Crinkley, Joint Producer of The Kennedy Center Productions, Inc.

It was a full day on Friday, May 17. After business meetings in the early morning, NSAL delegates took a quick tour of the Capitol and then had lunch with Senator Charles Percy from Illinois and listened attentively as he told them what Congress was doing to promote the arts in America. Mrs. Edward Percy (Elizabeth), the Senator's mother, introduced her son. Mrs. Percy is a musician and a vice president of the Chicago Chapter and her son, the Senator, is a member of the Chicago Advisory Council. The Honorable Louise Gore, former Ambassador to UNESCO and NSAL member, attended the luncheon.

This event was followed by tea and a tour of The White House.

The scene then shifted to the Concert Hall of the John F. Kennedy Center, where at 8:30 p.m. the National Society of Arts and Letters held its first national benefit, under the patronage of Mrs. Nixon, for a Mamie Doud Eisenhower Award. Mrs. Eisenhower has been a supporter and Honorary member of NSAL for twenty years.

The Benefit was during an evening of the Mozart festival with Stanislaw Skrowaczewski of the Minneapolis Symphony conducting The National Symphony Orchestra in Symphonies No. 34 and 39. Joerg Demus, as guest soloist, played the Piano Concerto No. 27. A reception followed in the Atrium.

Mrs. Theodore Bedwell, McLean, Virginia, was the Benefit Chairman, with Mrs. Dorothy Stabell and Mrs. Brue Strong serving as Co-Chairmen.

The event honored the National Honorary members—Mrs. Nixon, Mrs. Johnson, Mrs. Eisenhower, Mrs. Truman—the National Advisory Council—Maria Tallchief, Van Cliburn, Jerome Hines, Helen Hayes, Orlin and Irene Corey, Dr. Carl Weinhardt, Jr. Victor Borge, John and Anne Coover, Faith Baldwin, and John Ciardi.

Saturday morning, May 18, was set aside exclusively for students, as delegates and contestants gathered at the Folger Shakespeare Library Theater at 9:30 a.m. for the national drama competition in acting. Contestants eligible to participate were winners of local contests from the thirty-two chapters.

Winners were: Patricia Conwell, first place, San Antonio Chapter Contestant; Kristin Rudrud, second place, Northern Minnesota Chapter Contestant; Cynthia Mayfield, third place, Columbus Chapter Contestant; Michael Leighton, fourth place, Clearwater Chapter Contestant Margaret Kemp, Arizona Valley of the Sun Chapter Contestant, and Marcy MacDonald, Santa Barbara Chapter Contestant, shared fifth place.

Others who entered the contest were: Kim Morin, Birmingham Chapter entree; Susan Solt, Bloomington Chapter entree; Cheryl Rhoads, Chicago Chapter entree; Stacy Graves, El Paso Chapter entree; Diana Lanza, Empire State Chapter entree; Robert Schenkman, Evanston Chapter entree; Larry Welch, Little Rock Chapter entree; Ed Gero, New Jersey Chapter entree; Marilyn Leggett, Ohio River Valley entree; Randall Haynes, Pittsburgh Chapter entree; Richard McGougan, St. Louis Chapter entree; Wendy Buchwald, Shreveport Chapter entree; Sherry Skinker, Washington, D.C. Chapter entree; and David Penn, Kentucky Chapter entree.

Three judges made the determination of the winners—Professor Alan B. Hanson, St. Louis University; Charles W. Raison, Executive Director, American Academy in New York; and Louis W. Scheeder, Producer-Director, Folger Theatre Group.

A total of $2300 was presented to the students, which will be used to further their acting careers.

The National Scholarship Chairman was Mrs. William Sistrom from the Arizona Valley of the Sun Chapter and the National Drama Chairman was Mrs. Norman J. McDonough of the St. Louis Chapter.

Delegates were guests on Saturday evening of His Excellency, Ambassador Ardeshir Zahedi, at the Iranian Embassy for the Society's traditional Red Rose Dinner. At this event each year the award winners are announced and they then perform for the delegates. On this particular evening, the group also heard brief remarks about "The Origin of the Iranian People" by Mr. Madj, Minister of the Embassy of Iran. The Director of the Washington Performing Arts Society, Patrick Hayes, also spoke briefly on "John Adams Was Right—America Has Become an Artistic Society".

Dignitaries attending included Mr. and Mrs. Charles Robb—Mrs. Robb is the former Lynda Byrd Johnson, the daughter of the late President Johnson. Dr. and Mrs. Kazemian—Dr. Kazemian is Minister of Culture of the Embassy of Iran. Senator and Mrs. Percy also attended.

The finale ended with the first annual "Prayer Breakfast" on Sunday morning, May 19. Former actress Colleen Townsend, now Mrs. Louis H. Evans, Jr., wife of the minister of the National Presbyterian Church, spoke on the "Beatitudes", which she has written about in her book, *A New Joy*. There was music by members of the National Presbyterian Church Choir, and lastly the installation of new national officers for the next two years.

Mrs. Donald Bates Murphy of Silver Spring, Maryland is the new national president.

Other officers include: Mrs. Reece Tannehill Geissinger, Pittsburgh, first vice president; Mrs. Harold O. MacLean, Santa Barbara, second vice president, Mrs. Courtney F. Ellis, Kentucky, third vice president; Mrs. Henry Lester Smith, Bloomington, fourth vice president; Mrs. R. Samuel Watkins, El Paso, fifth vice president; Mrs. Norman M. Kronick, Honolulu, sixth vice president; Mrs. W. M. Ewing, New Jersey, recording secretary; Mrs. Robert W. Miller, Washington, D.C., corresponding secretary; Mrs. J. John Brouck, St. Louis, treasurer; Mrs. Holmes Gardner, St. Louis, assistant treasurer; Mrs. Maximo Iturralde, El Paso, auditor; Mrs. Orlo Campbell, New Jersey, registrar; Mrs. Courtney Campbell, Clearwater, librarian; Miss Sylvalyn Brown, Los Angeles, historian; Mrs. Heiskell B. Kelley, Little Rock, chaplain; Mrs. John H. Herweck, San Antonio, parliamentarian.

WAYNE L. MORSE

Mr. HARTKE. Mr. President, earlier this week, this country lost one of its outstanding citizens, Wayne Lyman Morse.

Wayne Morse was born in 1900 on a farm near Madison, Wis. His love of the farm never left him. For 25 years, he

maintained a farm in Maryland, where the late President Lyndon Johnson went to buy a prize Devon bull and the late Drew Pearson went to swap hay, calves, and political stories.

In 1949, Wayne Morse was elected to the Senate as a Republican from the State of Oregon. He had already proved himself to be outspoken as a member of the War Labor Board 7 years earlier. Although a Republican, he remained true to his conscience and his beliefs by supporting the late Adlai E. Stevenson in the 1952 presidential race.

For more than 2 years, Wayne Morse was a man without a party—an independent. During that period, Collier's magazine referred to him as the "Loneliest Man in Washington." He was removed from his old committee assignments and received only minor assignments in return. Two years later, he joined the ranks of the Democratic Party.

To those who knew him well, Wayne Morse was full of humor and joviality. Most of all, he harbored a refusal to compromise on any issue which he considered to be a matter of principle. In a legislative body which exists of the necessity for compromise, tenacity is not looked upon as a virtue, but it was that tenacity—that devotion to his own conscience—which caused Wayne Morse to speak out against the war in Vietnam.

In 1954, when the Eisenhower administration announced its policy of containment of Southeast Asia, Wayne Morse said that the United States was "in great danger of being catapulted into the Indochinese war." In 1964, when the Senate was considering the Gulf of Tonkin resolution, Morse characterized the United States as the "provocateur" and said:

> We have been making covert war in Southeast Asia for some time, instead of seeking to keep the peace.

Just as he had been outspoken on other matters of conscience, Wayne Morse remained consistently outspoken in his opposition to American military involvement in Southeast Asia. Every time that involvement escalated, he escalated his verbal assault.

Wayne Morse left the Senate after 1968, but he never lost his love for it. He failed in one attempt to return in 1972, but was embroiled in another campaign at the time of his death.

Wayne Morse was a colleague and a friend, and I best remember him as he was described in A. Robert Smith's 1962 biography—"The Tiger." Wayne Morse was a tiger and we will all miss his outspoken voice and his fidelity to conscience.

NATIONAL HEALTH INSURANCE—THE BRITISH EXPERIENCE

Mr. HANSEN. Mr. President, the article, "British National Health Plan, Financially Undernourished," as printed in the Washington Post, Saturday, July 6, 1974, was of great interest to me. It would seem most appropriate, while developing a national health plan of our own, that we study carefully the experiences of other countries, like Britain, and profit from what they have learned.

This article dramatically points out the pitfalls of a national health insurance program wherein the finances for comprehensive free, or low-cost medical services are raised through Government taxation and compete with other national priorities within a political arena. There is never enough money to go around, and issues of lower priority inevitably suffer as tax moneys are funneled into the most politically popular projects. The result in Britain has been chronic under-funding of the whole health care delivery system, underpaid doctors, and mediocre quality medical care.

A comparable situation can be found in proposals currently before this Congress that would finance national health insurance from social security taxes matched by general revenue contributions wherein comprehensive medical services would be bought by the Government for the public.

This situation can be prevented by offering Government assistance to individuals based on need and ability to pay, and through a tax credit finance base that retains actual expenditures and purchase within the hands of the consumer.

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

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

BRITISH NATIONAL HEALTH PLAN "FINANCIALLY UNDERNOURISHED"

(By Peter Mosley)

LONDON.—Britain's National Health Service, often touted as the world's finest example of socialized medicine, is tottering through its worst crisis and may need drastic surgery before long.

"Chronic financial undernourishment" was the diagnosis of one expert recently.

But instead of the massive infusion of funds which is patently necessary if the 26-year-old institution is to survive, the NHS has been bled of $264 million by a cut in capital spending imposed last December.

The effect is just beginning to bite. It has been estimated that at least $300 million a year in extra funding is needed just to maintain present standards.

The health service has an annual budget, raised from taxes, of more than $7 billion. This makes it one of the largest civilian enterprises in the world.

Today, Britain's economic plight and persistent inflation—the basic reasons for December's budget cut—are not only preventing improvement of standards in the already creaking health service, but actually lowering them in many cases.

The result: longer and longer waiting lists for scarce hospital beds and an alarming militancy by the underpaid, overworked NHS staff, particularly nurses and medical technicians.

The health service commissioner—"ombudsman" for the NHS—reported recently, for example, that some people needing treatment at the ear, nose and throat department of one hospital were having to join a six-year waiting list. Understaffing was the major reason.

Some 100,000 nurses, about one-third of the total, were brought to the brink of an unprecedented strike and called it off only when they were promised a full inquiry into their pay and conditions.

They earn only a fraction of the wages paid to colleagues who have opted out of the NHS and have signed on with commercial nursing agencies which contract out their labor to the state hospitals.

The doctors and specialists have also reached the point of anger and despair over increased workloads and falling standards of living.

An independent review body has recommended a pay rise amounting to an overall 7.5 per cent for doctors and dentists, ranging from 15 per cent for some of the lowly paid junior hospital doctors to 6.5 per cent for family doctors and .6 per cent for some senior specialists.

But the review body itself acknowledged that these increases, the maximum permitted under the government's incomes policy, would not enable the medical profession to make up lost ground.

"Doctors have fallen substantially behind other comparable income groups," said Dr. Derek Stevenson, secretary of the British Medical Association.

He underlined the review body's warning that lowering of the relative level of doctors' and dentists' earnings threatened the efficiency of the health service.

The BMA itself is facing revolt by many of its members, especially the hospital doctors, who accuse it of being too soft.

Many have already defected to a militant organization, the Hospital consultants and Specialists Association (HCSA), which has drawn up plans for a private employment agency similar to the nursing agencies.

This would open the way for doctors to resign from the NHS and could precipitate its total breakdown.

"We are setting up an agency which could act as an alternative employer and demand fees more closely related to what a doctor is worth," said an HCSA spokesman.

"I should say the crunch will come in about a year's time if the national health service's terms are not redrawn on an entirely new footing."

While the furor rages, the NHS is undergoing a major bureaucratic reorganization designed to streamline its operation. This has reaped only muddle and confusion, a proliferation of committees at every level.

A change of government and a rethinking of basic policy have created ever more uncertainty.

Health service finance experts dismiss as alarmist the rising fears that the whole medical care system is on the verge of bankruptcy and that hospitals will have to close down simply because they are "broke."

They say extra funds can be made available from the treasury through existing parliamentary machinery should things really become desperate.

A more positive approach, however, is to look at ways of saving money in the health service without detracting from efficiency, they say. As a long-term proposition, the argument has some merit.

It is false economy, for example, to spend some $500 million a year patching up and maintaining antiquated hospitals when new buildings would be cheaper to run.

Beefing up the community care services could help take the load off the psychiatric hospitals, now housing 10,000 patients at an annual cost of around $43 million.

Small, general-purpose "cottage" hospitals are a much more economical proposition than large, expensively equipped big-city hospitals where an estimated 27,000 beds are inappropriately occupied at an annual cost of $100 million.

NHS civil servants also decry such benevolent gestures as the last Parliament's decision to make birth control pills and other contraceptives free under the NHS.

Admirable though the principle may be, this action will impose another huge financial load on the system. Most doctors regard as wildly optimistic official estimates that free contraceptive supplies will cost only $2.5 million a year. That sum, they note, would keep about 170,000 women in pills, but an estimated quarter-million British women are taking the pill at present.

Regardless of all this, most experts are gloomily convinced that in the short term at least, the NHS is facing a financial abyss.

Emergency funding through established procedures may help, but still more drastic action seems inevitable as well.

Higher charges for prescriptions, higher taxes, cutbacks on hospital building programs and medical research, a total revision of priorities to identify and rectify the most unjust of the health service anomalies—all may be necessary, and soon.

THE AMERICAN HORSE PROTECTION ASSOCIATION

Mr. ABOUREZK. Mr. President, the American Horse Protection Association is an amazingly influential, yet still relatively small, humane organization. AHPA was founded 8 years ago. Mrs. Paul M. Twyne is its president and Mrs. William L. Blue is its vice president. These two constitute the active day-to-day management of this organization, which is the only national, nonprofit, tax exempt organization dedicated solely to the welfare of horses, both domestic and wild.

Since the founding of the organization 8 years ago, it has grown to some 6,000 members. But, more important, are the achievements that this small organization has made. Individual members of the American Horse Protection Association helped to bring about the passage of the 1970 Horse Protection Act. These same individual members, under the guidance of Mrs. Twyne and Mrs. Blue, helped to pass the 1971 Wild and Free Roaming Horses and Burros Act. Last year this organization filed a suit to enforce the 1971 Wild Horse Act. It is the only such suit which has been filed under the act to force the Government to enforce the law which Congress passed in 1971.

Mrs. Twyne and Mrs. Blue are already actively responding to requests from the Congress as to how that law can be strengthened. Again, individual members of this organization are hard at work, and from what I have seen, we can expect more victories because of the dedication of Pearl Twyne and Joan Blue and the members of the American Horse Protection Association.

Mr. President, the recent testimony given by Mrs. Blue to the Senate Interior Committee is most illustrative of my point as to their hard work and to their willingness to stand up against the Government when it is wrong, as it was in the case of allowing the brutal slaughter of a herd of some 60 wild horses in Idaho. I ask unanimous consent that Mrs. Blue's testimony be printed in the RECORD.

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

TESTIMONY OF MRS. WILLIAM L. BLUE

Mr. Chairman and distinguished Senators all.

I am Mrs. William L. Blue. I am Vice President of the American Horse Protection Association. Our President is Mrs. Paul M. Twyne of 629 River Bend Road, Great Falls, Virginia. That address is also our Association's address.

Had it not been for you, Mr. Chairman, and others of this Committee, there would not have been a wild horse protection act to begin with. The American Horse Protection Association recognizes that all of us—the humane societies and the citizens of this Country, owe a great debt of gratitude for the foresight and courage demonstrated by you, Mr. Chairman, in sponsoring and helping to pass what is now known as P.L. 92-195, the Wild and Free Roaming Horses and Burros Act of 1971. The school children of America, in particular, have expressed their appreciation for the passage of this law to preserve this historic animal from the selfishness and cruelty of petty men.

Our organization, the American Horse Protection Association, is, as you know, the only charitable, tax exempt, humane organization devoted exclusively to the prevention of cruelty to, and the preservation and protection of, both domestic and wild horses. The Committee will perhaps recall that it was many of the members of the American Horse Protection Association whose testimony and whose efforts brought about the enactment of the Horse Protection Act of 1970, a law to prevent the vicious soring of the Tennessee Walking Horse. And, Mr. Chairman, I am sure you and other members of this Committee will recall that it was again many of the individual members of the American Horse Protection Association who stood behind you and encouraged you in your leadership in the passage of the 1971 Wild and Free Roaming Horses and Burros Act.

The American Horse Protection Association is also involved with the Humane Society of the United States in the only Court action which has been filed against the Department of Interior and Agriculture, their Secretaries, and 13 individual employees in those two departments for their misfeasance, malfeasance and non-feasance in their handling of the brutal massacre of some 60 wild horses near Howe, Idaho. That suit is pending here in the District of Columbia, having been filed a year ago. The Government has tried everything they can to get the suit dismissed or get the venue changed so that the suit is moved to Idaho. So far, we have been able to maintain the suit in this jurisdiction and we are hopeful that the suit will be tried this Fall.

As the Chairman knows, one significant consequence from our lawsuit has been the forcing of the Government to turn over to us and to this Committee the Joint Investigative Report conducted by Interior and Agriculture after that bloody slaughter out in Idaho.

We testify today in the hopes that this law can be strengthened so that other humane organizations will not have to go through the expense of suing the Government for the enforcement of the law of the land concerning wild and free roaming horses and burros.

Mr. Chairman, we have heard the Department of Interior and the Bureau of Land Management testifying for additional funds and additional personnel. We have heard them complain that the law is too vague and too difficult to administer. Their story never changes. Instead of trying to administer the law and protect the wild horses, the Bureau of Land Management would rather continue their cozy relationship with the cattlemen and sheep growers at the expense of the protection of the wild and free roaming horses and burros. We oppose the ill-served and inhumane request by the Bureau of Land Management to be able to dispose of so-called excess wild horses. We believe that nature can handle that much better than the present occupants of the hierarchy of the Bureau of Land Management.

This Committee is aware of the senseless slaughter of a herd of wild horses in Idaho last year. That slaughter, Mr. Chairman, occurred after the statute had been on the books for almost a year and a half.

Instead of learning a lesson from their wanton and destructive conduct in Idaho, the Bureau of Land Management has had the audacity to schedule additional roundups, and has asked for funds to help destroy the so-called excess wild horse population and to otherwise continue to ignore the law as it is now written.

It should be made clear, Mr. Chairman, that neither the American Horse Protection Association nor any other reputable humane organization has a personal vendetta against the Bureau of Land Management or any of its officers or agents. However, in the time of Watergate when all of us citizens are looking for honest and good government, the Bureau of Land Management continues to give government a bad name. They are responsible for the destruction of that herd in Idaho. They tried to cover it up. They do not believe that wild horses should be protected. The Joint Advisory Board has members on it who by law should never have been appointed to the Board. They lie with their figures—in one case, they'll tell you that there are as few as 20,000 wild horses and in their next release, they will say there are 40,000. They do not care, Mr. Chairman, what you and I think. They basically do not believe that we have any right to have an opinion about wild horses since we do not live out there. They believe that the wild horses are their exclusive province to be protected or killed, rounded up or driven off particular ranges at their discretion, and as they think best.

The American Horse Protection Association thinks that the law as it is, if properly enforced, would be sufficient. But since we can no longer expect the Department of Interior or the Bureau of Land Management to uphold the law as it is written, the American Horse Protection Association respectfully asks that consideration be given to changing the law in the following respects:

1. We recommend that the words "manage" and "management" should be deleted wherever they appear in the statute and that the words "preserve" and "protect" be substituted therefore;

2. P.L. 92-195 should be made specifically subject to the Administrative Procedures Act. By specifically writing the Administrative Procedures Act into the Wild and Free-Roaming Horses and Burros Act, the requirements of notice and of public hearings and the other protections built into the Administrative Procedures Act would cut down on frivolous claims for wild horses, reduce the number of roundups, and give all interested parties a sufficient amount of time in which to prepare to argue against a removal or a claiming procedure;

3. Sections 4, 5 and 6 should make it explicit that the horses roaming on the public lands of the United States are the property of all of the citizens of the United States. If the case should arise where a horse or horses are claimed, the Federal Government should appoint a Federal Hearing Examiner to determine the merit of the claim. If the horse is found not to be the property of the Federal Government, then, and only then, should the state estray and branding laws be applicable to that animal;

4. P.L. 92-195 should explicitly require Interior and Agriculture to file impact statements prior to any roundup or other contemplated activities which involve wild horses;

5. The law should require that any rancher who requests a permit to graze a horse on the public land (a) should first have to brand or lip tattoo that horse and (b) the Forest Service and the Bureau of Land Management should have to enter that brand or tattoo into their books. If the Bureau of Land Management and the Forest Service will tighten their permit system and if the law will require some identifying marks on domestic horses to be grazed on the public lands, a presumption will arise that any

horse not so branded or catalogued is indeed a wild and free roaming horse;

6. We further suggest that Section 8 would be made much stronger as to civil and criminal penalties. We would suggest that a separate section be made applicable to officials and agents of Interior and Agriculture if they fail to discharge their responsibilities under the law;

7. The Government has asked that they be allowed to use helicopters to make a survey of the herds of wild horses and burros. The American Horse Protection Association would be absolutely opposed to that request. The law on the books now prohibits the Government or any private individual from harassing wild horses and burros from any motorized vehicle, including helicopters. The American Horse Protection Association feels that if it is so important for the Government to make a survey of every last wild horse in the West, that they should find some other means of doing it more discreetly and less menacingly than to fly helicopters down over a herd of wild horses and thereby harass and perhaps injure those horses.

In conclusion, Mr. Chairman, we are strongly against allowing the Government to dispose of excess animals, believing that nature has always been able to maintain its own natural balance among the herds of wild horses and burros. We believe that that balance is more logical than that so-called wisdom that the Bureau of Land Management would have you allow them to apply. Further, we ask that you give our recommended amendments every possible consideration.

And finally, Mr. Chairman, the American Horse Protection Association wants you and the members of this Committee to know how much we appreciate what you have done to stand up against the interests of greedy men and petty bureaucrats in passing a law to declare that there are some things in life which do not have a price. By passing the Wild and Free Roaming Horses and Burros Act of 1971 and by further strengthening with amendments such as here suggested, the Senate Interior Committee continues to be the voice of the young, the voice of conservation, and most importantly, the conscience of all Americans who believe in the history of this Country and the humane treatment and preservation of the majestic wild horses who help to remind us of our Country's humble beginnings.

FAA ADMINISTRATOR BUTTERFIELD GIVES ALASKAN NATIONAL AWARD

Mr. STEVENS. Mr. President, recently a fellow Alaskan, Arthur H. Walker, director of maintenance for Alaska International Air, Inc., was selected by the Federal Aviation Administration as the national winner of the 11th annual Aviation Mechanics Award in the air carrier category.

The basis for Mr. Walker's selection was his extraordinary initiative and leadership in directing the repair and rebuilding of a 4-engine Hercules cargo plane which had crashed in February 1973 during a landing on remote Fletcher's Ice Island, 400 miles from the North Pole. Mr. Walker headed an eight-man maintenance crew in an on-the-site repair operation. Their task was to prepare the aircraft for a one-time flight to Fairbanks for permanent repair. The Hercules had sustained structural damage to both wings, the center wing section, fuselage, engines, and propellers. Part of the aircraft had been destroyed by fire.

During their 6-month stay on the ice island, Mr. Walker and his crew worked under extremely harsh conditions, and in temperatures that often dropped to —45°. Supplies of necessary tools, equipment, and foodstuffs were accomplished by air drops every 20 days. The men worked without benefit of special alinement jigs and often had to improvise. For example, lacking a transit, a level was improvised by using plastic tubing and coffee.

On July 4, the Hercules was flown off the 26-square-mile ice floe and landed safely at Fairbanks International Airport where final repair work was completed.

In honor of this outstanding achievement, Mr. Walker was flown to Washington, D.C., where Alexander P. Butterfield, Administrator of the Federal Aviation Administration, presented him with the Mechanics Award.

Mr. President, I ask unanimous consent that Alan Crawford's article which appeared in the Washington Post concerning Mr. Walker's repair of the crashed Hercules aircraft be printed in the RECORD at the end of my remarks.

At a luncheon at the Aero Club of Washington honoring the winners of the FAA's national aviation mechanic safety awards program, Mr. Butterfield acknowledged the outstanding work of all mechanics who have advanced aviation safety through their maintenance efforts. Addressing the Aero Club, Mr. Butterfield also spoke about two subjects of special interest and importance to all of us. The first is the present state of our airports and what needs to be done to accommodate future air transportation. The second concerns the FAA's role in effectively meeting the environmental issues which confront the aviation industry.

Mr. President, I ask unanimous consent that Mr. Butterfield's speech before the Aero Club of Washington be printed in the RECORD.

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

[From the Washington Post, July 7, 1974]

FAA HONORS ALASKA AIRLINE MECHANIC

(By Alan Crawford)

Problem: A multimillion-dollar, four-engine Hercules cargo plane carrying up to 25 tons of supplies lies stranded on a rapidly melting ice floe in the Arctic Ocean, 350 miles from the North Pole. Both wings are dragging on the ice, the entire center section wing is broken off, the propellers are torn from the aircraft and parts of the plane have been destroyed by fire.

What to do?

The Air Force, which owned the crippled ship, took one look and said, "Forget it. Let it sink."

Art Walker, a young maintenance manager for Alaska International Airlines in Fairbanks, surveyed the wreckage and said he thought he could fix it. Give him a crew, he suggested, and he'd get the plane back safely to Fairbanks where it could be repaired permanently.

Which is exactly what he did. And the feat was enough to earn Walker the title of "Mechanic of the Year," conferred Tuesday by the Federal Aviation Administration.

With an eight-man crew, Walker toiled 12 hours a day for six months in subzero weather to repair the Hercules. On Independence Day, the plane was flown off the 26-square-mile ice floe and landed safely in Fairbanks International Airport.

"It was a challenge," Walker said. "It was just something we wanted to do. Here we were, a nothing airlines from nowhere and here was our chance to do something big."

The plane had crashed February, 1973, after departing from Fairbanks airport for Fletcher's Island in the Arctic, carrying a cargo of supplies for the Naval Arctic Research lab on the island. The crew was unharmed.

After an insurance company settlement, Alaska International Airlines bought the craft.

The first task for Walker and his crew was to tear down the remains and determine what needed to be done to revitalize the aircraft. "It was the most depressing thing I ever saw," Walker recalled. "The more we dug into it, the more damage we found."

In addition to damage to the wings and propellers, the fuselage and engines were found to have been damaged as well.

The crew's work was plagued by bad weather—and good. In the winter, snowdrifts made digging the plane out from the snow a daily chore. And during the summer, snow and ice kept melting from under supports the crew had built around the base of the plane.

"You couldn't trust the ice," Walker said. "We had a crane to lift the center section into place but the ice kept melting from under it and the crane kept sinking into the island."

By April, the ice was getting so soft that cargo planes could no longer land. So parts and supplies had to be air-dropped.

Walker said the toughest phase of the project was repairing the center wing, something he said had never been done outside a factory. The 5,000-pound wing section had to be lifted into place with a crane that had only a 4,800-pound capacity.

Upon his return to Fairbanks, Walker, a bachelor who has since been promoted to director of maintenance at Alaska International, was offered an all-expense paid vacation to anywhere in the world.

But he declined the vacation in order to stay on and supervise final work on the plane at Fairbanks.

REMARKS PREPARED FOR DELIVERY BY ALEXANDER P. BUTTERFIELD, JUNE 25, 1974

After sixteen months on the job at the FAA, I find myself appearing before the Aero Club membership for the second time. Needless to say, I am pleased you are having me back. I have accepted both invitations with the greatest of pleasure, not only because we have so much in common, but because your annual spring luncheon honors the winners of the FAA's National Aviation Mechanic Safety Awards Program.

I hold the Mechanic Safety Awards Program in the highest regard for, as I noted last year, it identifies in a tangible way some of the wonderful people in our business whose efforts make it possible for the rest of us to take aircraft reliability for granted. It unites the varied and sometimes diverse elements of our industry in a common cause.

This year we received more than 500 entries from the 50 States. Selection of the two winners was made by a special panel of The Flight Safety Foundation from a list of 22 regional winners—11 in the air carrier category and 11 in the general aviation category, all of whom are sharing in prizes totaling more than $10,000.

The National award winners represent the best of the finest, and I want to introduce them to you now. The winner of the National Aviation Mechanic Award in the air

carrier category is Mr. Arthur H. Walker. Art is Director of Maintenance for Alaska International Air, Inc., of Fairbanks, Alaska. The winner in the general aviation category is Mr. Hugh D. Fink. Hugh is owner, operator and service manager of Burbank Piper Sales and Service, Burbank, California.

Now, while they are standing, let me say just a word about each of them. Mr. Walker was named for extraordinary initiative and leadership in directing an 8-man maintenance crew in the repair and rebuilding of a 4-engine Hercules transport that crashed in February 1973, during a landing on remote Fletcher's Ice Island, 400 miles from the North Pole. Art and his team prepared the aircraft for a one-time flight to Fairbanks for permanent repair. The plane had sustained extensive structural damage to both wings, the center wing section, fuselage, engines and propellors. The job took six months and was done under extremely harsh Arctic conditions, and in weather that often dropped to 45 degrees below zero.

Hugh Fink, winner in the general aviation category, was cited for his great initiative and professionalism in designing improved parts for pilot side windows, propeller controls, fuselage attach bracket stabilizers, alternator switches, and throttle control rod end bearings for several models of light aircraft. He notified the FAA and the manufacturer of his ideas, and that resulted in the issuance of manufacturers' service bulletins and an FAA Airworthiness Directive.

Earlier today I had the privilege of presenting to these gentlemen their FAA awards in ceremonies at our Independence Avenue Headquarters. We are really pleased to have Messrs Walker and Fink with us for lunch, and I am most grateful to our club president, Jim Bass, and to all of you for your continuing support of this all important industry-wide safety program.

Now, I want to review with you two subjects which to me are of special interest and importance. One of them is airports—or more specifically, what we have got to do about our airports so that air transportation has the space it needs to grow. The second subject concerns the leadership role that FAA must take (and now incidentally is taking) regarding industry environmental issues.

On the matter of airports and their ground-related transportation accommodations, both have trailed far behind aircraft. In fact, aircraft, with new wide-bodied sizes and high speed performance clearly challenge the capabilities of present airport facilities. And such airport inadequacies are a legacy of ad hoc planning—planning without any kind of a total transportation system in mind. Access roads have become increasingly saturated, terminals congested, and passenger delays altogether unacceptable.

If we think about it we know very well that the demands on our airport system in the 1980 to 1995 time frame cannot be met simply by the construction of additional runways and new airports based only on present design standards and current methods of handling passengers and baggage. There's just no way . . . unless and until we make airport "believers" out of environmentalists, and "enthusiasts" out of those who live near airports and oppose all activity there. So this need for more airport capacity is without question the major issue confronting the orderly growth of air transportation.

There is a positive message worth telling that describes the immense economic, social and cultural benefits that air transportation, via the airport, brings to a city, A few of you are aware of that message, but I believe all of you should be. The airport, like the seaports of antiquity, bring vitality to a city. And high on the list of factors accelerating the decay of the city is a fallacy that has sent us in past years scurrying in the wrong directions doing the wrong things. We have sought to address the ills of the city by focusing primarily on *social* problems. Urban programs have been characterized by educational, recreational, medical and other related rehabilitation efforts—all of which serve to attract more and more people to areas where there may be less and less *real economic opportunity*. Once the vicious circle is triggered, and it has been in many (perhaps even most) of our urban areas, we become victims of a "wrong way" political system—a political system which accelerates in the wrong direction. An aircraft engineer would call it "dynamic instability."

Well if that's the wrong approach, what should we be doing?

The answer is quite uncomplicated. It's something some of us have been making noises about for a good long while—but evidently not loud enough to get attention. We have got to convince the public that the city is basically an economic system, and that people are simply another of its many products. The contrary view is an emotional quibble with self-defeating consequences. Our first responsibility is to insure that the city has a growing economic *reason* for existence. When the shopping center in suburbia becomes easier to get to than the one downtown, it doesn't take a genius to predict the money flow. This same idea can be applied to the economic need for, and the continuing development of, this Nation's airports.

Now I really don't think that there are any regional community planning programs worthy of their names that fail to include airports as a primary concern. Airport requirements must be considered just as requirements for highways, railroads, industrial zones, business centers, housing and recreation are considered.

But a flood of environmental constraints over the past 8-10 years has created truly formidable obstacles to the development of new and necessary transportation solutions. Local government has clung tenaciously to the power of land use control as the best insurance available for the protection of the community. On the other hand, State and Federal governments have moved timidly in the last decade in exercising any direct control over land-use decisions, although there have been some signs that the tide may be turning. Regional planning and review bodies have been largely defensive alliances of local governments fending off intrusions upon their jurisdictions rather than seeking out positive solutions to urgent regional requirements. The compulsion to preserve the political balance of power in the urban community has created tremendous inertia which militates against local initiative.

To my way of thinking, these are ailments of a fat anl lazy society, a society which has hypnotized itself with past successes and deludes itself with the great current American myth—that things will happen because they make sense. Well, they won't! They just won't! And no policy, national or local, which is based on making the fewest waves, will see it done either. Things will happen *only* when we discern what needs to be done and master the will to do it. Precisely how do we proceed? Well, first of all, we must recognize that strategic planning is essential. It is that first important step—and the responsibility falls to those in government who represent your interests. But we can't stop here. We can't stop with the role of government respresentatives. That's been one of our big troubles to date.

For the aviation community to play effectively *its* important role in shaping the national economy and to obtain all it needs in the way of governmental enablement, it must be prepared to devote sufficient time and resources to frame a total strategy sweeping the entire spectrum of national life, political and legal, technical and operational. The aviation partisan must be prepared to leave the comfortable aeronautical community with its familiar concepts and language and enter the other world of the town meeting, the county board, the regional planning bodies and federal policy and program making, not merely to respond to invitations to attend their hearings but to take the initiative in demanding new directions of governmental endeavor. If we expect a healthy and balanced economic development of the country, all the initiatives can't be left to the Nader groups, the Sierra Clubs and the Friends of the Earth. We've got to be involved. We've got to be certain that our initiatives don't pass to these "other groups" by default. The Noise Control Act of 1972 is a case in point. The Act upset the aviation industry because for the first time the EPA became a major factor in recommending environmental programs for implementation by the aviation industry without a clear understanding of aviation's highly technical and operational problems.

The response from all segments of the aviation industry to EPA's new aeronautical responsibilities was that FAA should take the leadership role in all environmental areas and put forth an effective improvement program.

Well, we took this to be your mandate and, as the result, we adopted a moderate and logical, but absolutely necessary program, designed to both enhance the environment and insure the promotion of aviation interests.

The major keystones of FAA's environmental program are retrofitting of the existing 90% of the jet fleet that do not now meet Federal noise standards, and the enunciation of a Federal policy on curfews—not necessarily a program of curfews but a statement of Federal policy in this area.

It is disturbing to me, however, that since FAA has taken the leadership role, so urgently requested but a few short months ago, we are now criticized by many segments of the aviation community who strongly oppose the proposed retrofit program and are unable to discuss the curfew issue in sensible, logical terms.

Unfortunately, emotionalism has become the dominant trait of the industry. But what is needed is a coordinated and positive industry response to our environmental program if we are to prevent serious adverse consequences to our airport system; if we are to have a continued strong development of interstate air commerce; and, if we are to maintain the economic viability of general aviation and the scheduled air carriers. Personally, I believe, in the case of retrofit the industry collectively is being shortsighted. The lack of support for retrofit will effectively destroy FAA's ability to provide environmental leadership as urged by the industry. In short, leadership must be positive and aggressive—not protectionist and retrogressive.

In this connection, I will be sending to the industry this week a draft of FAA's five-year environmental program. This draft indicates the specific project plans that I believe are necessary to minimize undesirability of environmental effects and to promote a strong aviation system. This plan, as part of our consultative planning process, is being coordinated simultaneously with industry, other governmental agencies and our FAA offices and services. I believe the simultaneous release of this document is a clear indicator of my commitment to the consultative principle.

To conclude, if the aviation community is to voice a position so forceful and clear as to command national attention, internal carping which pits industry against industry and saps the energy and resources of all, must give way to more effective target selection and tactics. You have never been reluc-

tant to apply the heat to FAA when you thought it necessary.

If we are to have the air transport system that we're going to need in the decades ahead, in particular the airport network, it's high time to begin strategic planning. I also suggest it's time for a close look at the allies we will need to help in our joint endeavor. They're sitting here today. I'm talking about each of you and the organizations you represent.

Thank you.

NIXON YEARS HELD ECONOMIC DISASTER

Mr. HARTKE. Mr. President, a study of history shows that down through the ages, the heads of government have traditionally sought to cover their ineptitude in managing their countries' affairs at home by creating some kind of sensation abroad.

I wonder if we are not faced with this same situation in the United States today.

Secretary Kissinger—and the President—have recently returned from triumphal processions abroad that have brought a shaky truce in the Middle East and which have produced some comforting headlines about improving relations with our most dangerous adversary, the Soviet Union.

I do not mean to throw doubt on these achievements—if history indeed decides that they have some concrete value. But the fact remains that while the administration was demonstrating so much ingenuity tending to overseas affairs, we have seen no corresponding concern for our very real problems here at home.

Our economy is suffering. Labor Department figures show more than 5 million people out of work; the Commerce Department reports two consecutive quarters of decline in production, the traditional sign of a recession; and prices last month advanced at an annual rate of 12 percent.

I think the magnitude of our problems, and the lack of ability or desire of this administration to deal with these problems, have been most cogently described in a recent column by Sylvia Porter, a nationally syndicated writer who specializes in making complex economic developments understandable to the nonexpert. I ask unanimous consent that her column from the July 17 issue of the Washington Star-News, be printed in the RECORD.

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

[From the Washington Star-News, July 17, 1974]

NIXON YEARS HELD ECONOMIC DISASTER

(By Sylvia Porter)

No matter how history ultimately judges President Nixon as a foreign policymaker or as a political leader, his place in U.S. economic history is already clear.

The Nixon years will go into the books as the most disastrous of this century to date, with the possible exception of the catastrophic depression of the '30s.

Not ever has inflation raged with such violence and for so long as since Nixon entered the White House in 1969.

Not ever have interest rates skyrocketed to such devastating levels and with such minor constructive impact.

The stock market has been a disaster area. Millions of investors have taken a bloodbath—and the only reason there hasn't been a panic is because they have been investors using and losing their own cash rather than speculators using borrowed money.

The forced mergers, takeovers and bankruptcies among financial houses in recent years may be nothing compared to the cleanout that lies ahead.

The bond markets have been a ravaged area, too. Uncounted numbers of investors also have taken bloodbaths as interest rates on new securities have soared and thereby steadily depressed the prices of outstanding fixed-income securities sold to them with lower coupons in the past.

The banking system is in a bind. The Federal Reserve Board has sent the banks an unmistakable warning: "Either stop making inflationary loans at this furious pace or sell the securities you own at horrendous losses to get the loan funds, for the Federal Reserve will not supply you with the extra credit."

If some banks take the losses they have, they'll be in terrible trouble; if some businesses can't get loans, they'll be in terrible trouble.

Housing is in a depression. With mortgage money restricted and expensive, it's hard to build houses or sell houses or buy houses. Yet, the construction workers are winning wage contracts that are terrifyingly inflationary.

Only over-all unemployment has been kept under control—but there's a real question about how long this will be so if the squeeze on credit really begins to work in earnest in today's exceedingly queasy economy.

What's more, if all the industrialized nations adopt strong anti-inflation policies without synchronizing them, the mounting talk of global depression won't be just chit chat.

Of course, it's obviously ridiculous to blame it all on Nixon! There were many forces in the inflation explosion of 1973 beyond the control of this country.

Among those forces were the bad weather, droughts and crop failures of 1972–73 which led to the food price spiral; the Arab boycott; soaring energy prices and the grandiose entrance of the Arab nations into global politics, the awesome coincidence of booms around the world in 1973 superimposed on our own and the * * * and goods.

But there were also many forces the White House could have controlled. The administration shockingly underestimated the impact of our foreign sales of foodstuffs, most notable the sale of wheat to Russia; it dreadfully misunderstood the impact of our successive devaluations which vastly stimulated our agricultural exports; it has continued to pursue inflationary fiscal policies while paying lipservice to anti-inflation policies.

And worst of all, there still is no leadership in the sphere of economics coming out of Washington nor is there any promise of leadership. Finger-shaking from weak second- or third-echelon administration spokesmen is hardly the same as leadership.

My fundamental optimism about my country cannot be killed, nor will I give up my deep belief in the theory that when nearly everybody else is bearish, it's time to become bullish.

But I'll admit it publicly: It's getting awfully lonely out here.

GLOBAL PLAN TO CURB POPULATION

Mr. PERCY. Mr. President, a few years ago, when Paul Ehrlich's book "The Population Bomb" was published, millions of Americans were aroused by the threats presented by unrestrained population growth. For a time, population control was a popular and much-discussed issue in this country. Whether as a result of that public concern or of other factors, the birth rate in the United States has dropped dramatically in the last decade, and the anxiety of many formerly concerned citizens has diminished.

Overpopulation of the Earth is much too serious an issue to deserve the here-today-gone-tomorrow treatment so often characteristic of American social concern. The public is not to blame, however, for our citizens have without a doubt been plagued in the last several years by a numbing series of critical problems and tragic events. That world population growth has receded into the background as a public issue is easily understandble, but we cannot afford to allow this situation to remain unchallenged.

William H. Draper, Jr., is one American who has done more than his share to keep population growth a matter of public interest and to seek solutions to the complex problems of global overpopulation. He is currently the honorary chairman of the Population Crisis Committee and the U.S. member of the United Nations Population Commission. Colonel Draper has written a fine article delineating the seriousness of world overpopulation and the current activities by the U.N. designed to facilitate global cooperation in achieving population stabilization. I ask unanimous consent that William Draper's article be printed in the RECORD.

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

[From the Chicago Daily News, July 15, 1974]

WORLDWIDE PLAN TO CURB POPULATION

(By William H. Draper Jr.)

The General Assembly of the United Nations has proclaimed 1974 as World Population Year in the hope that the spotlight of world attention will acquaint people and governments everywhere with the seriousness and immediacy of the problem and its thrust to all of us.

Representatives of all UN member governments will meet in Bucharest Aug. 19 through 30 to consider, discuss and debate the issues and alternatives involved. It is hoped the conference will adopt a world plan of action designed to bring about sensible and humanitarian solution to this world problem in time to avoid its most serious consequences.

In 1945 world population was more than 2 billion people, and was increasing by 25 million each year. Since 1945 only a single generation has passed; yet in that short time those then living have almost doubled in numbers to reach a present total of nearly 4 billion.

And now, in 1974, we are adding 75 million more each year; more than 6 million a month; 200,000 each day!

For generations man has fought hunger, disease and plague to maintain life. Now, through increased production and better health, human numbers are increasing so fast they threaten to pollute the environment and even to exhaust the world's food and other natural resources. And if we assume continuance of the world's present annual growth of 2 per cent, more than 6.5 billion people would crowd and devastate Earth in the year 2000. Even today more than half the world's population lives in poverty and is hungry and undernourished.

The UN has now begun to exert much needed world leadership in publicizing the population problem and in helping countries with it. More than 80 developing coun-

tries have asked for and received such assistance from the $150 million so far contributed by interested governments to the UN Fund for Population Activities.

A 30-page draft World Plan of Action has been distributed to governments for their consideration before and at the conference. The draft was hammered out over the last year by the secretary general and his staff.

Where is the problem so serious?

Certainly, it is not in the United States or Japan or Russia, all of which have reduced their growth rates by half since World War II. And certainly it is not in Europe, which averages about ½ of 1 per cent growth rate a year.

It is in Asia, in Africa and in Latin America, with nearly 3 billion people and with an annual growth rate of 2½ per cent—three times our own—where the world's population problem must be solved.

The basic difference is that more than 60 per cent of our own fertile women are now protected by the regular use of contraceptives.

In the developing countries only 10 per cent are protected by contraceptives. Some way must be found to supply the 800 million fertile couples of the developing world, of whom only 80 million couples are now protected, with the information and the means to limit their families.

The couples of the developing world must be generally motivated to want small families and to use these necessary services. The fact that there are some 40 or 50 million legal and illegal abortions a year clearly indicates that many already are motivated to want fewer children.

Let me try to explain some of the fundamental problems in developing countries. As the draft World Plan of Action points out, the expectation of life today in the developed countries is 71 years—whereas in Latin America it is 63 years, in Asia 57 years, and in Africa only 46 years.

In the developed countries only 1 baby in 40 dies before its first birthday—in Latin America 1 in 15 dies before becoming a year old—in Asia 1 in 10—and in Africa 1 in 7, 15 per cent of all those born.

So the plan of action aims at an eventual balance between birth rates and death rates, but at a low level for both.

And the double aim is to reduce death rates further but birth rates faster.

The plan proposes regular censuses every 10 years to see just how rapidly the populations are growing; adequate research to improve population policies and programs and to find better contraceptives; training of sufficient manpower to carry on both operating and educational activities, and finally strongly recommends that each government place a population unit high in the national bureaucracy and give it high priority.

Stop to think for a moment what that means, and the scope and breadth of what it proposes.

Our own government has started such a program. The Chinese government is trying to furnish contraceptive facilities to its 800 million people. And now the plan proposes family-planning facilities as a matter of good economic development and health and conservation of resources to all the governments of the world.

You may well ask: "What would such a plan cost?"

The studies by the UN Population Fund indicate that in general a countrywide contraceptive program should cost about a dollar a year per capita for the entire population. As a yardstick, the 2 billions of people in the developing world, leaving out China and its 800 millions, would require about $2 billion a year to run their family-planning programs full scale. This is a big sum, of course, but it is less than one-tenth of 1 per cent of the world's Gross National Product, and if too rapid population growth actually threatens the world's economic future, as I believe, it is indeed a small price to pay.

At present some $400 million is being so spent, or 20 per cent of that required. About half comes from the developing countries' own budgets, and about half through the UN or International Planned Parenthood Federation. So if the developed and developing countries are to continue dividing the cost equally, it would mean each of them would have to gear up to about a billion dollars a year.

Such a worldwide program would certainly be financially and operationally feasible over the next 10 years if the nations of the Earth actually decide that in principle every couple in the world should be able effectively to decide the number of its children, and that governments should help to the extent needed.

ABUSE OF MONOPOLY AUTHORITY BY FOREIGN CARRIERS

Mr. CANNON. Mr. President, the international airlines of the United States are experiencing severe financial pressure. Their continued ability to maintain a viable U.S.-flag air transportation system will depend, in large part, upon the degree to which the U.S. Government can insure that equal competitive opportunities are available to our airlines.

Last August the Civil Aeronautics Board completed a study of the competitive conditions that the U.S. airlines face in their efforts to compete throughout the world with large government-owned, government-controlled and government-financed foreign airlines. Our private enterprise carriers are confronted with a wide variety of foreign government and foreign airline unfair practices that make it extremely difficult, if not impossible, for them to compete on an equal footing. The CAB study revealed abuses that our Government should long ago have sought to correct. In view of the current economic pressures on our international airlines, it is all the more imperative that immediate and appropriate action be taken to bring these practices to an end.

One such practice revealed by the study involves situations where the domestic services in a foreign country are a monopoly operation by the same airline that operates that country's international services. As my colleagues are aware, most of the large European airlines, which are the principal competitors of the U.S.-flag carriers on the traffic dense North Atlantic, not only operate international services to and from the United States, but also are the sole airline operating the internal services within their own country.

The CAB study revealed clear abuses of this domestic monopoly by the foreign airline in an effort to improve their competitive position on international services. A good example of this abuse occurs when U.S. passengers seeking connecting space on the monopoly domestic services to another point in that country find that space is not available unless the transatlantic trip is made on the foreign carrier and not on a U.S. airline. For example, travel agents in the United States have been told by representatives of Alitalia, the Italian flag airline, that space is not available to fly from Rome to Palermo in Sicily. The message has been made clear to the agent, however, that should the agent book those passengers from the United States to Rome on Alitalia rather than the U.S. airline the space might become available.

Another problem caused by the existence of a domestic monopoly is the extreme difficulty U.S. airlines have in obtaining connecting space for passengers and cargo in Germany. So poor is the availability of space between Frankfurt and Dusseldorf, for example, that the U.S. airlines have had to resort to trucking air freight between these cities. The authorities at Dusseldorf Airport apparently do not care for this practice—even though the U.S. airlines have been forced to do it—because they impose substantial fees on these trucks just to enter airport property for distribution of the cargo.

I submit that this is a totally unfair and abusive situation which requires the immediate attention of the appropriate U.S. Government authorities. These and other situations like them should not be allowed to continue.

The airlines of the countries I just discussed have open access to the U.S. domestic airline system and they make full use of it. Foreign airline domination of the United States-Europe market amply testifies to this fact. I do not single these two out as the only countries where these problems exist. Similar problems are present in many other countries. While there are variations on the theme, the existence of a domestic monopoly is used as a competitive weapon on international services.

The inability of U.S. airlines to obtain a fair share of the traffic originating in foreign countries can, in no small measure, be attributed to the abuse of domestic monopoly authority. Travel agents in some countries have been threatened with loss of domestic ticket stock if they write too much international business on U.S. airlines. Free domestic and international barter travel, which our airlines are not permitted to give, is freely dispensed to travel agents, tour operators, members of the press and others who influence the travel patterns in that country in return for support of their international services. In some cases, the domestic fare is rebated to a foreign passenger if the international transportation is on the foreign airline that also operates the domestic system. This, I submit, is a clear abuse which unfairly inhibits U.S. airlines in their effort to compete on an equal basis.

Mr. President, this is merely one of a whole series of practices uncovered by the CAB study which require the urgent attention of our Government if the competitive position of our flag carriers is not to be further eroded. Strong, stern initiatives must be taken and I for one, as chairman of your Aviation Subcommittee, will do everything in my power to press the executive branch out of the doldrums. We are now considering legislation (S. 3481) which I believe will make clear the Congress desire that our Government take immediate initiatives to correct these inequities. We have been quiescent long enough. Strong legislative

support for our international airlines is necessary to insure competitive equality. The executive departments and the CAB must be given clear direction by the Congress to move and move now.

JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

The ACTING PRESIDENT pro tempore. The hour of 10:30 having arrived, under the previous order the Senate will now proceed to the consideration of S. 821, which the clerk will report.

The second assistant legislative clerk read as follows:

A bill (S. 821) to improve the quality of juvenile justice in the United States and to provide a comprehensive, coordinated approach to the problems of juvenile delinquency, and for other purposes.

The Senate proceeded to consider the bill (S. 821) which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause, and insert:

That this Act may be cited as the "Juvenile Justice and Delinquency Prevention Act of 1974".

TITLE I—FINDINGS AND DECLARATION OF PURPOSE

FINDINGS

SEC. 101. The Congress hereby finds—

(1) that juveniles account for almost half the arrests for serious crimes in the United States today;

(2) that understaffed, overcrowded juvenile courts, probation services, and correctional facilities are not able to provide individualized justice or effective help;

(3) that present juvenile courts, foster and protective care programs and shelter facilities are inadequate to meet the needs of the countless neglected, abandoned, and dependent children, who, because of this failure to provide effective services, may become delinquents;

(4) that existing programs have not adequately responded to the particular problems of the increasing numbers of young people who are addicted to or who abuse drugs particularly nonopiate or polydrug abusers;

(5) that States and local communities, which experience the devastating failures of the juvenile justice system, do not presently have sufficient technical expertise or adequate resources to deal comprehensively with the problems of juvenile delinquency;

(6) that the adverse-impact of juvenile delinquency results in enormous annual cost and immeasurable loss in human life, personal security, and wasted human resources;

(7) that existing Federal programs have not provided the direction, coordination, resources, and leadership required to meet the crisis of delinquency; and

(8) that juvenile delinquency constitutes a growing threat to the national welfare requiring immediate, comprehensive, and effective action by the Federal Government.

PURPOSE

SEC. 102. It is the purpose of this Act—

(1) to provide the necessary resources, leadership, and coordination to improve the quality of juvenile justice in the United States and to develop and implement effective prevention and treatment programs and services for delinquent youth and for potentially delinquent youth, including those who are dependent, abandoned, or neglected;

(2) to increase the capacity of State and local governments, and public and private agencies, institutions, and organizations to conduct innovative, effective juvenile justice and delinquency prevention and treatment programs and to provide useful research, evaluation, and training services in the area of juvenile delinquency;

(3) to develop and implement effective programs and services to divert juveniles from the traditional juvenile justice system and to increase the capacity of State and local governments to provide critically needed alternatives to institutionalization;

(4) to develop and encourage the implementation of national standards for the administration of juvenile justice, including recommendations for administrative, budgetary, and legislative action at the Federal, State, and local level to facilitate the adoption of these standards;

(5) to guarantee certain basic rights to juveniles who come within Federal jurisdiction;

(6) to establish a centralized research effort on the problems of juvenile delinquency, including an information clearinghouse to disseminate the findings of such research and all data related to juvenile delinquency;

(7) to provide for the thorough and prompt evaluation of all federally assisted juvenile delinquency programs;

(8) to provide technical assistance to public and private agencies, institutions, and individuals in developing and implementing juvenile delinquency programs; and

(9) to establish training programs for persons, including professionals, paraprofessionals, and volunteers, who work with delinquents or potential delinquents or whose work or activities relate to juvenile delinquency programs.

DEFINITIONS

SEC. 103. Section 601 of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 197; 84 Stat. 1881; 87 Stat. 197), is further amended by adding the following new subsections:

"(p) the term 'community-based' facility, program, or service, as used in part F, means a small, open group or home or other suitable place located near the adult offender's or juvenile's home or family and programs of community supervision and service which maintain community and consumer participation in the planning, operation, and evaluation of their programs which may include, but are not limited to, medical, educational, vocational, social, and psychological guidance, training, counseling, drug treatment, and other rehabilitative services;

"(q) the term 'Federal juvenile delinquency program' means any juvenile delinquency program which is conducted, directly, or indirectly, or is assisted by any Federal department or agency, including any program funded under this Act;

"(r) the term 'juvenile delinquency program' means any program or activity related to juvenile delinquency prevention, control, diversion, treatment, rehabilitation, planning, education, training, and research, including drug abuse programs; the improvement of the juvenile justice system; and any program or activity for neglected, abandoned, or dependent youth and other youth who are in danger of becoming delinquent.".

TITLE II—AMENDMENTS TO THE FEDERAL JUVENILE DELINQUENCY ACT

DEFINITIONS

SEC. 201. Section 5031 of title 18, United States Code, is amended to read as follows:

"§ 5031. Definitions.

"For the purposes of this chapter, a 'juvenile' is a person who has not attained his eighteenth birthday, or who has not attained his twenty-first birthday and is alleged to have committed an act of juvenile delinquency prior to his eighteenth birthday, and 'juvenile delinquency' is the violation of a law of the United States committed by a person prior to his eighteenth birthday which would have been a crime if committed by an adult."

DELINQUENCY PROCEEDINGS IN DISTRICT COURTS

SEC. 202. Section 5032 of title 18, United States Code, is amended to read as follows:

"§ 5032. Delinquency proceedings in district courts; transfer for criminal prosecution.

"A juvenile alleged to have committed an act of juvenile delinquency shall not be proceeded against in any court of the United States unless the Attorney General, after investigation, certifies to an appropriate district court of the United States that the juvenile court or other appropriate court of a State (1) does not have jurisdiction or refuses to assume jurisdiction over said juvenile with respect to such alleged act of juvenile delinquency, or (2) does not have available programs and services adequate for the rehabilitation of juveniles.

"If the Attorney General does not so certify, such juvenile shall be surrendered to the appropriate legal authorities of such State.

"If an alleged delinquent is not surrendered to the authorities of a State or the District of Columbia pursuant to this section, any proceedings against him shall be in an appropriate district court of the United States. For such purposes, the court may be convened at any time and place within the district, in chambers or otherwise. The Attorney General shall proceed by information, and no criminal prosecution shall be instituted for the alleged act of juvenile delinquency except as provided below.

"A juvenile who is alleged to have committed an act of juvenile delinquency and who is not surrendered to State authorities shall be proceeded against under this chapter unless he has requested in writing upon advice of counsel to be proceeded against as an adult, except that, with respect to a juvenile sixteen years and older alleged to have committed an act after his sixteenth birthday which if committed by an adult would be a felony punishable by a maximum penalty of ten years imprisonment or more, life imprisonment, or death, criminal prosecution on the basis of the alleged act may be begun by motion to transfer of the Attorney General in the appropriate district court of the United States, if such court finds, after hearing, that there are no reasonable prospects for rehabilitating such juvenile before his twenty-first birthday.

"Evidence of the following factors shall be considered, and findings with regard to each factor shall be made in the record, in assessing the prospects for rehabilitation: the age and social background of the juvenile; the nature of the alleged offense; the extent and nature of the juvenile's prior delinquency record; the juvenile's present intellectual development and psychological maturity; the nature of past treatment efforts and the juvenile's response to such efforts; the availability of programs designed to treat the juvenile's behavioral problems.

"Reasonable notice of the transfer hearing shall be given to the juvenile, his parents, guardian, or custodian and to his counsel. The juvenile shall be assisted by counsel during the transfer hearing, and at every other critical stage of the proceedings.

"Once a juvenile has entered a plea with respect to a crime or an alleged act of juvenile delinquency, subsequent criminal prosecution or juvenile proceedings based upon such alleged act of delinquency shall be barred.

"Statements made by a juvenile prior to or during a transfer hearing under this section shall not be admissible at subsequent criminal prosecutions."

CUSTODY

SEC. 203. Section 5033 of title 18 United States Code is amended to read as follows:

"§ 5033. Custody prior to appearance before magistrate.

"Whenever a juvenile is taken into custody for an alleged act of juvenile delinquency, the arresting officer shall immediately advise such juvenile of his legal rights, in language comprehensible to a juvenile, and shall immediately notify the Attorney General and the juvenile's parents, guardian, or custodian of such custody. The arresting officer shall also notify the parents, guardian, or custodian of the rights of the juvenile and of the nature of the alleged offense.

"The juvenile shall be taken before a magistrate forthwith. In no event shall the juvenile be detained for more than twenty-four hours before being brought before a magistrate."

DUTIES OF MAGISTRATE

SEC. 204. Section 5034 of title 18, United States Code, is amended to read as follows:

"§ 5034. Duties of magistrate.

"If counsel is not retained for the juvenile, or it does not appear that counsel will be retained, the magistrate shall appoint counsel for the juvenile. Counsel shall be assigned to represent a juvenile when the juvenile and his parents, guardian, or custodian are financially unable to obtain adequate representation. In cases where the juvenile and his parents, guardian, or custodian are financially able to obtain adequate representation but have not retained counsel, the magistrate may assign counsel and order the payment of reasonable attorney's fees or may direct the juvenile, his parents, guardian, or custodian to retain private counsel within a specified period of time.

"The magistrate may appoint a guardian ad litem if a parent or guardian of the juvenile is not present, or if the magistrate has reason to believe that the parents or guardian will not cooperate with the juvenile in preparing for trial, or that the interests of the parents or guardian and those of the juvenile are adverse.

"If the juvenile has not been discharged before his initial appearance before the magistrate, the magistrate shall release the juvenile to his parents, guardian, custodian, or other responsible party (including, but not limited to, the director of a shelter-care facility) upon their promise to bring such juvenile before the appropriate court when requested by such court unless the magistrate determines, after hearing, at which the juvenile is represented by counsel, that the detention of such juvenile is required to secure his timely appearance before the appropriate court or to insure his safety or that of others."

DETENTION

SEC. 205. Section 5035 of this title is amended to read as follows:

"§ 5035. Detention prior to disposition.

"A juvenile alleged to be delinquent may be detained only in a juvenile facility or such other suitable place as the Attorney General may designate. Whenever possible, detention shall be in a foster home or community based facility located in or near his home community. The Attorney General shall not cause any juvenile alleged to be delinquent to be detained or confined in any institution in which adult persons convicted of a crime or awaiting trial on criminal charges are confined. Alleged delinquents shall be kept separate from adjudicated delinquents. Every juvenile in custody shall be provided with adequate food, heat, light, sanitary facilities, bedding, clothing, recreation, education, and medical care, including necessary psychiatric, psychological, or other treatment."

SPEEDY TRIAL

SEC. 206. Section 5036 of this title is amended to read as follows:

"§ 5036. Speedy trial.

"If an alleged delinquent who has been detained pending trial is not brought to trial within thirty days from the date when such juvenile was arrested, the information shall be dismissed with prejudice, on motion of the alleged delinquent or at the direction of the court, unless the Attorney General shows that additional delay is unavoidable, caused by the juvenile or his counsel, or consented to by the juvenile and his counsel. Unavoidable delay may not include delays attributable solely to court calendar congestion."

RIGHTS

SEC. 207. Section 5037 of this title is amended to read as follows:

"§ 5037. Rights in general.

"A juvenile charged with an act of juvenile delinquency shall be accorded the constitutional rights guaranteed an adult in a criminal prosecution, with the exception of indictment by grand jury. Public trial shall be limited to members of the press, who may attend only on condition that they not disclose information that could reasonably be expected to reveal the identity of the alleged delinquent. Any violation of that condition may be punished as a contempt of court."

DISPOSITION

SEC. 208. A new section 5038 is added, to read as follows:

"§ 5038. Dispositional hearing.

"(a) If a juvenile is adjudicated delinquent, a separate dispositional hearing shall be held no later than twenty court days after trial unless the court has ordered further study in accordance with subsection (c). Copies of the presentence report shall be provided to the attorneys for both the juvenile and the Government at least three court days in advance of the hearing.

"(b) The court may suspend the adjudication of delinquency or the disposition of the delinquent on such conditions as it deems proper, place him on probation, or commit him to the custody of the Attorney General. Probation, commitment, or commitment in accordance with subsection (c) shall not extend beyind the juvenile's twenty-first birthday or the maximum term which could have been imposed on an adult convicted of the same offense, whichever is sooner.

"(c) If the court desires more detailed information concerning an alleged delinquent, it may commit him, after notice and hearing at which the juvenile is represented by counsel, to the custody of the Attorney General for observation and study by an appropriate agency. Such observation and study shall be conducted on an outpatient basis, unless the court determines that inpatient observation and study are essential. No alleged delinquent may be committed to the custody of the Attorney General for study and observation without the consent of his attorney and his parent, custodian, or guardian. Unless the juvenile upon advice of counsel consents, no judge who has read or heard social data regarding an alleged delinquent as a result of such study, or in the course of a transfer hearing, shall preside over the hearing to adjudicate the delinquency of the juvenile. In the case of an adjudicated delinquent, such study shall not be conducted on an inpatient basis without prior notice and hearing. The agency shall make a complete study of the alleged or adjudicated delinquent to ascertain his personal traits, his capabilities, his background, any previous delinquency or criminal experience, any mental or physical defect, and any other relevant factors. The Attorney General shall submit to the court and the attorneys for the juvenile and the Government the results of the study within thirty days after the commitment of the juvenile, unless the court grants additional time."

JUVENILE RECORDS

SEC. 209. A new section 5039 is added, to read as follows:

"§ 5039. Use of juvenile records.

"(a) Upon the completion of any formal juvenile delinquency proceeding, the district court shall order the entire file and record of such proceeding sealed. After such sealing, the court shall not release these records except under the following circumstances:

"(1) inquiries received from another court of law;

"(2) inquiries from an agency preparing a presentence report for another court;

"(3) inquiries from law enforcement agencies where the request for information is related to the investigation of a crime or a position within that agency;

(4) inquiries, in writing, from the director of a treatment agency or the director of a facility to which the juvenile has been committed by the court; and

"(5) inquiries from an agency considering the person for a position immediately and directly affecting the national security. Information about the sealed record may not be released when the request for information is related to an application for employment, license, bonding, or any civil right or privilege. Responses to such inquiries shall not be different from responses made about persons who have never been involved in a delinquency proceeding.

"(b) The entire file and record of juvenile proceedings where an adjudication of delinquency was not entered shall be destroyed and obliterated by order of the court.

"(c) District courts exercising jurisdiction over any juvenile shall inform the juvenile, and his parent or guardian, in writing, of rights relating to the sealing of his juvenile record. The information in these communications shall be stated in clear and nontechnical language.

"(d) During the course of any juvenile delinquency proceeding, all information and records relating to the proceeding, which are obtained or prepared in the discharge of official duty by an employee of the court or an employee of any other governmental agency, shall not be disclosed directly or indirectly to anyone other than the judge, counsel for the juvenile and the government, or others entitled under this section to receive sealed records.

"(e) Unless a child who is taken into custody is prosecuted as an adult—

"(1) neither the fingerprints nor a photograph shall be taken, without the written consent of the judge; and

"(2) neither the name nor picture of any child shall be made public by any medium of public information in connection with a juvenile delinquency proceeding."

COMMITMENT

SEC. 210. A new section 5040 is added, to read as follows:

"§ 5040. Commitment.

"A juvenile who has been committed to the Attorney General has a right to treatment and is entitled to custody, care, and discipline as nearly as possible equivalent to that which should have been provided for him by his parents. No juvenile may be placed or retained in an adult jail or correctional institution.

"Every juvenile who has been committed shall be provided with adequate food, heat, light, sanitary facilities, bedding, clothing, recreation, education, and medical care, including necessary psychiatric, psychological, or other care.

"Whenever possible, the Attorney General shall commit a juvenile to a foster home or

community-based facility located in or near his home community."

SUPPORT

SEC. 211. A new section 5041 is added, to read as follows:

"5041. Support.

"The Attorney General may contract with any public or private agency or individual and such community-based facilities as half-way houses and foster homes, for the observation and study and the custody and care of juveniles in his custody. For these purposes, the Attorney General may promulgate such regulations as are necessary and may use the appropriation for 'support of United States' prisoners' or such other appropriations as he may designate."

PAROLE

SEC. 212. A new section 5042 is added, to read as follows:

"§ 5042. Parole.

"The Board of Parole shall release from custody, on such conditions as it deems necessary, each juvenile delinquent who has been committed, as soon as the Board is satisfied that he is likely to remain at liberty without violating the law."

REVOCATION

SEC. 213. A new section 5043 is added to read as follows:

"§ 5043. Revocation of parole or probation.

"Any juvenile parolee or probationer shall be accorded notice and a hearing with counsel before his parole or probation can be revoked."

SEC. 214. The table of sections of chapter 403 of this title is amended to read as follows:

"Sec.
"5031. Definitions.
"5032. Delinquency proceedings in district courts; transfer for criminal prosecution.
"5033. Custody prior to appearance before magistrate.
"5034. Duties of magistrate.
"5035. Detention prior to disposition.
"5036. Speedy trial.
"5037. Rights in general.
"5038. Dispositional hearing.
"5039. Use of juvenile records.
"5040. Commitment.
"5041. Support.
"5042. Parole.
"5043. Revocation of parole or probation.".

TITLE III—JUVENILE JUSTICE AND DELINQUENCY PREVENTION ADMINISTRATION

ESTABLISHMENT OF ADMINISTRATION

SEC. 301. (a) There is hereby created within the Department of Health, Education, and Welfare the Juvenile Justice and Delinquency Prevention Administration (referred to in this Act as the "Administration").

(b) There shall be at the head of the Administration a Director (referred to in this Act as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) The Director shall be the chief executive of the Administration and shall exercise all necessary powers, subject only to the direction of the Secretary of the Department of

TITLE III—JUVENILE JUSTICE AND DELINQUENCY PREVENTION OFFICE

SEC. 301. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 197; 84 Stat. 1881; 87 Stat. 197), is further amended by adding after part E a new part F to read as follows:

"PART F—JUVENILE DELINQUENCY PREVENTION AND CONTROL

"ESTABLISHMENT OF OFFICE

"SEC. 471. (a) There is hereby created within the Department of Justice, Law Enforcement Assistance Administration the Office of Juvenile Justice and Delinquency Prevention (referred to in this Act as the 'Office').

"(b) There shall be at the head of the Office a Director (referred to in this Act as the 'Director') who shall be appointed by the Administrator of the Law Enforcement Assistance Administration.

"(c) The Director shall exercise all necessary powers, subject to the direction of the Administrator of the Law Enforcement Assistance Administration.

"(d) There shall be in the Office a Deputy Director who shall be appointed by the Administrator of the Law Enforcement Assistance Administration. The Deputy Director shall perform such functions as the Director from time to time assigns or delegates, and shall act as Director during the absence or disability of the Director or in the event of a vacancy in the office of the Director.

"(e) There shall be established in the National Institute of Law Enforcement and Criminal Justice an Assistant Director, who shall be appointed by the Administrator, whose function shall be to supervise and direct the National Institute for Juvenile Justice established under section 501 of this Act.

"PERSONNEL, SPECIAL PERSONNEL, EXPERTS, AND CONSULTANTS

"SEC. 472. (a) The Administrator is authorized to select, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions vested in him and to prescribe their functions.

"(b) The Administrator is authorized to select, appoint, and employ not to exceed three officers and to fix their compensation at rates not to exceed the rate now or hereafter prescribed for GS-18 of the General Schedule by section 5332 of title 5 of the United States Code.

"(c) Upon the request of the Administrator, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of its personnel to the Director to assist him in carrying out his functions under this Act.

"(d) The Administrator may obtain services as authorized by section 3109 of title 5 of the United States Code, at rates not to exceed the rate now or hereafter prescribed for GS-18 of the General Schedule by section 5332 of title 5 of the United States Code.

"VOLUNTARY SERVICE

"SEC. 573. The Administrator is authorized to accept and employ, in carrying out the provisions of this Act, voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes (41 U.S.C. 664(b)).

"CONCENTRATION OF FEDERAL EFFORTS

"SEC. 474. (a) The Administrator shall establish overall policy and develop objectives and priorities for all Federal juvenile delinquency programs and activities relating to prevention, diversion, training, treatment, rehabilitation, evaluation, research, and improvement of the juvenile justice system in the United States. In carrying out his functions, the Administrator shall consult with the Interdepartmental Council and the National Advisory Committee for Juvenile Justice and Delinquency Prevention.

"(b) In carrying out the purposes of this Act, the Administrator is authorized and directed to—

"(1) advise the President as to all matters relating to federally assisted juvenile delinquency programs and Federal policies regarding juvenile delinquency;

"(2) assist operating agencies which have direct responsibilities for the prevention and treatment of juvenile delinquency in the development and promulgation of regulations, guidelines, requirements, criteria, standards, procedures, and budget requests in accordance with the policies, priorities, and objecitves he establishes;

"(3) conduct and support evaluations and studies of the performance and results achieved by Federal juvenile delinquency programs and activities and of the prospective performance and results that might be achieved by alternative programs and activities supplementary to or in lieu of those currently being administered;

"(4) coordinate Federal juvenile delinquency programs and activities among Federal departments and agencies and between Federal juvenile delinquency programs and activities and other Federal programs and activities which he determines may have an important bearing on the success of the entire Federal juvenile delinquency effort;

"(5) develop annually with the assistance of the Advisory Committee and submit to the President and the Congress, after the first year the legislation is enacted, prior to September 30, an analysis and evaluation of Federal juvenile delinquency programs conducted and assisted by Federal departments and agencies, the expenditures made, the results achieved, the plans developed, and problems in the operations and coordination of such programs. This report shall include recommendations for modifications in organization, management, personnel, standards, budget requests, and implementation plans necessary to increase the effectiveness of these programs;

"(6) develop annually with the assistance of the Advisory Committee and submit to the President and the Congress, after the first year the legislation is enacted, prior to March 1, a comprehensive plan for Federal juvenile delinquency programs, with particular emphasis on the prevention of juvenile delinquency and the development of programs and services which will encourage increased diversion of juveniles from the traditional juvenile justice system; and

"(7) provide technical assistance to Federal, State, and local governments, courts, public and private agencies, institutions, and individuals, in the planning, establishment, funding, operation, or evaluation of juvenile delinquency programs.

"(c) The Administrator may request departments and agencies engaged in any activity involving any Federal juvenile delinquency program to provide him with such information and reports, and to conduct such studies and surveys, as he may deem to be necessary to carry out the purposes of this Act.

"(d) The Administrator may delegate any of his functions under this title, except the making of regulations, to any officer or employee of the Administration.

"(e) The Administrator is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

"(f) The Administrator is authorized to transfer funds appropriated under this Act to any agency of the Federal Government to develop or demonstrate new methods in juvenile delinquency prevention and rehabilitation and to supplement existing delinquency prevention and rehabilitation programs which the Director finds to be exceptionally effective or for which he finds there exists exceptional need.

"(g) The Administrator is authorized to make grants to, or enter into contracts with, any public or private agency, institution, or individual to carry out the purposes of this Act.

"(h) All functions of the Administrator under this Act shall be coordinated as appropriate with the functions of the Secretary of the Department of Health, Education, and

Welfare under the Juvenile Delinquency Prevention Act (42 U.S.C. 3801 et seq.).

"JOINT FUNDING

"SEC. 475. Notwithstanding any other provision of law, where funds are made available by more than one Federal agency to be used by any agency, organization, institution, or individual to carry out a Federal juvenile delinquency program or activity, any one of the Federal agencies providing funds may be requested by the Administrator to act for all in administering the funds advanced. In such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each Federal agency, and the Administrator may order any such agency to waive any technical grant or contract requirement (as defined in such regulations) which is inconsistent with the similar requirement of the administering agency or which the administering agency does not impose.

"INTERDEPARTMENTAL COUNCIL

"SEC. 476. (a) There is hereby established an Interdepartmental Council on Juvenile Delinquency (hereinafter referred to as the 'Council') composed of the Attorney General, the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Director of the Special Action Office for Drug Abuse Prevention, the Secretary of Housing and Urban Development, or their respective designees, and representatives of such other agencies as the President shall designate.

"(b) The Attorney General or his designee shall serve as Chairman of the Council.

"(c) The function of the Council shall be to coordinate all Federal juvenile delinquency programs.

"(d) The Council shall meet a minimum of six times per year and the activities of the Council shall be included in the annual report required by section 474(b)(5) of this title.

"(e) The Chairman shall appoint an Executive Secretary of the Council and such personnel as are necessary to carry out the functions of the Council.

"ADVISORY COMMITTEE

"SEC. 477. (a) There is hereby established a National Advisory Committee for Juvenile Justice and Delinquency Prevention (hereinafter referred to as the 'Advisory Committee') which shall consist of twenty-one members.

"(b) The members of the Interdepartmental Council or their respective designee shall be ex officio members of the Committee.

"(c) The regular members of the Advisory Committee shall be appointed by the President from persons who by virtue of their training or experience have special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice, such as juvenile or family court judges; probation, correctional, or law enforcement personnel; and representatives of private voluntary organizations and community-based programs. The President shall designate the Chairman, a majority of the members of the Advisory Committee, including the Chairman, shall not be full-time employees of Federal, State, or local governments. At least seven members shall not have attained twenty-six years of age on the date of their appointment.

"(d) Members appointed by the President to the Committee shall serve for terms of four years and shall be eligible for reappointment except that for the first composition of the Advisory Committee, one-third of these members shall be appointed to one-year terms, one-third to two-year terms, and one-third to three-year terms; thereafter each term shall be four years. Any members appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term.

"DUTIES OF THE ADVISORY COMMITTEE

"SEC. 478. (a) The Advisory Committee shall meet at the call of the Chairman, but not less than four times a year.

"(b) The Advisory Committee shall make recommendations to the Administrator at least annually with respect to planning, policy, priority, operations, and management of all Federal juvenile delinquency programs.

"(c) The Chairman may designate a subcommittee of the members of the Advisory Committee to advise the Administrator on particular functions or aspects of the work of the Administration.

"(d) The Chairman shall designate a subcommittee of five members of the Committee to serve as members of an Advisory Committee for the National Institution for Juvenile Justice to perform the functions set forth in section 407 of this title.

"(e) The Chairman shall designate a subcommittee of five members of the Committee to serve as an Advisory Committee to the Administrator on Standards for the Administration of Juvenile Justice to perform the functions set forth in section 409 of this title.

"COMPENSATION AND EXPENSES

"SEC. 479. (a) Members of the Advisory Committee who are employed by the Federal Government full time shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Advisory Committee.

"(b) Members of the Advisory Committee not employed full time by the Federal Government shall receive compensation at a rate not to exceed the rate now or hereafter prescribed for GS-18 of the General Schedule by section 5332 of title 5 of the United States Code, including traveltime for each day they are engaged in the performance of their duties as members of the Advisory Committee. Members shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Advisory Committee."

SEC. 302. Parts F, G, H, and I of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 197; 84 Stat. 1881; 87 Stat. 197), are redesignated parts G, H, I, and J, respectively.

TITLE IV—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

SEC. 401. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 197; 84 Stat. 1881; 87 Stat. 197), is further amended by adding the following sections to new part F thereof:

"FORMULA GRANTS

"SEC. 480. The Administrator is authorized to make grants to States and local governments to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through contracts with public and private agencies for the development of more effective education, training, research, prevention, diversion, treatment, and rehabilitation programs in the area of juvenile delinquency and programs to improve the juvenile justice system.

"ALLOCATION

"SEC. 481. (a) In accordance with regulations promulgated under this part, funds shall be allocated annually among the States on the basis of relative population of people under age eighteen. No such allotment to any State shall be less than $200,000, except that for the Virgin Islands, Guam, and American Samoa, no allotment shall be less than $50,000.

"(b) Except for funds appropriated for fiscal year 1974, if any amount so allotted remains unobligated at the end of the fiscal year, such funds shall be reallocated in a manner equitable and consistent with the purposes of this part. Funds appropriated for fiscal year 1974 may be obligated in accordance with subsection (a) until June 30, 1976, after which time they may be reallocated. Any amount so reallocated shall be in addition to the amounts already allotted and available to the State, the Virgin Islands, American Samoa, and Guam for the same period.

"(c) In accordance with regulations promulgated under this part, a portion of any allotment to any State under this part shall be available to develop a State plan and to pay that portion of the expenditures which are necessary for efficient administration. Not more than 15 per centum of the total annual allotment of such State shall be available for such purposes. The State shall make available needed funds for planning and administration to local governments within the State on an equitable basis.

"STATE PLANS

"SEC. 482. (a) In order to receive formula grants under this part, a State shall submit a plan for carrying out its purposes. In accordance with regulations established under this title, such plan must—

"(1) designate the State planning agency established by the State under section 203 of this title as the sole agency for supervising the preparation and administration of the plan;

"(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) (hereafter referred to in this part as the 'State planning agency') has or will have authority, by legislation if necessary, to implement such plan in conformity with this part;

"(3) provide for an advisory group appointed by the chief executive of the State to advise the State planning agency and its supervisory board (A) which shall consist of not less than twenty-one and not more than thirty-three persons who have training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice, (B) which shall include representation of units of local government, law enforcement and juvenile justice agencies such as law enforcement, correction or probation personnel, and juvenile or family court judges, and public agencies concerned with delinquency prevention or treatment such as welfare, social services, mental health, education or youth services departments, (C) which shall include representatives of private organizations: concerned with delinquency prevention or treatment: concerned with neglected or dependent children; concerned with the quality of juvenile justice, education, or social services for children; which utilize volunteers to work with delinquents or potential delinquents; community-based delinquency prevention or treatment programs; and organizations which represent employees affected by this Act, (D) a majority of whose members (including the Chairman) shall not be full-time employees of the Federal, State, or local government, and (E) at least one-third of whose members shall be under the age of twenty-six at the time of appointment;

"(4) provide for the active consultation with and participation of local governments in the development of a State plan which adequately takes into account the needs and requests of local governments;

"(5) provide that at least 50 per centum of the funds received by the State under section 481 shall be expended through programs of local government insofar as they are consistent with the State plan, except that this provision may be waived at the discretion of the Administrator for any State if the services for delinquent or potentially delinquent youth are orgaanized primarily on a statewide basis;

"(6) provide that the chief executive officer of the local government shall assign re-

sponsibility for the preparation and administration of the local government's part of a State plan, or for the supervision of the preparation and administration of the local government's part of the State plan, to that agency within the local government's structure (hereinafter in this part referred to as the 'local agency') which can most effectively carry out the purposes of this part and shall provide for supervision of the programs funded under this part by that local agency;

"(7) provide for an equitable distribution of the assistance received under section 481 within the State;

"(8) set forth a detailed study of the State needs for an effective, comprehensive, coordinated approach to juvenile delinquency prevention and treatment and the improvement of the juvenile justice system. This plan shall include itemized estimated costs for the development and implement of such programs;

"(9) provide for the active consultation with and participation of private agencies in the development and execution of the State plan; and provide for coordination and maximum utilization of existing juvenile delinquency programs and other related programs, such as education, health, and welfare within the State;

"(10) provide that not less than 75 per centum of the funds available to such State under section 481, whether expended directly by the State or by the local government or through contracts with public or private agencies, shall be used for advanced techniques in developing, maintaining, and expanding programs and services designed to prevent juvenile delinquency, to divert juveniles from the juvenile justice system, to establish programs as set forth in section 482(11), and to provide community-based alternatives to juvenile detention and correctional facilities. That advanced techniques include—

"(A) community-based programs and services for the prevention and treatment of juvenile delinquency through the development of foster-care and shelter-care homes, group homes, halfway houses, homemaker and home health services and any other designated community-based diagnostic, treatment, or rehabilitative service;

"(B) community-based programs and services to work with parents and other family members to maintain and strengthen the family unit, so that the juvenile may be retained in his home;

"(C) youth service bureaus and other community-based programs to divert youth from the juvenile court or to support, counsel, or provide work and recreational opportunities for delinquents and youth in danger of becoming delinquent;

"(D) comprehensive programs of drug abuse education and prevention and programs for the treatment and rehabilitation of drug addicted youth, and 'drug dependent' youth (as defined in section 2(g) of the Public Health Service Act (42 U.S.C. 201(g));

"(E) educational programs or supportive services designed to keep delinquents or youth in danger of becoming delinquent in elementary and secondary schools or in alternative learning situations;

"(F) expanded use of probation and recruitment and training of probation officers, other professional and paraprofessional personnel and volunteers to work effectively with youth;

"(11) provides for a statewide program through the use of probation subsidies, other subsidies, other financial incentives or disincentives to units of local government, or other effective means, that may include but are not limited to programs designed to:

"(A) reduce the number of commitments of juveniles to any form of juvenile facility as a percentage of the State juvenile population;

"(B) increase the use of nonsecure community-based facilities as a percentage of total commitment to juvenile facilities; and

"(C) discourage the use of source incarceration and detention.

"(12) provides for the development of an adequate research, training, and evaluation capacity within the State;

"(13) provide within two years after submission of the plan that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult, shall not be placed in juvenile detention or correctional facilities, but must be placed in shelter facilities;

"(14) provide that juveniles alleged to be or found to be delinquent shall not be detained or confined in any institution in which they have regular contact with adult persons incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges:

"(15) provide for an adequate system of monitoring jails, detention facilities, and correctional facilities to insure that the requirements of section 482 (13) and (14) are met, and for annual reporting of the results of such monitoring to the Administrator;

"(16) provide assurances that assistance will be available on an equitable basis to deal with all disadvantaged youth including, but not limited to, females, minority youth, and mentally retarded or emotionally handicapped youth;

"(17) provide for procedures to be established for protecting the rights of recipients of services and for assuring appropriate privacy with regard to records relating to such services provided to any individual under the State plan;

"(18) provide that fair and equitable arrangements are made to protect the interests of employees affected by assistance under this part;

"(19) provide for such fiscal control and fund accounting procedures necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this title;

"(20) provide reasonable assurance that Federal funds made available under this part for any period will be so used as to supplement and increase, to the extent feasible and practicable, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and will in no event supplant such State, local, and other non-Federal funds;

"(21) provide that the State planning agency will from time to time, but not less often than annually, review its plan and submit to the Administrator an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of State and local needs, which it considers necessary; and

"(22) contain such other terms and conditions as the Administrator may reasonably prescribe to assure the effectiveness of the programs assisted under this title.

"(b) The Board appointed pursuant to section 482(a)(3) shall approve the State plan and any modification thereof prior to submission to the Administrator.

"(c) The Administrator shall approve any State plan and any modification thereof that meets the requirements of this section.

"(d) In the event that any State fails to submit a plan, or submits a plan or any modification thereof, which the Administrator, after reasonable notice and opportunity for hearing in accordance with sections 509, 510, and 511, determines does not meet the requirements of this section, the Administrator shall make that State's allotment under the provisions of 481(a) available to public and private agencies for special emphasis prevention and treatment programs as defined in section 483.

"SPECIAL EMPHASIS PREVENTION AND TREATMENT PROGRAMS

"SEC. 483. (a) The Administrator is authorized to make grants to and enter into contracts with public and private agencies, organizations, institutions, or individuals to—

"(1) develop and implement new approaches, techniques, and methods with respect to juvenile delinquency programs;

"(2) develop and maintain community-based alternatives to traditional forms of institutionalization;

"(3) develop and implement effective means of diverting juveniles from the traditional juvenile justice and correctional system;

"(4) improve the capability of public and private agencies and organizations to provide services for delinquents and youths in danger of becoming delinquent; and

"(5) facilitate the adoption of the recommendations of the Advisory Committee on Standards for Juvenile Justice as set forth pursuant to section 409.

"(b) Not less than 25 per centum of the funds appropriated for each fiscal year pursuant to this part shall be available only for special emphasis prevention and treatment grants and contracts made pursuant to this section.

"(c) Among applicants for grants under this part, priority shall be given to private organizations or institutions who have had experience in dealing with youth.

"CONSIDERATIONS FOR APPROVAL OF APPLICATIONS

"SEC. 484. (a) Any agency, institution, or individual desiring to receive a grant, or enter into any contract under section 483, shall submit an application at such time, in such manner, and containing or accompanied by such information as the Administrator may prescribe.

"(b) In accordance with guidelines established by the Administrator, each such application shall—

"(1) provide that the program for which assistance is sought will be administered by or under the supervision of the applicant;

"(2) set forth a program for carrying out one or more of the purposes set forth in section 482;

"(3) provide for the proper and efficient administration of such program;

"(4) provide for regular evaluation of the program;

"(5) indicate that the applicant has requested the review of the application from the State planning agency and local agency designated in section 482, when appropriate, and indicate the response of such agency to the request for review and comment on the application;

"(6) provide that regular reports on the program shall be sent to the Administrator and to the State planning agency and local agency, when appropriate; and

"(7) provide for such fiscal control and fund accounting procedures as may be necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this title.

"(c) In determining whether or not to approve applications for grants under section 483, the Administrator shall consider—

"(1) the relative cost and effectiveness of the proposed program in effectuating the purposes of this part;

"(2) the extent to which the proposed program will incorporate new or innovative techniques;

"(3) the extent to which the proposed program meets the objectives and priorities of

the State plan, when a State plan has been approved by the Administrator under section 482(c) and when the location and scope of the program makes such consideration appropriate;

"(4) the increase in capacity of the public and private agency, institution, or individual to provide services to delinquents or youths in danger of becoming delinquents;

"(5) the extent to which the proposed project serves communities which have high rates of youth unemployment, school dropout, and delinquency; and

"(6) the extent to which the proposed program facilitates the implementation of the recommendations of the Advisory Committee on Standards for Juvenile Justice as set forth pursuant to section 409.

"GENERAL PROVISIONS

"Withholding

"SEC. 485. Whenever the Administrator, after giving reasonable notice and opportunity for hearing, to a recipient of financial assistance under this title, finds—

"(1) that the program or activity for which such grant was made has been so changed that it no longer complies with the provisions of this title; or

"(2) that in the operation of the program or activity there is failure to comply substantially with any such provision;

the Administrator shall initiate such proceedings as are appropriate under sections 509, 510, and 511 of this title.

"USE OF FUNDS

"SEC. 486. Funds paid to any State public or private agency, institution, or individual (whether directly or through a State or local agency) may be used for—

"(1) securing, developing, or operating the program designed to carry out the purposes of this part;

"(2) not more than 50 per centum of the cost of the construction of innovative community-based facilities for less than twenty persons (as defined in sections 601(f) and 601(p) of this title) which, in the judgment of the Administrator, are necessary for carrying out the purposes of this part.

"PAYMENTS

"SEC. 487. (a) In accordance with criteria established by the Administrator, it is the policy of Congress that programs funded under this title shall continue to receive financial assistance providing that the yearly evaluation of such programs is satisfactory.

"(b) At the discretion of the Administrator, when there is no other way to fund an essential juvenile delinquency program not funded under this part, the State may utilize 25 per centum of the formula grant funds available to it under this part to meet the non-Federal matching share requirement for any other Federal juvenile delinquency program grant.

"(c) Whenever the Administrator determines that it will contribute to the purposes of this part, he may require the recipient of any grant or contract to contribute money, facilities, or services.

"(d) Payments under this part, pursuant to a grant or contract, may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursements, in such installments and on such conditions as the Administrator may determine."

TITLE V—ESTABLISHING INSTITUTES WITHIN THE NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

NATIONAL INSTITUTE FOR JUVENILE JUSTICE

SEC. 501. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 197; 84 Stat. 1881; 87 Stat. 197), is further amended by adding the following after section 402:

"SEC. 403. (a) There is hereby established within the National Institute of Law Enforcement and Criminal Justice a National Institute for Juvenile Justice.

"(b) The National Institute for Juvenile Justice shall be under the supervision and direction of the Administrator, and shall be headed by an Assistant Director of the National Institute of Law Enforcement and Criminal Justice appointed under section 477(e).

"INFORMATION FUNCTION

"SEC. 404. The National Institute for Juvenile Justice is authorized to—

"(1) serve as an information bank by collecting systematically and synthesizing the data and knowledge obtained from studies and research by public and private agencies, institutions, or individuals concerning all aspects of juvenile delinquency, including the prevention and treatment of juvenile delinquency;

"(2) serve as a clearinghouse and information center for the preparation, publication, and dissemination of all information regarding juvenile deliquency, including State and local juvenile deliquency prevention and treatment programs and plans, availability of resources, training and educational programs, statistics, and other pertinent data and information.

"RESEARCH, DEMONSTRATION, AND EVALUATION FUNCTIONS

"SEC. 405. The National Institute for Juvenile Justice is authorized to—

"(1) conduct, encourage, and coordinate research and evaluation into any aspect of juvenile delinquency, particularly with regard to new programs and methods which show promise of making a contribution toward the prevention and treatment of juvenile delinquency;

"(2) encourage the development of demonstration projects in new, innovative techniques and methods to prevent and treat juvenile delinquency;

"(3) provide for the evaluation of all juvenile delinquency programs assisted under this title in order to determine the results and the effectiveness of such programs;

"(4) provide for the evaluation of any other Federal, State, or local juvenile delinquency program, upon the request of the Administrator; and

"(5) disseminate the results of such evaluations and research and demonstration activities particularly to persons actively working in the field of juvenile delinquency.

"TRAINING FUNCTIONS

"SEC. 406. The National Institute for Juvenile Justice is authorized to—

"(1) develop, conduct, and provide for training programs for the training of professional, paraprofessional, and volunteer personnel, and other persons who are or who are preparing to work with juveniles and juvenile offenders;

"(2) develop, conduct, and provide for seminars, workshops, and training programs in the latest proven effective techniques and methods of preventing and treating juvenile delinquency for law enforcement officers, juvenile judges, and other court personnel, probation officers, correctional personnel, and other Federal, State, and local government personnel who are engaged in work relating to juvenile delinquency.

"INSTITUTE ADVISORY COMMITTEE

"SEC. 407. The Advisory Committee for the National Institute for Juvenile Justice established in section 478(d) shall advise, consult with, and make recommendations to the Assistant Director for the National Institute for Juvenile Justice concerning the overall policy and operations of the Institute.

"ANNUAL REPORT

"SEC. 408. The Assistant Director for the National Institute for Juvenile Justice shall develop annually and submit to the Administrator after the first year the legislation is enacted, prior to June 30, a report on research, demonstration, training, and evaluation programs funded under this title, including a review of the results of such programs, an assessment of the application of such results to existing and to new juvenile delinquency programs, and detailed recommendations for future research, demonstration, training, and evaluation programs. The Administrator shall include a summary of these results and recommendations in his report to the President and Congress required by section 474(b)(5).

"DEVELOPMENT OF STANDARDS FOR JUVENILE JUSTICE

"SEC. 409. (a) The National Institute for Juvenile Justice, under the supervision of the Advisory Committee on Standards for Juvenile Justice established in section 478(e), shall review existing reports, data, and standards, relating to the juvenile justice system in the United States.

"(b) Not later than one year after the passage of this section, the Advisory Committee shall submit to the President and the Congress a report which, based on the recommended standards for the administration of juvenile justice at the Federal, State, and local level—

"(1) recommends Federal action, including but not limited to administrative and legislative action, required to facilitate the adoption of these standards throughout the United States; and

"(2) recommends State and local action to facilitate the adoption of these standards for juvenile justice at the State and local level.

"(c) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Advisory Committee such information as the Committee deems necessary to carry out its functions under this section.

"SEC. 410. Records containing the identity of individual juveniles gathered for purposes pursuant to this title may under no circumstances be disclosed or transferred to any individual or other agency, public, or private."

SEC. 502. Sections 403, 404, 405, 406, and 407 of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 197; 84 Stat. 1881; 87 Stat. 197), are redesignated sections 411, 412, 413, 414, and 415, respectively.

TITLE VI—AUTHORIZATION OF APPROPRIATION

SEC. 601. To carry out the purposes of this Act there are hereby authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1974; $200,000,000 for the fiscal year ending June 30, 1975; and $300,000,000 for the fiscal year ending June 30, 1976.

SEC. 602. Not more than 15 per centum of the funds appropriated annually for the purposes of this Act shall be used for purposes authorized under title V.

TITLE VII—NATIONAL INSTITUTE OF CORRECTIONS

SEC. 701. Title 18, United States Code, is amended by adding a new chapter 319 to read as follows:

"Chapter 319—NATIONAL INSTITUTE OF CORRECTIONS

"SEC. 4351. (a) There is hereby established within the Bureau of Prisons a National Institute of Corrections.

"(b) The overall policy and operations of the National Institute of Corrections shall be under the supervision of an Advisory Board. The Board shall consist of fifteen members. The following five individuals shall serve as members of the Commission ex officio: The Director of the Federal Bureau of Prisons or his designee, the Administrator of the Law

Enforcement Assistance Administration or his designee, the Chairman of the United States Parole Board or his designee, the Director of the Federal Judicial Center or his designee, and the Assistant Secretary for Human Development of the Department of Health, Education, and Welfare or his designee.

"(c) The remaining ten members of the Board shall be selected as follows:

"(1) Five shall be appointed initially by the Attorney General of the United States for staggered terms; one member shall serve for one year, one member for two years, and three members for three years. Upon the expiration of each member's term, the Attorney General shall appoint successors who will each serve for a term of three years. Each member selected shall be qualified as a practitioner (Federal, State, or local) in the field of corrections, probation, or parole.

"(2) Five shall be appointed initially by the Attorney General of the United States for staggered terms; one member shall serve for one year, three members for two years, and one member for three years. Upon the expiration of each member's term the Attorney General shall appoint successors who will each serve for a term of three years. Each member selected shall be from the private sector, such as business, labor, and education having demonstrated an active interest in corrections, probation, or parole.

"(d) The members of the Board shall not, by reason of such membership, be deemed officers or employees of the United States. Members of the Commission who are full-time officers or employees of the United States shall serve without additional compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the duties vested in the Board. Other members of the Board shall, while attending meetings of the Board or while engaged in duties related to such meetings or in other activities of the Commission pursuant to this title, be entitled to receive compensation at the rate not to exceed the daily equivalent of the rate authorized for GS–18 by section 5332 of title 5, United States Code, including travel time, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence equal to that authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(e) The Board shall elect a chairman from among its members who shall serve for a term of one year. The members of the Board shall also elect one or more members as a vice chairman.

"(f) The Board is authorized to appoint, without regard to the civil service laws, technical or other advisory committees to advise the Institute with respect to the administration of this title as it deems appropriate. Members of these committees not otherwise employed by the United States, while engaged in advising the Institute or attending meetings of the committees, shall be entitled to receive compensation at the rate fixed by the Board but not to exceed the daily equivalent of the rate authorized for GS–18 by section 5332 of title 5, United States Code, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, equal to that authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(g) The Board is authorized to delegate its powers under this title to such persons as it deems appropriate.

"(h) The Board shall be under the supervision of an officer to be known as the Director, who shall be appointed by the Attorney General after consultation with the Board. The Director shall have authority to supervise the organization, employees, enrollees, financial affairs, and all other operations of the Institute and may employ such staff, faculty, and administrative personnel, subject to the civil service and classification laws, as are necessary to the functioning of the Institute. The Director shall have the power to acquire and hold real and personal property for the Institute and may receive gifts, donations, and trusts on behalf of the Institute. The Director shall also have the power to appoint such technical or other advisory councils comprised of consultants to guide and advise the Board. The Director is authorized to delegate his powers under this title to such persons as he deems appropriate.

"SEC. 4352. (a) In addition to the other powers, express and implied, the National Institute of Corrections shall have authority—

"(1) to receive from or make grants to and enter into contracts with Federal, State, and general units of local government, public and private agencies, educational institutions, organizations, and individuals to carry out the purposes of this section and section 411;

"(2) to serve as a clearinghouse and information center for the collection, preparation, and dissemination of information on corrections, including, but not limited to, programs for prevention of crime and recidivism, training of corrections personnel, and rehabilitation and treatment of criminal and juvenile offenders;

"(3) to assist and serve in a consulting capacity to Federal, State, and local courts, departments, and agencies in the development, maintenance, and coordination of programs, facilities, and services, training, treatment, and rehabilitation with respect to criminal and juvenile offenders;

"(4) to encourage and assist Federal, State, and local government programs and services, and programs and services of other public and private agencies, institutions, and organizations in their efforts to develop and implement improved corrections programs;

"(5) to devise and conduct in various geographical locations, seminars, workshops, and training programs for law enforcement officers, judges and judicial personnel, probation and parole personnel, correctional personnel, welfare workers, and other persons, including lay, ex-offenders, and paraprofessional personnel, connected with the treatment and rehabilitation of criminal and juvenile offenders;

"(6) to develop technical training teams to aid in the development of seminars, workshops, and training programs within the several States and with the State and local agencies which work with prisoners, parolees, probationers, and other offenders;

"(7) to conduct, encourage, and coordinate research relating to corrections, including the causes, prevention, diagnosis, and treatment of criminal offenders;

"(8) to formulate and disseminate correctional policy, goals, standards, and recommendations for Federal, State, and local correctional agencies, organizations, institutions, and personnel;

"(9) to conduct evaluation programs which study the effectiveness of new approaches, techniques, systems, programs, and devices employed to improve the corrections system;

"(10) to receive from any Federal department or agency such statistics, data, program reports, and other material as the Institute deems necessary to carry out its functions. Each such department or agency is authorized to cooperate with the Institute and shall, to the maximum extent practicable, consult with and furnish information to the Institute;

"(11) to arrange with and reimburse the heads of Federal departments and agencies for the use of personnel, facilities, or equipment of such departments and agencies;

"(12) to confer with and avail itself of the assistance, services, records, and facilities of State and local governments or other public or private agencies, organizations or individuals;

"(13) to enter into contracts with public or private agencies, organizations, or individuals, for the performance of any of the functions of the Institute; and

"(14) to procure the services of experts and consultants in accordance with section 3109 of title 5 of the United States Code, at rates of compensation not to exceed the daily equivalent of the rate authorized for GS–18 by section 5332 of title 5 of the United States Code.

"(b) The Institute shall on or before the 31st day of December of each year, submit an annual report for the preceding fiscal year to the President and to the Congress. The report shall include a comprehensive and detailed report of the Institute's operations, activities, financial condition, and accomplishments under this title and may include such recommendations related to corrections as the Institute deems appropriate.

"(c) Each recipient of assistance under this title shall keep such records as the Institute shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(d) The Institute and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for purposes of audit and examinations to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this chapter.

"(e) The provision of this section shall apply to all recipients of assistance under this title, whether by direct grant or contract from the Institute or by subgrant or subcontract from primary grantees or contractors of the Institute.

"SEC. 4353. There is hereby authorized to be appropriated such funds as may be required to carry out the purposes of this chapter."

The ACTING PRESIDENT pro tempore. Time for debate on this bill is limited to 2 hours, to be equally divided and controlled by the Senator from Indiana (Mr. BAYH) and the Senator from Nebraska (Mr. HRUSKA), with 30 minutes on any amendment, and with 20 minutes on any debatable motion or appeal.

Who yields time?

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

The PRESIDING OFFICER. On whose time?

Mr. MANSFIELD. That the time be taken out of neither side.

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

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. BAYH. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. BAYH. Mr. President, is the pending order of business S. 821, as amended?

The ACTING PRESIDENT pro tem-

pore. S. 821 is the pending order of business.

Mr. BAYH. Mr. President, I call up my amendment No. 1578 to S. 821, and I ask unanimous consent that for purposes of amendment it be considered as original text.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, the amendment will be considered as original text.

The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. BAYH. Mr. President, for the sake of avoiding an expensive printing bill, it seems to me that there is no need to print the voluminous text of this amendment at this time, since it was printed in the RECORD on Thursday last at page S12832. That is, if the Senator from Nebraska has no objection.

Mr. HRUSKA. I have no objection.

Mr. BAYH. Mr. President, I ask unanimous consent that the Senator from Mississippi (Mr. EASTLAND), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Hawaii (Mr. INOUYE) be added as cosponsors of the substitute amendment which we are now considering, amendment No. 1578.

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

Mr. BAYH. Mr. President, I ask unanimous consent that Dorothy Parker and Quincy Rodgers be permitted access to the floor during the debate on this matter.

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

Mr. BAYH. Mr. President, as chairman of the Senate Subcommittee To Investigate Juvenile Delinquency, it is with particular pleasure that I speak in support of S. 821, the Juvenile Justice and Delinquency Prevention Act of 1974, legislation which I introduced more than a year ago. This legislation is the product of an exhaustive study by the subcommittee of the inadequacies of the existing Federal delinquency programs in the face of the continually rising juvenile crime crisis. S. 821 will provide the needed Federal direction and coordination combined and the necessary resources to establish in our State and localities effective programs for the improvement of juvenile justice and for the prevention and treatment of juvenile delinquency. Its major purpose is to provide services to youth to prevent delinquency, to divert juveniles from the juvenile justice system, and to provide community-based alternatives to traditional juvenile detention and correctional facilities.

I have been privileged to lead this 3-year effort to determine the best way for the Federal Government to help in the prevention and treatment of juvenile delinquency in this Nation. I can say without any doubt that this bill is the best possible solution that could be devised by the Congress at this time to deal with the delinquency crisis. The measure we now have before us reflects an excellent dialog I have had on this subject with my friend and respected colleague, the Senator from Nebraska (Mr. HRUSKA). I am gratified that the following Members of the Senate, including most of the members of the Judiciary Committee, have joined us in cosponsoring this comprehensive legislation: Mr. MATHIAS, Mr. EASTLAND, Mr. MCCLELLAN, Mr. COOK, Mr. FONG, Mr. HART, Mr. SCOTT of Pennsylvania, Mr. KENNEDY, Mr. THURMOND, Mr. BURDICK, Mr. GURNEY, Mr. TUNNEY, Mr. ABOUREZK, Mr. BIBLE, Mr. BROCK, Mr. CANNON, Mr. CASE, Mr. CHURCH, Mr. CLARK, Mr. CRANSTON, Mr. GRAVEL, Mr. HUMPHREY, Mr. INOUYE, Mr. MCGEE, Mr. MCGOVERN, Mr. MONDALE, Mr. MONTOYA, Mr. MOSS, Mr. PASTORE, Mr. PERCY, Mr. RANDOLPH, and Mr. RIBICOFF.

The goals of this measure initially received strong support when I introduced a similar bill in the 92d Congress. I reintroduced the Juvenile Justice and Delinquency Prevention Act, S. 821, on February 8, 1973. In recent weeks I have been working closely with the distinguished ranking minority member of the Judiciary Committee, Mr. HRUSKA, to develop the substitute amendment, which provides for administration of the Federal juvenile delinquency effort by the Law Enforcement Assistance Administration—LEAA—along with guarantees which will assure that the program achieves the goals of S. 821 as originally introduced. This approach has been endorsed by juvenile delinquency experts and youth-serving organizations throughout the country. It has received the support of many of the major organizations working in the field of youth development and delinquency prevention such as: National Council on Crime and Delinquency, the National Council of Juvenile Court Judges, the American Federation of State, County, and Municipal Employees, National Youth Alternatives Project, American Institute of Family Relations, American Parents Committee, B'nai B'rith Women, the National Council of Jewish Women, the National Association of State Juvenile Delinquency Program Administrators, National Governors' Conference, and National League of Cities and U.S. Conference of Mayors. Also, the Interagency Collaboration on Juvenile Justice comprised of the Boys' Clubs of America, Boy Scouts of America, Camp Fire Girls, Future Homemakers of America, Girls' Clubs of America, Girl Scouts of the U.S.A., National Board of YMCA's, National Board of the YWCA's of the U.S.A., National Federation of Settlements and Neighborhood Centers, National Jewish Welfare Board, and Red Cross Youth Service programs set forth in House testimony earlier this year on companion legislation criteria for effective juvenile justice legislation—criteria with which this bill is wholly consistent. Their testimony as major private agency providers of services to children and youth includes a statement of the basic elements they saw as essential for effective juvenile justice legislation. Those six elements are:

First. A new, national program to coordinate and give leadership to all levels of delinquency prevention efforts;

Second. Adequate funding for prevention and rehabilitation, and creation of alternatives to institutionalization of juveniles both within and outside the juvenile justice system;

Third. Establishment of a National Institute of Juvenile Justice to provide for independent compilation, evaluation, and dissemination of program information;

Fourth. National standards for the operation of juvenile courts at all stages—intake, adjudication, disposition, and conditions of confinement;

Fifth. Emphasis on community-based prevention, diversion, and treatment facilities; and

Sixth. Significant participation of private voluntary agencies in carrying out this program, with express funding eligibility

I am pleased to state that the substitute amendment to S. 821 provides for a program which in all respects meets the criteria stated by these experienced national youth serving organizations, upon whom we will greatly depend for the successful implementation of this legislation.

NEED FOR LEGISLATION

The Juvenile Delinquency Subcommittee held 10 days of hearings on S. 821 and its forerunner S. 3148 focusing on the adequacy of the response of the Federal Government to the delinquency problem. These hearings demonstrated the need for a comprehensive restructuring of Federal delinquency programs. Juvenile delinquency is not now a priority concern of any department of the Federal Government and uncoordinated juvenile delinquency programs are scattered throughout the Departments of Health, Education, and Welfare, Justice, Labor, and Housing and Urban Development as well as other agencies.

During 1971, the Federal Government funded 197 programs involving about 120,000 separate grants in the juvenile delinquency and youth development areas. Efforts at the State and local level to combat delinquency are equaly uncoordinated. Federal fragmentation reflects the lack of coordination at the State and local level and many public and private agencies crucial to the fight against delinquency do not see themselves as part of the solution to the delinquency problem. Unfortunately the investigations of the subcommittee over 3 years confirmed my initial impression that the requisite direction and coordination are missing from the Federal approach to the delinquency problem and that a complete overhaul of Federal juvenile delinquency programs is required.

This legislation offers a comprehensive response to the juvenile delinquency crisis in this country, and in doing so offers real hope for dealing constructively with all crime. Young people account for more than half the crime in this country. During the past 12 years arrests of persons under 18 for violent offenses have risen 216 percent. Arrests for serious property offenses have risen 90 percent. Juveniles under 18 constitute almost half the arrests for serious crime. And the trend of rising crime and delinquency continues. Recent FBI statistics indicate that crime has risen 5 percent in the last year and in the first quarter of this year crime has increased 15 percent.

The cost of juvenile crime to our society is devastating in lost and damaged lives, diminished personal security,

squandered opportunities, and wasted economic and social resources. In 1969, the cost of juvenile crime was estimated at over $16 billion but that is a conservative estimate considering the continuing rise in juvenile crime and inflation. At least $5 billion a year out of a total of $11.7 billion is spent by the Federal, State, and local criminal justice systems to catch, to process, and to institutionalize children below the age of 18. A 1971 survey by LEAA found that almost 60,000 is the average daily population of youth institutions such as detention, diagnostic, and training schools, et cetera. Over 600,000 are admitted yearly to these institutions. In addition, on any given day there are close to 8,000 juveniles held in jails in the United States. Moreover, an estimated 100,000 youths spend 1 or more days each year in adult jails or police lockups. The price of juvenile delinquency is enormous not only in an unproductive expensive juvenile system but also in the wasted young lives.

Sadly, we must conclude that our present juvenile justice system has proven itself incapable of turning these young people away from lives of crime. The recidivism rate for person under 20 is the highest of any age group, close to 75 percent within 4 years. Witnesses before the subcommittee have repeatedly testified about the tragic failure of our juvenile justice and correctional system. Our overcrowded, understaffed juvenile courts, probation services, and training schools rarely have the time, energy, or resources to offer the individualized treatment which the juvenile justice system should provide.

Between 1960 and 1970 the number of cases coming before the juvenile court doubled and the number is still increasing with the exception of a slight decrease in 1972. The worst aspect of the increased caseload is that the rate of delinquency cases is increasing faster than the rate of juvenile population growth so our society is continually losing ground in its fight on delinquency.

The tragedy of the failure of the juvenile justice system is further compounded by the fact that nearly one-half of the juvenile court's caseload involves noncriminal offenses, such as dependency, neglect, and status offenses including incorrigibility, waywardness, and beyond control, which are crimes of which only children can be guilty. Due to the juvenile court's jurisdiction over these noncriminal offenses the treatment of such offenses as truancy and runaway along with such serious crimes as robbery and burglary has meant that children who are guilty of serious offenses.

The result has been not the decriminalization of crimes committed by adolescents but the criminalization of such social and adjustment problems as running away and incorrigibility. Once a young person enters the juvenile justice system for whatever reason, he will probably be picked up again for delinquent acts and eventually he will, more often than not, graduate to a life of crime.

Some of the reasons for the failure of our current methods of handling children in trouble were explained in a statement in support of the committee bill by Allen F. Breed, president of the National Association of State Juvenile Delinquency Program Administrators, to the subcommittee on February 22, 1973, who said in part:

> The structural and procedural system has two built-in patterns that tend to be self defeating. First, the youth in need of trouble is identified and labeled. As he is labeled, certain sanctions are imposed and certain critical stances assumed. The sanctions and the stance tend to convince the individual that he is a deviant, that he is different, and to confirm any doubts he may have had about his capacity to function in the manner of the majority.
>
> Second, as the label is more securely affixed, society's agencies (police, schools, etc.) lower their level of tolerance of any further deviance; the curfew violator who is an identified parolee or probationer may go into detention; the non-labeled offender will frequently go home; and the misbehaving probationer will be remanded to the vice-principal's office faster than his non-probation fellow. As these discriminations are made, the youth is further convinced of the difference and of society's discrimination.
>
> If the unacceptable behavior continues and the youngster penetrates further into the justice and correctional apparatus, he is subjected to an increasing degree of segregation from others of his kind—from special schools to detention to state correctional school—each step invites a greater identification with the subculture of the delinquent, and so, again, his anti-adult-antisocial-peer-oriented values are reinforced and confirmed and the socializing conformity-producing influences of the majority society are removed further from him.
>
> Thus, as the state's "treatment" is intensified, so too is the rejection, both covert, and overt, and as we try harder to socialize the deviant, we remove him further from the normal socializing processes.
>
> Our objective must be, therefore, to minimize the youngster's penetration into all negative labeling, institutional processes. To this end, we must exploit all of the available alternatives at each decision point, i.e., suspension, expulsion, arrest, detention, court wardship, commitments, parole revocation. At each critical step, we should exhaust the less rejecting, the less stigmatizing recourses before taking the next expulsive step.

Witnesses before the subcommittee have emphasized their frustration that in many communities there are few if any services for a youth until he becomes involved in the juvenile justice system. Equally frustrating for those involved in the juvenile justice system, is how few alternatives are available within the juvenile justice system. Frequently a juvenile judge only has the possibility of returning a juvenile to his home, putting the child on probation, or in an institution. What is needed are programs in communities aimed at preventing children with a high probability of delinquent involvement from behavior leading into the juvenile justice process. At each step along the way that children seem headed for trouble, the community should be able to choose the least amount of intervention necessary to change the undesirable behavior.

It is often vital that the youth be reached before becoming involved with the formal juvenile justice system. In the first instance, preventive services should be available for identifiable, highly vulnerable groups to reduce their expected or probable rate of delinquency. If children commit acts which result in juvenile court referral, then an attempt should be made to divert them from the juvenile court. When youth commit serious crimes and must clearly be subjected to the jurisdiction of the juvenile justice system, then the preferred disposition should be community-based treatment.

Given the history of failure in preventing delinquency, there is a compelling need for a thoroughgoing national response to this problem. It is essential to prevent children from coming under the jurisdiction of the juvenile court or being involved with the traditional juvenile correctional system if that is possible or being labeled as delinquent or predelinquent. All alternatives to counterproductive involvement of young people in the juvenile justice system must be realized at every point of decisionmaking—from arrest through detention, court appearance, commitment, probation, and parole. If the child must go into the juvenile justice system for a serious offense, then alternatives for different needs and circumstances should be available to the juvenile court. This bill provides, at the State and local levels, where this battle must be won, long overdue alternatives for youth both outside and inside the juvenile justice system.

THE LEGISLATION

The substitute amendment we are now considering contains the key provisions of S. 821, as originally introduced. Our goal is to make the prevention of delinquency a number one national priority of the Federal Government, and in doing so to save tens of thousands of young people from the ravages of a life of crime, helping them, their families and society. As I said at the time I introduced S. 821:

> The Juvenile Justice and Delinquency Prevention Act which we are introducing today will provide the comprehensive, coordinated Federal effort combined with the massive resources that have so long been needed to deal effectively with the crisis of delinquency. This bill creates a new national Office of Juvenile Justice and Delinquency Prevention to insure national coordination of Federally assisted delinquency programs and provides substantial new resources for delinquency prevention, treatment, and rehabilitation programs, It creates a centralized research, training data collection, and evaluation effort in a new Institute of Juvenile Justice. It provides for the development of model uniform standards for the administration of the juvenile justice system, including conditions of confinement in detention and correctional institutions. Finally, it establishes basic procedural rights for juveniles who come under Federal jurisdiction.

The concept of S. 821 as originally introduced and as contained in the substitute amendment was to establish a new office, a central coordinator for the entire Federal delinquency effort. S. 821 does not propose the termination or relocation of existing juvenile delinquency programs, but rather it gives the new office in LEAA the authority to establish priorities and objectives for all Federal delinquency programs, including training, evaluation, research, prevention, rehabilitation and treatment activities.

S. 821 originally proposed the creation

of the central coordinating office to administer this program in the Executive Office of the President. The Subcommittee to Investigate Juvenile Delinquency was concerned about placing S. 821 in the White House at a time when there is a need to strengthen existing governmental departments. S. 821, as reported by the Subcommittee to Investigate Juvenile Delinquency created a new Office within the Department of Health, Education and Welfare due to HEW's experience in administering programs related to the success of a delinquency prevention effort. S. 821 as reported by the Judiciary Committee on July 16, 1974, placed the new Office in the Law Enforcement Assistance Administration.

Since that time I have worked with Senator HRUSKA to develop the constructive response to the delinquency problem which is contained in the substitute amendment which is before the Senate today. This amendment preserves not only the broad outline of the original bill but also its spirit and goals. It is far less important where this new Office of Juvenile Justice and Delinquency Prevention is located, than it is to make certain that office has the programs, power and resources to do the difficult job which lies ahead.

The bill has benefited in the 2½ years since I introduced the original bill S. 3148 on February 8, 1972, from the suggestions not only from my distinguished colleagues but also the testimony of the many expert witnesses including State and local officials, juvenile court judges, representatives of private agencies, social workers, criminologists, criminal justice planners and youth, particularly juveniles who have been under the jurisdiction of the juvenile justice system.

The extensive hearings conducted by the subcommittee contain eloquent testimony of the desperate need for this legislation. Eighty witnesses who were dedicated and concerned about children gave almost 1,000 pages of testimony and statements in overwhelming support of the principles behind this legislation. In particular, these witnesses emphasized the failure of the existing juvenile correctional institutions such as large custodial training schools which do not reform juveniles. Many witnesses provided support for a principle of this legislation from its inception—that many delinquents who have previously been incarcerated can be better and more humanely handled in community settings with greater chances of true rehabilitation. As Dr. Charles Shireman testified on behalf of the National Association of Social Workers:

> We in social work have come to believe that the concept of commitment of juveniles to large-scale correctional institutions as a therapeutic or rehabilitative device must be abandoned. Youth should be committed to correctional institutions only upon a finding of the existence of a clear and present danger to the security of other citizens.

State officials in testifying before the subcommittee have emphasized the necessity for comprehensive, coordinated Federal funding to assist the States in carrying out their efforts to rehabilitate youth in community settings. The Governor of Massachusetts, the Honorable Francis Sargent, and the Governor of Ohio, the Honorable John Gilligan, were eloquent in describing the urgent need for this legislation. The deputy director of the Kentucky Department of Child Welfare, Bill Ryan, confirmed the feeling of many State administrators in urging passage of this bill:

> Quite frankly, when I first read the bill and Senator Bayh's comments in the Congressional Record, I wanted to shout "Alleluia," somebody has finally developed a comprehensive piece of legislation that makes sense. It should provide a real opportunity for all of us if we want to be serious about resolving problems facing youthful offenders.

The National Governors' Conference in May 1974 in supporting the need for this legislation emphasized the necessity of a "Federal commitment to the prevention of delinquency".

I ask unanimous consent to have printed in the RECORD the resolution of the National Governor's Conference.

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

(See exhibit 1.)

Mr. BAYH. S. 821 in its final improved form provides a new structure within LEAA for the long-needed Federal commitment to prevent delinquency and to create alternatives for institutionalizing youth. The amended bill provides for strong Federal leadership combined with the incentives for States and local governments as well as public and private agencies to establish effective community-based services to reduce delinquency and to rehabilitate delinquents. I want to briefly summarize the significant feature of this bill and I ask that a summary of the entire bill be included in the RECORD immediately following my remarks.

Title I incorporates the findings and purposes of the Juvenile Justice and Delinquency Prevention Act into the Declaration of Purpose of the Omnibus Crime Control and Safe Streets Act which established the Law Enforcement Assistance Administration. The statement of purposes clearly mandates LEAA to conduct effective programs at the local, State, and National level to prevent delinquency, to divert juveniles from the juvenile justice system and to provide alternatives for youth to institutionalization.

Title II, which I will discuss at greater length later, amends the Federal Juvenile Delinquency Act to provide for the rights of juveniles under Federal jurisdiction in accordance with the Constitution.

Title III establishes a new Office of Juvenile Justice and Delinquency Prevention in the Law Enforcement Assistance Administration to implement the entire Federal juvenile delinquency effort. This will be the one place in the Federal Government where citizens or representatives of States, localities, or public and private agencies, can go to find answers and solutions to the delinquency problem.

One of the vital objectives of S. 821 from its introduction has been to establish an office within the Federal Government which can provide the desperately needed leadership for the entire Federal delinquency effort. The provisions of title III provide for this leadership combined with the authority and resources to give direction within LEAA for all its juvenile delinquency programs. Section 471(a)(c) establishes within LEAA an Office of Juvenile Justice and Delinquency Prevention headed by an Assistant Administrator who shall be appointed by the President with the advice and consent of the Senate. The appointment of the Assistant Administrator by the President will give this program the status required for national focus; it will emphasize the congressional intent of making this effort succeed. The need for a focal point for all Federal programs has been recognized by numerous witnesses who testified before the subcommittee. I am confident that the rank of Assistant Administrator combined with Presidential appointment and Senatorial approval will enable LEAA to find an outstanding individual experienced in the field of juvenile delinquency to provide committed leadership to this program.

As the leader of the Senate subcommittee which has worked for so many years to assure the passage of this legislation, I can assure you that I will examine the appointment of the head of this program with all the care required to be certain that the choice is capable of providing strong creative leadership to this program. With the appointment of a person of the caliber required, I have every confidence that such leadership will be forthcoming.

Title III also creates a new part F to the Crime Control Act of 1973, containing a new juvenile delinquency prevention, diversion and community-based alternative program. This program, for which $75 million is to be authorized in fiscal 1975, and $150 million authorized in fiscal 1976, will be administered by the new Office of Juvenile Justice and Delinquency Prevention. That Office will also provide policy direction for all prior-existing LEAA juvenile programs, to insure coordination of this effort within LEAA. In recent months, in response to the changes in the Crime Control Act of 1973, LEAA has created a Juvenile Justice Division which can be expected to provide a nucleus for a greater effort authorized by S. 821. It is expected that the goals of all the LEAA juvenile programs will be brought in line with the goals of the juvenile delinquency programs established under part F, with the Assistant Administrator providing direction and leadership for the entire LEAA delinquency effort.

Section 471(a) provides for a Deputy Assistant Administrator of the Office who shall direct the National Institute of Juvenile Justice. A great many colleagues of the Congress have long been interested in a similar concept as the Institute for Continuing Studies of Juvenile Justice.

A number of witnesses have testified before the subcommittee concerning the need for a clearinghouse and for research, training, and evaluation concerning juvenile delinquency programs. I am

gratified that S. 821 creates the Institute as part of the Office of Juvenile Justice and Delinquency Prevention thus strengthening both the work of the entire Office and the work of the Institute. I have long felt that it is essential to provide in one place for the problems of juvenile delinquency due to the fact that juvenile programs always seem to come second whenever they are coordinated with programs concerning adults. It is also essential that the National Institute of Juvenile Justice works closely with the Office to see that the results of research and evaluation become part of the program planning for all LEAA delinquency programs.

Let me emphasize, Mr. President, the Office of Juvenile Justice and Delinquency will provide overall planning and policy, as well as establishing objectives and priorities for all Federal juvenile delinquency programs. This includes all activities relating to prevention, diversion, training, treatment, rehabilitation, evaluation, research, and improvements of the juvenile justice system. The Office will review the operation of programs in other agencies, and will be responsible for reporting on their effectiveness and for making budgetary and program recommendations to the President through the Attorney General. It will report annually to the President and Congress on Federal juvenile delinquency programs and it will develop annually and submit to the President and Congress a comprehensive plan for Federal juvenile delinquency programs with particular emphasis on prevention and diversion of juveniles from the traditional juvenile justice system. We must strive to stop delinquency in the first instance, and to rehabilitate juveniles who might otherwise be headed down the dark path of crime.

The need for centralized authority for Federal delinquency programs, a key of this legislation has been recognized by many State and local officials and representatives of private agencies who have told us of their problems in working with the Federal Government due to the fragmentation of responsibility for delinquency programs. The Office of Juvenile Justice and Delinquency Prevention will provide a focus for a coordinated national attack on the juvenile crime crisis.

One of the problems in carrying out delinquency prevention, diversion and rehabilitation programs by public and private agencies in all parts of the country at all levels of government has been the lack of sufficient technical expertise or know-how on how to develop and to implement these programs. The Office of Juvenile Justice and Delinquency Prevention is authorized to provide technical assistance to Federal, State, and local governments and public and private agencies in implementing delinquency programs. In addition, the Administrator is authorized to utilize the services of any agency of the Federal Government or to transfer funds to any Federal agency or to enter into contracts with public or private agencies to carry out the goals of the program. Thus the Office has a broad range of authority to assure that it can provide the resources to the many public and private institutions which deal with the delinquency problem in this country.

From its inception, it has been recognized in S. 821 that the Office will need the support and advice of private citizens and agencies actively involved in working on the problem of juvenile delinquency. With this thought in mind, S. 821 provides for a National Advisory Committee on Juvenile Justice and Delinquency Prevention—referred to as the Advisory Committee, of 21 members knowledgeable in the prevention and treatment of juvenile delinquency, to make recommendations to the Administrator of LEAA with respect to the planning, operations and management of Federal juvenile delinquency programs. So that the voice of youth is heard, one-third of its members shall not be 26 years of age at the date of their appointment. It is our expectation that some of the members of the Advisory Committee should have had personal experience under the jurisdiction of the juvenile justice system, so that the National Advisory Committee will have the benefit of their experience in its deliberations.

The act also continues the Interdepartmental Council on Juvenile Delinquency composed of the Attorney General, the Secretary of Health, Education, and Welfare, the Secretary of Labor, Director of the Special Action Office for Drug Abuse Prevention, and the Secretary of Housing and Urban Development. The Attorney General will serve as chairman and shall appoint the Executive Secretary of the Council. This Interdepartmental Council is expected to provide overall coordination of all Federal juvenile delinquency programs and members of the Interdepartmental Council are ex-officio members of the National Advisory Committee. The Council has functioned intermittently in the past and not met its congressional mandate. In fact it has done little except prepare reports. I am hopeful that a rejuvenated Interdepartmental Council as part of the National Advisory Committee with its own staff will be able to work toward coordination of the work of the departments in the juvenile delinquency field.

S. 821 has always been built on the premise that solutions to the delinquency problem must be found at the State and local level. The Federal Government can and must provide leadership in the national goals to reduce juvenile delinquency, as well as adequate resources to help State and local governments develop and implement juvenile delinquency prevention and rehabilitation programs.

Title IV establishes a program of Federal assistance through LEAA of block grants to State and local governments to assist them in planning, operating, and evaluating projects directly, or through contracts with public and private agencies, for the development of more effective education, research, prevention, diversion and rehabilitation programs in the area of juvenile delinquency and the juvenile justice system.

Funds will be allocated to States based on population under the age of 18, although no allotment to any State shall be less than $200,000. In order to receive any funding a State is required to submit a comprehensive juvenile justice plan which meets the requirements set forth in section 482 (a) and (b) of part F and the existing requirement for a comprehensive juvenile justice plan in section 303(a) of the Crime Control Act of 1973. This provision establishes clearly that the States are required to submit one comprehensive juvenile justice plan in order to receive the State's allotment under this legislation.

The substitute amendment provides that the State plan must designate the State planning agency established under section 203 of the Omnibus Crime Control and Safe Streets Act as the sole agency for supervising the preparation of the State plan.

At the core of LEAA's success at the State and local level is the State planning agency and its regional planning units which administer the program at the State and local levels, respectively. The State planning agency determines the needs and priorities for improving the law enforcement and criminal justice system in each State. Each State planning agency has a supervisory board which determines the policy for LEAA programs in that State. It has long been felt that these Boards should be representative of citizen and community organizations in addition to law enforcement and criminal justice officials. This is particularly true in the juvenile delinquency prevention field where private agencies have a long tradition of dealing with the problems of children and youth in trouble. No process can legitimately set the priorities for a State to deal with such a pressing issue as crime and delinquency without involving the citizens and agencies most affected. I am pleased that section 301 of S. 821 amends section 203(a) of the Crime Control and Safe Streets Act of 1973 to require that the State planning agency and any regional planning units must be representative of citizen, professional and community organizations, including organizations directly related to delinquency prevention.

For the first time, State planning agencies and all regional units must have representatives of citizen and community groups including delinquency prevention organizations which are concerned about crime and delinquency. In addition, this section is further amended to require that the State planning agency and all regional units shall be representative of not only local governments, law enforcement and other criminal justice agencies, but also agencies related to the prevention and control of juvenile delinquency. According to the Report of the National Advisory Commission on Criminal Standards and Goals only 5 percent of the membership on State planning agency supervisory boards have had a functional background in the area of juvenile delinquency.

The substitute amendment opens supervisory boards to public agencies concerned with delinquency prevention or treatment such as juvenile justice agencies, juvenile court judges and wel-

services in the community. Nationally it is my hope that S. 821 can become the vehicle for the creation of services for these children, particularly for girls, for whom services are practically nonexistent and that these services can be provided without labeling the children Services for such youth, who are now stated to be "children in need of supervision" or "persons in need of supervision" in the juvenile court setting, should be created outside of the juvenile justice system. Through the uses of the community-based services provided for in S. 821 juveniles will be able to receive the help they need while remaining close to family and friends who are so necessary to rehabilitative efforts.

The creation of these innovative community-based facilities and services at the State and local level may result in changes in employment opportunities which will affect current State, county, and local governmental employees. The burden of these desirable changes in the handling of delinquents should not be made to fall on the employees alone. Our bill requires the State plan to include provisions for fair and equitable arrangements to protect the interests of employees affected by this act. These provisions assure that in dealing with children we do not deal unfairly with employees.

In addition to the funds for States and localities S. 821 also provides funds for direct special emphasis grants to public and private agencies to develop and implement new methods of delinquency prevention, treatment, and rehabilitation. Direct funding authority will provide additional overall resources for juvenile delinquency programs and maintain the funding flexibility required to develop innovative approaches to the problems of delinquency. Moreover, the ability of the Administrator to develop and implement an effective, coordinated Federal delinquency effort will be enhanced by making funds available to him for direct grants to implement needed programs.

The bill provides that at least 20 percent of the funds for special emphasis prevention and treatment contracts shall be available for private nonprofit organizations or institutions who have had experience in dealing with youth. The intent of this provision is to enable those private nonprofit organizations which have established program services for youth to expand, extend and improve upon their services for youth in trouble. The principal youth-serving organizations which are working with millions of young people, have testified that they are already spending hundreds of millions of their own money, are utilizing hundreds of thousands of dedicated volunteers, and are demonstrating the effective approaches to prevention of delinquency. They cannot cope with the delinquency problem in this country unless they can combine their private resources with additional resources and leadership from Government. I believe that we can best serve young people by giving these experienced youth-serving organizations that assistance.

This provision may be used to meet such needs as: augmenting staff with specialities to reach hard-to-reach youth; acquiring professionals to provide in-depth counseling and guidance for young people remanded by court; creating alternate or satellite schools for potential dropouts; early career ladder development for upward mobility for poor minority girls; training national professionals to do inter-agency collaboration work with hard-to-reach youth; developing pilot programs to discover successful approaches unique to specific geographic areas and age groups; and developing programs of cross-age communication between young people and parents.

This provision guarantees that a beginning can be made in providing those funds which are so essential if our youth-serving agencies are going to escalate their efforts.

As I noted above, one of the major features of S. 821 is the creation of a National Institute for Juvenile Justice within the Office of Juvenile Justice and Delinquency Prevention. The proposed Institute will have the national prestige, the authority and the resources required to develop long-range strategies for dealing effectively with the problems of juvenile delinquency. Most important, the Institute would be an integral part of the new national Office so promising research and evaluation results can be translated promptly into effective operating programs in the field.

The Institute will be responsible for the evaluation of programs assisted under this act as well as other juvenile delinquency programs as requested by the Administrator. In the past there has been little evaluation of federally assisted delinquency programs and it is vital that analysis of delinquency programs be commenced on a systematic basis. In addition, the Institute will provide vitally needed leadership in developing effective research, training, and information services in the field of juvenile delinquency. It is an essential part of the new comprehensive, coordinated Federal approach, contained in S. 821.

Title II of the Juvenile Justice and Delinquency Prevention Act amends the Federal Juvenile Delinquency Act designed to guarantee certain basic protections to juveniles under Federal jurisdiction. I have worked with the distinguished Senator from Arkansas (Mr. McCLELLAN) to reach an agreement on the provisions of title II which are contained in the substitute amendment because this title also falls within the purview of the criminal codification effort currently underway in the Subcommittee on Criminal Laws and Procedures.

Whenever possible, juveniles should be processed through State and local juvenile courts and correctional systems. Unfortunately, neither the Federal courts nor the Federal correctional system has ever been properly equipped to handle large numbers of juveniles, and as a result numbers of juveniles have been sent to institutions far from their home communities. Under title II, in juvenile cases, Federal courts would be required to defer to State courts unless the Attorney General certifies that the State does not have or refuses jurisdiction or does not have services to meet the needs of juveniles.

Title II contains a prohibition against detention or confinement of any juvenile in institutions in which the juvenile has regular contact with adults who are convicted or awaiting trial are confined. Insofar as possible alleged juveniles shall be kept separate from adjudicated delinquents. Juveniles who are incarcerated with sophisticated criminals or hardened delinquents merely learn more about crime and criminal ways and only harm can come from such a policy.

Under present law, a juvenile alleged to have committed an act which if committed by an adult would be a felony could be handled either in juvenile proceedings or in criminal proceedings. Title II would require a hearing before a Federal district judge before an eligible juvenile could be transferred to adult criminal court and then only if the judge finds that such a transfer would be in the interest of justice according to specific listed criteria. Transfer proceedings could be instituted only against a juvenile aged 16 or older who has committed certain serious felonies. In all other cases, the youth would be treated as a juvenile.

Title II also provides against unnecessary detention of juveniles. The bill requires that immediately upon arrest the juvenile be advised of his legal rights and that the juvenile's parents or guardian be notified forthwith of such custody and of such juvenile's rights. The juvenile must be taken before a magistrate forthwith who shall release him to his parents or guardian unless, after hearing, the magistrate determines that detention is necessary to secure the juvenile's timely appearance before the appropriate court or to insure his safety or that of others.

The proposed amendments would implement recent Supreme Court decisions dealing with the right to counsel. The arresting officer would be required to inform the juvenile that he has the right to be represented by legal counsel at all critical stages of the juvenile proceedings, and the magistrate must insure that the juvenile is represented by counsel before proceedings.

The title guaranteeing a juvenile all the rights of an adult in a criminal trial has been deleted without any suggestion that any such deletion implies that the rights of juveniles are necessarily less extensive than those of adults in a criminal trial. It is simply a conclusion that at this time decisions of the rights of a juvenile should be decided by the courts on a case by case basis under the Constitution. In accordance with this view, for example, it has been held that trial by jury is not constitutionally required in juvenile proceedings.

The proposed amendments contain a number of other protections for juveniles under Federal jurisdiction. A detained juvenile has a right to a speedy trial. Whenever possible, a juvenile shall be detained or confined in a community-based facility located in or near his home

community. A juvenile in detention or confinement must be provided adequate food, clothing, housing, education, and all other necessary care and treatment. There are provisions for the sealing of juvenile records and preventing their unnecessary disclosure. The proposed amendments provide many due process protections for juveniles which are basic to our system of justice.

I want to note before closing that a National Institute of Corrections in the Federal Bureau of Prisons is established in title VII. The rising crime rate and the general ineffectiveness of institutions in the corrections field indicate that an effort such as this institute is needed to provide direction and leadership to the corrections system.

Mr. President, we recognize that substantial resources are needed to implement this far-seeing comprehensive delinquency program. Title VI provides that LEAA shall maintain the same level of financial assistance for existing juvenile delinquency programs as LEAA did in fiscal year 1972—namely $140 million. In addition, the bill authorizes $75 million in fiscal year 1975 and $150 million in fiscal year 1976 for the new programs created in this act. These provisions are vital to creating within LEAA the priority for juvenile delinquency programs that is essential to the success of the new part F created by S. 821.

In this connection, I want to observe that the Senate subcommittee has worked for many years to persuade LEAA to make an effort in the delinquency field commensurate with the fact that juveniles are responsible for half the crime in this country. In fiscal 1970, LEAA spent 12 percent of its funds on juvenile delinquency programs, and in fiscal 1971, although the percentage increased somewhat, it still was only 14 percent. In fiscal year 1972, under 21 percent went to juvenile delinquency programs. In addition there is a tremendous difference in the level of funding of juvenile programs at the State level.

According to an analysis of the State plans by the National Council on Crime and Delinquency, the percentage spent of part C LEAA funds on juvenile justice and delinquency prevention ranges from a high of 56 percent in Guam to a low of 0.29 percent in Kansas. In the years ahead, it will be necessary for LEAA to provide leadership on the national level to assure that the truly national effort to prevent delinquency becomes a reality. It is not merely a question of the total expenditure for delinquency programs. It is also vital that all States become involved in the effort so that there ceases to be such a tremendous disparity among the States on their approach to delinquency.

S. 821 provides the structure and the resources for LEAA to create the long-needed national priority concern by the Federal Government to prevent delinquency, divert juveniles from the juvenile justice system, provide meaningful alternatives to the traditional juvenile detention and correctional facilities and to improve the quality of justice for juveniles in this country. I will vigilantly review LEAA's activities to assure that the strong accountable Federal responsibility to the delinquency crisis required by S. 821 is forthcoming. With the resources and authority contained in S. 821, I have every confidence that this will be the case.

Mr. President, I ask unanimous consent to have printed in the RECORD the analysis by the National Council on Crime and Delinquency to which I have referred.

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

(See exhibit 2.)

Mr. BAYH. Mr. President, I ask unanimous consent to have printed in the RECORD a summary and analysis of the Juvenile Justice and Delinquency Prevention Act of 1974.

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

(See exhibit 3.)

EXHIBIT 1

NATIONAL GOVERNORS' CONFERENCE RESOLUTION ON JUVENILE DELINQUENCY

In recognition of the key role which state governments play in the intergovernmental effort to prevent and control juvenile delinquency, the National Governors' Conference urges each State to act as the focal point for the coordination of planning and services of all state and federal agencies which contribute to the prevention, control and treatment of juvenile delinquency.

To achieve that objective, greater emphasis should be placed on coordination of effort between the numerous federal agencies with juvenile delinquency programs and between federal and state agencies.

Recognizing that juvenile delinquency is a problem broader than the criminal justice system, planning for programs should promote coordination and utilization of private and public, social and educational services to youth to the maximum extent feasible.

Further, recognizing that the key to a meaningful reduction in juvenile delinquency lies in its prevention, each State should emphasize and strengthen its commitment to basic prevention programs giving particular emphasis to home, school and community centered programs aimed at youth in danger of becoming delinquent.

The States have increasingly recognized the importance of preventive programs and made notable progress in implementing new programs and experimenting with new ways of preventing delinquency. What is lacking is a federal commitment to the prevention of juvenile delinquency. The National Governors' Conference, therefore, urges the Congress to adequately fund and amend legislation to support state juvenile delinquency prevention efforts. Such legislation should focus on the following objectives:

1. Encourage expanded juvenile jurisdiction and funding by LEAA and those programs at the State and local level, and improving coordination of federal programs affecting juveniles. Such coordination should provide a clear delineation of authority and responsibility between programs funded by the Law Enforcement Assistance Administration and those of the Department of Health, Education, and Welfare.

2. Broadening and planning structure and capabilities at the local and state levels.

3. Substantially increased funding for action and special impact by States and localities. A portion of the federal funds under the act should be available for the matching requirements of other federal funds, thus increasing the scope of the funding.

4. Providing an ongoing capability for legislative and staff monitoring and evaluation of all programs and activities funded under the act as a basis for developing hard data for making decisions on long range needs.

5. Utilization of the existing structure of the State Planning Agencies for law enforcement in the achievement of the above objectives.

EXHIBIT 2

PLANNED EXPENDITURES OF LEAA FUNDS FOR JUVENILE JUSTICE THROUGH THE 55 STATE AND TERRITORIAL PLANNING AGENCIES, FISCAL YEAR 1973, PREPARED BY THE NATIONAL COUNCIL ON CRIME AND DELINQUENCY

The National Council on Crime and Delinquency has long been concerned about the adequacy of the federal response to the nation's problems of juvenile delinquency, prevention and justice. The Law Enforcement Assistance Administration (LEAA) of the U.S. Department of Justice is the government's primary vehicle for crime reduction through state and local planning. The category of delinquency prevention and juvenile justice is but one of the major mandated LEAA State Planning Agency (SPA) targets. This analysis, therefore, was undertaken to determine the financial and program planning directions of the nation's 55 jurisdictions in response to the problems of juvenile delinquency through the auspices of the LEAA program.

The accompanying data was collected from the Comprehensive Criminal Justice Plans for FY 1973 for all but four of the 55 states and territories. The plans are submitted to LEAA to substantiate the requests for assistance for "Part C" block grant funds and "Part E" correctional funds in accordance with the Omnibus Crime Control and Safe Street Act of 1968 and subsequent amendments (the most recent legislation was the Crime Control Act of 1973, Public Law 93-83, August 6, 1973). The plans for California, Michigan, New Mexico, and North Carolina were not available in the LEAA library at the time of data collection, thus data contained herein does not include figures for these states.

The data indicates that the percentage of available block grant funds intended for programs in the arena of juvenile justice and delinquency prevention ranges from a high of 56% in Guam, to a low of .29% in Kansas. The national average on the basis of the 51 plans was 15.4% in FY 1973. Although the data for FY 1972 has not yet been compiled, this represents a slight increase over resources allocated in FY 1970 (14.3%), and FY 1971 (16.2%). However, juvenile and youth crime reportedly accounts for half of the nation's crime problem and NCCD questions whether this resource allocation is sufficient and proportionate in relation to the nation's needs.

The data also indicates that the emphasis on "community-based correctional alternatives" is considerable—with 40% of the total juvenile justice funds destined for programs in that broad arena. Although this appears encouraging, it must be noted that the planned expenditure of funds in this programmatic category is difficult to pin down according to types of "alternatives" as program descriptions are vague and generic.

It must also be noted that less than 2% of all juvenile justice funds were planned for research and evaluation purposes. Because there were so few programs identified in this arena, they have been included with programs aimed toward public education and other miscellaneous targets.

Table I is a state-by-state summary of the juvenile justice effort through utilization of the LEAA block grant funds.

Table II is a comprehensive analysis of the state-by-state effort fiscally and programmatically.

Table III is a summary comparison of the overall national programmatic effort in ju-

venile justice based on the data from the 51 state plans.

It must be noted that this data for planned expenditures does not necessarily mean that the money has actually been spent as intended. Although the state plans are an outline of the intended directions for spending, follow-up data is difficult to secure with any degree of accuracy. One reason is the lack of standardized reporting of past progress in a programmatic category; another reason is the flexibility which occurs between planning a program effort and implementing it.

Many of the state plans indicated general program efforts which would be directed to both juveniles and adults. Few of the plans specified the financial allocation to each age group. Thus, half of the total program effort for such programs was determined to be a reasonable, albeit optimistic, allocation for our purposes.

In summary, this material is presented as indicative of general trends and thrusts in juvenile justice planning throughout the country under the auspices of the LEAA block grant program.

TABLE I.—FISCAL YEAR, JUVENILE JUSTICE EFFORT

State	Available LEAA block grant funds	LEAA funds planned for juvenile justice	Percentage of total LEAA funds
Alabama	8,026,000	1,382,530	17
Alaska	700,000	158,000	23
Arizona	4,127,000	471,487	11
Arkansas	4,482,000	827,000	18
Colorado	5,143,000	415,000	8
Connecticut	7,064,000	1,912,000	27
Delaware	1,277,000	394,750	31
Florida	15,821,000	2,745,250	17
Georgia	10,695,000	1,611,945	15
Hawaii	1,791,000	522,000	29
Idaho	1,660,000	95,804	6
Indiana	12,102,000	3,301,998	27
Illinois	25,898,000	2,200,000	8
Iowa	6,581,000	1,033,105	16
Kansas	5,235,000	15,000	.29
Kentucky	7,500,000	1,187,500	16
Louisiana	8,485,000	83,965	5
Maine	2,312,000	213,211	9
Maryland	9,140,000	2,550,000	28
Massachusetts	13,257,000	1,983,458	15
Minnesota	8,866,000	2,110,000	24
Mississippi	5,166,000	1,011,570	20
Missouri	10,897,000	2,208,440	20
Montana	1,618,000	130,000	8
Nebraska	3,457,000	801,000	23
Nevada	1,139,000	177,350	16
New Hampshire	1,719,000	174,000	10
New Jersey	16,703,000	3,091,000	19
New York	42,496,000	4,500,000	15
North Dakota	1,439,000	123,000	9
Ohio	24,821,000	4,661,371	19
Oklahoma	5,954,000	1,489,000	25
Oregon	4,873,000	1,155,996	24
Pennsylvania	27,482,000	3,499,502	13
Rhode Island	2,206,000	98,818	4
South Carolina	6,036,000	364,745	6
South Dakota	1,551,000	183,432	12
Tennessee	9,143,000	420,000	5
Texas	26,091,000	1,670,000	6
Utah	2,468,000	397,718	16
Vermont	1,035,000	117,750	11
Virginia	10,832,000	1,836,500	17
Washington	7,944,000	2,080,000	26
West Virginia	4,064,000	580,000	14
Wisconsin	10,294,000	1,000,000	10
Wyoming	755,000	40,000	5
American Samoa	63,000	24,150	38
Guam	198,000	110,967	56
Puerto Rico	6,320,000	1,726,100	27
Virgin Islands	146,000	57,000	39
Washington, D.C.	1,763,000	359,114	20
Total	398,845,000	61,602,576	15.4

Note: Plans were not available for California, Michigan, New Mexico, and North Carolina.

EXHIBIT 3

SUMMARY AND ANALYSIS OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

TITLE I—FINDINGS AND DECLARATION OF PURPOSE

This title incorporates the findings and purpose of this legislation into the findings and purposes of the Omnibus Crime Control and Safe Streets Act (the Crime Control Act of 1973). These findings include the high incidence and cost of delinquency which require comprehensive action by the Federal government to reduce and to prevent delinquency. Moreover, it is the policy of Congress to provide the necessary leadership and resources to develop effective methods of preventing and reducing juvenile delinquency, diverting juveniles from the juvenile justice system, and providing critically needed alternatives to incarceration. These statements indicate that the purpose of S. 821 is to give LEAA a clear mandate to conduct effective programs to prevent delinquency and provide alternatives for youth to institutionalization.

TITLE II—AMENDMENTS TO THE FEDERAL JUVENILE DELINQUENCY ACT

This title sets forth a series of specific amendments to the Federal Juvenile Delinquency Act (Secs. 5031–5042 of Title 18) designed to guarantee certain basic rights to juveniles who come within Federal jurisdiction.

Definitions

A "juvenile" is a person under 18 or for proceedings under this chapter a person who is under 21 and "juvenile delinquency" is the violation of a law of the United States committed by a juvenile which would have been a crime if committed by an adult.

Deference to local courts

In cases involving juveniles, Federal courts would be required to defer to state courts unless the Attorney General certified that the state does not have jurisdiction or refuses jurisdiction or does not have available adequate services to meet the needs of juveniles. The Federal courts and the Federal correctional system have never been properly equipped to handle large numbers of juveniles with the result that Federal juvenile delinquents are frequently transferred away from their home communities for treatment. By deferring jurisdiction to state courts, the harmful effects of this dislocation would be reduced.

Delinquency proceedings and transfer hearings

In Federal cases, a juvenile alleged to have committed a crime shall be proceeded against as a juvenile delinquent unless he is 16 years or older. Where a juvenile age 16 and older alleged to have committed a serious felonious act could be prosecuted either as a juvenile or as an adult, a Federal District judge would be required to conduct a hearing and find that such a transfer would be in the interest of justice. Specific criteria are listed by which the court shall assess the interests of justice and findings are required with regard to each criterion before a juvenile could be prosecuted as an adult criminal. Subsequent proceedings (including criminal prosecution) on the basis of the alleged act are banned once a plea of guilty has been entered or the proceeding has reached the stage that evidence has begun to be taken. Juvenile proceedings are designed to rehabilitate a youthful offender and no eligible child should face criminal prosecution without careful decision by a court. Under the present law, the Attorney General now has sole discretion to make this determination.

Right to counsel

The bill implements Supreme Court decisions guaranteeing the right to counsel during the transfer hearing and every other critical stage of the proceedings including the right of indigent juveniles to have court-appointed counsel.

Procedural safeguards

The bill requires that juveniles be advised of their rights along with parents, guardian or custodian, and taken before a committing magistrate forthwith upon arrest, and that pre-adjudication detention is permitted only if a magistrate determines, after hearing, that detention is necessary to secure the juvenile's timely appearance before the appropriate court or to protect his safety or the safety of others. Whenever possible, detention shall be in a foster home or community-based facility located in or near his home community. If a detained juvenile is not brought to trial within thirty days the information shall be dismissed unless the Attorney General can show the delay was caused or consented to by the juvenile and his counsel or would be in the interest of justice.

Prohibition against commingling

The bill prohibits the detention or confinement of juveniles in institutions in which the juvenile has regular contact with adults who are convicted or awaiting trial are confined. Juveniles who are incarcerated with adults are not only less likely to be rehabilitated, but are also likely to learn the ways of criminals. For similar reasons, the bill provides that alleged delinquents insofar as possible must be kept separate from adjudicated delinquents.

Study and disposition

This legislation provides that the court may suspend the sentence of the delinquent, place him on probation, or commit him to the custody of the Attorney General. If the juvenile is adjudicated delinquent, a separate dispositional hearing shall be held no later than 20 days after trial unless further study has been ordered. If the court desires more detailed information concerning an alleged or adjudicated delinquent, it may commit him after notice and hearing at which the juvenile is represented by counsel. Such study shall be conducted on an out-patient basis, unless the court determines that in-patient study is necessary. In the case of an alleged delinquent, in-patient study can only be ordered with the consent of the juvenile and his attorney.

A juvenile who has been detained or committed to the Attorney General should have custody, care and discipline as nearly as possible equivalent to that which should have been provided for him by his parents. The juvenile shall be provided with adequate food, clothing, bedding, education, all other necessary care and treatment. A juvenile shall be placed whenever possible in a foster home or community-based facility located in or near his home community.

Parole and probation

The Board of Parole is required to release on parole any juvenile delinquent who has been committed as soon as satisfied that he is likely to remain at liberty without violating the law and when such release would be in the interest of justice. Furthermore, a juvenile cannot have parole or probation revoked without a hearing with counsel for the juvenile. The provision is in accordance with the trend of recent court decisions and enables the juvenile to prepare himself for a normal life in the community.

Juvenile records

The record of any juvenile proceeding shall be sealed upon completion and only released by the court under certain very limited and prescribed circumstances. Juvenile records are all too frequently used inappropriately to eliminate adjudicated delinquents from meaningful opportunities in our society.

The provisions of Title II as a whole guarantee a juvenile under Federal jurisdiction the basic rights of our system of justice and increase the probability of his rehabilitation while still protecting the safety of the public.

TITLE III—JUVENILE JUSTICE AND DELINQUENCY PREVENTION OFFICE

The first section of this title amends Section 203(a) of Title I of the Omnibus Crime Control and Safe Streets Act which provides

for the composition of the State Planning Agency and any regional planning units within the State. According to the substitute amendment, the State Planning Agency and any regional planning units must be representative of agencies related to the prevention and control of juvenile delinquency and must include representatives of citizen, professional, and community organizations including organizations directly related to delinquency prevention. It is intended that the organizations listed for membership in the Advisory Group to the State program in Sec. 482(a)(3) are all eligible for appointment to the State Planning Agency and its regional units.

This title creates a new Part F of the Omnibus Crime Control and Safe Streets Act. This title establishes an Office of Juvenile Justice and Delinquency Prevention (hereinafter referred to as the "Office") in the Department of Justice, Law Enforcement Assistance Administration, headed by an Assistant Administrator appointed by the President with the advice and consent of the Senate. The Assistant Administrator shall exercise all necessary powers subject to the direction of the Administrator of the Law Enforcement Assistance Administration. The Assistant Administrator will be assisted by a Deputy Assistant Administrator, and such other employees as are necessary to perform the duties vested in him. A position of Deputy Assistant Administrator is established to supervise and direct the National Institute of Juvenile Justice which is part of the Office. The Office shall administer Part F and shall administer or provide policy direction for all prior-existing LEAA juvenile programs to ensure coordination within LEAA.

The Office will be the central coordinator of the entire Federal juvenile delinquency effort. This concept is important to the bill. There is general agreement that the Federal effort to date has been badly fragmented and lacking in direction and has had virtually no impact in reducing the spiralling rate of juvenile crime. This bill recognizes that there is a need for a centralized Federal response to the juvenile delinquency crisis. The Office will implement overall policy and develop priorities for all Federal juvenile delinquency programs.

Annual report

The Assistant Administrator will be required to report annually on the activities of the Office to the President and Congress on problems encountered in the operation and coordination of the various Federal juvenile delinquency programs, and on the effectiveness of Federal efforts to deal with juvenile delinquency. He is also required to develop annually and submit to the President and Congress a comprehensive plan for Federal juvenile delinquency programs with particular emphasis on prevention and diversion.

The Administrator may provide technical assistance to any Federal, state or local government, courts, public or private agencies in the planning, establishment or operation or evaluation of juvenile delinquency programs. The Administrator is authorized to make grants to any public or private agency to carry out the purposes of this Act and is further authorized to transfer funds to any agency of the Federal government to develop or demonstrate new methods of juvenile delinquency prevention and rehabilitation.

Interdepartmental Council

This title establishes the Interdepartmental Council on Juvenile Delinquency, composed of the Attorney General, the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Director of the Special Action Office for Drug Abuse Prevention, the Secretary of Housing and Urban Development, or their respective designees, and such representatives of other agencies as the President designates. The Council is to coordinate all Federal juvenile delinquency programs, to meet six times a year, and include its activities in the annual report prepared according to Sec. 474(b)(5). The Attorney General will serve as Chairman of the Council, and may appoint an Executive Secretary and such personnel as are necessary.

National Advisory Committee

A National Advisory Committee for Juvenile Justice and Delinquency Prevention of 21 members and members of the Interdepartmental Council ex-officio will advise the Administrator of LEAA with respect to the planning, operations and management of Federal juvenile delinquency programs. One-third of its members shall be under the age of 26 and it is expected that some of its members will be individuals with experience within the juvenile justice system. A subcommittee of five members will serve as an Advisory Committee on the overall policy and operations of the National Institute of Juvenile Justice. Another subcommittee of five members will serve as an Advisory Committee on Standards for the Administration of Juvenile Justice.

The National Advisory Committee will bring citizen participation and cooperation to the work of the Administration. The bill recognizes that we will only be able to do something meaningful about juvenile delinquency with the help and support of the public.

TITLE IV—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

This title establishes a Federal assistance program of block grants to state and local governments and for direct special emphasis grants to public and private agencies to develop and implement comprehensive juvenile justice programs with particular emphasis on the prevention of delinquency.

State and local formula grants

Funds appropriated under this part shall be allocated for grants to the states based on relative population under 18 (no allotment to any state shall be less than $200,000). In order to receive this grant, a state shall submit a state plan which meets the requirements of Section 482 (a) and (b) and Section 303(a) of Title I of the Omnibus Crime Control and Safe Streets Act. The plan must contain the following fundamental requirements:

(a) designate the state planning agency established by the Omnibus Crime Control and Safe Streets Act as the sole agency to prepare and administer the plan;

(b) provide for an advisory group consisting of persons knowledgeable about juvenile justice and juvenile delinquency appointed by the Governor to advise the state planning agency and its supervisory board and to approve the state plan and any modification of the state plan prior to submission to LEAA;

(c) provide for a detailed study of state needs for an effective, comprehensive, coordinated approach to juvenile justice and delinquency prevention;

(d) provide for expenditure of at least 50 percent of the state's funds through local government programs;

(e) provide for expenditure of three-quarters of the funds a state receives on the development and use of advanced techniques designed to prevent juvenile delinquency, to divert juveniles from the juvenile justice system, to establish probation subsidy programs, to provide community-based alternatives to traditional detention and correctional institutions. The advanced techniques include community-based prevention, diversion, and rehabilitation efforts through development of foster-care and shelter care facilities, group homes, halfway houses, and other diagnostic or rehabilitative facilities; expanding use of probation; funding of probation subsidy programs; training of probation personnel, other professionals and paraprofessionals to work with youth; and comprehensive drug abuse prevention and education programs and treatment and rehabilitation programs for drug addicted and dependent youth. Such techniques also include community-based services to work with parents to retain the juvenile in his home and educational or supportive services designed to keep the juvenile in school or alternative learning situations and to provide work and recreational opportunities for delinquents or youth who may become delinquent and youth initiated programs and outreach programs designed to assist youth who otherwise would not be reached by assistance programs;

(f) provide for consultation with local governments and private agencies in the development of the plan and provide for maximum coordination and utilization of existing juvenile delinquency programs and related programs, such as education, health and welfare within the state;

(g) provide that, within two years after the submission of the plan, juveniles who are not charged with or have not committed substantive, criminal offenses shall not be placed in juvenile correctional facilities, but must be placed in shelter facilities. (This would include runaways, truants, neglected children, persons in need of supervision (PINS) and incorrigibles.);

(h) provide that juveniles will not be kept in any institution in which they have regular contact with adult criminals or alleged criminals;

(i) provide for state monitoring of jails and detention and correctional facilities to assure that juveniles are not in jail and juveniles involved in status offenses are in shelter facilities;

(j) provide assurances that assistance will be available on an equitable basis to deal with all disadvantaged youth and that procedures will be established to assure the rights of recipients of services;

(k) provide for procedures to protect the rights of recipients of service and to assure privacy of records regarding such services;

(l) provide that fair and equitable arrangements are made to protect the interests of employees affected by assistance under this part; and

(m) provide for prudent fiscal control and accounting procedures.

In the event that a state fails to submit a plan or have one approved after notice and hearing, the Administrator shall make the state's allotment available to public and private agencies for special emphasis prevention and treatment programs.

If the plan does not meet the requirements of S. 821 due to oversight or neglect, the Administrator shall endavor to make the state's allotment available to public and private agencies in that state for direct special emphasis grants as defined in Section 483. A number of private agencies including some in my home state of Indiana are concerned that if a state does not complete its plan, that insufficient funds will be available in that state for delinquency programs. Others are concerned that if a state could obtain all the funds under the act without completing the plan that there would be no incentive to complete the plan. For this reason, the section was drafted to avoid automatic placement in the state if no plan is approved but neglect or oversight is intended to include inaction or red-tape that leads to non-filing of the plan.

Special emphasis prevention and treatment programs

Funds under this part will be used for contracts with public or private agencies to develop innovative juvenile delinquency prevention and diversion programs; to develop and implement means of diverting ju-

veniles from the traditional juvenile justice and correctional system, and to improve the capability of public and private agencies to provide services for delinquents and youth in danger of becoming delinquent; criteria for approval of contracts by the Administrator are also set forth.

These special emphasis grants will add flexibility and resources to the work of the Office. The new Office of Juvenile Justice and Delinquency Prevention will be able to develop national programs for youth in trouble and to assure technical assistance to local agencies. Not less than 25 percent or more than 50 percent of the funds appropriated for each fiscal year to Part F shall be available for special emphasis and treatment grants. At least 20 percent of the funds available for special emphasis grants and contracts shall be available to private non-profit agencies who have had experience dealing with youth.

In addition, there are provisions in Title IV relating to the withholding of funds, the use of funds, and conditions of payments. Of particular interest is a provision that it is the declared policy of Congress that programs funded under this part shall continue to receive financial assistance providing the yearly evaluation of the programs is satisfactory.

TITLE V—NATIONAL INSTITUTE FOR JUVENILE JUSTICE

This title establishes a National Institute for Juvenile Justice (hereinafter referred to as the "Institute") headed by a Deputy Assistant Administrator of the Office of Juvenile Justice and Delinquency Prevention, which will be the research and training arm of the new Office. The Institute is expected to be closely tied to the operation of the Office. Research, training and evaluation performed by the Institute should improve the operation of all Federal juvenile delinquency programs. This title also provides that records of the identity of juveniles which were gathered for research purposes may not be disclosed to any public or private individual or agency.

Information clearinghouse

The Institute will serve as an information clearinghouse, both collecting all data related to juvenile delinquency and disseminating it throughout the country. There is general agreement that the impact of various research and demonstration program results has been severely limited due to the lack of any centralized source of information. Further, it is extremely difficult for a prospective grantee to obtain compresensive information of Federal resources available in the area of juvenile delinquency. The Institute is intended to serve as a clearing house for delinquency information, including statistics, research, availability of resources, and Federal, state and local juvenile delinquency programs.

Research, demonstration and evaluation

Research, demonstration and evaluation will be central functions of the Institute, conducted both by Institute personnel and by outside agencies, institutions or individuals. The quality of the research and demonstration projects will be regularly evaluated and the findings widely disseminated. In addition, the Institute will provide for the evaluation of all programs funded under this part and any other delinquency programs at the request of the Administrator. Those programs which prove effective can then be adapted for use on a broad scale in various parts of the country. By relating the research, demonstration and evaluation functions closely to the program funding function of the Office the bill will permit promising results to be translated promptly into operating programs in the field.

Training

The Institute is also responsible for conducting training programs (directly or by contract) throughout the country for persons working in the juvenile justice and delinquency field, such as policemen, judges, probation officers, and corrections personnel. In addition, the Institute would train professional, paraprofessional and volunteer personnel who work with young people to prevent and treat juvenile delinquency.

The Institute, under the supervision of the Advisory Committee on Standards for Juvenile Justice, shall review existing reports and standards relating to the juvenile justice system in the United States. Not later than one year after the passage of the Act, the Committee will submit to the President and Congress a final report which—based on recommended standards for the administration of juvenile justice at the Federal, state and local level—(1) recommends Federal administrative budgetary and legislative action to facilitate the adoption of the standards; and (2) recommends state and local action to facilitate the adoption of these standards at the state and local level.

We have been told repeatedly of the wide disparities between states governing the treatment of juveniles at all stages of the court and correctional process. By creating national standards of juvenile justice backed by Federal leadership and funds, we can help assure that state and local governments will meet these standards.

TITLE VI—AUTHORIZATION OF APPROPRIATIONS

This title authorizes for purposes of part F appropriations of $75 million for the fiscal year ending June 30, 1975 and $150 million for the fiscal year ending June 30, 1976.

In addition to the funds appropriated in this section, the Administration shall maintain the same level of financial assistance for juvenile delinquency programs assisted by the LEAA during fiscal year 1972. LEAA spent $140 million on juvenile delinquency programs in FY 1972 and appropriations for part F are to be in addition to this sum.

TITLE VII

Title VII establishes a National Institute of Corrections in the Federal Bureau of Prisons by amending Title 18 U.S.C. by adding a new Chapter 319.

Mr. BAYH. Mr. President, as I said, I would like to inform those who are interested in following the course of this legislation, that on Thursday last the RECORD contained the full text of the amendment which is now before the Senate. This is the substitute on which the Senator from Nebraska (Mr. HRUSKA) and the Senator from Indiana, and their collective staffs have labored mightily, and which we hope, with minor alterations and no altercations, will pass the body and become law.

Mr. President, while I am presenting a formal statement for the RECORD, let me reiterate this amendment to S. 821 is the culmination of a 3-year effort undertaken by the Subcommittee To Investigate Juvenile Delinquency of the Committee on the Judiciary, which it has been my privilege to chair.

I have worked very closely with the Senator from Nebraska, the Senator from Maryland (Mr. MATHIAS), and the Senator from Kentucky (Mr. COOK), and several other members of the committee. The Senator from Illinois (Mr. PERCY) has also shown a keen interest in our efforts. We have had a number of days of hearings. We have had dozens of witnesses. I think we are now prepared to make a significant contribution to the cause of juvenile justice.

When we undertook this study 3 years ago the Nation was then, and continues to be, concerned about crime. We studied the problem of juvenile delinquency and its relationship to the hardened adult criminal. The more deeply we studied the problem, the more we became aware that we were working on the wrong end of the problem. Fifty percent of all serious crimes were, and are, committed by young people under the age of 21.

Mr. President, if you take a look at our adult prisons, you have to be impressed by the fact that most adult felons in this country start out with juvenile records, which means that our Nation and our system of justice has not been doing the kind of rehabilitation job that is necessary. We have not been doing the kind of prevention job that is necessary.

All of us, from the time that we become old enough to talk, have been told that an ounce of prevention is worth a pound of cure. We have not applied this action to the system of justice prevailing in our Nation, in our effort to dampen the ever-increasing crime problem.

Mr. President, to sum it up in a few words, this bill is designed to change our thrust in the way we handle juveniles and juvenile delinquents. I want to emphasize the difference between those two categories. It is hoped that the resources and the direction of this bill will give as much or more attention to preventing that first juvenile delinquency act so that we will not have to spend as much time in the second aspect of the bill, namely, improving rehabilitation.

The committee has benefited tremendously, let me say, from the expertise of many private groups and agencies that have shown a great deal of leadership in this area. I would ask unanimous consent that a list of some of these many organizations be included at this time. I will not try, by memory, to start down that list myself, because I am apt to omit some people who have helped us a great deal.

The PRESIDING OFFICER (Mr. METZENBAUM). Without objection, it is so ordered.

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

LIST

National Council on Crime and Delinquency, the National Council of Juvenile Court Judges, the American Federation of State, County and Municipal Employees, National Youth Alternatives Project, American Institute of Family Relations, American Parents Committee, B'nai B'rith Women, the National Council of Jewish Women, the National Association of State Juvenile Delinquency Program Administrators, National Governors' Conference, National League of Cities and U.S. Conference of Mayors, and the Interagency Collaboration on Juvenile Justice which includes the Boys' Clubs of America, Boy Scouts of America, Camp Fire Girls, Future Homemakers of America, Girls' Clubs of America, Girl Scouts of the U.S.A., National Board of YMCA's, National Board of the YWCA's of the U.S.A., National Federation of Settlements & Neighborhood Centers, National Jewish Welfare Board and Red Cross Youth Service Programs.

Mr. BAYH. Mr. President, these folks are in the field now. They have been working mightily to solve this problem, but they, too, have been hampered by

the fact that the public responds to serious crime and not to the possibilities of prevention.

One of the major thrusts of this piece of legislation is to try to find a way—and we believe we have found it—to coordinate the private and the public effort. We should be able to have a more coordinated effort, more expertise delivered in the field of prevention and rehabilitation, with better results in the final analysis.

This bill has gone through several drafts. It has been considered by the White House, HEW, and the Department of Justice.

The Senator from Indiana was originally of the opinion that HEW would be the best vehicle to handle this particular problem. The Senate Judiciary Committee felt otherwise. In studying this problem and looking at our new draft, I think we have been able to come up with a bill that can handle this effectively, perhaps even more so as far as results are concerned, than would have been the case if the jurisdiction had been at HEW.

I think we have to face up to a rather tough fact. That is, it has traditionally been very difficult for Congress to get resources to deal with the problems of rehabilitation and prevention through the appropriation process for HEW. We presently have a $75 million authorization for HEW funding in this area. This year we are operating under a $10 million appropriation and the job is not being done as it should be.

LEAA, on the other hand, has had almost unlimited success at getting resources and programs.

What our bill is designed to do is to take advantage of LEAA's capacity to get resources, to put a new organizational feature into LEAA, and to provide a new assistant administrator at LEAA who will have policy control not only over the new programs created by this bill, but over the existing juvenile programs that are in LEAA.

We are providing an additional $75 million worth of authorized resources this year and $150 million in the next fiscal year. Add that to the $140 million which LEAA has said they are spending, give total policy jurisdiction over all those funds to this new assistant administrator, and I think that anyone who has followed this whole juvenile delinquency area will see that this will be a significant improvement.

We have given the assistant administrator rather unique authority. We have provided that the President appoint the assistant administrator and this body should provide advice and consent so that we give to that assistant administrator different standing than any other assistant administrator in LEAA. That should be a declaration of national policy, that we are through fooling around in our efforts to deal with the problems of young people in this country.

As the law exists now, you can go to dozens of different agencies in this city which provide services for young people in more than 100 different programs. We want one person to coordinate it. By establishing this new organization within LEAA, and by giving this advise and consent status, we think we will have emphasized this national goal as it has not been emphasized before. We set out new programs of block grants to go back to the States for new techniques to prevent delinquency, to divert offenders, and to provide alternatives to incarceration.

I want to emphasize the important role that private agencies are going to play in establishing alternatives to the present system of dealing with the problems of juveniles. I think we are going to have a lot more effective program by giving these private agencies the kind of resources they need to expand the very worthwhile services they are already providing.

In this bill we were able to guarantee not only an adequate voice for public and private agencies with expertise in delinquency prevention and working with juveniles in policy determination in the LEAA Administration in Washington, but we were also able to change the manner of composition of LEAA's existing State planning agencies to require input from these same groups.

Also these groups will be represented on the regional boards where LEAA programs are planned. We will also have the State advisory group to provide still another vehicle for consulting with these professionals who have significant expertise.

Mr. President, what we have done is to say, "All right, if we are going to put juvenile justice in LEAA, we are going to insist that the State planning agencies have somebody on the board who is knowledgeable about prevention, somebody on that board who is knowledgeable about rehabilitation, and also somebody on that board who represents the private agencies, who have not been represented in the past," and we mandate these specifically.

We also provide for the establishment of an Institute for Juvenile Justice within the new Office of Juvenile Justice and Delinquency Prevention in LEAA. This will give us significant research capacity and proper training of the paraprofessionals to create these new alternatives. I think it should be noted that Congressman RAILSBACK, our colleague in the House from Illinois, has been a very strong leader in this area. I am hopeful that we will like this new approach because it is founded on the kind of leadership that he has provided.

Mr. President, also in this bill we guarantee basic rights of juveniles who come within Federal jurisdiction. We set national standards in the administering of juvenile justice. It seems to me we should not have two classes of justice and give second-class justice to our juveniles. We ought to treat them equally, or we ought to treat them better.

What we are doing here is establishing a national standard for due process in the system of juvenile justice.

I believe LEAA can do this job. We have had significant successes in LEAA, in the Youth Service Bureaus in my State and elsewhere. Our subcommittee intends to continue monitoring this program to see that it goes the way we want it to go. We have had too many double shuffles as far as our efforts to see that programs passed by this body to deal with juveniles are being administered properly. This is a national commitment to do a better job, and our subcommittee intends to see that it is carried out in that manner.

Mr. President, I should like to yield to the distinguished Senator from Nebraska; but before doing so, I want to state once again, publicly, the gratitude that the chairman of the subcommittee has for the cooperation and concern that have been expressed by this distinguished Member of the Senate (Mr. HRUSKA). He has helped immeasurably. We have had differences of opinion; but, in the spirit of compromise, and always with the desire to see that the young people were the beneficiaries, I think we have come up with a proposal that is going to reach the goal we set out to reach some 3 years ago.

I yield to my friend and colleague, the Senator from Nebraska.

Mr. HRUSKA. Mr. President, I thank the Senator from Indiana for his generous words.

It is easy to get a great deal done if there is the degree of cooperation that has existed among the staffs as well as the Senators who are the principal proposers of this substitute amendment. Certainly, the Senator from Indiana has been very exemplary in the development of this legislation.

It was a week ago today that the full text of the substitute amendment was printed in the RECORD. At that time, both the Senator from Indiana and this Senator engaged in a discussion of the bill, an explanation of it, and its rationale. I will not cover that ground again, but commend its reading to my colleagues and to others who may be interested in the efforts we have made in this regard.

Mr. President, this amendment is of vital importance in achieving a solution to the problems of juvenile delinquency. It is clear from the subcommittee deliberations that the control of crime in this Nation hinges to a great extent upon taking active and effective measures to prevent juvenile delinquency, to minimize the involvement of youth in the juvenile and criminal justice system, and to reintegrate delinquent youth into the community. The high percentage of juveniles arrested for all categories of serious crime and the comparative increase in juvenile crime arrests, indicate the need to dedicate Federal assistance and resources to assist State and local governments in the fight to control and eliminate juvenile delinquency.

Lack of national priorities and administrative accountability has hurt the Federal participation in juvenile delinquency effort in the past. We now have an opportunity to not only treat the juvenile justice system as entity but to integrate it into the total law enforcement and criminal justice effort mandate given to the Law Enforcement Assistance Administration in 1968. In my view, this is essential if the Federal Government is to help provide meaningful assistance.

The need for a unified approach to this problem is evidenced by the fact that in 1972, 40 percent of the children processed by the formal juvenile justice sys-

tem had committed no criminal act. These status offenders must be channeled into a wide range of community resources dealing in human services. By unifying the system, as this legislation will do, these status offenders can be more effectively serviced outside the formal system by appropriate referral. The coordination required to accomplish this need can only be effected by placing the coordination responsibility within a unified juvenile delinquency system.

Since 1968 LEAA has funded many millions of dollars in delinquency prevention and juvenile justice programs. Forty of LEAA's 55 State planning agencies were, by the end of 1970, also administering the Juvenile Delinquency Prevention and Control Act program for the Department of Health, Education, and Welfare. In 1971, amendments to the Omnibus Crime Control and Safe Streets Act gave LEAA a stronger mandate to give attention to juvenile delinquency programs by including reduction of juvenile delinquency as part of the definition of law enforcement activity and by authorizing community-based delinquency prevention and correctional programs. By 1972, $140 million of LEAA funds for that fiscal year had been allocated for juvenile delinquency programs.

The 1973 amendments to the Omnibus Crime Control and Safe Streets Act focused even more heavily on juvenile delinquency, requiring State plans to include a comprehensive juvenile justice program in order to be approved by LEAA. New initiatives have been undertaken by LEAA, including the establishment of juvenile justice divisions in its Office of National Priority Programs and National Institute of Law Enforcement and Criminal Justice and the establishment of a juvenile delinquency initiative as a major new thrust of LEAA in fiscal years 1974, 1975, and 1976.

LEAA already has the program elements necessary to implement a comprehensive juvenile delinquency program. The block grant mechanism and the network of State planning agencies will operate to fully analyze juvenile delinquency needs and develop a comprehensive approach to juvenile delinquency prevention and control. Implementation of this bill can be done quickly and effectively by using these existing mechanisms, assisted as they will be by the provisions of the substitute amendment. Specific attention is given in this amendment to the matter of developing State plans within the revenue-sharing block grant system embodied in LEAA.

There may be a few technical amendments offered to the substitute amendment. I hope they will be nominal in content. This bill has received very thorough canvassing and reconciliation among the several points of view expressed by committee members as S. 821 was being processed. Therefore, I believe the substitute amendment should be adopted, to the extent possible, in its present form.

It should be noted, Mr. President, that any other Federal agency would have to build from a new base, leading to lengthy and wasteful process which would bring delay and fragmentation to the Federal juvenile delinquency effort. LEAA is equipped to immediately make the efforts needed to prevent juvenile crime, to divert the juvenile offenders from the justice system to social service and human resources, and to deal with the serious juvenile offender.

While LEAA has made substantial progress within the limits of its current authority, it can be fully expected that the Juvenile Justice and Delinquency Prevention Act of 1974 will give LEAA a wider range of alternatives in satisfying the need of Federal assistance to help solve this serious problem.

I urge my colleagues to support this amendment.

Mr. President, this legislation addresses one of the most pressing national problems of today—juvenile crime. In my view, the Federal Government must make a substantial effort to help prevent and control juvenile delinquency and to offer treatment alternatives to the traditional juvenile justice system.

To date, Federal leadership and coordination have been lacking with various Federal delinquency programs spread among many agencies. The result has been overlapping and duplication. Viewing the juvenile justice system as an entity, the appropriate Federal role must be to provide a comprehensive and coordinated approach to solving this serious problem.

This effort requires, and the amended bill provides, the Federal leadership and resource coordination necessary to develop and implement State and local programs for the prevention and treatment of juvenile delinquency. This problem must be attacked on the State and local level since juvenile delinquency is essentially a State and local problem.

The National Advisory Commission on Criminal Justice Standards and Goals after an exhaustive study of the problem of crime in America and of the solution to the crime problem, stated that the first priority in reducing crime was preventing and controlling juvenile delinquency. In its report "A National Strategy To Reduce Crime," the Commission stated:

> The highest attention must be given to preventing juvenile delinquency, to minimizing the involvement of young offenders in the juvenile and criminal justice system and to reintegrating delinquent and young offenders into the community.

The reasons the Commission reached this position are readily apparent when one realizes that the arrests of juveniles under 18 for violent crimes such as murder, rape, and robbery as reported by the FBI Uniform Crime Reports, have increased 216 percent from 1960 to the present. During the same period, juvenile arrests for property crime, such as burglary and auto theft, have increased 91 percent. Juveniles under 18 are responsible for 51 percent of the total arrests for property crime, 23 percent for violent crimes, and 45 percent for all serious crimes.

Juvenile crime takes an enormous toll each year. In 1970, it was estimated in testimony before the Senate Judiciary Committee in hearings on the Juvenile Delinquency Prevention and Control Act Amendment of 1971 that the material cost was in excess of $4 billion. Even more costly was the immeasurable losses in human terms to both the victims of juvenile crime and to the juveniles themselves. The total of juvenile arrests increased almost seven times faster than the total of adult arrests and juvenile arrests for violent crimes increased almost three times faster than that for adult arrests. It is generally agreed that the policemen, judges, and the probation, parole, and corrections officers who deal with juveniles are extremely dedicated. Too often, however, their efforts are hampered and negated by outmoded procedures, a lack of funds and inadequate facilities for caring for youthful offenders. Such deficiencies seriously weaken rehabilitation efforts.

In addition, in many instances, the criminal justice system is viewed as a catchall for those children too difficult to be dealt with by normal community facilities. Nearly 40 percent—one-half million per year—of the juveniles incarcerated today in institutions, jails, and detention facilities have committed acts which are not classified as crimes when committed by adults. This figure is staggering when viewed with recognition of the detrimental effects that incarceration has been shown to produce with first offenders and juveniles. These children and youth should be channeled to those social service agencies which are more competent to deal with the substantive human and social issues involved in these areas.

Since the traditional juvenile procedures and criminal justice system are ineffective and inappropriate in many instances, there is a strong need to provide a viable diversion mechanism for dealing with these youths. Alternative programs utilizing resources other than the police, courts, and corrections can provide necessary rehabilitation without the harmful stigmatization that sometimes accompanies contact with the criminal juvenile justice system. Efforts must be directed at preventing delinquency but there is an equal need to deliver services and attention in such a way and at such a time as to prevent the development of criminal careers. While involvement with the juvenile justice system is to be minimized, its sanctions are necessary for the control of some juveniles. The quality of this system must be improved so that the youthful offender is helped to become a responsible, law abiding citizen.

BLOCK GRANTS

Under the Omnibus Crime Control and Safe Streets Act of 1968, as amended, annual block grants are made to each of the States for planning and for implementing action programs to improve law enforcement and criminal justice. Allocation of these lump sum funds is based on population. A condition precedent to the award of the block grant is approval by the Law Enforcement Assistance Administration of a comprehensive statewide plan submitted by the State.

Each State planning agency determines needs and priorities throughout the entire State. It then develops and

correlates programs to improve and strengthen law enforcement for the State and units of local government. The compehensive statewide plan is then submitted to LEAA for approval.

Congress in the 1971 and 1973 amendments to the Omnibus Crime Control and Safe Streets Act of 1968, as amended, required LEAA to place an even greater emphasis on juvenile delinquency. The amendments made a number of charges relative to juvenile delinquency. The 1971 amendments made express provision for the prevention and control of juvenile delinquency. This led to an increased LEAA emphasis on juvenile delinquency with the result that in fiscal year 1972 almost $140 million had been allocated for juvenile delinquency programs and in fiscal year 1973 almost $100 million was actually expended on juvenile delinquency programs. The Crime Control Act of 1973 made reduction and prevention of juvenile delinquency a purpose of the act and required for the first time that each State plan, to qualify as comprehensive, must include a comprehensive program, whether or not funded by the act, for the improvement of juvenile justice.

While LEAA has gone a long way within the limits of its authority, incorporation of part F in the LEAA mandate will, in my opinion, provide the infusion of greater resources needed to supplement its current efforts and further assure a comprehensive juvenile delinquency program. Since many of the program areas provided for in this bill are currently funded by LEAA and States under the block grant program, a separate system would simply confound the planning and funding efforts of both agencies. Separate efforts would lead to fragmentation and there could be duplication of certain programs and omissions of others. The block grant system of funding has proven to be extremely successful in assisting law enforcement and criminal justice systems on the State and local level while at the same time providing needed Federal direction, coordination and control of a diversion and multifaceted system. The comprehensive juvenile delinquency program fits naturally into the framework of this system.

Indeed, it is evident that more progress has been made in the juvenile delinquency area through the vehicle of block grant funding than under any other system of Federal assistance utilized since the inception of Federal juvenile delinquency programing. This is the opportune time to merge juvenile delinquency programing into the broad conceptual framework of the block grant concept. Just as part E, added by the 1973 amendments to the Omnibus Crime Control and Safe Streets Act of 1968, as amended, gave special attention to the correctional area, including juvenile corrections, part F will logically supplement efforts in the delinquency area. It would be unwise to create another categorical grant program with numerous new structures and strings just at the time that the block grant program has demonstrated results. Incorporation of the part F program into the block grant framework will promote greater coordination, and the integration of programs so vital in the effort against juvenile delinquency. Indeed, S. 821 anticipates that the part F plan requirement can be incorporated into the comprehensive plans submitted by the States under parts B and C of the safe streets program.

COMMITMENT

As noted, LEAA has the administrative structure and block grant approach necessary to minimize duplication and time lag. Perhaps the most compelling reason, however, that LEAA should administer the program is the dedicated commitment to juvenile delinquency prevention and control that it has made over the past five years. An objective comparison between LEAA and HEW, the other agency with concurrent primary responsibility in this area, clearly demonstrates that LEAA is the best agency to do the job.

LEAA was initially given a very limited role in juvenile delinquency prevention and control. However, LEAA has initiated and expanded its own programs to include a multitude of programs in the juvenile justice area.

The term juvenile delinquency was never mentioned in the Omnibus Crime Control and Safe Streets Act of 1968 because HEW was given primary responsibility in this area under the Juvenile Delinquency Prevention and Control Act of 1968. However, LEAA had a strong interest in this area and by the end of 1970, over 40 of the State planning agencies created to administer the LEAA program were also administering the Juvenile Delinquency Prevention and Control Act program.

Amendments to the Omnibus Crime Control and Safe Streets Act enacted in 1971 expressed congressional intent that LEAA focus even greater attention on the juvenile delinquency program. A new definition of law enforcement was formulated specifically incorporating "programs relating to the prevention, control or reduction of juvenile delinquency." Grants were authorized by the amendments for community-based delinquency prevention and rehabilitation centers for the guidance and supervision of potential repeat youthful offenders. Furthermore, Congress added the new part E corrections program which required as a condition of receipt of funds an application which demonstrates a satisfactory emphasis on programs for delinquents and youthful offenders.

Congress in the Crime Control Act of 1973, realizing the potential of LEAA in this area, required LEAA to place an even greater emphasis on juvenile delinquency. The Omnibus Crime Control and Safe Streets Act of 1968 was amended to include the reduction and prevention of juvenile delinquency as a purpose of the act. Additionally, the act was amended to require that the State's comprehensive plan address the improvement of juvenile justice as a condition for approval as a comprehensive plan.

These congressional mandates have prompted LEAA to take a number of new initiatives. Juvenile justice and delinquency prevention is one of LEAA's four national priority programs. A Juvenile Justice Division has been established in LEAA's Office of National Priority Programs and a Juvenile Justice Section has been established in the National Institute of Law Enforcement and Criminal Justice, the research arm of LEAA. It is important to note that S. 821, as amended, provides for the establishment of a National Institute of Juvenile Justice within the newly created Juvenile Justice and Delinquency Prevention Office. Locating this body here will expand the level and nature of delinquency research already conducted by LEAA and will increase the focus on the prevention of delinquency.

The same commitment toward preventing and controlling delinquency is lacking in HEW. The accomplishments of HEW in this field have been disappointing at best. It has proceeded in an ineffective and half-hearted manner and only recently, since the prospect of LEAA administration of the juvenile delinquency program, has HEW begun to show any interest at all.

In 1968, the Congress assigned HEW the responsibility for national leadership in developing new approaches to solving the problems of delinquency and authorized a funding level for 1968 to 1971 of $150 million. HEW requested only 49.2 million and expended just half of that amount. The 1971 amendment extended the program for an additional year and authorized $75 million for the fiscal year ending in June of 1972. Only $10 million for that fiscal year was requested. In 1972 the Juvenile Delinquency Prevention and Control Act was extended for 2 years under the name "Juvenile Delinquency Prevention Act." This act limited, at HEW's request, the scope of HEW's activities to include only prevention programs outside the traditional juvenile justice system. LEAA's history, on the other hand, is one of increased emphasis on juvenile delinquency programs. LEAA has spent over $300 million for juvenile delinquency programs in its first 5 years. During the fiscal year 1972, LEAA awarded nearly $140 million on a wide ranging juvenile delinquency program. The breakdown of this expenditure is as follows: $21 million or 15 percent was for prevention; nearly $16 million or 12 percent was for diversion; almost $41 million or 30 percent went for rehabilitation; $33 million or 24 percent was spent to upgrade resources; $17 million or 13 percent went for drug abuse programs; and 6 percent financed the comprehensive juvenile delinquency component of the high impact anticrime program. In fiscal year 1973, the amount of funds for juvenile delinquency prevention programs alone has increased to $34 million.

Both the National Governor's Conference and the National Conference of State Planning Agency Directors have endorsed putting the juvenile delinquency program in LEAA. The National Conference of State Legislators, public safety task force, has recommended a similar resolution for August action by the full body.

It is unquestionable that LEAA has the capability, capacity and the desire to

do the job. To fail to give LEAA a comprehensive mandate as proposed by this legislation would seriously weaken the Federal juvenile delinquency prevention and control effort.

LEAA POSSESSES THE ADMINISTRATIVE MECHANISM NECESSARY FOR EFFECTIVE AND EFFICIENT OPERATION OF THE JUVENILE DELINQUENCY PROGRAM

The substitute amendment, makes provision for the appropriation of $225 million under part F of the Omnibus Crime Control and Safe Streets Act over a 2-year period. This provides a sufficient time frame to develop and implement delinquency prevention, diversion, and treatment programs and provide for the necessary planning, research, training, and evaluation. The program will test LEAA's ability to implement a highly coordinated effort among the Federal, State, and local units of government.

The Federal Government must provide the needed financial assistance and resources for the endeavor. Since the delinquency problem is essentially a State and local problem, the State will serve as the focal point for juvenile justice planning and program implementation at the State and local level.

Many considerations make LEAA the natural choice to administer the program. LEAA already possesses the experience, the relevance and the organizational structure at the State and local level to take maximum advantage of the increased Federal commitment. LEAA has emerged as the lead agency in Federal juvenile delinquency prevention and control programs and has both the legislation mandate and program elements required to administer S. 821, as amended.

Currently LEAA has in operation 55 State planning agencies which plan, coordinate, and implement various programs of LEAA. These State agencies already have developed forms, regulations, grant funding mechanisms, guidelines, and other procedures necessary for efficient operation of the juvenile delinquency program. All of these State agencies are in fact already involved in juvenile delinquency programs. They have undertaken comprehensive crime and delinquency oriented analysis to develop a coordinated approach to preventing and reducing crime and delinquency. Under LEAA guidelines every State planning agency is required to complete a detailed analysis of the problems of crime and delinquency in the State and establish detailed goals, standards, and priorities for reducing crime and delinquency within the State by 1976.

The same agencies have, since their creation in 1968, planned, developed and funded a large number of diverse juvenile delinquency programs. Administratively, these State agencies are ideally suited to assume further responsibilities in the juvenile delinquency field.

The LEAA program presently involves several thousand people in a coordinated effort at the Federal, State, and local levels. With a minimum of modification, the existing structure, with its qualified and competent personnel, can go into operation immediately to implement this legislation. For example, LEAA's research arm, the National Institute of Law Enforcement and Criminal Justice, has already established a Juvenile Delinquency Division which provides many of the functions required in sections 491 to 493 of this bill. These functions can be smoothly transferred to the National Institute for Juvenile Justice. It is estimated that all of the functions required can be provided within 2 months of the passage of this legislation by intensifying present recruitment and program efforts. To establish the national institute in another agency would involve much time and wasteful duplication of effort.

In short, to provide for the administration of the juvenile delinquency program in an agency other than LEAA would waste the available resources of a viable Federal agency and 55 State planning organizations. Delays, administrative foulups, and additional time for the development of organizational processes and procedures must be anticipated if another agency has to undergo the learning process that LEAA experienced in its first years of operation before it developed an effective and efficient program. I believe LEAA has proven itself in this regard. We cannot afford to waste resources or sacrifice demonstrated efficiency and coordination in the juvenile delinquency field by failing to utilize the existing administrative structure.

ANALYSIS OF AMENDED BILL, S. 821, AS PROPOSED BY MR. BAYH AND MR. HRUSKA

The substitute amendment to S. 821, No. 1578, is designed to make certain technical changes to the amendment in the nature of a substitute I successfully offered to S. 821 before the Committee on the Judiciary.

The major thrusts of the changes in the amendment are to make the sections amending the Omnibus Crime Control and Safe Streets Act of 1968, as amended, fit more smoothly into the existing sections of that act, to clarify the administrative structure created by the bill, and to revise the appropriation authorization provided in S. 821, as originally reported by the Judiciary Committee.

This amendment differs from the bill reported out of committee in the following respects:

The amendment:

First, provides that the representation of law enforcement and criminal justice agencies in the State planning agency shall include agencies directly related to the prevention and control of juvenile delinquency and shall include representatives of citizens, professional, and community organizations including organizations directly related to delinquency prevention—section 203(a);

Second, provides that there shall be at the head of the Office of Juvenile Justice and Delinquency Prevention an Assistant Administrator, rather than a director, who shall be appointed by the President with the advice and consent of the Senate, instead of appointment by the Administrator of LEAA—section 471;

Third, provides for the establishment of a National Institute of Juvenile Justice within the Juvenile Justice and Delinquency Prevention Office as opposed to placement in the National Institute of Law Enforcement and Criminal Justice—section 490(a); and

Fourth, establishes at section 483(5)(b) an upper limit of 50 percent for the availability of funds appropriated under this part for special emphasis prevention and treatment programs. In addition, it is provided that at least 20 percent of the funds available pursuant to this section shall be available to private nonprofit agencies, organizations, and institutions who have had experience in dealing with youth.

Those provisions in the amendment which are similar to those contained in the bill reported by the Committee are offered for the same purposes and intent as stated in the Senate Report, No. 93-1011. This report should be referenced to show the intent of the committee with respect to those areas which are substantially the same, as well as to show the overall intent of the Committee on the Judiciary in developing juvenile delinquency legislation.

I would like to summarize for the record the major provisions of the amended bill, highlighting the significant changes proposed to be made to the committee bill as reported to the Senate.

TITLE I

Title I, sections 101 and 103, states the findings and declaration of purpose of the legislation and defines certain terms. Section 101 amends the Omnibus Crime Control and Safe Streets Act, incorporating therein two new findings related to juvenile delinquency into title I of that Act, and in addition incorporates four new purposes related to juvenile delinquency into the purposes enumerated in title I of that act.

Section 103 amends section 601 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by adding at the end of that section definitions of the term "community-based" facility, program or service, "Federal juvenile delinquency program," and "juvenile delinquency program."

TITLE II

Title II makes amendments to the Federal Juvenile Delinquency Act, that portion of the Criminal Code—title 18 of the United States Code—which pertains specifically to juveniles. Seven sections of title 18 are amended and five new sections are added.

Section 201 amends section 5031 of title 18, United States Code, to redefine the terms juvenile and juvenile delinquency. A "juvenile," for the purposes of this chapter, is a person under 18 years of age, or for the purpose of proceedings and disposition for an alleged act of juvenile delinquency, a person who has not obtained his 21st birthday. "Juvenile delinquency" is defined as the violation of a law of the United States committed by a person prior to his 18th birthday which would have been a crime if committed by an adult.

Section 202 amends section 5032 of title 18, United States Code, to provide for delinquency proceedings in district courts and transfer for criminal prosecution. A

juvenile alleged to have committed an act of juvenile delinquency may not be proceeded against in a U.S. court unless the Attorney General, after investigation, certifies that no State court has or wants jurisdiction, or that the State does not have adequate programs and services available for the needs of juveniles. A juvenile shall not be proceeded against as an adult in a U.S. court unless he has so requested in writing on advice of counsel, or unless a motion of the Attorney General to transfer is granted in the case of a juvenile over 16. The appropriate district court must find that such transfer would be in the interest of justice to grant the motion. Evidentiary factors to be considered and procedural safeguards are specifically set forth.

Section 203 amends section 5033 of title 18, United States Code, to require that an arrested juvenile be immediately advised of his legal rights, that the Attorney General and the juvenile's parents, guardian, or custodian be advised of the juvenile's custody and nature of the alleged offense, and that the juvenile be brought before a magistrate within a reasonable period of time.

Section 204 amends section 5034 of title 18, United States Code, to specify the duties of a magistrate in a case involving a juvenile. The juvenile must be represented by counsel before the magistrate can proceed with critical stages of the proceedings. The magistrate may appoint a guardian ad litem if necessary. The juvenile is to be released to a responsible party unless the magistrate determines, after a hearing, that detention of the juvenile is required to secure his presence or to insure his safety or that of others.

Section 205 amends section 5035 of title 18, United States Code, to provide that a juvenile alleged to be delinquent may be detained only in a juvenile facility or other suitable place, as designated by the Attorney General. Foster homes and community-based facilities are favored. Juveniles may not be detained or confined where regular contact with adult persons convicted of crime or awaiting trial on criminal charges are confined. Insofar as possible alleged delinquents may not be detained with adjudicated delinquents.

Section 206 amends section 5036 of title 18, United States Code, to require dismissal of an information brought against a juvenile if he is not brought to trial within 30 days of detention, unless the Attorney General shows that additional delay was caused by the juvenile or his counsel, or consented to by the juvenile and his counsel, or would be in the interest of justice in the particular case. Delays caused solely by court calendar congestion are not in the interest of justice. Only in extraordinary circumstances may an information dismissed for such delay be reinstated.

It should be noted that this provision amends the committee bill which required dismissal with prejudice unless the Attorney General showed that additional delay beyond 30 days from the date of arrest was unavoidable, caused by the juvenile or his counsel, or consented to by the juvenile and his counsel. Dismissal with prejudice, raising the bar of double jeopardy, is removed by this substitute amendment in order to allow reinstatement of a dismissed information in extraordinary circumstances and to bring this section into harmony with similar provisions of the Speedy Trial Act of 1974, S. 754, as enacted by the Senate on July 23, 1974.

Section 207 amends section 5037 of title 18, United States Code, to provide for a separate dispositional hearing within 20 days after a juvenile had been adjudicated delinquent. The adjudication of delinquency or the dispositional hearing may be suspended by the court on such conditions as it deems proper. If further information is needed, the alleged or adjudicated delinquent may be committed to the custody of the Attorney General for observation and study, preferably to be conducted on an outpatient basis. Inpatient observation and study may be conducted where necessary to obtain the desired information but for an alleged delinquent consent of the juvenile and his attorney is required. Probation, commitment, or commitment for study and observation shall not extend beyond the juvenile's 21st birthday, or the maximum term which could have been imposed on an adult, whichever is sooner, or a period not to exceed the lesser of 2 years or the maximum term which could have been imposed on an adult convicted of the same offense.

Section 208 adds a new section 5038 to title 18, United States Code, to provide for the safeguarding of records from disclosure throughout any juvenile delinquency proceeding and for the sealing of the entire file and record of any juvenile delinquency proceeding on its completion. Release of the information is proper only to the extent necessary to meet certain law enforcement, criminal justice or national security purposes. Similar strict limitations are provided for during the course of an adjudication. The section additionally contains a prohibition against photographing or fingerprinting juveniles not proceeded against as an adult, unless the presiding judge consents in writing.

Section 209 adds a new section 5039 to title 18, United States Code, which assures that no juvenile committed to the Attorney General will be placed or retained in an adult jail or correctional institution in which he would have regular contact with incarcerated adults. Foster homes and community-based facilities are favored.

Section 210 adds a new section 5040 to title 18, United States Code, which permits the Attorney General to contract with public or private agencies for the observation, study, custody, and care of juveniles, provides for the promulgation of regulations and allows use of certain appropriations.

Section 211 adds a new section 5041 to title 18, United States Code, which requires that the Board of Parole will release a committed juvenile delinquent as soon as it is satisfied that he is likely to remain at liberty without violating the law and when such release would be in the interest of justice.

Section 212 adds a new section 5042 to title 18, United State Code, which provides for notice and a hearing with counsel before a juvenile's parole or probation is revoked.

Section 213 revises the table of sections of chapter 403 of title 18, United States Code, to reflect the changes made by the legislation.

TITLE III

Title III further amends the Omnibus Crime Control and Safe Streets Act to provide representation of juvenile justice experts in the planning process and to add a new part F dealing with juvenile justice and delinquency prevention and control to title I of that act.

Section 301 is a new provision, added by the substitute amendment, to amend section 203(a) of the Omnibus Crime Control and Safe Streets Act to provide for representation of agencies and organizations related to juvenile delinquency to State planning agencies and regional planning units.

Section 302(a) redesignates parts F, G, H, and I of title I of the Omnibus Crime Control Act, as amended, as parts G, H, I, and J, respectively.

Section 302(b) amends the Omnibus Crime Control and Safe Streets Act, as amended, by adding a new part F, entitled "Juvenile Justice and Delinquency Prevention." The title of part F reflects the need to encompass the entire juvenile justice system in attacking the problem of delinquency. The nine new sections added in part F are as follows:

Section 471 creates within the Department of Justice, Law Enforcement Assistance Administration—LEAA—an Office of Juvenile Justice and Delinquency Prevention Office, to be headed by an Assistant Administrator nominated by the President, by and with the advice and consent of the Senate, and subject to the direction of the Administrator of LEAA. Two Deputy Assistant Administrators are also provided for. One Deputy Assistant Administrator is to supervise and direct the National Institute for Juvenile Justice established under section 490 of the act.

Provision is made for three additional supergrades.

Section 472 authorizes the Administrator to select, employ and fix the compensation of officers and employees without regard to civil service and classification laws. Three officers may be appointed at a rate not above that prescribed for Government grade GS–18. Provision is also made for use of experts and consultants and the detailing of employees from other Federal agencies.

Section 473 permits the acceptance of voluntary and uncompensated services, notwithstanding the provisions of 31 U.S.C. 665(b).

Section 474 requires the Administrator to establish overall policy and develop objectives and priorities for all Federal juvenile delinquency, juvenile justice and related programs and activities. The Administrator shall consult in this effort with the Interdepartmental Council on Juvenile Delinquency and the National Advisory Committee for Juvenile Justice and Delinquency Prevention. To carry out the purposes of the act, the Administrator is authorized and directed to

undertake a number of responsibilities. These include advising the President, assisting other agencies when necessary, conducting and supporting evaluations and studies of juvenile delinquency programs and activities, coordinating programs and activities among Federal departments, developing analysis and evaluation of Federal functioning under the act, developing a comprehensive plan for Federal juvenile delinquency programs, and providing technical assistance. The Administrator may utilize the services of other Federal agencies on a reimbursable basis, and may request information and reports from the agencies as necessary. Funds may be transferred to other Federal agencies for the development of new methods or supplement existing programs in the area of juvenile delinquency prevention and rehabilitation. The Administrator is further authorized to make grants and enter into contracts to carry out the purposes of the act, and he may delegate any functions except that of making regulations. The Administrator must coordinate his activities as necessary with the Secretary of HEW as regards the Juvenile Delinquency Prevention Act (42 U.S.C. 3301, et seq.).

Section 475 provides for unified administration of juvenile delinquency programs funded by more than one Federal agency. The Administrator may request one agency to act for all. A single non-Federal share requirement may be established, and technical requirements may be waived where inconsistent.

Section 476 establishes an Interdepartmental Council on Juvenile Delinquency consisting of the heads of various Federal agencies whose programs have a direct bearing on the problems surrounding juvenile delinquency. The Attorney General is to serve as chairman on the council. The Council must meet a minimum of six times per year and must coordinate all Federal juvenile delinquency programs. An executive secretary and such personnel as necessary must be appointed by the chairman. Provision is made for the designees of the council members to serve in their place.

Section 477 establishes a National Advisory Committee for Juvenile Justice and Delinquency Prevention consisting of 21 members. Interdepartmental council members or their designees are to be ex-officio members of the committee. The regular members are to be appointed by the President and are to have special knowledge or experience concerning juvenile delinquency and juvenile justice. A majority of the members, including the chairman designated by the President, are not to be full-time employees of Federal, State, or local governments. At least seven of the members must be under the age of 26 at their appointment. The members must be appointed to 4-year terms on a staggered basis.

Section 478 specifies the duties of the Advisory Committee. As the name indicates, the committee is solely advisory and does not have authority independent of the President and the Administrator of LEAA. The committee must meet a minimum of four times a year and may make recommendations to the Administrator regarding planning, policy, priorities, operations, and management of all Federal juvenile delinquency programs. Subcommittees may be designated for particular purposes. One five-member subcommittee will form an Advisory Committee for the National Institute for Juvenile Justice. Another five-member subcommittee will form an Advisory Committee on Standards for Juvenile Justice.

Section 479 provides for the reimbursement of expenses of Advisory Committee members and for the compensation of members not employed by the Federal Government.

TITLE IV

Title IV adds eight additional sections to the newly created part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended. These provisions establish a Federal assistance program for State and local government for juvenile justice, delinquency and related programs. Sections 480 through 482, create a block grant program. Sections 483 and 484 provide for special emphasis prevention and treatment programs.

Section 401 is the operative provision of title IV. The eight sections added to part F are as follows:

Section 409 authorizes the Administrator to make grants to States and local government to assist them with programs and activities related to juvenile justice and juvenile delinquency.

Section 481 provides for allocation of funds under part F among the States on the basis of population of people under age 18. No State is to get less than $200,000, except for certain island territories, which are to receive a minimum of $50,000. Funds unallocated at the end of any fiscal year are to be reallocated in an equitable manner. Any reallocated amounts are in addition to the amounts already available. Not more than 15 percent of a State's allotment may be used for developing a State plan and administering the program. Local governments may share in this planning and administration money. Where the State has already substantially absorbed the burden under the Safe Streets Act of the State and local planning process, this amendment would allow the State to continue planning for local juvenile delinquency efforts. It is anticipated that, for the most part, the States and local governments will utilize the existing sub-State planning structure currently in operation.

Section 482 requires that each State have a plan for carrying out the purposes of the legislation in order to get bloc grants. The amendment requires that the plan conform with the requirements of section 303(a) of the Safe Streets Act. Essentially, this provision means that the plan required under section 480 must conform with and may even be part of the comprehensive State plan required under parts B and C of the Safe Streets Act. Further requirements for the State plans are set forth in 21 enumerated paragraphs and are as follows:

The State planning agency already established to implement the Omnibus Crime Control and Safe Streets Act is to be solely responsible for planning and administration of the plan;

The State planning agency must be shown to have authority to implement the plan;

An advisory group shall be appointed by the chief executive of the State to advise the State planning agency and its supervisory board. The makeup of the advisory group, similar to that of the National Advisory Council for Juvenile Justice and Delinquency Prevention, is specified. Similarly, the function of this group is solely advisory and it has no authority independent of the chief executive of the State or the State planning agency and its supervisory board.

Local governments must be actively consulted and local needs taken into account;

Fifty percent of the funds received by a State are to be expended through local government programs, unless waived by the Administrator because juvenile services are organized primarily on a statewide basis;

The chief executive officer of the local government, as necessary, shall designate a local agency responsible for administration and supervision of any local part of the State plan and local programs funded;

Funds received must be equitably distributed within a State;

A detailed study of State needs for an effective, comprehensive, coordinated approach to juvenile justice and delinquency prevention must be set forth. This study is to include an estimate cost for implementation;

Private agencies are to be consulted and participate in development and execution of the State plan. Existing programs are to be used where feasible;

Seventy-five percent of the funds available to a State are to be used for advanced techniques and programs for prevention of delinquency, diversion of juveniles from the juvenile justice system, use of probation subsidies, and to provide community-based alternatives to detention. Eight examples of advanced techniques are specified. These examples are not exhaustive and funds need not be spent for all of the named techniques;

An adequate research, training, and evaluation capacity is to be developed within the State;

Within 2 years after submission of the plan, the State must assure that juveniles who have committed or been charged with offenses not criminal if committed by an adult, are placed in shelter facilities rather than correction or detention facilities;

Juveniles alleged or adjudicated to be delinquents are not to be detained or confined in any institution in which they have regular contact with alleged or adjudicated adult criminals;

The State must provide for monitoring of jails and detention and correctional facilities to assure that the requirements of the preceding two paragraphs are complied with. Findings are to be reported to the Administrator annually;

Assurance must be made that assist-

ance will be equitably available to all youths, including those who may be handicapped, females, or a member of a minority group;

Procedures are to be established for protecting the rights of recipients of services and assuring privacy of records regarding such services;

Arrangements are to be made to protect the interests of employees affected by assistance under the act;

Fiscal control and fund accounting must be provided for;

Assurance must be made that Federal funds available will be used to supplement and increase, not supplant, other available State, local, and non-Federal funds;

The State planning agency must review its plan at least annually and submit an analysis, evaluation, and any necessary modifications to the Administrator;

The plan is to contain such other terms and conditions as the Administrator reasonably prescribes to assure program effectiveness.

The State supervisory board of the State planning agency is to approve the State plan and any modifications prior to its submission. The Administrator is to approve any plan which meets the requirements of the section. If a State does not submit a plan, or submits one which the Administrator finds, after notice and hearing, does not meet the section's requirements, then the Administrator may make the State's allotment available to public and private agencies of any State for special emphasis prevention and treatment programs. However, if the plan fails to meet the requirements due to oversight or neglect, rather than explicit conscious decision, the allotment is to be available to public and private agencies within the State for special emphasis prevention and treatment programs, as defined in section 483.

Section 483 authorizes the Administrator to make grants and enter into contracts for developing and implementing new approaches, techniques, and methods for juvenile delinquency programs; for developing and maintaining community-based alternatives to institutionalization for developing and implementing new means of diversion; for improving the capability of public and private agencies to provide services to delinquents and those in danger of becoming delinquents; and for facilitating adoption of the recommendations of the Advisory Committee on Standards for Juvenile Justice. Not less than 25 percent or more than 50 percent of the funds appropriated each fiscal year pursuant to part F are to be available for special emphasis prevention and treatment programs. At least 20 percent of the funds available for grants and contracts under the section are to be available to private nonprofit agencies, organizations, or institutions who have had experience in dealing with youth. The proposed amendment places a ceiling on the amount of discretionary funds at a maximum of 50 percent. It is anticipated that in determining whether the 20-percent figure has been met, the following will be included: Indirect grants and contracts and expenditures under these grants and contracts, as well as direct grants and contracts and expenditures under these grants and contracts.

Section 484 requires submission of an application for grants under section 483 and sets forth the requirements for such application. The application must provide for supervision by the applicant, a program carrying out one of the purposes of section 483, proper and efficient administration, regular evaluation, review by the State planning agency when appropriate, regular reports to the Administrator, and necessary fiscal control and fund accounting procedures. In determining whether or not to approve applications, the Administrator must take into account cost and effectiveness of proposed programs, the extent the program is new or innovative, the extent to which the program is consistent with the State's plan, the increase in capacity of the applicant to provide necessary services, the rate of youth unemployment, school dropout and delinquency in the community to be served, and the extent to which the program facilitates the implementation of the recommendations of the Advisory Committee on Standards for Juvenile Justice as set forth in Section 496.

Section 485 provides for operation of the withholding provisions of the act if the Administrator finds that a program or activity which was the subject of a grant has so changed that it no longer complies with the provisions of the title or operates without so complying. Such a finding will be made only after due notice and hearings as provided by the Omnibus Crime Control and Safe Streets Act, as amended.

Section 486 provides that funds paid may be used for securing, developing or operating programs carrying out the purpose of part F and for up to 50 percent of the construction cost of innovative community-based facilities for less than 20 persons which the Administrator feels are necessary for carrying out the purposes of the part.

Section 487 sets forth the policy of Congress that programs should receive continued funding if evaluation is satisfactory. At the Administrator's discretion, a State may use 25 percent of the funds available to it under the part to meet the non-Federal matching share requirement for any other Federal juvenile delinquency grant, provided that it is adequately documented that there is no other way for a necessary project to be funded. Otherwise, the Administrator may require a grant recipient to contribute money, facilities, or services. Methods of payment in advance or by way of reimbursement are provided.

TITLE V

Title V further amends the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to establish within the Juvenile Justice and Delinquency Prevention Office a National Institute of Juvenile Justice. Section 501 is the operative provision of the title. Seven new sections are added immediately after the new part F, as follows:

Section 490 establishes a National Institute for Juvenile Justice within the Juvenile Justice and Delinquency Prevention Office. It is to be under the supervision and direction of the Assistant Administrator and headed by a Deputy Assistant Administrator of the Office.

Section 491 authorizes the National Institute for Juvenile Justice to serve as an information bank by collecting and synthesizing data concerning juvenile delinquency, and to serve as a clearinghouse and information center for the preparation, publication, and dissemination of all information regarding juvenile delinquency.

Section 492 authorizes the National Institute for Juvenile Justice to conduct, encourage, and coordinate research and evaluation into any aspect of juvenile delinquency, encourage development of demonstration projects using new and innovative techniques, evaluate all assisted programs and any other Federal, State, or local juvenile delinquency programs and disseminate the results of evaluations, research, and demonstration projects.

Section 493 authorizes the National Institute for Juvenile Justice to develop, conduct, and provide for training programs, seminars, and workshops for personnel engaged in work or preparing to work in areas related to juvenile delinquency.

Section 494 provides that the Advisory Committee for the National Institute for Juvenile Justice—established in section 478(d)—shall advise, consult with, and make recommendations regarding the overall policy and operations of the Institute.

Section 495 provides that the Assistant Director is to report annually on the programs of the Institute to the Administrator. A summary of this report shall be included in the Administrator's annual report to the President and Congress, as required by section 474(b)(5).

Section 496 requires the National Institute for Juvenile Justice, under the supervision of the Advisory Committee on Standards for Juvenile Justice, to review existing reports and data and develop standards relating to juvenile justice. Within 1 year of passage of the section, a report is to be made to the President and Congress recommending Federal, State, and local action to facilitate adoption of the standards developed. The Advisory Committee can obtain information as needed from other Federal agencies.

Section 497 provides that records containing the identity of individual juveniles gathered for purposes of the title may not be disclosed or transferred to any individual or other public or private agency. However, this provision is not intended to limit dissemination or use of such records for purposes for which they were collected, including the purposes specified in this title.

TITLE VI

Title VI, section 601 amends the Omnibus Crime Control and Safe Streets Act by adding at the end of section 520 of title I the following:

There are authorized appropriations for the purpose of part F of $75,000,000 for the fiscal year ending June 30, 1975,

and $150,000,000 for the fiscal year ending June 30, 1976, It is required that LEAA maintain the same level of financial assistance for juvenile delinquency programs assisted as during fiscal year 1972. This provision of the substitute amendment reduces the authorized appropriations from the level of the committee bill.

TITLE VII

Title VII establishes a National Institute of Corrections within the Department of Justice, Bureau of Prisons by amending title 18, United States Code, to add a new chapter 319 composed of two sections.

Section 701 is the operative provision of title VII. The new sections added in the new chapter 319 are as follows:

Section 4351 establishes within the Bureau of Prisons a National Institute of Corrections. A 15-member advisory board is to supervise the overall policy and operations of the National Institute of Corrections. Five Federal officials are designated as ex officio members. Five members are to be qualified as a practitioner in the field of corrections, probation or parole, while five are to be from the private sector. Advisory board members are to be appointed by the Attorney General for 3-year, staggered terms. A chairman and vice chairman are to be elected from among the board's members. Provision is made for compensation and reimbursement for expenses.

The Advisory Board is authorized to appoint advisory and technical committees as necessary, without regard to the civil service laws, and may delegate its powers. A director, appointed by the Attorney General after consultation with the board, will have general supervisory powers over functioning of the institute.

Section 4352 sets out certain powers of the National Institute of Corrections. Essentially there are as follows:

To receive or make grants and contracts with governmental and private agencies and individuals;

To serve as a clearinghouse and information center for information regarding corrections;

To assist Federal, State, and local agencies in the development and maintenance of programs and facilities for offenders;

To encourage and assist improved corrective programs;

To conduct seminars, workshops, and training sessions for personnel connected with the treatment and rehabilitation of offenders;

To develop technical training teams;

To conduct, encourage and coordinate research;

To formulate and disseminate correction policy, goals, and standards recommendations;

To conduct evaluation programs;

To receive information and data from other Federal agencies;

To reimburse other Federal agencies for the use of personnel, facilities, and equipment;

To confer with and get assistance from governmental and private organizations and individuals;

To contract with public or private agencies, organizations, or individuals for performance of institute functions; and,

To procure services of experts and consultants.

The National Institute of Corrections must report annually to the President and Congress. Each recipient of assistance must keep complete records on its activities. Books and records pertinent to grants received shall be open to the Institute and the Comptroller of the United States, or their authorized representatives. These provisions apply to all recipients of assistance, whether direct grantees or contractors, or subgrantees or subcontractors.

Mr. President, I send to the desk an amendment authored by the distinguished Republican leader, the Senator from Pennsylvania (Mr. HUGH SCOTT).

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the end of the bill add a new title as follows:

TITLE IX—EXTENSION AND AMENDMENT OF THE JUVENILE DELINQUENCY PREVENTION ACT

YOUTH DEVELOPMENT DEMONSTRATION

SEC. 801. Title I of the Juvenile Delinquency Prevention Act is amended (1) in the caption thereof, by inserting "AND DEMONSTRATION PROGRAMS" after "SERVICES"; (2) following the caption thereof, by inserting "PART A—COMMUNITY-BASED COORDINATED YOUTH SERVICES"; (3) in sections 101, 102(a), 102(b)(1), 102(b)(2), 103(a) (including paragraph (1) thereof), 104(a) (including paragraphs (1), (4), (5), (7), and (10) thereof) and 104(b), by striking out "title" and inserting "part" in lieu thereof; and (4) by inserting at the end of the title the following new part:

"PART B—DEMONSTRATIONS IN YOUTH DEVELOPMENT

"SEC. 105. (a) For the purpose of assisting the demonstration of innovative approaches to youth development and the prevention and treatment of delinquent behavior (including payment of all or part of the costs of minor remodeling or alteration), the Secretary may make grants to any State (or political subdivision thereof), any agency thereof, and any nonprofit private agency, institution, or organization that submits to the Secretary, at such time and in such form and manner as the Secretary's regulations shall prescribe, an application containing a description of the purposes for which the grant is sought, and assurances satisfactory to the Secretary that the applicant will use the grant for the purposes for which it is provided, and will comply with such requirements relating to the submission of reports, methods of fiscal accounting, the inspection and audit of records and other materials, and such other rules, regulations, standards, and procedures, as the Secretary may impose to assure the fulfillment of the purposes of this Act.

"(b) No demonstration may be assisted by a grant under this section for more than one year."

CONSULTATION

SEC. 802. (a). Section 408 of such Act is amended by adding at the end of subsection (a) thereof the following new subsection:

"(b) The Secretary shall consult with the Attorney General for the purpose of coordinating the development and implementation of programs and activities funded under this Act with those related programs and activities funded under the Omnibus Crime Control and Safe Streets Act of 1968";

and by deleting subsection (b) thereof.

(b) Section 409 is repealed.

REPEAL OF MINIMUM STATE ALLOTMENTS

SEC. 804. Section 403(b) of such Act is repealed, and section 403(a) of such Act is redesignated section 403.

EXTENSION OF PROGRAM

SEC. 805. Section 402 of such Act, as amended by this Act, is further amended in the first sentence by inserting after "fiscal year" the following: "and such sums as may be necessary for FY '75".

Mr. HRUSKA. I yield myself 3 minutes.

Mr. President, on behalf of Senator HUGH SCOTT, I want to point out that this amendment has been discussed with the managers of the bill and members of the committee on both sides of the aisle. The amendment simply extends the HEW juvenile delinquency program for 1 year, to allow an orderly transfer of the program to the LEAA.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement by Senator HUGH SCOTT, in which he discusses the substance and the impact of the amendment.

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

STATEMENT BY SENATOR HUGH SCOTT

This amendment adds a Title IX to the "Juvenile Justice and Delinquency Prevention Act of 1974." Title IX would extend the Juvenile Delinquency Prevention Act, administered by the Secretary of Health, Education, and Welfare through FY 1975. The program is already operating under a continuing resolution, and this amendment would extend the program to the end of the current fiscal year. This would allow for the orderly transfer of functions from the Department of Health, Education, and Welfare to the Law Enforcement Assistance Administration. This amendment provides time to wind down the activities funded under the Juvenile Delinquency Prevention Act without an abrupt, disruption of the programs.

Added also is a requirement consistent with S. 821 that the Secretary consult with the Attorney General for the purpose of coordinating the development and implementation of programs and activities funded under the Juvenile Delinquency Prevention Act with those related programs and activities funded under the Omnibus Crime Control and Safe Streets Act of 1968, as amended.

Title IX repeals the minimum State allotments, which have constituted more than 50 percent of the program monies and are inappropriate in a program which is essentially to provide demonstration project grants to establish youth service systems, and not to finance service delivery.

The title also authorizes demonstration grants in the field of youth development. The program would authorize the Secretary of Health, Education and Welfare to make grants to public and nonprofit private agencies, institutions, and organizations to assist in the demonstration of innovative approaches to youth development and the prevention and treatment of problems of, and leading to, juvenile delinquency.

In effect, Mr. President, this amendment merely provides for an orderly transfer of functions from HEW to LEAA and during the interim attempts to complement, rather than conflict with, the provisions of the subject bill.

Mr. BAYH. Mr. President, the Senator from Indiana has no objection to this amendment.

Before we vote on the amendment, I should say for the record that the purpose of the amendment is as specified by the Senator from Nebraska and the Senator from Pennsylvania, to provide a year for transition.

It does not make any sense for us to establish a bill in which one person is going to be the man with the plan, so to speak, and with the authority to implement it, and then, even before the bill is passed, to have a little caveat and say "but." I know that the Senator from Nebraska does not desire that.

Anybody in this bureaucracy who may think this is still going to give them a foot in the door had better recognize that if they do not get that toe out of there in the next year, they are liable to lose it. We want one program, administered fairly and efficiently, with new resources. Unfortunately, the way the HEW program has existed, it has not provided the kind of sterling leadership we need in this matter.

Without being critical of those people down there, the Senator from Nebraska will recall that when we discussed this matter last year and the year before, we almost did not extend it, because we were not satisfied with the job they were doing. With this new proposal, it is only fair to give them a chance to move the worthwhile services they are providing over to this new office and, at the end of this time provided in the amendment, to close their doors and get about doing something else.

Mr. HRUSKA. Mr. President, I fully agree with the thoughts expressed by the Senator from Indiana. There is a relatively small program involved here. It was thought by Senator HUGH SCOTT that the personnel could be folded into some of the administrative work in LEAA and there would be an orderly transition of the functions and the programs. That is the justification for the amendment.

Personally, I would have preferred a much shorter time. However, after consultation with the agency and with the Senator from Pennsylvania, a 1-year extension was agreed upon.

Mr. BAYH. Mr. President, one last observation. The people who will read the RECORD, as well as the people who will be affected by this amendment, have not been privy to some of the conversations the Senator from Nebraska and I have had in trying to work out the measure before the Senate.

It is fair to say, is it not, that the purpose of this amendment is to make it possible for us to take those worthwhile services that are now being provided by HEW and move them under the new office provided for by this bill, but it does not mandate that people who are presently in positions of authority in this program, who are not doing the job, have to be transferred with the authority of the program?

Mr. HRUSKA. The Senator is correct. There is no mandate that these people be moved bodily to LEAA or that they be furnished with equal positions or equal authority in the new program. That is a matter of negotiation, selection, and recruitment, pursuant to regular procedures.

I ask for a vote, Mr. President. I yield back the remainder of my time.

Mr. BAYH. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment was agreed to.

Mr. BAYH. Mr. President, on behalf of the distinguished senior Senator from Arkansas (Mr. MCCLELLAN) I offer an amendment to S. 821, which is the text of amendment 1578 that we are now considering as a bill.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment will be printed in the RECORD.

The amendment is as follows:

At the end thereof add the following new title:

"TITLE VIII—FEDERAL SURPLUS PROPERTY

"SEC. 801. (a) Section 203(j) of the Federal Property Administrative Services Act of 1949, as amended (40 U.S.C. 484(j)), is amended—

"(1) by striking out 'or civil defense' in the first sentence of paragraph (1) and inserting in lieu thereof 'civil defense, or law enforcement and criminal justice';

"(2) by striking out 'or (4)' in the first sentence of paragraph (1) and inserting in lieu thereof '(4), or (5)';

"(3) by striking out 'or paragraph (4)' in the last sentence of paragraph (2) and inserting in lieu thereof a comma and '(4), or (5)';

"(4) by inserting after paragraph (4) a new paragraph as follows:

"'(5) Determination whether such surplus property (except surplus property allocated in conformity with paragraph (2) of this subsection) is usable and necessary for purposes of law enforcement and criminal justice, including research, in any State shall be made by the Administrator, Law Enforcement Assistance Administration, who shall allocate such property on the basis of need and utilization for transfer by the Administrator of General Services to such State agency for distribution to such State or to any unit of general local government or combination, as defined in section 601 (d) or (e) of the Crime Control Act of 1973 (87 Stat. 197), designated pursuant to regulations issued by the Law Enforcement Assistance Administration. No such property shall be transferred to any State agency until the Administrator, Law Enforcement Assistance Administration, has received, from such State agency, a certification that such property is usable and needed for law enforcement and criminal justice purposes in the State, and such Administrator has determined that such State agency has conformed to minimum standards of operation prescribed by such Administrator for the disposal of surplus property.';

"(5) by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively;

"(6) by striking out 'and the Federal Civil Defense Administrator' in paragraph (6), as redesignated, and inserting in lieu thereof a comma and 'the Federal Civil Defense Administrator, and the Administrator, Law Enforcement Assistance Administration'; and

"(7) by striking out 'or paragraph (4)' in paragraph (6), as redesignated, and inserting in lieu thereof a comma and '(4), or (5)'.

"(b) Section 203(k)(4) of such Act, as amended (40 U.S.C. 484(k)(4), is amended—

"(1) by striking out 'or' after the semicolon in clause (D);

"(2) by striking out the comma after 'law' in clause (E) and inserting in lieu thereof a semicolon and 'or'; and

"(3) by adding immediately after clause (E) the following new clause:

"'(F) the Administrator, Law Enforcement Assistance Administration, in the case of personal property transferred pursuant to subsection (j) for law enforcement and criminal justice purposes,'.

"(c) Section 203(n) of such Act, as amended (40 U.S.C. 484(n)), is amended—

"(1) by striking out in the first sentence 'and the head of any Federal agency designated by either such officer' and inserting in lieu thereof 'the Administrator, Law Enforcement Assistance Administration, and the head of any Federal agency designated by any such officer'; and

"(2) by striking in next to the last sentence 'law enforcement' and inserting in lieu thereof 'law enforcement and criminal justice', and in the same sentence striking 'or (j)(4)' and inserting in lieu thereof a comma and '(4), or (5)'."

Mr. BAYH. Mr. President, I have a statement prepared by my distinguished colleague, the senior Senator from Arkansas (Mr. MCCLELLAN) which I would like to read at this time. This amendment is a technical amendment to correct inadvertent omission of certain conforming amendments from the recently enacted Crime Control Act of 1973—Public Law 93-83, August 6, 1973. The Crime Control Act of 1973 included a provision which was intended to provide the Administrator of the Law Enforcement Assistance Administration with full authority to donate, through the General Services Administration—GSA—surplus property to State agencies for use in their criminal justice systems.

GSA late last year rendered an opinion to the effect that section 525 is inoperative due to a drafting oversight. Thus, the clear intent of the Congress has been frustrated in this respect. The amendment offered at this time on behalf of the Senator from Arkansas corrects the defect which was found to exist by GSA.

I ask unanimous consent that a more detailed statement by the distinguished Senator from Arkansas be printed in the RECORD at this time.

The PRESIDING OFFICER. Without objection it is so ordered.

STATEMENT BY SENATOR MCCLELLAN

I offer an amendment to S. 821 which is solely a technical amendment to correct inadvertent omission of certain conforming amendments from the recently enacted Crime Control Act of 1973. These amend-

ments are needed to conform the Federal Property and Administrative Services Act of 1949 to implement authority for the Law Enforcement Assistance Administration to donate surplus Federal property to a State agency for law enforcement and criminal justice purposes.

On March 27, 1974, the Senate, by voice, accepted these same provisions as an amendment to the bill H.R. 6274 which has been awaiting action by the House on the Senate amendment. It is hoped that an amendment here today will come to final enactment.

The Crime Control Act of 1973 (Public Law 93-83) amended Section 525 of the Omnibus Crime Control and Safe Streets Act of 1968 to extend authority of LEAA to donate surplus Federal property to State agencies for criminal justice purposes. This was done by amending only section 203(n) of the Federal Property and Administrative Services Act to reflect the authority of LEAA. The conference reports of both the Senate and the House clearly reflected the new authority to donate surplus property, stating:

"The Senate amendment provided LEAA with authority to donate excess or surplus Federal property to State agencies thereby vesting in the grantee title to such property. The conference substitute accepted the Senate provision." [S. Rept. 93-349, p. 33; and H. Rept. 93-401, p. 33.]

Comments when the conference report was submitted to the Senate clearly reflect the intent of the provision. [See. Cong. Rec., July 26, 1973, at S 14746, and Cong. Rec., Aug. 2, 1973, at S 15561 (daily eds.).]

Following enactment of the Crime Control Act of 1973, the Law Enforcement Assistance Administration received a number of requests for surplus property under the new authority. The LEAA attempted to provide for certain needs at the devasted Oklahoma State Prison in McAlester, Oklahoma by requesting the General Service Administration to donate surplus proprety to this Prison. Hundreds of law enforcement agencies were requesting surplus military helicopters, which were and are still available.

However, shortly after enactment of the Crime Control Act of 1973, the General Counsel of the General Services Administration advised the Law Enforcement Assistance Administration that amending section 203(n) of the Federal Property and Administrative Services Act was not sufficient to authorize the Administrator of General Services to donate surplus property for law enforcement purposes. According to the General Counsel, section 203(n) designates the purposes for which such surplus property may be used, but the section is not independent authority to donate such property—that amendments to subsections 203(j) and (k) are also required.

The amendment I propose today perfects the operative language of subsections 203(j) and (k) of the Federal Property and Administrative Services Act by adding the words "law enforcement and criminal justice" to subsection 203(j)(1) so as to authorize the Administrator of General Services to donate surplus property usable and necessary for law enforcement and criminal justice, educational, public health, or civil defense purposes.

It also adds a new subsection (j)(5) to permit the Administrator, Law Enforcement Assistance Administration, upon a determination that surplus property is usable and necessary for the purposes of law enforcement and criminal justice, to allocate such property on the basis of needs and utilization for transfer by the Administrator of General Services to such State agencies recognized pursuant to regulations issued by the LEAA.

In addition, Section 203(k)(4) of the Federal Property and Administrative Services Act is amended by adding a new clause (f) to authorize the Administrator, Law Enforcement Assistance Administration, to enforce compliance with terms and conditions on personal property donations in the same manner as other agencies designated therein. The necessity for this amendment is explained in detail in a letter of October 23, 1973, from the General Counsel of the General Services Administration to the General Counsel of LEAA. I ask unanimous consent that this letter be printed in the record following these remarks.

Mr. President, many law enforcement agencies in every State and territory have urgent need for the surplus property items. The only thing lacking is the perfecting authority to make the surplus helicopters and other property and supplies available to state and local law enforcement and criminal justice programs.

The technical amendment offered assures that LEAA will be able to distribute surplus property to law enforcement and criminal justice organizations of the State without the wasteful and burdensome Federal accountability procedures now required. This was the intent of the Crime Control Act of 1973 and would now be the procedure but for the inadvertent failure to include the proper amendments. Without the amendments, the LEAA is authorized to acquire personal property items which are classified as Federal excess property.

Under present authority, LEAA can only place the property on loan to its grantees for use in their grant-supported law enforcement programs. Title to the Federal excess property remains vested in the Federal government and property accountability records must be maintained by the grantee in accordance with the requirements, criteria, formats and procedures of the lending Federal agency. The loan of this excess property does augment the effectiveness of the grant funded programs.

However, it places a substantial administrative burden on both the grantee and the Federal agency since elaborate accounting records must be kept and inventory and disposition procedures must be maintained to safeguard the identity and presence of the Government property. Where high cost and highly durable items are involved the record keeping procedures may be justified to insure that the equipment will be best used in support of programs of all Federal agencies.

However, in the case of low cost, expendable, consumable or low durability items the accounting procedures place an economically unjustifiable burden upon the grantee and the LEAA. Items such as clothing, electrical fixtures, conduit supplies, minor laboratory equipment, etc., are normally retained by the grantee until they are reduced to scrap. Excess Government property, even in this condition, must be accounted for under the Federal agencies procedures and reported to the Federal agency for rescreening. Disposition instructions are obtained at the end of the screening period and the items are shipped to disposal points or otherwise disposed of as GSA determines.

Surplus property is property which has been offered to all Federal agencies and has not been requested by any agency during its screening period. This property which is not needed by any Federal agency for its own needs often is appropriate and needed for State and local law enforcement programs. Surplus Federal property once donated will become State property and its management and accountability responsibility will be vested primarily in the State. The entire accounting procedure is thus simplified.

The example at the Oklahoma State Prison, following the riots there, points out the present difficulties. Approximately $250,000 worth of supplies and equipment were loaned from Federal excess property and used to temporarily repair the facility and provide shelter, clothing and services for the prisoners. Although the use of the Federal property was effective, it now poses a significant accountability and usage problem. If the assets could have been obtained from surplus inventories they would now be the property of the State of Oklahoma, or the prison, rather than the Federal Government.

Another example of the need for this authority exists in the Virgin Islands. With LEAA grant participation a new confinement facility is being constructed on St. Croix. Due to limited funds, the Office of the Commissioner has requested LEAA to provide the necessary equipment and supplies, leaving the local government financial able to provide a staff. My proposed amendment would simplify record keeping and accountability procedures in this case.

Mr. President, the type of authority I am suggesting is not unusual. More than $5 billion worth of surplus property of all kinds is presently available. Last year $396.5 million worth of property was donated through State agencies for the purposes of education, public health and civil defense.

Law enforcement and criminal justice systems are faced with many pressing problems. Authorizing the donation of surplus Federal property for law enforcement and criminal justice needs is a priority we must address, as was the intent when the Crime Control Act of 1973 was enacted.

By accepting the perfecting amendment I am offering, we will be carrying out the intent of the Congress to assist States and local governments through effective use of a surplus property program for law enforcement and criminal justice agencies.

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., October 23, 1973.

THOMAS J. MADDEN, Esquire,
General Counsel, Law Enforcement Assistance Administration, Department of Justice, Washington, D.C.

DEAR MR. MADDEN: Reference is made to your request for an opinion concerning the applicability of section 203(k)(4) of the Federal Property and Administrative Services Act of 1949, as amended, to donations of personal property.

* * * * * *

Section 203(k)(4) provides "Subject to the disapproval of the Administrator within thirty days after notice to him of any action to be taken under this subsection.

(A) The Secretary of Health, Education, and Welfare, through such officers or employees of the Department of Health, Education, and Welfare as he may designate, in the case of property transferred pursuant to the Surplus Property Act of 1944, as amended, and pursuant to this Act, to States, political subdivisions, and instrumentalities thereof, and tax-supported and other nonprofit educational institutions for school, classroom, or other educational use;

(B) the Secretary of Health, Education, and Welfare, through such officer or employees of the Department of Health, Education, and Welfare as he may designate, in the case of property transferred pursuant to the Surplus Property Act of 1944, as amended, and pursuant to this Act, to States, political subdivisions and instrumentalities thereof, tax-supported medical institutions, and to hospitals and other similar institutions not operated for profit, for use in the protection of public health (including research);

(C) the Secretary of the Interior, in the case of property transferred pursuant to the Surplus Property Act of 1944, as amended, and pursuant to this Act, to States, political subdivisions, and instrumentalities thereof, and municipalities for use as a public park, public recreational area, or historic monument for the benefit of the public;

(D) the Secretary of Defense, in the case of property transferred pursuant to the Surplus Property Act of 1944, as amended, to States, political subdivisions, and tax-supported instrumentalities thereof for use in the training and maintenance of civilian components of the armed forces; or

(E) the Federal Civil Defense Administrator, in the case of property transferred pursuant to this Act to civil defense organizations of the States or political subdivisions or instrumentalities thereof which are established by or pursuant to State law, is authorized and directed—

(i) to determine and enforce compliance with the terms, conditions, reservations, and restrictions contained in any instrument by which such transfer was made;

(ii) to reform, correct, or amend any such instrument by the execution of a corrective, reformative or amendatory instrument where necessary to correct such instrument or to conform such transfer to the requirements of applicable law; and

(iii) to (I) grant release from any of the terms, conditions, reservations and restrictions contained in, and (II) convey, quitclaim, or release to the transferee or other eligible user any right or interest reserved to the United States by, any instrument by which such transfer was made, if he determines that the property so transferred no longer serve the purpose for which it was transferred, or that such release, conveyance, or quitclaim deed will not prevent accomplishment of the purpose for which such property was so transferred: PROVIDED, That any such release, conveyance, or quitclaim deed may be granted on, or made subject to, such terms and conditions as he shall deem necessary to protect or advance the interests of the United States."

Since the provision appears as part of section 203(k), your question whether its application is limited solely to real property or whether it is applicable to both real and personal property.

It is our opinion that section 203(k)(4) relates to both real and personal property and not merely to real property. We believe that the language ". . . action to be taken under this subsection" is intended, in this instance, to relate to actions under subparagraph (i), (ii), and (iii) of (k)(4) and not as limiting the authority to subsection (k) transactions. This interpretation has prevailed at both the HEW and GSA since the Property Act was enacted in 1949. Congress is aware of such interpretation.

In July of 1956, Congress amended the Federal Property Act to provide authorization for donation for Civil Defense purposes, and the Act of July 3, 1956, which deals solely with donations of *personal property* for Civil Defense purposes specifically amended section 203(k). The legislative history indicates as the reason therefor the following:

"Section 2 provides for amending section 203(k) of the Federal Property and Administrative Services Act of 1949, as amended, to give the Federal Civil Defense Administrator comparable authority for enforcing compliance of terms and conditions on property donations in the same manner as the Secretary of Health, Education, and Welfare is authorized to enforce restrictions on property donated for health or educational purposes. This is a conforming amendment, and is identical to section 5 of H.R. 7227 as approved by the House of Representatives."

In addition, both GSA and HEW by current regulations interpret section 203(k)(4) as being applicable to both personal property and real property. It should be noted that in section 203(k)(4) the term "property" is used. In all other sections of section 203(k) the term "real property" is used when referring to property. We believe that under such circumstances the term "property" must be deemed to include both real and personal property (see section 3(d) of the Federal Property Act defining "property").

Accordingly, you are advised that section 203(k)(4) is applicable to both personal property and real property and any amendment of 203(j) should take such factor into consideration.

You have raised the further question whether in view of the amendment to section 203(j) relating to the imposition of terms, conditions, restrictions and reservations upon the use of any single item of personal property donated having an acquisition cost of $2500 or more whether an amendment to section 203(k)(4) is necessary.

We have reviewed the legislative history concerning the amendment of section 203(j), referred to above. In our view, the purpose of the amendment was to restrict in dollar terms the imposition of terms and conditions. It was not intended, nor does it, in our opinion, affect the authorizations under sections 203(k)(4). Section 203(k)(4) deals with enforcement of compliance with the terms, conditions, reservations and restrictions contained in any instrument by which such transfer was made; or to the reformation, correction or amendment of an instrument or to the granting of releases to any terms, conditions, restrictions and reservations contained in the transfer instrument.

There is nothing in the legislative history which indicates that section 203(j)(5) was intended to supersede the authorities under section 203(k)(4). Rather, as previously indicated, the express purpose was to limit the imposition of terms and conditions to donations above a certain dollar value.

GSA, as indicated in its regulations, considers section 203(k)(4) as being applicable to personal property donations notwithstanding paragraph (5) of section 203(j). At best, it would require substantial construction of section 203(j)(5) to imply authorities clearly and expressly granted under section 203(k)(4). Even if implied authority could be argued under 203(j)(5) to permit certain actions expressly authorized under 203(k)(4), under no circumstances could, in our opinion, release of restrictions imposed be implied. In addition, a failure to amend 203(k)(4) at this time, in view of the legislative history and prior interpretations, could be interpreted as a failure by Congress to authorize Law Enforcement Assistance Administration (LEAA) to take the actions authorized under subparagraphs (i), (ii), and (iii) of 203(k)(4) since in all other cases an amendment to 203(k)(4) was made.

As a practical matter, we have been informally advised by the Department of Health, Education, and Welfare that actions under 203(k)(4) are substantial, numbering in the hundreds.

In view of the opinions set forth herein, should your agency amend 203(j) and assuming that you intend to take the actions presently authorized under 203(k)(4), we would strongly recommend that an amendment be made to section 203(k)(4) to appropriately include the Administrator of LEAA.

Sincerely,

WILLIAM E. CASSELMAN, II,
General Counsel.

Mr. BAYH. I ask for the consideration of the amendment.

Mr. HRUSKA. Mr. President, would the Senator yield for 2 minutes?

Mr. BAYH. I would be glad to yield.

Mr. HRUSKA. It is true that the Senate approved the substance of this amendment in March of this year. It is contained in H.R. 6274, now pending in the House and has not yet been acted upon. This is a technical amendment perfecting an authority intended by both the House and Senate to have been extended to LEAA by the Crime Control Act of 1973.

At present, there is a lack of technical language which prevents LEAA from possessing that power. The inadvertent omission of these conforming amendments to the Federal Property and Administrative Services Act should be promptly corrected for the reasons summarized by the Senator from Arkansas and by the Senator from Indiana.

I shall support the amendment.

Mr. BAYH. I yield back my time.

Mr. HRUSKA. I yield back my time.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Arkansas.

The amendment was agreed to.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment will be printed in the RECORD.

The amendment is as follows:

On page 37, delete lines 21 through 23, inserting in lieu thereof the following:

"(b) The Supervisory Board designated pursuant to Section 482(a), after consultation with the advisory group referred to in section 482(a) shall approve the State plan and any modification thereof prior to submission to the Administrator.

Mr. HRUSKA. I yield myself 2 minutes.

Mr. President, during the course of drafting changes in S. 821, this technical amendment was discovered as one of the points that should be provided.

As this juvenile delinquency and prevention program was developed into an integral part of LEAA, it was intended that ultimate authority for State level approval would reside with the State planning administrators under the LEAA umbrella in accordance with the current operation.

However, it was intended that a strong consultation role would be played by the State juvenile delinquency and prevention advisory group which has formed under part F.

This amendment merely eliminates any construction problems in this regard. I hope it will be adopted to clarify this matter.

The PRESIDING OFFICER. Who yields time

Mr. BAYH. Mr. President, I yield myself whatever time may be necessary.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, I would like to make a couple of observations about this amendment, and I will not oppose it, but again, I think, as chairman of the subcommittee, it is important that we make absolutely certain that those who

are charged with administering this bill know the intent of Congress.

When we started out with this proposal, this comprehensive revision of our system of juvenile justice, we were moving to put the program in HEW and moving to have a separate administration in the States.

When we finally came to the determination that we could get more resources and perhaps have more initiative in the light of today's political realities and have more coordination as well if we put it in LEAA, it just did not make much sense to have a competitive advisory board.

But as I assess the purpose and the intent of my distinguished colleague from Nebraska, it is to prohibit this duplication, not to lessen the commitment that the measure makes, that S. 821 will make with the new text, to see that we have a coordinated effort in which those who are knowledgeable in the area of juvenile justice will have a direct role at the State planning level.

Is that the way the Senator from Nebraska reads the thrust of his technical amendment?

Mr. HRUSKA. Yes.

Mr. BAYH. I thank the Senator from Nebraska.

I would like to also address myself to the wording of this language because I think we have to reemphasize what additional responsibilities this language of the new S. 821 places on State planning agencies and also on regional agencies.

I quote the following language from title III, section 301:

The State planning agency and any regional planning units within the State shall within their respective jurisdiction be representative of the law enforcement and criminal justice agencies including—

And I emphasize this—

agencies directly related to the prevention and control of juvenile delinquency.

And then it states:

Units of general local governments, public agencies maintaining programs to reduce and control crime—

And then I want to emphasize the following—

and shall include representatives of citizen, professional, and community organizations, including organizations directly related to delinquency prevention.

Now, the way the Senator from Indiana reads this amendment is that we are clarifying the role of the advisory group in the field of juvenile delinquency and your technical amendment accomplishes that. But in exchange we are requiring that the composition of the State planning board of LEAA be expanded to include those individuals who have experience and who are knowledgeable and professional in the field of prevention and control of juvenile delinquency, and also we are mandating that private agencies be represented on the State planning board.

Now, is that the way the Senator from Nebraska reads the thrust of the technical amendment in conjunction with the language which is in section 301?

Mr. HRUSKA. It is indeed. There was some question in my mind, however, whether a bill of this kind should provide for certain types, or perhaps quotas, or classes of people who will serve on such a board. I believe the language used here is ample for the purpose, without being too specific in its effect so as to be inflexible. The Senator from Indiana is correct. The idea is to have representation from those who are cognizant of the problems in this area, who have had some experience in it, and who have exhibited some degree of interest and activity in the field by way of organizational work, civic work, or in other ways.

The answer to the question of the Senator from Indiana is yes, that is the way I interpret and construe it.

Mr. BAYH. I appreciate the Senator from Nebraska's reinforcing the interpretation of the Senator from Indiana.

What we are doing now is saying to LEAA, which is given the responsibility of administering this program through the State planning agency and regional planning boards, "All right, fellows, no longer are you going to let a whole State Planning Board, dealing with all of the LEAA matters, deal with this program without having anyone on it able to deal with juvenile prevention or with rehabilitation, or that represents the important private agencies which deal with this."

Now we are going to have a concerted, integrated program, and we hope that those who read this language will recognize the determination of the Members of this Congress to see that these planning agencies are prudent, and that the juveniles, the young people of this country, will have a voice on those planning boards that can prevent some of those juveniles acts and help stop this alarming increase in the rate of crime.

Otherwise, I fear that the whole structure of the house will be based on a foundation that is not solid.

I yield back the remainder of my time.

Mr. HRUSKA. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Nebraska.

The amendment was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. Are amendments in order?

The PRESIDING OFFICER. Amendments are in order.

AMENDMENT NO. 1611

Mr. HART. Mr. President, I call up my amendment No. 1611 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. I shall explain it.

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

The amendment will be printed in the RECORD.

Mr. HART'S amendment (No. 1611) is as follows:

On page 36, strike out lines 21, 22, and 23 and insert the following:

"(17) provide that fair and equitable arrangements are made, as determined by the Secretary of Labor, to protect the interests of employees affected by assistance under this Act. Such protective arrangements shall include, without being limited to, such provisions as may be necessary for—

"(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements otherwise;

"(B) the continuation of collective bargaining rights;

"(C) the protection of individual employees against a worsening of their positions with respect to their employment;

"(D) assurances of employment to employees of any State or political subdivision thereof who will be affected by any program funded in whole or in part under provisions of this Act;

"(E) training or retraining programs.

The State plan shall provide for the terms and conditions of the protection arrangements established pursuant to this section;".

Mr. HART. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. Under the order, is there 15 minutes to a side on amendments?

The PRESIDING OFFICER. There is 15 minutes to a side on amendments.

Mr. HART. I yield myself such time as I may require.

This amendment seeks to clarify the employee protection language in section 482(a)(17) of the substitute introduced by Senator BAYH and Senator HRUSKA. I am a cosponsor of that bill we are considering and regard it as much-needed legislation; a marked improvement is promised as a consequence of it in the rehabilitation and protection of young people in trouble.

This legislation will provide an opportunity for State and local governments to refocus the emphasis of delivery of youth services from a centralized institutional environment to a community-based, personal, decentralized approach. The benefit, of course, is obvious.

As with any piece of threshold legislation, care must be taken to minimize the negative effects of the legislation while maximizing the positive effects. It is with this premise in mind that I ask for support of the amendment today.

There are facilities across the country for the treatment and rehabilitation of juveniles which may be closed down, in whole or in part, because of the operation of this legislation. We are not sure, but it is to be anticipated, certainly, that some consequence of that sort will follow. Indeed, it is an indirect purpose.

One of the side effects of these closings will be that employees in these institutions will have their jobs terminated. These are people with the same aspirations all of us have: people with families,

pension rights, and accrued vacations; skills, experiences, and standards of living, people whose only reason for losing their jobs would, in this situation, be the operation of this legislation.

The substitute seeks to respond to this very human problem and does it in section 482(a)(17), but it does it in language which is very general. This statement of general principle is open to wide interpretation and potential abuse. It falls short of legislative precedent in reserving the existing rights of Government employees. That precedent, Mr. President, we find in the Urban Mass Transit Act.

The amendment which I offered incorporates the language of the Urban Mass Transit Act and specifies with greater particularity the rights that Congress intends to guarantee for public employees. It would put meat on the skeleton of good intentions. It would make clear that it is not our intent, as we seek to respond to the needs of young people in trouble, to threaten the economic life of the parents and others of those young men and women in State and local employment.

The amendment is clarifying in nature. It is intended simply to conform the Senate's action today to its action of a few years ago, the citation of which I have given.

THE OPENING SENTENCE

The first sentence is amended by adding the language "as determined by the Secretary of Labor." This would permit and, in fact, mandate that the Secretary of Labor monitor the state operation of plans as it relates to employee protection to see that they conform to the requirements of the legislation. No such monitoring authority exists under the present language, giving Congress no way of knowing whether the job protection element of the law is being carried out.

SUBSECTION (A): PRESERVATION OF RIGHTS

Government employees may have accrued pension benefits, vacation benefits, insurance benefits, and others that are individual benefits in nature. Subsection (A) would require that a new job, offered to an employee displaced under this act, will not terminate these benefits.

Court precedent has indicated that this language in UMTA requires a substantial preservation of these rights, not necessarily absolute.

This subsection would apply only to jobs offered by the State or local government pursuant to the operation of this legislation, and not to jobs found independently by a terminated employee seeking alternative employment.

The new employing agency would incur the costs of preserving these benefits, and although no figures are available, the projected costs are thought to be insignificant.

SUBSECTION (B): COLLECTIVE BARGAINING RIGHTS

The narrow language of subsection (B) would preserve existing bargaining rights only in two circumstances:

First. When the administration of a facility would be turned over from one governmental unit to another, for example, from State to county; and

Second. When an entire employee group is moved intact to a new facility with no new, additional employees.

This will be rare under the operation of this legislation, but such a preservation of rights should exist.

This language would not mean that an employee would automatically carry his collective bargaining unit to a new facility such as going to a halfway house from a State reform institution. Such a possibility would produce inevitable conflict with, and unfair control over, the rights of other employees in the new institution. And this would neither be the intent nor the result of this subsection.

SUBSECTION (C): WORSENING OF POSITION

Subsection (C) would require that an employee whose job was terminated by operation of this legislation cannot be offered a job, for example, at half the pay, or with a substantial increase in health or safety hazard, or be taken from a floor supervisor's position, for further example, and placed in a menial position.

This language does not require that exact equality in wages, stature, working conditions, or hours must be met but, as the UMTA language has been interpreted by the courts, a reasonable effort to obtain comparable conditions must be made by the State.

SUBSECTION (D): ASSURANCES OF EMPLOYMENT

Subsection (D) requires that a displaced employee be offered a job that conforms with these guidelines.

It does not require that the State or local government find a job that the employee will accept, only that an offer be made.

This subsection would place the State in the position of an employer of last resort in the event no other employment opportunity existed, but this amendment would impose no requirement for employment in the same job capacity or locality. With the capacity to retrain employees in a new field, the State has an unlimited opportunity to make full and productive use of such employees.

This is not analogous to a so-called featherbedding situation. Unlike featherbedding, there is no attempt in this amendment to continue to employ people in extinct job roles, but rather to take advantage of a trained, experienced individual in a new, productive capacity.

The costs of this provision are impossible to accurately forecast, but if each such displaced employee is otherwise productively employed there is a minimal cost to the taxpayer because a useful service is being performed by the employee. And although the paycheck is from the government, that is a more productive expenditure surely than an unemployment or welfare check.

The number of jobs involved in such a reemployment program is difficult to predict because of the innovative nature of the legislation itself, but the guiding premise is that we cannot ignore the thousands of experienced employees on the State and local levels who work in present programs. Their rights must be preserved, and their knowledge and skills utilized.

SUBSECTION (E): TRAINING AND RETRAINING PROGRAMS

Where necessary, subsection (E) requires that States must provide a retraining program for present employees displaced by this act and compelled to work in a capacity for which they have no training. Such a training program would be undertaken at State expense on a case-by-case basis and should not be significantly costly if the UMTA experience is a useful guideline. No solid data are available.

In summary, this amendment is intended only to preserve the rights of Government employees affected by this legislation. It is clarifying in nature establishing guidelines, based on previous law, for the application of employee protections already incorporated in the legislation. It would put meat on the skeleton of good intentions. I would appreciate the Senate's support of this amendment.

I reserve the remainder of my time.

Mr. HRUSKA. Mr. President, I yield myself 3 minutes.

I rise in opposition to the amendment in its current form.

I might note at the outset that this same language which was in S. 821 as reported by the Juvenile Delinquency Subcommittee was deleted by Judiciary in its wisdom during its consideration of the measure. Moreover, the substitute amendment (No. 1578) which is the actual vehicle for floor action today and is supported by the entire Committee on the Judiciary, provides in section 482(a)(17) that as a condition for the receipt of formula grants the State plan must—"provide that fair and equitable arrangements are made to protect the interests of employees affected by assistance under this part."

There is, as I see it, no practical necessity for delineating a series of protective arrangements which must be included in a State plan in order to achieve the results intended by the current provision. I do believe we can trust the individual States to formulate employee protection provisions which adequately take into account the impact of this law on the employees of a particular State.

By putting in the general language we have, we grant to the States the flexibility they need in planning for protection since they will have to take into account both the State's laws affecting employee protection and the various Federal laws which likewise bear on such protection, and which already exist.

I believe employee protection is a good feature of this act. Yet I doubt that there will be any reduction in either the number of employees, the types of programs funded or the positions levels available. There will be, if anything, a dramatic and much-needed expansion of State and local programs in the juvenile delinquency area, thereby providing a multitude of employment opportunities for current employees of ongoing programs.

Surely the States will find it in their best interest to provide adequate opportunity for qualified employees, to conduct

any needed training or retaining programs, and to otherwise protect the interests of employees affected by assistance under part F.

This amendment would also result in a needless expenditure of part F funds to provide employee protection benefits which would already be adequately provided for in State and Federal employee protection laws. Such laws include State and Federal civil service merit protection laws, unemployment compensation benefit requirements, the Comprehensive Employment and Training Act of 1973, and others.

In addition to the fact that there is no real need for this amendment, it carries the potential for working some real mischief with respect to part F programs. This possibility arises by virtue of two provisions of the amendment.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. HRUSKA. I yield myself 2 more minutes.

First, the amendment provides that determinations of compliance are made "by the Secretary of Labor." This could dramatically and drastically slow down plan approvals by LEAA since each plan would also have to be reviewed a second time by the Secretary of Labor for purposes of compliance with this amendment. At a time when the States and local governments, in cooperation with LEAA, are attempting to streamline further grant-approval processes, this feature is extremely ill-advised.

Second, the amendment mandates ". . . employment to employees of any State or political subdivision thereof who will be affected by any program funded . . . under . . . this Act." This feature would require a State, county, or municipal government to retain on their payroll any employee working in the broad area of juvenile justice and prevention even if their function was terminated and the individual could not be placed elsewhere in the public sector.

This feature is not only ludicrous in its own right, Mr. President, but also raises the distinct possibility of discouraging comprehensive planning and State participation under part F due to its heavy-handed approach.

For example, the State of Massachusetts, operating under a similar provision, recently closed down a juvenile correction facility. Not being able to place the juvenile correction officers elsewhere, the State was forced to place these people in featherbedding positions, guarding, of all things, vacant buildings.

Maybe that is one way to keep such people busy off the welfare rolls, but it is hard on the appropriated funds in a program of this kind.

I yield myself, Mr. President, 3 more minutes.

Perhaps, one could justify a good-faith effort by State and local governments in this regard. To do more, however, would be, in my judgment, a mistake. I hope that this amendment will not be adopted in its present form.

I yield back the remainder of my time.

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

Mr. HART. Mr. President, would the Senator withhold his request? I wonder if I might just make a brief response.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. HART. Two minutes.

Mr. President, I understand fully the concerns that persuaded the Senator from Nebraska (Mr. HRUSKA) to speak in opposition to the amendment, and yet I think, as he suggests, it is likely—which I believe also to be likely—that many new job opportunities will be opened in the field of juvenile delinquency.

It may be argued that the need for this amendment has passed. But, at the same time, I would suggest that the concern which the Senator voices is largely academic because there will be broad new employment opportunities.

Second, as to the suggestion that building in the Secretary of Labor would substantially delay the adoption, the approval, of these plans, I would be the first to admit it will take a little more time, but it will be time that properly should be spent.

The Secretary's review will relate solely to employment protection aspects of the plan or program. This, I think, is time that we owe to men and women now engaged in Government service and whose protection we seek to assure.

As to the last one that we are really building ourselves another featherbed, I suggest that that would not be true. I do acknowledge that we are providing Government as the employer of last resort under certain limited conditions. But the example cited in Massachusetts, I think, is not one which could indicate the probability of much featherbedding.

I would ask unanimous consent, Mr. President, that a memorandum provided by the American Federation of State, County, and Municipal Employees, dated the 24th of July, describing the job transfer and the consequences in employment relationships that followed the creation in Massachusetts of a system of community-based facilities to care for juvenile delinquents, is based on a management audit of the Department of Youth Services issued by the Joint Committee on Post Audit in May of 1974.

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

AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES,
Washington, D.C., July 24, 1974.

The State of Massachusetts, Department of Youth Services, created a system of community-based facilities and care for juvenile delinquents. I have a copy of the Management Audit of the Department of Youth Services issued by the Joint Committee on Post Audit in May, 1974.

The following examples, learned by a conversation with the Director of the State Employees Council in Massachusetts, should disprove Hruska's charges of featherbedding:

Shirley: 16 security and grounds people were transferred from DYS to Administration and Finance; 25 more staff were kept at the institution which is being used as a corrections facility.

Lyman: 16 security staff were transferred to Administration and Finance; 22 remain at the facility to run computer operations for the Welfare Department.

Topsfield: 8 staff have been transferred to Administration and Finance; 36 remain on the DYS payroll in some capacity.

Some 450 to 500 DYS staff are now assigned to community facilities.

According to the budget, 200 positions are to be terminated December 31, 1974. One hundred are currently vacant. Eighty-one are filled and will be given first preference in new jobs on the basis of education, training, or experience. The preference amendment was included in the Appropriations bill just passed by the Legislature.

For further details, contact Henry Kelly, Director of Personnel, Division of Youth Services.

Telephone number 617-727-7044.

Mr. HART. Mr. President, I suggest the absence of a quorum, with the time to be taken out of neither side.

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

The assistant legislative clerk proceeded to call the roll.

Mr. BAYH. Mr. President——

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. BAYH. 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. BAYH. Mr. President, I ask unanimous consent that we temporarily lay aside the amendment of the distinguished Senator from Michigan (Mr. HART) and that the proposal that the Senator from Indiana is about to make be considered in the RECORD after the consummation of the present discussion between the Senator from Michigan and the Senator from Nebraska.

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

Mr. BAYH. Mr. President, I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 6, line 11, delete "nation" and insert "motion" in lieu thereof.

On page 16, line 17, delete "second" and insert "third" in lieu thereof.

On page 19, line 3, delete "501" and insert "490" in lieu thereof.

On page 20, line 8, delete "41" and insert "31" in lieu thereof.

On page 23, line 2, delete "Act" and insert "part" in lieu thereof.

On page 23, line 4, delete "title" and insert "part" in lieu thereof.

On page 23, line 13, delete "Act" and insert "title" in lieu thereof.

On page 23, line 17, delete "Director" and insert "Assistant Administrator" in lieu thereof.

On page 23, line 21, delete "Act" and insert "part" in lieu thereof.

On page 23, line 22, delete "Act" and insert "part" in lieu thereof.

On page 27, line 12, delete "407" and insert "494" in lieu thereof.

On page 27, line 18, delete "409" and insert "496" in lieu thereof.

On page 29, lines 9 and 13, delete "1974" and insert "1975" in lieu thereof.

On page 30, line 8, before the word "title" insert the word "this".

On page 30, line 8, delete "I".

On page 31, line 11, delete "concern" and insert "concerned" in lieu thereof.

On page 36, lines 8 and 9, delete "(13) and (14)" and insert "(12) and (13)" in lieu thereof.

On page 39, line 14, delete "409" and insert "496" in lieu thereof.

On page 42, line 3, delete "409" and insert "496" in lieu thereof.

On page 44, line 16, delete "(e)" and insert "(f)" in lieu thereof.

On page 47, line 5, delete "Assistant Director" and insert "Deputy Assistant Administrator" in lieu thereof.

On page 47, line 9, delete "Assistant Director" and insert "Deputy Assistant Administrator" in lieu thereof.

On page 49, line 7, delete "Sec. 602(a)".

On page 49, line 12, delete "(b)".

On page 57, after line 9, add the following:

"(d) The Institute, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for purposes of audit and examinations to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this chapter.

"(e) The provision of this section shall apply to all recipients of assistance under this title, whether by direct grant or contract from the Institute or by subgrant or subcontract from primary grantees or contractors of the Institute.

"SEC. 4353. There is hereby authorized to be appropriated such funds as may be required to carry out the purposes of this chapter."

Mr. BAYH. Mr. President, as the RECORD will show, this amendment is a series of technical changes, punctuation, numerical corrections to make sure that proper sections of the act are correctly cited and cross-referenced; certain printing errors are corrected, to try to just get some of the imperfections out of the bill and make it letter perfect.

The PRESIDING OFFICER. Is all timed yielded back on the amendment?

Mr. BAYH. I yield back my time, Mr. President.

The PRESIDING OFFICER. Has the Senator from Nebraska yielded back his time on the pending amendment?

Does the Senator from Nebraska yield back his time on the pending amendment of the Senator from Indiana?

Mr. HRUSKA. Yes, I yield back any time I may have on that amendment.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BAYH. Mr. President, I send to the desk another amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 11, line 19, strike out the words "or a period not to" and insert in lieu thereof the following:

"unless the juvenile has attained his nineteenth birthday at the time of disposition, in which case probation, commitment, or commitment in accordance with subsection (c) shall not".

Mr. BAYH. Mr. President, again, this is a technical amendment to clarify time limitations on juvenile disposition. The provision as drafted was intended as a general rule to provide that probation or custody as a juvenile delinquent would not extend beyond the lesser of the period provided by Congress for the offense or the juvenile's 21st birthday; however, in order to provide some meaningful sanction for juveniles tried late in the period—between their 19th and 21st birthdays—language was added in the substitute intended to permit overrunning the 21st birthday if necessary to retain juvenile probation or custody for the period provided by the Congress for the offense or a period of 2 years, whichever occurred sooner. The amendment I am offering makes clear this intent.

The PRESIDING OFFICER. Is all time yielded back?

Mr. BAYH. I yield back the remainder of my time.

Mr. HRUSKA. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. 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. MANSFIELD. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. The yeas and nays were ordered.

Mr. HART. Mr. President, I ask for the yeas and nays on the amendment now pending.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. I yield myself 3 minutes.

Mr. President, I rise again to oppose the amendment proposed by the distinguished Senator from Michigan. It would be harmful to the bill itself. It would add to the technicalities, to the procedures, and to the amount of time that will be required each year for the approval of these State plans. These State plans are very complex, very lengthy.

The Secretary of Labor would be required to review the entire document. It is not a matter of taking care of it once and for all. Those plans have to be submitted each year and updated each year.

Furthermore, it would be thrusting the U.S. Secretary of Labor into the realm of State, municipal, and county laws governing their respective employees. That is not a Federal function. I do not believe it is wise to put this type of control in Federal hands.

When LEAA was adopted in 1968, there was a conscious effort to recognize that there would be no Federal dominance in the law enforcement programs of the several States and their political subdivisions. Here we are asked to approve a provision which would deliberately and on a very significant scale put the program under the dominance and under the control of the Secretary of Labor, a Cabinet official.

I believe the amendment should be defeated, Mr. President. I urge my colleagues to vote against it.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President. I had not intended to speak on this matter, but inasmuch as some judge may look at this RECORD, I will do so.

I do not know how this vote is going to go. I have told the Senator from Nebraska that I feel compelled to vote for this amendment because it was in the original draft, but I do not want anybody to interpret that vote as feeling that the whole program we are talking about would be administered by the Secretary of Labor. This amendment includes specific provisions about protecting the employment opportunities of those who are now employed when a reorganization takes place. But I do not want the Secretary of Labor moving in there and telling us how to run this rehabilitation program.

We found, frankly, that so far as making this new juvenile program work is concerned, what we need are two things, and both of them, I think, are about equally important. One is that we need a different environment; and, two, we need better trained people, people who can be trained to do different tasks. But even taking people who are well trained and putting them in most of our juvenile institutions, the well trained people are almost always going to fail.

I am going to vote the other way, but I look at it a little differently, so far as interpretation is concerned, from the way the Senator from Nebraska looks at it.

Mr. HRUSKA. I yield myself 3 minutes.

Mr. President, in response, I want to say that this matter was considered in committee and was deleted from the original bill.

I want to make clear that I am not opposed to proper protection for workers' rights and for their being properly placed, and so forth.

I invite attention, however, to two things. First, the present bill, as written, requires that the plans of the States provide that full and equitable arrangements are made to protect the interests of employees affected by assistance, under this part. That, in conjunction with the State, county and city plans for their employees, should be ample for the purpose of protecting them, without having a Federal official intervene and be the controlling agency in that regard.

I think all of us should have a second thought about this all-inclusive language. It goes not only into the assurance of a job and a position but also into the pension plans, into any pension rights and benefits, into the continuation of collective bargaining rights, and into the protection of individual employees against a worsening of their position.

Mr. President, it would require a walk-

ing steward in every county courthouse and every State capital and every detention home, and all such places, in order to cover the activities under this amendment.

It even goes into a training and retraining program. The Secretary of Labor would be able to say, "This training program is a burden to these people, and it worsens their conditions of employment, and so on." I do not think he would do it, but he will have the power to do so under this amendment.

This amendment would not be for the best interests of the program we now have under consideration. It may well inhibit State and local authorities in the field of juvenile delinquency prevention and rehabilitation.

I yield back the remainder of my time.

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

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAYH. 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. BAYH. Mr. President, I ask unanimous consent that when the vote occurs upon the amendment of the Senator from Michigan, that rollcall be taken according to the normal procedure and that immediately thereafter we have the vote on final passage.

I withdraw my request because of a technicality. Unless we want 3 rollcall votes instead of 2, we have to make a request of the Chair to consider the bill as amended before we go to third reading.

The PRESIDING OFFICER (Mr. PELL). The question is now on the amendment of the Senator from Michigan. All time has been yieded back. The Chair does not hear a call for a quorum. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New Mexico (Mr. DOMENICI), the Senator from Hawaii (Mr. FONG), the Senator from Oregon (Mr. PACKWOOD), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 66, nays 24, as follows:

[No. 330 Leg.]

YEAS—66

Abourezk	Bentsen	Byrd, Robert C.
Aiken	Bible	Cannon
Allen	Biden	Case
Baker	Brooke	Chiles
Bayh	Burdick	Church
Clark	Javits	Pell
Cook	Johnston	Percy
Cranston	Kennedy	Proxmire
Dole	Magnuson	Randolph
Eagleton	Mansfield	Ribicoff
Ervin	Mathias	Schweiker
Gravel	McGee	Scott, Hugh
Hart	McGovern	Sparkman
Hartke	McIntyre	Stafford
Haskell	Metcalf	Stennis
Hatfield	Metzenbaum	Stevens
Hathaway	Mondale	Stevenson
Hollings	Moss	Symington
Huddleston	Muskie	Taft
Hughes	Nelson	Tunney
Humphrey	Nunn	Weicker
Jackson	Pastore	Williams

NAYS—24

Bartlett	Dominick	McClure
Beall	Fannin	Pearson
Bennett	Goldwater	Roth
Brock	Griffin	Scott, William L.
Buckley	Gurney	Talmadge
Byrd, Harry F., Jr.	Hansen	Thurmond
Cotton	Helms	Tower
Curtis	Hruska	
	McClellan	

NOT VOTING—10

Bellmon	Fulbright	Packwood
Domenici	Inouye	Young
Eastland	Long	
Fong	Montoya	

So the amendment (No. 1611) was agreed to.

The PRESIDING OFFICER (Mr. PELL). The bill is open to further amendment. If there be no further amendment to be proposed, the question recurs on agreeing to the amendment of the Senator from Indiana in the nature of a substitute for the committee amendment, as amended.

Mr. BAYH. Mr. President, I am prepared for the vote on that question, but I have been approached by the distinguished junior Senator from New York. He said he had an amendment.

Mr. MANSFIELD. Mr. President, will the Senator yield briefly so I can make an announcement?

Mr. BAYH. I yield.

ORDER OF BUSINESS ON S. 5 AND S. 2642

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 565, S. 5, and Calendar No. 574, S. 2642, be taken off General Orders on the Legislative Calendar and placed under Subjects on the Table.

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

MEMORIAL SERVICES FOR THE LATE SENATOR WAYNE MORSE

Mr. MANSFIELD. Mr. President, for the information of the Senate—and I am glad the distinguished senior Senator from Oregon is here—it is my understanding that memorial services for our former colleague, the late Senator Wayne Morse will be held in the Washington Cathedral at 10:50 a.m. on Tuesday morning next.

For the information of the Senate, the Senate will not begin consideration of its legislative business, although there may be special orders ahead of that, until the hour of 12 o'clock, so that the late Senator Morse's colleagues in this body who desire to attend the services will be fully protected.

SUSPENSION OF DUTIES ON BICYCLE PARTS—MESSAGE FROM THE HOUSE

Mr. TALMADGE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 6642.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 6642) to suspend the duties of certain bicycle parts and accessories until the close of December 31, 1976, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. TALMADGE. I move that the Senate insist upon its amendments and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Messrs. LONG, TALMADGE, HARTKE, BENNETT, and CURTIS, conferees on the part of the Senate.

JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

The Senate continued with the consideration of the bill (S. 821) to improve the quality of juvenile justice in the United States and to provide a comprehensive, coordinated approach to the problems of juvenile delinquency, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana in the nature of a substitute, as amended.

Mr. BAYH addressed the Chair.

Mr. BIBLE. Mr. President, may we have order. It is impossible to hear anybody. I cannot even hear my neighbor.

Mr. BAYH. Mr. President, for the advice of our colleagues here, this measure is ready to go to third reading. The yeas and nays have been ordered, but I feel obligated to the junior Senator from New York (Mr. BUCKLEY) to wait until he presents us with a written amendment which, as he described it to me, deals with privacy in the way tests are administered to young people in institutions, and which may be acceptable.

I do not want to say in advance that I will accept it, until I have read it, but we are just in a little hiatus here pending the arrival of the Senator from New York.

Mr. JAVITS. Mr. President, as the colleague of the Senator from New York, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. BAYH. Mr. President, I ask that it not be charged to either side.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER OF BUSINESS

Mr. BIBLE. Mr. President, will the Senator yield to me for 3 minutes?

Mr. BAYH. Mr. President, I yield 3 minutes to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

DEATH OF FORMER SENATOR WAYNE MORSE

Mr. BIBLE. Mr. President, the sad news of the death of our long-time friend and colleague, former Senator Wayne Morse, came as a special shock to me. The Senator from Oregon was a man of deep and abiding principles. A tireless and fearless legislator in the best tradition of the U.S. Senate. His energy knew no bounds. His vigorous pursuit of public service right up to the end set an example for all of us. His physical and intellectual stamina would do credit to a man half his age.

My association with Wayne Morse spanned some 14 years of his active service here in the Senate. We served together on the District of Columbia Committee where Senator Morse championed the cause of home rule for the Nation's Capital time and again and long before it finally came to pass in the present Congress. He led the successful fight for an elected school board for the District of Columbia and was the prime mover of the legislation that established Washington's higher education system, the Federal City College, and the Washington Technical Institute. That Senator Morse found the time and the energy to champion and advance the rights and interests of the people of this Capital City for so many years while at the same time addressing the great national and international issues that beset the Nation during his service here demonstrated his deep concern for the rights and welfare of our people—particularly our disadvantaged people. The Nation's Capital lost one of its greatest advocates when Wayne Morse left the Senate.

On the broader stage of world and national affairs, Wayne Morse leaves an immensely impressive legacy. History will specially note his lonely and courageous stand in opposition to the Gulf of Tonkin resolution along with our other late colleague, former Senator Ernest Gruening of Alaska. That vote reflected Senator Morse's prophetic vision of the deep tragedy that our Nation's involvement in Southeast Asia ultimately brought to our people. He voted his conscience against the tide of the times. His vote and voice on that issue were characteristic of his determination to do what he believed to be right, regardless of the consequences.

Senator Morse is also properly renowned for his great knowledge and expertise in the area of labor law. His record as an outstanding statesman of the labor movement is well and widely known. He served as chairman of the President's Railway Emergency Board in 1941, as an alternate public member of the National Defense Mediation Board in 1941, and as a public member of the National War Labor Board from 1942–44. He was dedicated to the rule of fairness in labor matters and to the protection of the rights of every working man and woman.

Wayne Morse's long-time chairmanship of the Senate Subcommittee on Education and his achievements in that capacity alone have carved out a special place for him in history. Much of the enduring education legislation on the books today—a great deal of the progress we have made in education over the last three decades—bears his imprint and remains as a memorial to his vision on behalf of the young people of America.

The list of Senator Morse's achievements is remarkably long and impressive. He was, however, first and foremost a man of great wisdom and principle. An aggressive and able defender of what he believed to be right. A great debater and orator in the finest tradition of the Senate. He was in a very real sense the "Conscience of the Senate" in his time. He brought to this body an independence of spirt and a dedication to truth and justice that benefited us all.

Mr. President, now Wayne Morse the man, an outstanding Senator, a great American is gone. But his record—the history he made here—is firmly established for all to see, remember, and to emulate. It is a bright and challenging chapter in the history of this body.

I have lost a good and close friend and colleague. He will be sorely missed. Mrs. Bible and I extend our heartfelt condolences to Senator Morse's widow Midge and all the members of her family in this time of sorrow.

JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

The Senate continued with the consideration of the bill (S. 821) to improve the quality of juvenile justice in the United States and to provide a comprehensive, coordinated approach to the problems of juvenile delinquency, and for other purposes.

Mr. BUCKLEY. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 38, line 18, insert the following after the period.

"(F) Any non-adjudicated juvenile shall not be made to partake in a program of behavior modification involving the use of drugs or electrical stimula or other potentially harmful treatment as a part of any such program authorized in whole or in part by this Act without the prior approval of his parents or guardian."

Mr. BUCKLEY. Mr. President, the purpose of the amendment is to address a situation which has commanded the headlines in recent days. I refer to the CHAMPUS hearings where we have heard that juveniles, who have not been convicted of any wrongdoing, have been subjected to questionable procedures designed to alter their delinquent behavior, which were, in my estimation, shocking. All of this has come about without the consent of the parents or the natural guardians of such juveniles.

The sole purpose of the amendment is to make sure that Federal money will not be used to subsidize programs which, in turn, pose a very real hazard to our young people; it will require the informed consent of those who have responsibility for those children.

I have discussed the amendment with the manager of the bill, and I understand he is prepared to accept it.

Mr. BAYH. Mr. President, I have no objection to this measure. As I said to the Senator, we are trying to do the same thing with respect to the abuse of children. Since the proposal has just this moment been submitted to us, between now and the time of the conference I would like to look at the wording with a more critical eye. I think the Senator would be tolerant of that. With that understanding, I am prepared to accept the amendment.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. BUCKLEY. I yield back my time.

Mr. BAYH. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PERCY. Mr. President, I want to commend Senator BAYH for his persistence and his deep commitment in the area of juvenile justice, which is today signified by the Senate's consideration of S. 821. This legislation fills a void which has existed for far too long. While we have too frequently sat idly by, juvenile crime has been increasing at dramatic and freightening rates. We have become on some occasions a nation almost afraid of our own children, for indeed the juvenile delinquent of today is statistically the adult felon of tomorrow.

With this legislation, we are taking the necessary steps to make sure that the much needed programs and resources are made available where they are needed—at the State and local levels. By establishing a new part F for LEAA funding, and by making sure that the interests of the juvenile are taken into consideration, we are taking a significant step toward effectively dealing with the problem of juvenile delinquency in our society.

Perhaps no one person in the Senate deserves more credit for this effort than does Senator BAYH. His dedicated efforts have now borne fruit, and he deserves our thanks. In addition, Senator MARLOW COOK has been strongly committed to the ideals expressed in this bill, and he also deserves our gratitude.

But I would also like to pay tribute to someone else who has labored long and hard in this field. Congressman TOM RAILSBACK from my home State of Illinois has been one of the early leaders in this field. His concern, his tireless efforts over the years, and his unceasing determination to get positive results in the field of juvenile justice have helped make it possible for the Congress now to have the opportunity to pass this meaningful legislation. For several Congresses he has introduced H.R. 45, which establishes an Institute for Juvenile Justice. This legislation has passed the House in a previous Congress, and I have

had the privilege of introducing it in the Senate as S. 580. I believe that through Congressman RAILSBACK's efforts in seeking the establishment of a National Institute of Justice, which is included in S. 821 in title V, he has provided the crucial impetus to both the House and the Senate to remain constant in their concern for juvenile justice.

Therefore, Mr. President, I want to indicate my support for S. 821 and for those of our colleagues who have toiled so long and who have produced such a fine piece of legislation.

Mr. MATHIAS. Mr. President, it is with great pleasure that I rise today in support of Senate passage of S. 821, the Juvenile Justice and Delinquency Prevention Act. It has been nearly 18 months since the original version of this bill was introduced in the Senate. It has been even longer since the members of the Subcommittee to Investigate Juvenile Delinquency began the task of calling to the attention of the Senate and the Nation as a whole this most pressing problem.

As a cosponsor of the bill reported by the subcommittee and of the amendment to S. 821 introduced on July 18, 1974, I believe the bill as presented today is the result of a bipartisan determination that forceful, effective legislation is needed to improve our present methods of dealing with juvenile offenders.

I think that Senator BAYH and Senator COOK, in particular, deserve special recognition for their work in this field and for the concern they have demonstrated for the young people of this country. And I wish also to call attention to the constructive input of the Senator from Nebraska (Mr. HRUSKA) on this final version of the bill.

As a member of the Senate Subcommittee to Investigate Juvenile Delinquency, I have had the bitter experience of witnessing the extent to which our present system is inadequate and often responsible for launching juvenile offenders on the road to a lifetime of serious adult crime. But, I have also had the opportunity to observe the total commitment of many individuals and organizations to finding a way of diverting these young people away from our criminal justice system toward a productive, meaningful role in society.

Unfortunately, our present system too often places impossible obstacles in the way of the most dedicated efforts. Neither the facilities, nor the funds, nor the time are afforded to expand these individual efforts into a comprehensive program.

The statistics which prove the failure of our system have been around for a long time and they are indeed staggering. Over the past decade, increases of 100 percent and more for juvenile crimes—both property crimes and violent crimes, estimates that three out of every four juveniles arrested will return to commit future crimes, billions of dollars wasted on property damage, and—the one aspect of the total problem for which there can be no statistic—the loss of an individual's worth, give the most compelling evidence that new approaches are needed now. At present, our criminal justice system does not prevent juvenile crime, it does not rehabilitate juvenile offenders, it merely processes kids in trouble.

The goal of S. 821 is to make substantial changes in the focus of our efforts in dealing with this problem. The base of operation proposed by S. 821 is the community, the small local group to which a youngster can turn. The focal point of action of the proposed program is to reach the problem youth before he is led to crime. While our efforts toward rehabilitation will also be vastly improved through community-based services, the key to success lies in prevention.

In March 1974, the Senate Subcommittee to Investigate Juvenile Delinquency reported S. 821 unanimously to the full Judiciary. In May 1974, the Judiciary Committee amended and reported the bill placing the program in the Law Enforcement Assistance Administration of the Department of Justice.

We have before us today a bill which allows for the use of the facilities, knowledge, and personnel already available at LEAA with certain caveats which will insure that the original intent of S. 821 can be achieved. While allowing for LEAA administration of the program, the present version of S. 821 assures the establishment of a Juvenile Justice and Delinquency Prevention Office headed by an administrator whose sole responsibility will be in the area of juvenile delinquency programs, retains the level of financial assistance for existing juvenile delinquency programs as LEAA maintained in 1972 plus $225 million in new funds over the next 2 years, retains administration at the State level while guaranteeing that the State planning agency be representative of agencies related to the prevention of juvenile delinquency, establishes a National Institute of Juvenile Justice within the Office of Juvenile Justice and Delinquency Prevention at LEAA to conduct research related to juvenile delinquency, and amends existing Federal law to insure that basic procedural and constitutional rights be granted to juveniles.

In 1973, during the debate on extension of the authority for LEAA, Senators BAYH, COOK, and I offered an amendment which would have established a percentage floor for the expenditure of LEAA funds on juvenile delinquency. That amendment was adopted by the Senate, but did not survive conference. At that time, LEAA did not support that measure.

Since then, officials of LEAA have come to me and have informed me that they are ready to undertake a serious and thorough effort in the field of juvenile justice. I have also received assurances of the determination of the Maryland SPA in this regard. I welcome this news.

I join with those of my colleagues who have consistently supported the philosophy of S. 821 in urging your unanimous approval of this urgently needed reform. Every nation depends on its young and many nations waste their young. Our Nation which places such a high premium on our young has failed to respond to the needs of our problem youth. Today, we are faulting the system, but the system is manmade. If we fail to act now, the fault can only be ours.

Mr. BROCK. Mr. President, several months ago I cosponsored S. 821, the Juvenile Justice and Delinquency Prevention Act of 1974. Since that time I have received overwhelming approval of my support for this measure. In recent months I have received letters from juvenile judges and other government officials, private organizations such as the YMCA and the YWCA, and countless citizens of Tennessee commending my interest in this measure.

Feeling, however, that certain portions of the bill needed improvements, I offered the Judiciary Committee a package of amendments suggesting ways of strengthening S. 821. The committee recently reported an amendment in the nature of a substitute to S. 821. This amendment received unanimous approval of the committee and reflects my recommendations. It will preserve the essence of the original Juvenile Justice and Delinquency Prevention Act while placing the program in the Law Enforcement Assistance Administration.

S. 821 is designed to provide greater coordination and effectiveness of the diverse juvenile delinquency programs now in existence. Additionally, it will encourage State and local governments to develop innovative programs to deal with delinquency and will provide funds through a block grant system to help implement these programs.

The present trend in Federal juvenile programs is a greater emphasis on preventive measures. Rather than trying to correct delinquency after it occurs, the thrust is more and more being directed toward meeting the problem early. Heavy emphasis will be put on educational and training programs with strong community involvement. There is a great need to provide a viable diversion mechanism for dealing with youth. Alternative programs utilizing resources other than the police, courts, and corrections can provide necessary rehabilitation without the harmful stigmatization that sometimes accompanies contact with the criminal juvenile justice systems.

The National Advisory Commission on Criminal Justice Standards and Goals found that the No. 1 priority in reducing crime should be given to preventing juvenile delinquency. In its report, "A National Strategy To Reduce Crime," the Commission stated:

> The highest attention must be given to preventing juvenile delinquency, to minimizing the involvement of young offenders in the juvenile and criminal justice system and to re-integrating delinquents and young offenders into the community.

Young people are of great concern to me both as this country's greatest resource and as the pool of people out of which the next group of juveniles who commit criminal acts may emerge. Any study of crime and its causes must inevitably begin with a study of juvenile delinquency, and any effort to reduce our crime problem should have juveniles as its main focus.

The problem of juvenile delinquency has risen markedly in recent years. Ju-

veniles constitute nearly one-half of the people arrested for serious crime in this country, and the rate of increase outstrips that of adult arrests. Juveniles under 18 are responsible for 51 percent of the total arrests for property crimes, 23 percent for violent crimes, and 45 percent of all serious crime. From 1960 to the present, arrests of juveniles under 18 for violent crimes, such as murder, rape, and robbery, increased 216 percent. During that same period, arrests of juveniles for property crimes, such as burglary and auto theft, increased 91 percent. Between 1960 and 1970, total juvenile arrests increased almost seven times faster than total adult arrests, and juvenile arrests for violent crimes increased almost three times faster than adult arrests. Recidivism rates for juvenile offenders are estimated to range from 60 to 75 percent and higher. For example, the FBI found that 74 percent of the offenders under 20 released in 1965 were rearrested by the end of 1968.

While crime and delinquency is essentially a State and local problem which must be dealt with by the State and local governments, Federal assistance is helpful and necessary to provide needed financial assistance and resources. However, there presently exists virtually no central responsibility or coordinating function for the hundreds of juvenile delinquency programs presently conducted by numerous agencies within the Federal Government. There is no centralized leadership, no accepted national priorities, and no bureaucratic accountability for juvenile programs at the Federal level. As a result, these programs frequently overlap and become duplicative in nature or else they have gaps in responsibility.

S. 821 and the recently proposed committee amendment will provide greater coordination on the Federal level and maximum input and diversity on the State level. Establishing the program under LEAA will assure the continuation of the extensive juvenile programs already conducted by LEAA and will minimize the time lag in implementing new programs. From a practical standpoint, it has been estimated that at least 3 years would pass before any results could be expected from this legislation if it were not placed within LEAA.

Although the LEAA has often been cast in a light of a police-oriented program, such a characterization is not consistent with either the LEAA legislation or its implementation. Crime control legislation has been consistently broadened in the past few years to include the prevention, control, and reduction of juvenile delinquency, and this legislation is applicable to LEAA. Since 1968, LEAA has funded millions of dollars in programs for delinquency prevention and juvenile justice with little direct prodding from Congress. Richard W. Velde, LEAA Associate Administrator, reported to the Senate Committee on the Judiciary, Subcommittee To Investigate Juvenile Delinquency that—

During fiscal 1972, L.E.A.A. awarded nearly $140 million on a wide-ranging juvenile delinquency program. More than $21 million or fifteen percent, was for prevention; nearly sixteen million, or twelve percent, was for diversion; almost forty-one million or thirty percent went for rehabilitation; thirty-three million, or twenty-four percent, was spent to upgrade resources; seventeen million, or thirteen percent, went for drug abuse programs; and eight million or six percent, financed the comprehensive juvenile delinquency component of the High Impact Anti-Crime Program.

S. 821 as amended promises to further expand and improve these already existing juvenile programs. By placing the agency in LEAA, we will avoid the lag time, administrative foulups, and growing pains of starting a new program from scratch. LEAA has already experienced and largely overcome these problems, and there is no sense in subjecting ourselves to this problem anew. LEAA has clearly taken the initiative while HEW has not.

The substitute amendment to S. 821 provides several technical changes conforming it more closely to existing law, particularly the Omnibus Crime Control and Safe Streets Act of 1968. Changes brought by the amendment to S. 821 include:

First, the requirement that the State planning agency administering the juvenile program include representatives of citizen, professional, and community organizations;

Second, the provision for an Assistant Administrator to head the Office of Juvenile Justice and Delinquency Prevention who shall be appointed by the President with the advice and consent of the Senate. This provision will assure accountability and also direct responsibility for efficient implementation.

Third, the provision for the establishment of a National Institute of Juvenile Justice to serve as an information clearinghouse and to conduct evaluation, research, and training; and

Fourth, an additional provision that at least 20 percent of the block grant funds be made available to private nonprofit agencies, organizations, and institutions who have had experience in dealing with youth. The fact that private individuals and organizations can be drawn into this program assures maximum input and interest as well as maximum community involvement in solving the problem.

I have been in contact with officials from my home State of Tennessee, and they have voiced their support for the LEAA approach as being more practicable and workable from their viewpoint. Nationwide, there are over 50 LEAA State planning agencies already in operation, a fact which should minimize the problems in implementing this bill. Private groups have voiced some concern about the LEAA being too police oriented. However, the Judiciary Committee and I both feel assured that this legislation will not only provide a sound overall approach to the delinquency problem, but will increase the role of private organizations above what it has been in the past. Moreover, there will be greater coordination and accountability of existing programs. I am most honored to have been a part of this bill and appreciate the assistance and advice of the members of the Judiciary Committee with whom I have consulted. I congratulate them on their efforts, and I support S. 821 and the committee's substitute amendment.

Mr. KENNEDY. Mr. President, I am pleased to have this opportunity to express my support for the legislation before the Senate at this time. I share the sentiments of those Senators who wish to take steps to alleviate the presently grave and constantly worsening problems of juvenile delinquency and to improve the quality of juvenile justice in the United States.

This legislation can provide many young delinquents with new opportunities to lead the lives of honest and respected citizens. And even better, its provisions can be instrumental in saving a large number of youths from ever becoming delinquents.

It can only be in our Nation's greatest interest to establish a comprehensive policy to deal with the problems of juvenile delinquency. The benefits of improved juvenile justice will accrue not only to young delinquents, but to the entire society.

Unfortunately, the delinquents and their families are not the only ones to suffer as a result of the youths' criminal activities. Because of the very nature of juvenile delinquency, unsuspecting members of society often suffer tremendous personal and property losses. And many others are forced to live with the frightening prospects of becoming the next victims.

The seven titles of this legislation are designed to develop methods of preventing and reducing juvenile delinquency and to provide improved justice for those juveniles who actually become delinquents.

Title I introduces the purposes of the bill. These include: First, the coordination of Federal delinquency programs; second, the authorization of new resources to improve the quality of juvenile justice and to develop more effective methods of preventing and reducing juvenile delinquency; third, the centralization of research, training, technical assistance, and evaluation activities; fourth, the development of national guidelines for the administration of juvenile justice; and fifth, the adoption of basic procedural protections for juveniles under Federal jurisdiction. In sum, the basic objective of this bill is to provide more Federal leadership and assistance in a field in which there is absolutely too little governmental effort. The greater Federal initiative will provide more resources for the development and implementation of effective programs for treatment and prevention of juvenile delinquency at the State and local levels.

Title II amends the Federal Juvenile Delinquency Act, unchanged for the past 35 years, to guarantee certain basic rights to juveniles under Federal jurisdiction. Its provisions are designed to bring Federal procedures up to the standards established by more recent State codes, court decisions, and several model acts.

In cases of alleged juvenile delinquency, Federal courts would normally be required to defer to State courts. This provision is necessary, because the Fed-

eral correctional system has never been prepared to deal with large numbers of juveniles. The degree of Federal unpreparedness would consequently necessitate the transferral of many juveniles away from their home communities for treatment. As one of the more specific purposes of the bill is to provide more community-based alternatives to the traditional juvenile correctional facilities, greater direct involvement of the Federal correctional system would be presently self-defeating.

There are instances, however, where the Federal courts have jurisdiction. In such cases, the Attorney General must certify that the State does not have jurisdiction or cannot provide rehabilitative programs for the detained juveniles. Upon Federal assumption of jurisdiction, the guarantee of basic rights to detained juveniles becomes extremely important. Each juvenile's attitude toward society and his ability to cope with life upon his release will be affected by the treatment received while under detention. We must not permit our young people to be detained under conditions which, instead of preparing them to face life with greater optimism, will assure their future criminality.

Title III establishes a Juvenile Justice and Delinquency Prevention Office within the Department of Justice, Law Enforcement Assistance Administration. The office is to coordinate the overall Federal juvenile delinquency effort. An assistant administrator will head the office and will hold broad powers subject to the direction of the Administrator of the Law Enforcement Assistance Administration. In carrying out his duties, the administrator will be authorized to, first, advise the President through the Attorney General in matters pertaining to Federal polices regarding juvenile delinquency; second, assist operating agencies having responsibilities for the prevention and treatment of juvenile delinquency; third, conduct evaluations and studies of the performance and results of Federal juvenile programs; fourth, implement Federal juvenile delinquency programs among Federal departments and agencies; fifth, develop annually with the assistance of the Advisory Committee, and submit to the President and the Congress, an analysis and evaluation of Federal juvenile delinquency programs; sixth, develop annually, with the assistance of the Advisory Committee and submit to the President and the Congress, a comprehensive plan for Federal juvenile delinquency programs; and seven, provide technical assistance to Federal, State, and local governments, courts, public and private agencies, institutions, and individuals in their juvenile delinquency programs.

As the central coordinator of the Federal juvenile delinquency effort, the Office of Juvenile Justice and Delinquency Prevention is very important. There is little disagreement that the present Federal effort lacks direction and is terribly fragmented and has hardly any impact in reducing the increasing rate of juvenile delinquency. The office will hopefully answer the obvious need for a centralized Federal response. There should be an office in the Federal Government which deals with the problems of juvenile delinquency on the Federal, State, and local levels.

Title III additionally establishes an Interdepartmental Council on Juvenile Delinquency composed of the Attorney General; the Secretary of Health, Education, and Welfare; the Secretary of Labor; the Director of the Special Action Office for Drug Abuse Prevention; the Secretary of Housing and Urban Development; or their respective designees, and representatives of other agencies which the President might designate. The council is to coordinate all Federal juvenile delinquency programs, meet at least six times a year, and include its activities in the annual report of the Administrator of the Law Enforcement Assistance Administration.

The council's activities should provide added direction to the Federal attack on the juvenile delinquency problem.

A National Advisory Committee for Juvenile Justice and Delinquency Prevention will meet at least four times a year to advise the Administrator with respect to all Federal juvenile delinquency programs. The Advisory Committee will be composed of individuals whom the Attorney General will appoint, because of special training and knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice and members of the Interdepartmental Council ex officio. As a result of the work of the Advisory Committee, it is expected that the Federal programs will receive a greater degree of citizen input and cooperation.

Titles IV and VI provide for Federal financial assistance for State and local juvenile delinquency programs. The Administrator is authorized to provide grants to State and local governments to assist them in planning, managing, and evaluating their programs. To receive Federal grants, however, a State must submit a practical plan for carrying out the purposes of this bill. The State's plan must be representative of juvenile delinquency prevention and control agencies and must involve representatives of private delinquency prevention groups.

Seventy-five percent of the authorized State funds must be used on advanced techniques in developing and maintaining services to prevent juvenile delinquency and to provide community-based alternatives to juvenile detention facilities. These alternatives would include the development of foster care homes, comprehensive programs of drug abuse education and prevention, greater use of probation and probation subsidy programs, and youth counseling services for delinquents, potential delinquents, and their families.

The Law Enforcement Assistance Administration must continue the same level of financial assistance for juvenile delinquency programs assisted in 1972 in addition to the newly authorized grants. Consequently the new grants will be doubly helpful in that they will provide needed funds to underfinanced State programs, and they will provide the needed motivation to develop delinquency prevention programs where no official interest exists.

The financial provisions of this bill authorize direct special emphasis grants to public and private agencies to develop new effective programs. At least 20 percent of these funds must go to private nonprofit agencies. Greater assistance to private agencies will hopefully increase citizen participation, and I believe that the larger degree of citizen participation will prolong the official interest in attacking the growing rate of juvenile delinquency. The experience and knowledge of private organizations should prove of invaluable benefit to the Federal effort.

Title V establishes a National Institute for Juvenile Justice within the Juvenile Justice and Delinquency Prevention Office. Under the supervision of a Deputy Assistant Administrator, the Institute will serve as a clearinghouse for delinquency information. Research, demonstration, and evaluation will be basic functions of the Institute. The Institute should be especially valuable in that its rather constant evaluation of the various programs should be able to pinpoint the more effective ones which can then serve as national models.

In addition, the institute will be responsible for training personnel throughout the country for work in the juvenile justice field. This training will be especially valuable to policemen and correctional personnel. Additional personnel will be trained, however, in the field of delinquency prevention.

Finally, title VII establishes a National Institute of Corrections within the Bureau of Prisons. Under the supervision of an Advisory Board, the Institute of Corrections will serve as a clearinghouse for information on corrections, including programs for the prevention of delinquency. In addition, the Institute of Corrections will assist and advise in the implementation and improvement of Federal, State, and local corrections programs.

We have gone beyond the point where a more adequate approach to the juvenile delinquency crisis is needed, but fortunately, we are not too late. It is paramount that the Federal Government develop more effective means of preventing and controlling delinquency before we are forced to witness its growth to presently unimaginable proportions. We can continue to utilize the traditional method of detaining children in institutions where brutality often is the rule and they return to society more alienated than ever. Or we can take the initiative now and develop new methods for redirecting the behavior of these youngsters that endangers society.

The Federal Government is behind many States and localities in following this new path. This lack of Federal initiative is regrettable, because the Federal Government has more needed resources than are available at the State and local levels. Many localities, upon attempting to develop more adequate means of handling its juvenile delinquents, find that the resources just do not exist. Thus, I am firmly convinced that a Federal initiative is absolutely

necessary. Not only will a more coordinated Federal effort improve the Federal juvenile justice system, but the allocation of Federal funds to State and local communities will be of great benefit to this country.

In discussing the problems of juvenile delinquency, we sometimes have an unwarranted sense of personal detachment. We think of those "young criminals" who should either be helped or destroyed, depending upon one's moral and political points of view. All of us forget much much too often, however, that the problems of juvenile delinquents are not limited to the "young criminals." The entire society feels their presence all across the Nation and especially in the large urban centers. Juvenile crime costs the society billions of dollars each year. Even worse, no one will ever be able to place a monetary value on the resulting loss of life.

Yet the present correctional system has been unable to cope with the frightening specter of increasing juvenile crime. From 1962 to 1972, arrests of juveniles for violent crimes increased by 148 percent, and their arrests for property crimes rose by 85 percent. Perhaps the picture becomes clearer with the awareness that children between the ages of 10 and 17 compose only 16 percent of the Nation's population, yet they make up more than 48 percent of the arrests for serious crimes.

Mr. President, I believe that the measure before us deserves the full support of this Senate and I urge my colleagues to vote for the approval of this substitute provision to establish the Juvenile Justice and Prevention Act.

Mr. HELMS. Mr. President, the bill before us is entitled the "Juvenile Justice and Delinquency Prevention Act of 1974." It is very reassuring, comforting even, to believe that by the stroke of a pen, and the expenditure of some $600 million over the next 3 years, that juvenile delinquency can be prevented. We are told that all the Federal programs for the prevention of juvenile delinquency have been ineffective, that juvenile delinquency is on the upswing, and that, therefore, the logical response is one big Federal program. If we carry this logic out further, reason will force us to conclude that the one big program will be infinitely more ineffective. Indeed, many will not agree, but I think that this bill should be entitled the "Juvenile Delinquency Promotion Act."

It is my view that this bill is profoundly unwise for reasons that go both to form and substance. Essentially, this is a bill for the federalization of juvenile justice. Ostensibly it applies only to Federal courts, but its impact is to impose Federal controls that will apply throughout the administration of juvenile justice at every level. Indeed, this bill is predicated upon the finding, and I quote, that—

> States and local communities . . . do not presently have sufficient technical expertise or adequate resources to deal comprehensively with the problems of juvenile delinquency.

Therefore, we are told:

> Juvenile delinquency constitutes a growing threat to the national welfare requiring immediate, comprehensive, and effective action by the Federal Government.

By these standards, every problem is a Federal problem, and there is no place for the States, except as a convenient administrative unit.

Therefore we find that the purpose of this act is "to provide for the thorough and prompt evaluation of all federally assisted juvenile delinquency programs."

And so the machinery is set up for the Federal takeover. Under "definitions" in section 103, we find that "the term 'Federal juvenile delinquency program' means any juvenile delinquency program which is conducted, directly, or indirectly, or is assisted by any Federal department or agency, including any program funded under this act."

By the time the grant money authorized in this act is passed out, this definition will include—directly or indirectly—every juvenile delinquency program in this country. Indeed, under title V, a National Institute for Juvenile Justice is set up which will develop standards "for the administration of juvenile justice at the Federal, State, and local level." Federal action will be "recommended," and the power of the purse will be the power to enforce. Once a local community is hooked—and they will be hooked even before the "standards" are set up—it will be hard to give up that Federal money.

Aside from the erosion this program will cause to our constitutional system, a few words must be said about its substantive content. If there were any reason to believe that the Federal Government were the repository of wisdom about juvenile delinquency prevention, the practical effects of the bill might be good. But as soon as we start reading it, we find out about the necessity to "divert" juvenile offenders from the traditional system of justice, to put them in "community-based programs," based upon "consumer participation" in planning and operation. "Consumer participation" means that the criminals themselves will decide how the centers will be run. If the criminals are running the jails—no matter what you call them—then what kind of a system of justice will we have?

Throughout, the bill reflects the idea that juvenile offenders must receive "treatment," either on an "outpatient" or "inpatient" basis. The concept that crime is a disease is a discredited one, and one that puts the well-being of the criminal above the protection of society. The rise in criminal recidivism may well be reflected in the rise of such concepts.

Thus this bill is based upon the Federal takeover of juvenile justice, and the imposition through, to quote the bill, "the concentration of Federal programs" of a discredited concept of sociological justice. The imposition of programs through central power is dangerous because, if the idea is faulty, a faulty concept is imposed upon the whole country. If a State or city makes a mistake, only that area suffers. If the Federal bureaucracy makes a mistake and imposes it on the whole country, then the whole country suffers. I believe that this bill is wrong on both counts. The federalization of local programs is a bad concept, and the specific juvenile delinquency prevention program imposed through federalization in this bill is wrong. I, therefore, shall vote against it, even if I am the only Senator to do so.

Mr. BAYH. Mr. President, I ask that the Senate agree to the substitute amendment No. 1587, as amended.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the amendment (No. 1587) in the nature of a substitute, as amended.

The amendment, as amended, 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 for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from New Mexico (Mr. MONTOYA), the Senator from Arkansas (Mr. FULBRIGHT), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New Mexico (Mr. DOMENICI), the Senator from Hawaii (Mr. FONG), the Senator from Oregon (Mr. PACKWOOD), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico (Mr. DOMENICI) and the Senator from Hawaii (Mr. FONG) would each vote "yea."

The result was announced—yeas 88, nays 1, as follows:

[No. 331 Leg.]

YEAS—88

Abourezk	Ervin	Mondale
Aiken	Fannin	Moss
Allen	Goldwater	Muskie
Baker	Gravel	Nelson
Bartlett	Griffin	Nunn
Bayh	Gurney	Pastore
Beall	Hansen	Pearson
Bennett	Hart	Pell
Bentsen	Hartke	Percy
Bible	Haskell	Proxmire
Biden	Hatfield	Randolph
Brock	Hathaway	Ribicoff
Brooke	Hollings	Roth
Buckley	Hruska	Schweiker
Burdick	Huddleston	Scott, Hugh
Byrd, Harry F., Jr.	Hughes	Scott, William L.
Byrd, Robert C.	Humphrey	Sparkman
Cannon	Jackson	Stafford
Case	Javits	Stennis
Chiles	Johnston	Stevens
Church	Kennedy	Stevenson
Clark	Magnuson	Symington
Cook	Mansfield	Taft
Cotton	Mathias	Talmadge
Cranston	McClellan	Thurmond
Curtis	McClure	Tower
Dole	McGee	Tunney
Dominick	McGovern	Weicker
Eagleton	McIntyre	Williams
	Metzenbaum	

NAYS—1

Helms

NOT VOTING—11

Bellmon	Fulbright	Montoya
Domenici	Inouye	Packwood
Eastland	Long	Young
Fong	Metcalf	

So the bill (S. 821) was passed, as follows:

S. 821

An Act to improve the quality of justice in the United States and to provide a comprehensive, coordinated approach to the problems of juvenile delinquency, and for other purposes.

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 "Juvenile Justice and Delinquency Prevention Act of 1974".

TITLE I—FINDINGS AND DECLARATION OF PURPOSE

SEC. 101. (a) Section titled "Declaration and Purpose" in title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 197; 84 Stat. 1881; 87 Stat. 197), is amendedd by inserting immediately after the second paragraph thereof the following new paragraph:

"Congress finds further that the high incidence of delinquency in the United States today results in enormous annual cost and immeasurable loss in human life, personal security, and wasted human resources, and (2) that juvenile delinquency constitutes a growing threat to the national welfare requiring immediate and comprehensive action by the Federal Government to reduce and prevent delinquency."

(b) Such section is further amended by adding at the end thereof the following new paragraph:

"It is therefore the further declared policy of Congress to provide the necessary resources, leadership, and coordination to (1) develop and implement effective methods of preventing and reducing juvenile delinquency; (2) to develop and conduct effective programs to prevent delinquency, to divert juveniles from the traditional juvenile justice system and to provide critically needed alternatives to institutionalization; (3) to improve the quality of juvenile justice in the United States; and (4) to increase the capacity of State and local governments and public and private agencies to conduct effective juvenile justice and delinquency prevention and rehabilitation programs and to provide research, evaluation, and training services in the field of juvenile justice and delinquency prevention."

DEFINITIONS

SEC. 103. Section 601 of title 1 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 197; 84 Stat. 1881; 87 Stat. 197), is further amended by adding the following new subsections:

"(p) the term 'community based' facility, program, or service, as used in part F, means a small, open group or home or other suitable place located near the adult offender's or juvenile's home or family and programs of community supervision and service which maintain community and consumer participation in the planning, operation, and evaluation of their programs which may include, but are not limited to, medical, educational, vocational, social, and psychological guidance, training, counseling, drug treatment, and other rehabilitative services;

"(q) the term 'Federal juvenile delinquency program' means any juvenile delinquency program which is conducted, directly, or indirectly, or is assisted by any Federal department or agency, including any program funded under this Act;

"(r) the term 'juvenile delinquency program' means any program or activity related to juvenile delinquency prevention, control, diversion, treatment, rehabilitation, planning, education, training, and research, including drug abuse programs; the improvement of the juvenile justice system; and any program or activity for neglected, abandoned, or dependent youth and other youth who are in danger of becoming delinquent."

TITLE II—AMENDMENTS TO THE FEDERAL JUVENILE DELINQUENCY ACT

SEC. 201. Section 5031 of title 18, United States Code, is amended to read as follows:

"§ 5031. Definitions

"For the purposes of this chapter, a 'juvenile' is a person who has not attained his eighteenth birthday, or for the purpose of proceedings and disposition under this chapter for an alleged act of juvenile delinquency, a person who has not attained his twenty-first birthday, and 'juvenile delinquency' is the violation of a law of the United States committed by a person prior to his eighteenth birthday which would have been a crime if committed by an adult."

DELINQUENCY PROCEEDINGS IN DISTRICT COURTS

SEC. 202. Section 5032 of title 18, United States Code, is amended to read as follows:

"§ 5032. Delinquency proceedings in district courts; transfer for criminal prosecution

"A juvenile alleged to have committed an act of juvenile delinquency shall not be proceeded against in any court of the United States unless the Attorney General, after investigation, certifies to an appropriate district court of the United States that the juvenile court or other appropriate court of a State (1) does not have jurisdiction or refuses to assume jurisdiction over said juvenile with respect to such alleged act of juvenile delinquency, or (2) does not have available programs and services adequate for the needs of juveniles.

"If the Attorney General does not so certify, such juvenile shall be surrendered to the appropriate legal authorities of such State.

"If an alleged juvenile delinquent is not surrendered to the authorities of a State or the District of Columbia pursuant to this section, any proceedings against him shall be in an appropriate district court of the United States. For such purposes, the court may be convened at any time and place within the district, in chambers or otherwise. The Attorney General shall proceed by information, and no criminal prosecution shall be instituted for the alleged act of juvenile delinquency except as provided below.

"A juvenile who is alleged to have committed an act of juvenile delinquency and who is not surrendered to State authorities shall be proceeded against under this chapter unless he has requested in writing upon advice of counsel to be proceeded against as an adult, except that, with respect to a juvenile sixteen years and older alleged to have committed an act after his sixteenth birthday which if committed by an adult would be a felony punishable by a maximum penalty of ten years imprisonment or more, life imprisonment, or death, criminal prosecution on the basis of the alleged act may be begun by motion to transfer of the Attorney General in the appropriate district court of the United States, if such court finds, after hearing, such transfer would be in the interest of justice.

"Evidence of the following factors shall be considered, and findings with regard to each factor shall be made in the record, in assessing whether a transfer would be in the interest of justice: the age and social background of the juvenile; the nature of the alleged offense; the extent and nature of the juvenile's prior delinquency record; the juvenile's present intellectual development and psychological maturity; the nature of past treatment efforts and the juvenile's response to such efforts; the availability of programs designed to treat the juvenile's behavioral problems.

"Reasonable notice of the transfer hearing shall be given to the juvenile, his parents, guardian, or custodian and to his counsel. The juvenile shall be assisted by counsel during the transfer hearing, and at every other critical stage of the proceedings.

"Once a juvenile has entered a plea of guilty or the proceeding has reached the stage that evidence has begun to be taken with respect to a crime or an alleged act of juvenile delinquency subsequent criminal prosecution or juvenile proceedings based upon such alleged act of delinquency shall be barred.

"Statements made by a juvenile prior to or during a transfer hearing under this section shall not be admissible at subsequent criminal prosecutions."

CUSTODY

SEC. 203. Section 5033 of title 18, United States Code is amended to read as follows:

"§ 5033. Custody prior to appearance before magistrate

"Whenever a juvenile is taken into custody for an alleged act of juvenile delinquency, the arresting officer shall immediately advise such juvenile of his legal rights, in language comprehensible to a juvenile, and shall immediately notify the Attorney General and the juvenile's parents, guardian, or custodian of such custody. The arresting officer shall also notify the parents, guardian, or custodian of the rights of the juvenile and of the nature of the alleged offense.

"The juvenile shall be taken before a magistrate forthwith. In no event shall the juvenile be detained for longer than a reasonable period of time before being brought before a magistrate."

DUTIES OF MAGISTRATE

SEC. 204. Section 5034 of title 18, United States Code, is amended to read as follows:

"§ 5034. Duties of magistrate

"The magistrate shall insure that the juvenile is represented by counsel before proceeding with critical stages of the proceedings. Counsel shall be assigned to represent a juvenile when the juvenile and his parents, guardian, or custodian are financially unable to obtain adequate representation. In cases where the juvenile and his parents, guardian, or custodian are financially able to obtain adequate representation but have not retained counsel, the magistrate may assign counsel and order the payment of reasonable attorney's fees or may direct the juvenile, his parents, guardian, or custodian to retain private counsel within a specified period of time.

"The magistrate may appoint a guardian ad litem if a parent or guardian of the juvenile is not present, or if the magistrate has reason to believe that the parents or guardian will not cooperate with the juvenile in preparing for trial, or that the interests of the parents or guardian and those of the juvenile are adverse.

"If the juvenile has not been discharged before his initial appearance before the magistrate, the magistrate shall release the juvenile to his parents, guardian, custodian, or other responsible party (including, but not limited to, the director of a shelter-care facility) upon their promise to bring such juvenile before the appropriate court when requested by such court unless the magistrate determines, after hearing, at which the juvenile is represented by counsel, that the detention of such juvenile is required to secure his timely appearance before the appropriate court or to insure his safety or that of others."

DETENTION

SEC. 205. Section 5035 of this title is

"§ 5035. Detention prior to disposition.

amended to read as follows:

"A juvenile alleged to be delinquent may be detained only in a juvenile facility or such other suitable place as the Attorney General may designate. Whenever possible, detention shall be in a foster home or community based facility located in or near his home community. The Attorney General shall not cause any juvenile alleged to be delinquent to be detained or confined in any institution in which the juvenile has regular contact with adult persons convicted of a crime or awaiting trial on criminal charges are confined. Insofar as possible, alleged delinquents shall be kept separate from adjudicated delinquents. Every juvenile in custody shall be provided with adequate food, heat, light, sanitary facilities, bedding, clothing, recreation, education, and medical care, including necessary psychiatric, psychological, or other care and treatment."

SPEEDY TRIAL

SEC. 206. Section 5036 of this title is amended to read as follows:

"§ 5036. Speedy trial

"If an alleged delinquent who is in detention pending trial is not brought to trial within thirty days from the date upon which such detention was begun, the information shall be dismissed on motion of the alleged delinquent or at the direction of the court, unless the Attorney General shows that additional delay was caused by the juvenile or his counsel, or consented to by the juvenile and his counsel, or would be in the interest of justice in the particular case. Delays attributable solely to court calendar congestion may not be considered in the interest of justice. Except in extraordinary circumstances, an information dismissed under this section may not be reinstituted.

DISPOSITION

SEC. 207. Section 5037 is amended to read as follows:

"§ 5037. Dispositional hearing

"(a) If a juvenile is adjudicated delinquent, a separate dispositional hearing shall be held no later than twenty court days after trial unless the court has ordered further study in accordance with subsection (c). Copies of the presentence report shall be provided to the attorneys for both the juvenile and the Government a reasonable time in advance of the hearing.

"(b) The court may suspend the adjudication of delinquency or the disposition of the delinquent on such conditions as it deems proper, place him on probation, or commit him to the custody of the Attorney General. Probation, commitment, or commitment in accordance with subsection (c) shall not extend beyond the juvenile's twenty-first birthday or the maximum term which could have been imposed on an adult convicted of the same offense, whichever is sooner, unless the juvenile has attained his nineteenth birthday at the time of disposition, in which case probation, commitment, or commitment in accordance with subsection (c) shall not exceed the lesser of two years or the maximum term which could have been imposed on an adult convicted of the same offense.

"(c) If the court desires more detailed information concerning an alleged or adjudicated delinquent, it may commit him, after notice and hearing at which the juvenile is represented by counsel, to the custody of the Attorney General for observation and study by an appropriate agency. Such observation and study shall be conducted on an outpatient basis, unless the court determines that inpatient observation and study are necessary to obtain the desired information. In the case of an alleged juvenile delinquent, inpatient study may be ordered only with the consent of the juvenile and his attorney. The agency shall make a complete study of the alleged or adjudicated delinquent to ascertain his personal traits, his capabilities, his background, any previous delinquency or criminal experience, any mental or physical defect, and any other relevant factors. The Attorney General shall submit to the court and the attorneys for the juvenile and the Government the results of the study within thirty days after the commitment of the juvenile, unless the court grants additional time."

JUVENILE RECORDS

SEC. 208. Section 5038 is added. to read as follows:

"§ 5038. Use of juvenile records

"(a) Throughout the juvenile delinquency proceeding, the court shall safeguard the records from disclosure. Upon the completion of any juvenile delinquency proceeding whether or not there is an adjudication the district court shall order the entire file and record of such proceeding sealed. After such sealing, the court shall not release these records except to the extent necessary to meet the following circumstances:

"(1) inquiries received from another court of law;

"(2) inquiries from an agency preparing a presentence report for another court;

"(3) inquiries from law enforcement agencies where the request for information is related to the investigation of a crime or a position within that agency;

"(4) inquiries, in writing, from the director of a treatment agency or the director of a facility to which the juvenile has been committed by the court; and

"(5) inquiries from an agency considering the person for a position immediately and directly affecting the national security.

Unless otherwise authorized by this section, information about the sealed record may not be released when the request for information is related to an application for employment, license, bonding, or any civil right or privilege. Responses to such inquiries shall not be different from responses made about persons who have never been involved in a delinquency proceeding.

"(b) District courts exercising jurisdiction over any juvenile shall inform the juvenile, and his parent or guardian, in writing in clear and nontechnical language, of rights relating to the sealing of his juvenile record.

"(c) During the course of any juvenile delinquency proceeding, all information and records relating to the proceeding, which are obtained or prepared in the discharge of an official duty by an employee of the court or an employee of any other governmental agency, shall not be disclosed directly or indirectly to anyone other than the judge, counsel for the juvenile and the government, or others entitled under this section to receive sealed records.

"(d) Unless a juvenile who is taken into custody is prosecuted as an adult—

"(1) neither the fingerprints nor a photograph shall be taken, without the written consent of the judge; and

"(2) neither the name nor picture of any juvenile shall be made public by any medium of public information in connection with a juvenile delinquency proceeding."

COMMITMENT

SEC. 209. Section 5039 is added. to read as follows:

"§ 5039. Commitment

"No juvenile committed to the custody of the Attorney General may be placed or retained in an adult jail or correctional institution in which he has regular contact with adults incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges.

"Every juvenile who has been committed shall be provided with adequate food, heat, light, sanitary facilities, bedding, clothing, recreation, counseling, education, training, and medical care, including necessary psychiatric, psychological, or other care and treatment.

"Whenever possible, the Attorney General shall commit a juvenile to a foster home or community-based facility located in or near his home community."

SUPPORT

SEC. 210. Section 5040 is added, to read as follows:

"§ 5040. Support

"The Attorney General may contract with any public or private agency or individual and such community-based facilities as halfway houses and foster homes for the observation and study and the custody and care of juveniles in his custody. For these purposes, the Attorney General may promulgate such regulations as are necessary and may use the appropriation for 'support of United States' prisoners' or such other appropriations as he may designate."

PAROLE

SEC. 211. Section 5041 is added to read as follows:

"§ 5041. Parole

"The Board of Parole shall release from custody, on such conditions as it deems necessary, each juvenile delinquent who has been committed, as soon as the Board is satisfied that he is likely to remain at liberty without violating the law and when such release would be in the interest of justice."

REVOCATION

SEC. 212. Section 5042 is added to read as follows:

"§ 5042. Revocation of parole or probation

"Any juvenile parolee or probationer shall be accorded notice and a hearing with counsel before his parole or probation can be revoked."

SEC. 213. The table of sections of chapter 403 of this title is amended to read as follows:

"Sec.
"5031. Definitions.
"5032. Delinquency proceedings in district courts; transfer for criminal prosecution.
"5033. Custody prior to appearance before magistrate.
"5034. Duties of magistrate.
"5035. Detention prior to disposition.
"5036. Speedy trial.
"5037. Dispositional hearing.
"5038. Use of juvenile records.
"5039. Commitment.
"5040. Support.
"5041. Parole.
"5042. Revocation of parole or probation.".

TITLE III—JUVENILE JUSTICE AND DELINQUENCY PREVENTION OFFICE

SEC. 301. Section 203(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 197; 84 Stat. 1881; 87 Stat. 197), is further amended by deleting the third full sentence and inserting in lieu thereof the following: "The State planning agency and any regional planning units within the State shall within their respective jurisdictions be representative of the law enforcement and criminal justice agencies including agencies directly related to the prevention and control of juvenile delinquency, units of general local governments, and public agencies maintaining programs to reduce and control crime, and shall include representatives of citizen, professional, and community organizations including organizations directly related to delinquency prevention.".

SEC. 302. (a) Parts F, G, H, and I of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 197; 84 Stat. 1881; 87 Stat. 197), and all references thereto, are redesignated as parts G, H, I, and J, respectively.

(b) Title I of the Omnibus Crime Control

and Safe Streets Act of 1968, as amended (82 Stat. 197; 84 Stat. 1881; 87 Stat. 197), is further amended by adding after part E the following new part F:

"PART F—JUVENILE JUSTICE AND DELINQUENCY PREVENTION

"ESTABLISHMENT OF OFFICE

"SEC. 471. (a) There is hereby created within the Department of Justice, Law Enforcement Assistance Administration, the Office of Juvenile Justice and Delinquency Prevention (referred to in this Act as the 'Office').

"(b) The programs authorized in part F (hereinafter referred to as 'this part') and all other programs concerned with juvenile delinquency and administered by the Law Enforcement Assistance Administration shall be administered or subject to the policy direction of the Office established under this section.

"(c) There shall be at the head of the Office an Assistant Administrator who shall be nominated by the President by and with the advice and consent of the Senate.

"(d) The Assistant Administrator shall exercise all necessary powers, subject to the direction of the Administrator of the Law Enforcement Assistance Administration.

"(e) There shall be in the Office a Deputy Assistant Administrator who shall be appointed by the Administrator of the Law Enforcement Assistance Administration. The Deputy Assistant Administrator shall perform such functions as the Assistant Administrator from time to time assigns or delegates, and shall act as Assistant Administrator during the absence or disability of the Assistant Administrator or in the event of a vacancy in the Office of the Assistant Administrator.

"(f) There shall be established in the Office a Deputy Assistant Administrator who shall be appointed by the Administrator whose function shall be to supervise and direct the National Institute for Juvenile Justice established under section 490 of this Act.

"(g) Section 5108(c)(10) of title 5, United States Code, is amended by deleting the word 'twenty-two' and inserting in lieu thereof the word 'twenty-five'.

"PERSONNEL, SPECIAL PERSONNEL, EXPERTS, AND CONSULTANTS

"SEC. 472. (a) The Administrator is authorized to select, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions vested in him and to prescribe their functions.

"(b) The Administrator is authorized to select, appoint, and employ not to exceed three officers and to fix their compensation at rates not to exceed the rate now or hereafter prescribed for GS-18 of the General Schedule by section 5332 of title 5 of the United States Code.

"(c) Upon the request of the Administrator, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of its personnel to the Assistant Administrator to assist him in carrying out his functions under this Act.

"(d) The Administrator may obtain services as authorized by section 3109 of title 5 of the United States Code, at rates not to exceed the rate now or hereafter prescribed for GS-18 of the General Schedule by section 5332 of title I of the United States Code.

"VOLUNTARY SERVICE

"SEC. 473. The Administrator is authorized to accept and employ, in carrying out the provisions of this Act, voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

"CONCENTRATION OF FEDERAL EFFORTS

"SEC. 474. (a) The Administrator shall implement overall policy and develop objectives and priorities for all Federal juvenile delinquency programs and activities relating to prevention, diversion, training, treatment, rehabilitation, evaluation, research, and improvement of the juvenile justice system in the United States. In carrying out his functions, the Administrator shall consult with the Interdepartmental Council and the National Advisory Committee for Juvenile Justice and Delinquency Prevention.

"(b) In carrying out the purposes of this Act, the Administrator is authorized to—

"(1) advise the President through the Attorney General as to all matters relating to federally assisted juvenile delinquency programs and Federal policies regarding juvenile delinquency;

"(2) assist operating agencies which have direct responsibilities for the prevention and treatment of juvenile delinquency in the development and promulgation of regulations, guidelines, requirements, criteria, standards, procedures, and budget requests in accordance with the policies, priorities, and objectives he establishes;

"(3) conduct and support evaluations and studies of the performance and results achieved by Federal juvenile delinquency programs and activities and of the prospective performance and results that might be achieved by alternative programs and activities supplementary to or in lieu of those currently being administered;

"(4) implement Federal juvenile delinquency programs and activities among Federal departments and agencies and between Federal juvenile delinquency programs and activities and other Federal programs and activities which he determines may have an important bearing on the success of the entire Federal juvenile delinquency effort;

"(5) develop annually with the assistance of the Advisory Committee and submit to the President and the Congress, after the first year the legislation is enacted, prior to September 30, an analysis and evaluation of Federal juvenile delinquency programs conducted and assisted by Federal departments and agencies, the expenditures made, the results achieved, the plans developed, and problems in the operations and coordination of such programs. This report shall include recommendations for modifications in organization, management, personnel, standards, budget requests, and implementation plans necessary to increase the effectiveness of these programs;

"(6) develop annually with the assistance of the Advisory Committee and submit to the President and the Congress, after the first year the legislation is enacted, prior to March 1, a comprehensive plan for Federal juvenile delinquency programs, with particular emphasis on the prevention of juvenile delinquency and the development of programs and services which will encourage increased diversion of juveniles from the traditional juvenile justice system; and

"(7) provide technical assistance to Federal, State, and local governments, courts, public and private agencies, institutions, and individuals, in the planning, establishment, funding, operation, or evaluation of juvenile delinquency programs.

"(c) The Administrator may request departments and agencies engaged in any activity involving any Federal juvenile delinquency program to provide him with such information and reports, and to conduct such studies and surveys, as he may deem to be necessary to carry out the purposes of this part.

"(d) The Administrator may delegate any of his functions under this part, except the making of regulations, to any officer or employee of the Administration.

"(e) The Administrator is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

"(f) The Administrator is authorized to transfer funds appropriated under this title to any agency of the Federal Government to develop or demonstrate new methods in juvenile delinquency prevention and rehabilitation and to supplement existing delinquency prevention and rehabilitation programs which the Assistant Administrator finds to be exceptionally effective or for which he finds there exists exceptional need.

"(g) The Administrator is authorized to make grants to, or enter into contracts with, any public or private agency, institution, or individual to carry out the purposes of this part.

"(h) All functions of the Administrator under this part shall be coordinated as appropriate with the functions of the Secretary of the Department of Health, Education, and Welfare under the Juvenile Delinquency Prevention Act (42 U.S.C. 3801 et seq.).

"JOINT FUNDING

"SEC. 475. Notwithstanding any other provision of law, where funds are made available by more than one Federal agency to be used by any agency, organization, institution, or individual to carry out a Federal juvenile delinquency program or activity, any one of the Federal agencies providing funds may be requested by the Administrator to act for all in administering the funds advanced. In such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each Federal agency, and the Administrator may order any such agency to waive any technical grant or contract requirement (as defined in such regulations) which is inconsistent with the similar requirement of the administering agency or which the administering agency does not impose.

"INTERDEPARTMENTAL COUNCIL

"SEC. 476. (a) There is hereby established an Interdepartmental Council on Juvenile Delinquency (hereinafter referred to as the 'Council') composed of the Attorney General, the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Director of the Special Action Office for Drug Abuse Prevention, the Secretary of Housing and Urban Development, or their respective designees, and representatives of such other agencies as the President shall designate.

"(b) The Attorney General or his designee shall serve as Chairman of the Council.

"(c) The function of the Council shall be to coordinate all Federal juvenile delinquency programs.

"(d) The Council shall meet a minimum of six times per year and the activities of the Council shall be included in the annual report required by section 474(b)(5) of this title.

"(e) The Chairman shall appoint an Executive Secretary of the Council and such personnel as are necessary to carry out the functions of the Council.

"ADVISORY COMMITTEE

"SEC. 477. (a) There is hereby established a National Advisory Committee for Juvenile Justice and Delinquency Prevention (hereinafter referred to as the 'Advisory Committee') which shall consist of twenty-one members.

"(b) The members of the Interdepartmental Council or their respective designees shall be ex officio members of the Committee.

"(c) The regular members of the Advisory Committee shall be appointed by the Attorney General from persons who by virtue of their training or experience have special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice, such as juvenile or family court judges; probation, cor-

rectional, or law enforcement personnel; and representatives of private voluntary organizations and community-based programs. The President shall designate the Chairman. A majority of the members of the Advisory Committee, including the Chairman, shall not be full-time employees of Federal, State, or local governments. At least seven members shall not have attained twenty-six years of age on the date of their appointment.

"(d) Members appointed by the President to the Committee shall serve for terms of four years and shall be eligible for reappointment except that for the first composition of the Advisory Committee, one-third of these members shall be appointed to one-year terms; thereafter each term shall be four years. Any members appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term.

"DUTIES OF THE ADVISORY COMMITTEE

"SEC. 478. (a) The Advisory Committee shall meet at the call of the Chairman, but not less than four times a year.

"(b) The Advisory Committee shall make recommendations to the Administrator at least annually with respect to planning, policy, priorities, operations, and management of all Federal juvenile delinquency programs.

"(c) The Chairman may designate a subcommittee of the members of the Advisory Committee to advise the Administrator on particular functions or aspects of the work of the Administration.

"(d) The Chairman shall designate a subcommittee of five members of the Committee to serve as members of an Advisory Committee for the National Institute for Juvenile Justice to perform the functions set forth in section 494 of this title.

"(e) The Chairman shall designate a subcommittee of five members of the Committee to serve as an Advisory Committee to the Administrator on Standards for the Administration of Juvenile Justice to perform the functions set forth in section 496 of this title.

"COMPENSATION AND EXPENSES

"SEC. 479. (a) Members of the Advisory Committee who are employed by the Federal Government full time shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Advisory Committee.

"(b) Members of the Advisory Committee not employed full time by the Federal Government shall receive compensation at a rate not to exceed the rate now or hereafter prescribed for GS-18 of the General Schedule by section 5332 of title 5 of the United States Code, including traveltime for each day they are engaged in the performance of their duties as members of the Advisory Committee. Members shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Advisory Committee."

TITLE IV—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

SEC. 401. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 197; 84 Stat. 1881; 87 Stat. 197), is further amended by adding the following sections to new part F thereof:

"FORMULA GRANTS

"SEC. 480. The Administrator is authorized to make grants to States and local governments to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through contracts with public and private agencies for the development of more effective education, training, research, prevention, diversion, treatment, and rehabilitation programs in the area of juvenile delinquency and programs to improve the juvenile justice system.

"ALLOCATION

"SEC. 481. (a) In accordance with regulations promulgated under this part, funds shall be allocated annually among the States on the basis of relative population of people under age eighteen. No such allotment to any State shall be less than $200,000, except that for the Virgin Islands, Guam, and American Samoa, no allotment shall be less than $50,000.

"(b) Except for funds appropriated for fiscal year 1975, if any amount so allotted remains unobligated at the end of the fiscal year, such funds shall be reallocated in a manner equitable and consistent with the purpose of this part. Funds appropriated for fiscal year 1975 may be obligated in accordance with subsection (a) until June 30, 1976, after which time they may be allocated. Any amount so reallocated shall be in addition to the amounts already allotted and available to the State, the Virgin Islands, American Samoa, and Guam for the same period.

"(c) In accordance with regulations promulgated under this part, a portion of any allotment to any State under this part shall be available to develop a State plan and to pay that portion of the expenditures which are necessary for efficient administration. Not more than 15 per centum of the total annual allotment of such State shall be available for such purposes. The State shall make available needed funds for planning and administration to local governments within the State on an equitable basis.

"STATE PLANS

"SEC. 482. (a) In order to receive formula grants under this part, a State shall submit a plan for carrying out its purposes in accordance with the requirements set forth in section 303(a) of this title. In accordance with regulations established under this title, such plan must—

"(1) designate the State planning agency established by the State under section 203 of this title as the sole agency for supervising the preparation and administration of the plan;

"(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) (hereafter referred to in this part as the 'State planning agency') has or will have authority, by legislation if necessary, to implement such plan in conformity with this part;

"(3) provide for an advisory group appointed by the chief executive of the State to advise the State planning agency and its supervisory board (A) which shall consist of not less than twenty-one and not more than thirty-three persons who have training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice, (B) which shall include representation of units of local government, law enforcement and juvenile justice agencies such as law enforcement, correction or probation personnel, and juvenile or family court judges, and public agencies concerned with delinquency prevention or treatment such as welfare, social services, mental health, education or youth services departments, (C) which include representatives of private organizations: concerned with delinquency prevention or treatment; concerned with neglected or dependent children; concerned with the quality of juvenile justice, education, or social services for children; which utilize volunteers to work with delinquents or potential delinquents; community-based delinquency prevention or treatment programs; and organizations which represent employees affected by this Act, (D) a majority of whose members (including the Chairman) shall not be full-time employees of the Federal, State, or local government, and (E) at least one-third of whose members shall be under the age of twenty-six at the time of appointment;

"(4) provide for the active consultation with and participation of local governments in the development of a State plan which adequately takes into account the needs and requests of local governments;

"(5) provide that at least 50 per centum of the funds received by the State under section 481 shall be expended through programs of local government insofar as they are consistent with the State plan, except that this provision may be waived at the discretion of the Administrator for any State if the services for delinquent or potentially delinquent youth are organized primarily on a statewide basis;

"(6) provide that the chief executive officer of the local government shall assign responsibility for the preparation and administration of the local government's part of a State plan, or for the supervision of the preparation and administration of the local government's part of the State plan, to that agency within the local government's structure (hereinafter in this part referred to as the 'local agency') which can most effectively carry out the purposes of this part and shall provide for supervision of the programs funded under this part by that local agency;

"(7) provide for an equitable distribution of the assistance received under section 481 within the State;

"(8) set forth a detailed study of the State needs for an effective, comprehensive, coordinated approach to juvenile delinquency prevention and treatment and the improvement of the juvenile justice system. This plan shall include itemized estimated costs for the development and implementation of such programs;

"(9) provide for the active consultation with and participation of private agencies in the development and execution of the State plan; and provide for coordination and maximum utilization of existing juvenile delinquency programs and other related programs, such as education, health, and welfare within the State;

"(10) provide that not less than 75 per centum of the funds available to such State under section 481, whether expended directly by the State or by the local government or through contracts with public or private agencies, shall be used for advanced techniques in developing, maintaining, and expanding programs and services designed to prevent juvenile delinquency, to divert juveniles from the juvenile justice system, and to provide community-based alternatives to juvenile detention and correctional facilities. That advanced techniques include—

"(A) community-based programs and services for the prevention and treatment of juvenile delinquency through the development of foster-care and shelter-care homes, group homes, halfway houses, homemaker and home health services, and any other designated community-based diagnostic, treatment, or rehabilitative service;

"(B) community-based programs and services to work with parents and other family members to maintain and strengthen the family unit, so that the juvenile may be retained in his home;

"(C) youth service bureaus and other community-based programs to divert youth from the juvenile court or to support, counsel, or provide work and recreational opportunities for delinquents and youth in danger of becoming delinquent;

"(D) comprehensive programs of drug abuse education and prevention and programs for the treatment and rehabilitation of drug addicted youth, and 'drug dependent' youth (as defined in section 2(g) of the Public Health Service Act (42 U.S.C. 201(g)));

"(E) educational programs or supportive services designed to keep delinquents and other youth in elementary and secondary schools or in alternative learning situations;

"(F) expanded use of probation and recruitment and training of probation officers, other professional and paraprofessional per-

sonnel and volunteers to work effectively with youth;

"(G) youth initiated programs and outreach programs designed to assist youth who otherwise would not be reached by assistance programs;

"(H) provides for a statewide program through the use of probation subsidies, other subsidies, other financial incentives or disincentives to units of local government, or other effective means, that may include but are not limited to programs designed to—

"(A) reduce the number of commitments of juveniles to any form of juvenile facility as a percentage of the State juvenile population;

"(B) increase the use of nonsecure community-based facilities as a percentage of total commitments to juvenile facilities; and

"(C) discourage the use of secure incarceration and detention;

"(11) provides for the development of an adequate research, training, and evaluation capacity within the State;

"(12) provide within two years after submission of the plan that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult, shall not be placed in juvenile detention or correctional facilities, but must be placed in shelter facilities;

"(13) provide that juveniles alleged to be or found to be delinquent shall not be detained or confined in any institution in which they have regular contact with adult persons incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges;

"(14) provide for an adequate system of monitoring jails, detention facilities, and correctional facilities to insure that the requirements of section 482 (12) and (13) are met, and for annual reporting of the results of such monitoring to the Administrator;

"(15) provide assurances that assistance will be available on an equitable basis to deal with all disadvantaged youth including, but not limited to, females, minority youth, and mentally retarded or emotionally handicapped youth;

"(16) provide for procedures to be established for protecting the rights of recipients of services and for assuring appropriate privacy with regard to records relating to such services provided to any individual under the State plan;

"(17) provide that fair and equitable arrangements are made, as determined by the Secretary of Labor, to protect the interests of employees affected by assistance under this Act. Such protective arrangements shall include, without being limited to, such provisions as may be necessary for—

"(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise;

"(B) the continuation of collective bargaining rights;

"(C) the protection of individual employees against a worsening of their positions with respect to their employment;

"(D) assurances of employment to employees of any State or political subdivision thereof who will be affected by any program funded in whole or in part under provisions of this Act;

"(E) training or retraining programs.

The State plan shall provide for the terms and conditions of the protection arrangements established pursuant to this section;

"(18) provide for such fiscal control and fund accounting procedures necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this title;

"(19) provide reasonable assurance that Federal funds made available under this part for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds made available for the programs described in this part, and will in no event supplant such State, local, and other non-Federal funds;

"(20) provide that the State planning agency will from time to time, but not less often than annually, review its plan and submit to the Administrator an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of State and local needs, which it considers necessary; and

"(21) contain such other terms and conditions as the Administrator may reasonably prescribe to assure the effectiveness of the programs assisted under this title.

"(b) The Supervisory Board designated pursuant to section 482(a), after consultation with the advisory group referred to in section 432(a), shall approve the State plan and any modification thereof prior to submission to the Administrator.

"(c) The Administrator shall approve any State plan and any modification thereof that meets the requirements of this section.

"(d) In the event that any State fails to submit a plan, or submits a plan or any modification thereof, which the Administrator, after reasonable notice and opportunity for hearing in accordance with sections 509, 510, and 511, determines does not meet the requirements of this section, the Administrator shall make that State's allotment under the provisions of section 481(a) available to public and private agencies for special emphasis prevention and treatment programs as defined in section 483.

"(e) In the event the plan does not meet the requirements of this section due to oversight or neglect, rather than explicit and conscious decision, the Administrator shall endeavor to make that State's allotment under the provisions of section 481(a) available to public and private agencies in that State for special emphasis prevention and treatment programs as defined in section 483.

"(f) Any nonadjudicated juvenile shall not be made to partake in a program of behavior modification involving the use of drugs or electrical stimuli or other potentially harmful treatment as a part of any such program authorized in whole or in part by this act without the prior approval of his parents or guardians.

"SPECIAL EMPHASIS PREVENTION AND TREATMENT PROGRAMS

"SEC. 483. (a) The Administrator is authorized to make grants to and enter into contracts with public and private agencies, organizations, institutions, or individuals to—

"(1) develop and implement new approaches, techniques, and methods with respect to juvenile delinquency programs;

"(2) develop and maintain community-based alternatives to traditional forms of institutionalization;

"(3) develop and implement effective means of diverting juveniles from the traditional juvenile justice and correctional system;

"(4) improve the capability of public and private agencies and organizations to provide services for delinquents and youths in danger of becoming delinquent; and

"(5) facilitate the adoption of the recommendations of the Advisory Committee on Standards for Juvenile Justice as set forth pursuant to section 496.

"(b) Not less than 25 per centum or more than 50 per centum of the funds appropriated for each fiscal year pursuant to this part shall be available only for special emphasis prevention and treatment grants and contracts made pursuant to this section.

"(c) At least 20 per centum of the funds available for grants and contracts made pursuant to this section shall be available for grants and contracts to private nonprofit agencies, organizations, or institutions who have had experience in dealing with youth.

"CONSIDERATIONS FOR APPROVAL OF APPLICATIONS

"SEC. 484. (a) Any agency, institution, or individual desiring to receive a grant, or enter into any contract under section 483, shall submit an application at such time, in such manner, and containing or accompanied by such information as the Administrator may prescribe.

"(b) In accordance with guidelines established by the Administrator, each such application shall—

"(1) provide that the program for which assistance is sought will be administered by or under the supervision of the applicant;

"(2) set forth a program for carrying out one or more of the purposes set forth in section 482;

"(3) provide for the proper and efficient administration of such program;

"(4) provide for regular evaluation of the program;

"(5) indicate that the applicant has requested the review of the application from the State planning agency and local agency designated in section 482, when appropriate, and indicate the response of such agency to the request for review and comment on the application;

"(6) provide that regular reports on the program shall be sent to the Administrator and to the State planning agency and local agency, when appropriate; and

"(7) provide for such fiscal control and fund accounting procedures as may be necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this title.

"(c) In determining whether or not to approve applications for grants under section 483, the Administrator shall consider—

"(1) the relative cost and effectiveness of the proposed program in effectuating the purposes of this part;

"(2) the extent to which the proposed program will incorporate new or innovative techniques;

"(3) the extent to which the proposed program meets the objectives and priorities of the State plan, when a State plan has been approved by the Administrator under section 482(c) and when the location and scope of the program makes such consideration appropriate;

"(4) the increase in capacity of the public and private agency, institution, or individual to provide services to delinquents or youths in danger of becoming delinquents;

"(5) the extent to which the proposed project serves communities which have high rates of youth unemployment, school dropout, and delinquency; and

"(6) the extent to which the proposed program facilitates the implementation of the recommendations of the Advisory Committee on Standards for Juvenile Justice as set forth pursuant to section 496.

"GENERAL PROVISIONS

"Withholding

"SEC. 485. Whenever the Administrator, after giving reasonable notice and opportunity for hearing, to a recipient of financial assistance under this title, finds—

"(1) that the program or activity for which such grant was made has been so changed that it no longer complies with the provisions of this title; or

"(2) that in the operation of the program or activity there is failure to comply substantially with any such provision;

the Administrator shall initiate such proceedings as are appropriate under sections 509, 510, and 511 of this title.

"USE OF FUNDS

"SEC. 486. Funds paid to any State public or private agency, institution, or individual (whether directly or through a State or local agency) may be used for—

"(1) securing, developing, or operating the

program designed to carry out the purposes of this part;

"(2) not more than 50 per centum of the cost of the construction of innovative community-based facilities for less than twenty persons (as defined in sections 601(f) and 601(p) of this title) which, in the judgment of the Administrator, are necessary for carrying out the purposes of this part.

"PAYMENTS

"SEC. 487. (a) In accordance with criteria established by the Administrator, it is the policy of Congress that programs funded under this title shall continue to receive financial assistance providing that the yearly evaluation of such programs is satisfactory.

"(b) At the discretion of the Administrator, when there is no other way to fund an essential juvenile delinquency program not funded under this part, the State may utilize 25 per centum of the formula grant funds available to it under this part to meet the non-Federal matching share requirement for any other Federal juvenile delinquency program grant.

"(c) Whenever the Administrator determines that it will contribute to the purposes of this part, he may require the recipient of any grant or contract to contribute money, facilities, or services.

"(d) Payments under this part, pursuant to a grant or contract, may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursements, in such installments and on such conditions as the Administrator may determine.".

TITLE V—NATIONAL INSTITUTE FOR JUVENILE JUSTICE

NATIONAL INSTITUTE FOR JUVENILE JUSTICE

SEC. 501. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 197; 84 Stat. 1881; 87 Stat. 197), is further amended by adding the following sections to new part F thereof:

"SEC. 490. (a) There is hereby established within the Juvenile Justice and Delinquency Prevention Office a National Institute for Juvenile Justice.

"(b) The National Institute for Juvenile Justice shall be under the supervision and direction of the Assistant Administrator, and shall be headed by a Deputy Assistant Administrator of the Office appointed under section 471(f).

"(c) The activities of the National Institute for Juvenile Justice shall be coordinated with the activities of the National Institute of Law Enforcement and Criminal Justice in accordance with the requirements of section 471(b).

"INFORMATION FUNCTION

"SEC. 491. The National Institute for Juvenile Justice is authorized to—

"(1) serve as an information bank by collecting systematically and synthesizing the data and knowledge obtained from studies and research by public and private agencies, institutions, or individuals concerning all aspects of juvenile delinquency, including the prevention and treatment of juvenile delinquency;

"(2) serve as a clearinghouse and information center for the preparation, publication, and dissemination of all information regarding juvenile delinquency, including State and local juvenile delinquency prevention and treatment programs and plans, availability of resources, training and educational programs, statistics, and other pertinent data and information.

"RESEARCH, DEMONSTRATION, AND EVALUATION FUNCTIONS

"SEC. 492. The National Institute for Juvenile Justice is authorized to—

"(1) conduct, encourage, and coordinate research and evaluation into any aspect of juvenile delinquency, particularly with regard to new programs and methods which show promise of making a contribution toward the prevention and treatment of juvenile delinquency;

"(2) encourage the development of demonstration projects in new, innovative techniques and methods to prevent and treat juvenile delinquency;

"(3) provide for the evaluation of all juvenile delinquency programs assisted under this title in order to determine the results and the effectiveness of such programs;

"(4) provide for the evaluation of any other Federal, State, or local juvenile delinquency program, upon the request of the Administrator; and

"(5) disseminate the results of such evaluations and research and demonstration activities particularly to persons actively working in the field of juvenile delinquency.

"TRAINING FUNCTIONS

"SEC. 493. The National Institute for Juvenile Justice is authorized to—

"(1) develop, conduct, and provide for training programs for the training of professional, paraprofessional, and volunteer personnel, and other persons who are or who are preparing to work with juveniles and juvenile offenders;

"(2) develop, conduct, and provide for seminars, workshops, and training programs in the latest proven effective techniques and methods of preventing and treating juvenile delinquency for law enforcement officers, juvenile judges, and other court personnel, probation officers, correctional personnel, and other Federal, State, and local government personnel who are engaged in work relating to juvenile delinquency.

"INSTITUTE ADVISORY COMMITTEE

"SEC. 494. The Advisory Committee for the National Institute for Juvenile Justice established in section 478(d) shall advise, consult with, and make recommendations to the Deputy Assistant Administrator for the National Institute for Juvenile Justice concerning the overall policy and operations of the Institute.

"ANNUAL REPORT

"SEC. 495. The Deputy Assistant Administrator for the National Institute for Juvenile Justice shall develop annually and submit to the Administrator after the first year the legislation is enacted, prior to June 30, a report on research, demonstration, training, and evaluation programs funded under this title, including a review of the results of such programs, an assessment of the application of such results to existing and to new juvenile delinquency programs, and detailed recommendations for future research, demonstration, training, and evaluation programs. The Administrator shall include a summary of these results and recommendations in his report to the President and Congress required by section 474(b)(5).

"DEVELOPMENT OF STANDARDS FOR JUVENILE JUSTICE

"SEC. 496. (a) The National Institute for Juvenile Justice, under the supervision of the Advisory Committee on Standards for Juvenile Justice established in section 478(e), shall review existing reports, data, and standards, relating to the juvenile justice system in the United States.

"(b) Not later than one year after the passage of this section, the Advisory Committee shall submit to the President and the Congress a report which, based on recommended standards for the administration of juvenile justice at the Federal, State, and local level—

"(1) recommends Federal action, including but not limited to administrative and legislative action, required to facilitate the adoption of these standards throughout the United States; and

"(2) recommends State and local action to facilitate the adoption of these standards for juvenile justice at the State and local level.

"(c) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Advisory Committee such information as the Committee deems necessary to carry out its functions under this section.

"SEC. 497. Records containing the identity of individual juveniles gathered for purposes pursuant to this title may under no circumstances be disclosed or transferred to any individual or other agency, public, or private."

TITLE VI—AUTHORIZATION OF APPROPRIATIONS

SEC. 601. Section 520 of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 197; 84 Stat. 1881; 87 Stat. 197), is further amended by adding at the end thereof:

"In addition to any other appropriation authorizations contained in this title there is authorized for the purpose of part F: $75,000,000 for the fiscal year ending June 30, 1975; $150,000,000 for the fiscal year ending June 30, 1976.

"In addition to the funds appropriated under this section, the Administration shall maintain from other Law Enforcement Assistance Administration appropriations other than the appropriations for administration, the same level of financial assistance for juvenile delinquency programs assisted by the Law Enforcement Assistance Administration during fiscal year 1972.".

TITLE VII—NATIONAL INSTITUTE OF CORRECTIONS

SEC. 701. Title 18, United States Code, is amended by adding a new chapter 319 to read as follows:

"Chapter 319—NATIONAL INSTITUTE OF CORRECTIONS

"SEC. 4351. (a) There is hereby established within the Bureau of Prisons a National Institute of Corrections.

"(b) The overall policy and operations of the National Institute of Corrections shall be under the supervision of an Advisory Board. The Board shall consist of fifteen members. The following five individuals shall serve as members of the Commission ex officio: the Director of the Federal Bureau of Prisons or his designee, the Administrator of the Law Enforcement Assistance Administration or his designee, Chairman of the United States Parole Board or his designee, the Director of the Federal Judicial Center or his designee, and the Assistant Secretary for Human Development of the Department of Health, Education, and Welfare or his designee.

"(c) The remaining ten members of the Board shall be selected as follows:

"(1) Five shall be appointed initially by the Attorney General of the United States for staggered terms; one member shall serve for one year, one member for two years, and three members for three years. Upon the expiration of each member's term, the Attorney General shall appoint successors who will each serve for a term of three years. Each member selected shall be qualified as a practitioner (Federal, State, or local) in the field of corrections, probation, or parole.

"(2) Five shall be appointed initially by the Attorney General of the United States for staggered terms, one member shall serve for one year, three members for two years, and one member for three years. Upon the expiration of each member's term the Attorney General shall appoint successors who will each serve for a term of three years. Each member selected shall be from the private sector, such as business, labor, and education, having demonstrated an active interest in corrections, probation or parole.

"(d) The members of the Board shall not, by reason of such membership, be deemed officers or employees of the United States. Members of the Commission who are full-time officers or employees of the United States shall serve without additional compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the duties vested in the Board. Other members of the Board shall, while attending meetings of the Board or while engaged in duties related to such meetings or in other activities of the Commission pursuant to this title, be entitled to receive compensation at the rate not to exceed the daily equivalent of the rate authorized for GS-18 by section 5332 of title 5, United States Code, including travel-time, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence equal to that authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(e) The Board shall elect a chairman from among its members who shall serve for a term of one year. The members of the Board shall also elect one or more members as a vice-chairman.

"(f) The Board is authorized to appoint, without regard to the civil service laws, technical, or other advisory committees to advise the Institute with respect to the administration of this title as it deems appropriate. Members of these committees not otherwise employed by the United States, while engaged in advising the Institute or attending meetings of the committees, shall be entitled to receive compensation at the rate fixed by the Board but not to exceed the daily equivalent of the rate authorized for GS-18 by section 5332 of title 5, United States Code, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence equal to that authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(g) The Board is authorized to delegate its powers under this title to such persons as it deems appropriate.

"(h) The Board shall be under the supervision of an officer to be known as the Director, who shall be appointed by the Attorney General after consultation with the Board. The Director shall have authority to supervise the organization, employees, enrollees, financial affairs, and all other operations of the Institute and may employ such staff, faculty, and administrative personnel, subject to the civil service and classification laws, as are necessary to the functioning of the Institute. The Director shall have the power to acquire and hold real and personal property for the Institute and may receive gifts, donations, and trusts on behalf of the Institute. The Director shall also have the power to appoint such technical or other advisory councils comprised of consultants to guide and advise the Board. The Director is authorized to delegate his powers under this title to such persons as he deems appropriate.

"SEC. 4352. (a) In addition to the other powers, express and implied, the National Institute of Corrections shall have authority:

"(1) to receive from or make grants to and enter into contracts with Federal, State, and general units of local government, public and private agencies, educational institutions, organizations, and individuals to carry out the purposes of this section and section 411;

"(2) to serve as a clearinghouse and information center for the collection, preparation, and dissemination of information on corrections, including, but not limited to, programs for prevention of crime and recidivism, training of corrections personnel, and rehabilitation and treatment of criminal and juvenile offenders;

"(3) to assist and serve in a consulting capacity to Federal, State, and local courts, departments, and agencies in the development, maintenance, and coordination of programs, facilities, and services, training, treatment, and rehabilitation with respect to criminal and juvenile offenders;

"(4) to encourage and assist Federal, State, and local government programs and services, and programs and services of other public and private agencies, institutions, and organizations in their efforts to develop and implement improved corrections programs;

"(5) to devise and conduct, in various geographical locations, seminars, workshops, and training programs for law enforcement officers, judges, and judicial personnel, probation and parole personnel, correctional personnel, welfare workers, and other persons, including lay, ex-offenders, and paraprofessional personnel, connected with the treatment and rehabilitation of criminal and juvenile offenders;

"(6) to develop technical training teams to aid in the development of seminars, workshops, and training programs within the several States and with the State and local agencies which work with prisoners, parolees, probationers, and other offenders;

"(7) to conduct, encourage, and coordinate research relating to corrections, including the causes, prevention, diagnosis, and treatment of criminal offenders;

"(8) to formulate and disseminate correctional policy, goals, standards, and recommendations for Federal, State, and local correctional agencies, organizations, institutions, and personnel;

"(9) to conduct evaluation programs which study the effectiveness of new approaches, techniques, systems, programs, and devices employed to improve the corrections system;

"(10) to receive from any Federal department or agency such statistics, data, program reports, and other material as the Institute deems necessary to carry out its functions. Each such department or agency is authorized to cooperate with the Institute and shall, to the maximum extent practicable, consult with and furnish information to the Institute;

"(11) to arrange with and reimburse the heads of Federal departments and agencies for the use of personnel, facilities, or equipment of such departments and agencies;

"(12) to confer with and avail itself of the assistance, services, records, and facilities of State and local governments or other public or private agencies, organizations, or individuals;

"(13) to enter into contracts with public or private agencies, organizations, or individuals, for the performance of any of the functions of the Institute; and

"(14) to procure the services of experts and consultants in accordance with section 3109 of title 5 of the United States Code, at rates of compensation not to exceed the daily equivalent of the rate authorized for GS-18 by section 5332 of title 5 of the United States Code.

"(b) The Institute shall on or before the 31st day of December of each year, submit an annual report for the preceding fiscal year to the President and to the Congress. The report shall include a comprehensive and detailed report of the Institute's operations, activities, financial condition, and accomplishments under this title and may include such recommendations related to corrections as the Institute deems appropriate.

"(c) Each recipient of assistance under this Act shall keep such records as the Institute shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(d) The Institute, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for purposes of audit and examinations to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this chapter.

"(e) The provision of this section shall apply to all recipients of assistance under this title, whether by direct grant or contract from the Institute or by subgrant or subcontract from primary grantees or contractors of the Institute.

"SEC. 4353. There is hereby authorized to be appropriated such funds as may be required to carry out the purposes of this chapter."

TITLE VIII—FEDERAL SURPLUS PROPERTY

SEC. 801. (a) Section 203(j) of the Federal Property Administrative Services Act of 1949, as amended (40 U.S.C. 484(j)), is amended—

(1) by striking out "or civil defense" in the first sentence of paragraph (1) and inserting in lieu thereof "civil defense, or law enforcement and criminal justice";

(2) by striking out "or (4)" in the first sentence of paragraph (1) and inserting in lieu thereof "(4), or (5)";

(3) by striking out "or paragraph (4)" in the last sentence of paragraph (2) and inserting in lieu thereof a comma and "(4), or (5)";

(4) by inserting after paragraph (4) a new paragraph as follows:

"(5) Determination whether such surplus property (except surplus property allocated in conformity with paragraph (2) of this subsection) is usable and necessary for purposes of law enforcement and criminal justice, including research, in any State shall be made by the Administrator, Law Enforcement Assistance Administration, who shall allocate such property on the basis of need and utilization for transfer by the Administrator of General Services to such State agency for distribution to such State or to any unit of general local government or combination, as defined in section 601 (d) or (e) of the Crime Control Act of 1973 (87 Stat. 197), designated pursuant to regulations issued by the Law Enforcement Assistance Administration. No such property shall be transferred to any State agency until the Administrator, Law Enforcement Assistance Administration, has received, from such State agency, a certification that such property is usable and needed for law enforcement and criminal justice purposes in the State, and such Administrator has determined that such State agency has conformed to minimum standards of operation prescribed by such Administrator for the disposal of surplus property.";

(5) by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively;

(6) by striking out "and the Federal Civil Defense Administrator" in paragraph (6), as redesignated, and inserting in lieu thereof a comma and "the Federal Civil Defense Administrator, and the Administrator, Law Enforcement Assistance Administration"; and

(7) by striking out "or paragraph (4)" in paragraph (6), as redesignated, and inserting in lieu thereof a comma and "(4), or (5)".

(b) Section 203(k)(4) of such Act, as amended (40 U.S.C. 484(k)(4)), is amended—

(1) by striking out "or" after the semicolon in clause (D);

(2) by striking out the comma after "law"

in clause (E) and inserting in lieu thereof a semicolon and "or"; and

(3) by adding immediately after clause (E) the following new clause:

"(F) the Administrator, Law Enforcement Assistance Administration, in the case of personal property transferred pursuant to subsection (j) for law enforcement and criminal justice purposes,".

(c) Section 203(n) of such Act, as amended (40 U.S.C. 484(n)), is amended—

(1) by striking out in the first sentence "and the head of any Federal agency designated by either such officer" and inserting in lieu thereof "the Administrator, Law Enforcement Assistance Administration, and the head of any Federal agency designated by any such officer"; and

(2) by striking out in next to the last sentence "law enforcement" and inserting in lieu thereof "law enforcement and criminal justice", and in the same sentence striking "or (j)(4)" and inserting in lieu thereof a comma and "(4), or (5)".

TITLE IX—EXTENSION AND AMENDMENT OF THE JUVENILE DELINQUENCY PREVENTION ACT

YOUTH DEVELOPMENT DEMONSTRATIONS

SEC. 901. Title I of the Juvenile Delinquency Prevention Act is amended (1) in the caption thereof, by inserting "AND DEMONSTRATION PROGRAMS" after "SERVICES"; (2) following the caption thereof, by inserting "PART A—COMMUNITY-BASED COORDINATED YOUTH SERVICES"; (3) in sections 101, 102(a), 102(b)(1), 102(b)(2), 103(a) (including paragraph (1) thereof), 104(a) (including paragraphs (1), (4), (5), (7), and (10) thereof) and 104(b), by striking out "title" and inserting "part" in lieu thereof; and (4) by inserting at the end of the title the following new part:

"PART B—DEMONSTRATIONS IN YOUTH DEVELOPMENT

SEC. 105. (a) For the purpose of assisting the demonstration of innovative approaches to youth development and the prevention and treatment of delinquent behavior (including payment of all or part of the costs of minor remodeling or alteration), the Secretary may make grants to any State (or political subdivision thereof), any agency thereof, and any nonprofit private agency, institution, or organization that submits to the Secretary, at such time and in such form and manner as the Secretary's regulations shall prescribe, an application containing a description of the purposes for which the grant is sought, and assurances satisfactory to the Secretary that the applicant will use the grant for the purposes for which it is provided, and will comply with such requirements relating to the submission of reports, methods of fiscal accounting, the inspection and audit of records and other materials, and such other rules, regulations, standards, and procedures, as the Secretary may impose to assure the fulfillment of the purposes of this Act.

"(b) No demonstration may be assisted by a grant under this section for more than one year."

CONSULTATION

SEC. 902. (a) Section 408 of such Act is amended by adding at the end of subsection (a) thereof the following new subsection:

"(b) The Secretary shall consult with the Attorney General for the purpose of coordinating the development and implementation of programs and activities funded under this Act with those related programs and activities funded under the Omnibus Crime Control and Safe Streets Act of 1968";

and by deleting subsection (b) thereof.

(b) Section 409 is repealed.

REPEAL OF MINIMUM STATE ALLOTMENTS

SEC. 904. Section 403(b) of such Act is repealed, and section 403(a) of such Act is redesignated section 403.

EXTENSION OF PROGRAM

SEC. 905. Section 402 of such Act, as amended by this Act, is further amended in the first sentence by inserting after "fiscal year" the following: "and such sums as may be necessary for fiscal year 1975".

Mr. BAYH. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

TRIBUTE TO SENATOR BAYH

Mr. MANSFIELD. Mr. President, the overwhelming acceptance of this measure by the Senate represents one more outstanding tribute to Senator BIRCH BAYH, of Indiana, the able and distinguished chairman of the Subcommittee on Juvenile Delinquency. I wish also to praise the strong and able leadership of Senator HRUSKA, Senator COOK, and Senator MCCLELLAN on this issue. Their able advocacy and skill were indispensable to this success but today it is Senator BAYH and his record of achievement that I wish to note particularly.

Mr. President, it would be difficult to find another public official who has demonstrated more diligence and effectiveness in seeking solutions to the varied and complex problems facing our Nation than the junior Senator from Indiana.

During the almost 12 years he has served in the U.S. Senate, BIRCH BAYH's concern and his thoughtful approach have made a difference—a very real difference—for the people of Indiana and the Nation.

BIRCH BAYH started his life on a farm and became a 4-H tomato growing champion and amateur boxing champion. He began to compile a long, impressive and still growing record of accomplishment and services to others when he was a young soldier stationed in Germany after World War II. During his off duty time he taught local boys and girls—many of whom were wracked with hunger—how to grow vegetables to supplement their meager diet.

His record of service to the people of Indiana flourished during the 8 years he served in the Indiana House of Representatives, including 2 as Speaker. He was particularly effective in guiding to passage forward-looking legislation to improve education in Indiana schools.

In 1962, the people of Indiana chose BIRCH BAYH to represent them in the U.S. Senate. Because of his hard work, his courage in tackling tough issues and his effective leadership in this body, Senator BAYH has risen to national prominence. But Senator BAYH's concern for national problems has always been in addition to, never at the expense of, his responsibilities to Indiana. In cooperation with his colleagues, Senator BAYH has worked consistently and effectively to insure that the needs of Indiana were met. As a result, he has obtained for his State many valuable and necessary projects such as reservoirs, navigational improvements, port developments, and flood control projects.

As a member of the Senate Judiciary Committee Senator BAYH was a leader in the struggle to insure honesty, integrity, and openness in the Government long before Watergate.

For many years Senator BAYH has made a voluntary public disclosure of his personal finances including Federal and State income taxes and a statement of assets and liabilities. As early as 1967 he supported and voted for legislation requiring Congressmen and candidates for Congress to make public financial disclosures. In 1970 and 1971 he introduced and fought for legislation to require members of all three branches of Government, including the President, the Vice President, Members of Congress, the Federal judiciary, and all Federal employees earning more than $18,000 per year to file full public financial disclosures.

Senator BAYH strongly supported legislation calling for a combination of small contributions and public financing to take big money out of politics and reduce the influence of vested interests. When the Senate passed such legislation earlier this year it included many provisions contained in a campaign reform bill introduced by Senator BAYH in 1973, including stiff fines and prison terms for violations.

As chairman of three Senate subcommittees Senator BAYH has always insisted that all business of the subcommittees be conducted in public and he has fought for legislation providing that no congressional committee could hold closed meetings without a public vote to close the meetings.

And it was Senator BAYH's concern for the integrity of the Supreme Court which led him to successfully oppose the nominations of Judge Haynsworth and Judge Carswell.

Although it has been his work on the Senate Judiciary Committee that has most frequently brought Senator BAYH into the national spotlight, he has also played an important role on the Senate Appropriations Committee.

In his first year as chairman of the District of Columbia Appropriations Subcommittee Senator BAYH found ways to cut $15 million out of the budget without adversely affecting any of the vital services provided the people of our Nation's Capital City.

Throughout his service on the Appropriations Committee Senator BAYH has worked consistently to cut waste from the Federal budget and to reorder our spending priorities to meet the real needs of our people. Earlier this year, for example, he succeeded in slashing more than a billion dollars of surplus funds out of the welfare budget alone to free these funds for use in such necessary programs as public service employment, education, and health care.

Senator BAYH has worked particularly hard and very successfully as a member of the Appropriations Committee to increase funding for important projects in Indiana such as the Indiana Dunes National Lakeshore, which he was instrumental in creating, sewage treatment facilities and disaster relief.

Time and time again, when there was a problem affecting the people of Indiana, BIRCH BAYH was there, working for its solution. Whether it was slashing

through bureaucratic red-tape or offering appropriate legislation. Senator BAYH did not stop with a short-range answer to a problem, but continued to search until he found the right answer. An example of how Senator BAYH has sought long-lasting answers is the Disaster Relief Act. When a tornado ripped across Indiana and much of the Midwest on Palm Sunday in 1965, Senator BAYH went to work and wrote what became the first comprehensive disaster relief law so that when future disasters came relief and help would be readily available.

Mr. President, in BIRCH BAYH, the people of Indiana have sent to the Senate a man whose courage, integrity, and ability have made a difference for the people of Indiana and the Nation. I take this occasion to express the hope that he may have many years in the service of his country.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the act (H.R. 11537) to extend and expand the authority for carrying out conservation and rehabilitation programs on military reservations, and to authorize the implementation of such programs on certain public lands; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mrs. SULLIVAN, Mr. DINGELL, and Mr. GOODLING were appointed managers of the conference on the part of the House.

RESCISSION OF ORDER FOR CONSIDERATION OF THE RAIL PASSENGER SERVICE ACT

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

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate Calendar No. 975, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3569) to amend the Rail Passenger Service Act of 1970, and for other purposes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that that order be rescinded and that the Senate return to the consideration of Calendar No. 857, S. 707, and that it be laid before the Senate and made the pending business.

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

CONSUMER PROTECTION AGENCY FOR CONSUMER ADVOCACY

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 707) to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency; and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

CLOTURE MOTION

Mr. RIBICOFF. Mr. President, I send to the desk a cloture motion.

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

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill, S. 707, to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

1. James Abourezk.
2. Jacob K. Javits.
3. George McGovern.
4. Gale W. McGee.
5. Mike Mansfield.
6. William D. Hathaway.
7. Hubert H. Humphrey.
8. Harold E. Hughes.
9. Gaylord Nelson.
10. Philip A. Hart.
11. Edward M. Kennedy.
12. Charles H. Percy.
13. Clifford P. Case.
14. Abraham Ribicoff.
15. Alan Cranston.
16. Warren G. Magnuson.
17. James B. Pearson.
18. Hugh Scott.
19. Lowell P. Weicker, Jr.
20. Mark O. Hatfield.

The PRESIDING OFFICER. The pending question is on the amendment of the Senator from Illinois (Mr. STEVENSON). No. 1606.

Mr. RIBICOFF. 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. STEVENSON. 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. STEVENSON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment by the Senator from Illinois, No. 1606.

Mr. STEVENSON. Mr. President, I ask unanimous consent that William Staszak, a member of my staff, and Stanley Marcuss, a member of the staff of the Committee on Banking, Housing and Urban Affairs, be permitted the privilege of the floor during the debate and vote on this amendment.

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

Mr. STEVENSON. Mr. President, committee amendment No. 4 carves out a broad exemption for financial institutions.

Federal agencies responsible for the regulation of financial institutions would not be required to make their reports, or any information relating to such reports, available to the Administrator as a result of this amendment.

The amendment which I am offering would strike that broad exemption for financial institutions and protect from interagency disclosure any information that is now protected by statute. In other words, it would simply leave the law as it is.

The law is not altogether clear as to what it does prohibit from interagency disclosure, but, Mr. President, I do not believe this is the time and the place to resolve that uncertainty or that the way to do so is by giving one industry a sweeping exemption enjoyed by no other industry.

That industry, financial institutions in the country, may already have the protection that is necessary and desirable, protection from interagency disclosure under the present law, and these institutions will receive additional protection in this bill.

Section 11 of the bill details classes of information which need not be disclosed by one agency to another.

If, Mr. President, consideration of additional exemptions for the banking and savings and loan industry is necessary, then it seems to me that the Banking Committee ought to consider the matter and recommend the appropriate safeguards.

This matter has not received the benefit of any hearings in any committee. It was not considered in any depth in the Government Operations Committee nor the Commerce Committee. The bill was not even referred to the committee with the jurisdiction and the expertise; namely, the Banking Committee.

One thing is clear, and that is that the Consumer Agency will have a legitimate interest in the reports of other agencies about the consumer credit and home loan policies of financial institutions, their truth-in-lending activities, and other such matters.

The Consumer Protection Agency would be protected by the amendment which I am offering. That amendment would strike this exemption for banks, an amendment which is probably unnecessary, and if later on, as I indicated, it appears there is some necessity for some additional protection under the law, that could be considered in the Banking Committee.

This amendment, Mr. President, has nothing to do with public disclosure of any information about any banks. It would simply eliminate a committee amendment by the Government Operations Committee which grants financial institutions, financial institutions alone, a sweeping exemption from the interagency disclosure requirements in this bill.

I suggest that before blanketing the activities of banks with congressionally sanctioned secrecy, we ought to at least study the matter, and it has not been studied. It is a matter which has not even been given a hearing.

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum, unless the Senator from Ohio has something to say.

Mr. TAFT. I think the distinguished Senator from Tennessee has some comments.

Mr. RIBICOFF. That is correct, and that is why I suggested the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceed to call the roll.

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

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

Mr. TAFT. Mr. President, I ask unanimous consent that the pending amendment be set aside and that I be permitted to proceed on the bill.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENSON. Reserving the right to object, and I shall not object, I believe the Senator wants to lay the amendment aside temporarily, for about 10 minutes?

Mr. TAFT. Yes, until the Senator from Tennessee can come to the floor, at which time I shall be glad to yield the floor.

The PRESIDING OFFICER (Mr. BIDEN). The Senator need not make such a motion unless he wants to offer another amendment, because there is no time limit on the bill.

Mr. TAFT. I shall proceed on the bill, then.

The PRESIDING OFFICER. The Senator from Ohio may proceed.

Mr. TAFT. I assure the Senator from Illinois that my intention is to yield the floor and complete action on the amendment when the Senator from Tennessee has finished.

WHO SPEAKS FOR EVERY MAN?

Mr. President, it has not been my usual practice in the Senate to engage in what has come to be known as prolonged discussion of particular issues. In fact, more often than not, I have found myself on the side of voting for and signing cloture motions. However, I do think, when the issues that come before us become so complex and the pressures behind them become so strong, that a prolonged discussion is vital to an understanding among Members of the Senate, Members of the House of Representatives, and members of the public generally as to what the impact of a particular proposed piece of legislation might be.

My purpose today and my expectation as to future conduct with regard to this bill are in that context.

The bill seems to me to pose a very serious question that all of us should be facing up to. I would entitle my remarks today with a question. That question is, "Who speaks for Everyman?"

The concept of a Consumer Protection Agency, or an Agency for Consumer Advocacy, as we now are apparently going to call it, appears to be built on the faulty premise that a superagency can speak for a mythical everyman.

Mr. President, I agree strongly with the Senator from Alabama that "the interests of consumers are an essential part of the public interest and need to be safeguarded." It is axiomatic, of course, that those of us in the Congress of these United States can have no more important goal than to serve the commonwealth.

But let us examine the artificial notions that forces are alined as "pro" or "anti" consumer. Who among us is not a consumer. Who among us does not support the desirable—the critical—the mandatory, twofold objective of both S. 707 and S. 1160, namely, to promote the interests of the American people as consumers of goods and services; and to improve the coordination of Federal programs and activities which affect consumers.

In these unsteady times when consumers are buffeted by higher prices, shortages, and inflation, the siren call of legislation labeled "consumer protection" beckons. It is right that we ask:

Who is watching out for the little fellow, for everyman?

Who is listening to him, or is his voice lost in a wildernes of special interests, vocal minorities, and global planners?

Who speaks for him? What really are the mythical everyman's expectations?

I say mythical, for I do not believe there is a composite everyman out there in this broad, complex, ever changing nation of individuals. The basic premise of the Consumer Protection Agency or the ACA, as we call it, appears to be based on the existence of such an everyman.

I am for the consumer's interest. We all are. But I seriously question whether we can ordain an elite cadre in Washington to speak for the entire U.S. consuming population of 200-million-plus men, woman, and children.

CONCERNS ABOUT THE CPA

Serious questions have been raised about the Consumer Protection Agency and I would be remiss if I did not review them briefly before getting back to a principle concern—realistic consumer advocacy. Although well-intentioned, I can see the establishment of a Consumer Protection Agency as actually working against the orderly process of the Government, working against the consumer's best interest, and working especially, against the consumer's sorely tested pocketbook in these inflationary times.

My main contention is that the Agency for Consumer Advocacy would inevitably lead to minority rule in matters affecting consumers. And I take it this would be in direct opposition to the intent of the proposed Consumer Protection Acts. Before expanding on this overriding concern, let me first briefly summarize my other problems with these bills.

First. I think it is an unsound concept to set up one "super" agency with absolute power to intervene in the affairs of other agencies, and to call the decisions of all others into question in the courts.

The Consumer Protection Agency will have not only the right but the mandate to become an adversary to every other agency, to dispute with and override their decisions by appeals to the Federal courts. Private persons and companies engaged in proceedings with other Federal agencies now will be confronted with the situation in which no decision involving consumer interests is final until the Consumer Protection Agency has agreed to let it rest, or until it has been reviewed and settled by the courts, if challenged by the Consumer Protection Agency.

These bills assume built-in disruption of virtually all Government agencies.

In that respect, I have received a letter which I would like to just read briefly from one of my constituents, representing a large concern in the consumer field, retail field. I would like to quote a part of that letter, as follows:

In running our business, I would rather be told I am wrong and must change than be told that I may have to wait another six months or a year to find out while a new agency appeals a decision which otherwise would have provided clarity and certainty. Nor do I welcome the prospect of having to work out constructive solutions to regulatory problems with representatives of "competing" government agencies who disagree with each other as to the desired result or how to get there. Such a process is hardly the most efficient and effective way of meeting consumer needs.

In that same letter, I would like to quote further because I think the points are well worth noting:

As a floor vote on the Consumer Protection Agency proposals approaches, I urge your consideration of the dilemma I face as the head of a substantial consumer goods business, and which I believe, you too, must resolve when you cast your vote.

Many businessmen have strongly and consistently opposed any Consumer Protection Agency. Others, including myself, have openly advocated such an agency but have questioned the appropriateness of some of the features of the current proposals. Unfortunately, these questions have been viewed by some, in and out of government, as proof that these responsible business leaders are really against any CPA and against consumers. Only those few companies who have publicly endorsed the present proposals are credited with being good corporate citizens on this issue.

I continue to quote this letter:

Clearly you face the same risk of being simplistically dubbed as for or against consumers, depending on how you vote on S–707 and HR–13163. On the other hand, we strongly suspect that a majority of your constituents want you to insure that legislation enacted by the Senate provides sound and efficient mechanisms for serving the public interest rather than increasing the cost and burden of government beyond what the expected benefits will justify.

Continuing to quote the letter:

We feel that we rank high among responsible corporate citizens. Over the years we have undertaken socially responsible programs because we thought they were right, and—frankly—because we thought they were good business. We have not waited for laws and regulations. For example, while warranty legislation is still pending in the Congress, all of our products have carried on unconditional money-back guarantee of satisfaction on their labels for over a quarter of a century. Another example—while the debate still goes on as to whether advertisers should be required to substantiate their advertising claims, we have taken it as an article of faith throughout our corporate existence that our advertising must be scientifically and legally supportable, and our record of providing such support in a satisfactory manner in response to governmental inquiries goes back over many years.

Continue quoting the letter:

Accordingly we have no concern that the establishment of a Consumer Protection Agency entails specific risks for us as a company. Besides, it is the very nature of our business to try to fill those needs which consumers express to us in our extensive market research efforts, and there is no doubt that consumers perceive a need for a Consumer Protection Agency.

When we consider a business proposal, as when you consider a legislative proposal, we examine the need, consider the alternatives for meeting it, and adopt the most efficient plan of action which can be expected to accomplish the desired result. When we seek to provide constructive input on proposed legislation, we proceed in the same manner.

Mr. President, I have not completed reading the letter, which I will do at a later time, nor have I completed my remarks along the line of a "Who speaks for everyman?" which I have just been discussing. But I will, at this time, yield the floor so that proceedings can continue on the amendment by the Senator from Illinois.

I shall now defer my remarks until later.

Mr. RIBICOFF. Mr. President, I wonder if the Senator would yield. Is it the intention of the distinguished Senator from Ohio, after the adoption of this amendment, to continue his speech?

Mr. TAFT. It is my intention if the time is sufficient.

Mr. RIBICOFF. There are a few committee amendments remaining which are noncontroversial, and I wonder whether we could proceed to the adoption of the remaining committee amendments and then have the distinguished Senator continue. However, I would be more than pleased to defer the adoption of the committee amendments, if the Senator from Ohio would want to continue at that time, and I would defer to the Senator for whatever action he wishes to take.

Mr. TAFT. Mr. President, I thank the Senator very much. I would defer and see what time is available after the Senator from Illinois has completed action on his amendment.

Mr. BROCK. Mr. President, does the Chair accept the unanimous consent request of the Senator from Ohio?

The PRESIDING OFFICER. Is there objection to the unanimous consent request? The Chair hears none, and it is so ordered.

The Senator from Illinois has the floor.

Mr. STEVENSON. Mr. President, I discussed this amendment with the distinguished Senator from Tennessee (Mr. BROCK) and also the distinguished manager of the bill (Mr. RIBICOFF) and I think we can make a change in the amendment that would make it acceptable to the Senator from Tennessee.

He has rightly expressed concern about the privacy of customers of financial institutions. It would not be my intention to require that information obtained by any Federal regulatory agencies about the financial condition of individual customers of financial institutions be required to be disclosed by that agency to the Administrator.

In fact, I think such information should be protected from disclosure if it is not protected already in the law.

Mr. President, I send the modification to the desk and ask that my amendment be modified to conform.

The PRESIDING OFFICER. The amendment is so modified. The modification will be stated.

The assistant legislative clerk read as follows:

On page 71, line 8, strike all after the semicolon through "and" on line 16 and insert in lieu thereof the following:

"Including, but not limited to, such expressly prohibited information contained in or related to examination, operating, or condition reports concerning any individual financial institution prepared by, on behalf of, or for the use of an agency responsible for regulation or supervision of financial institutions;

(6) information which would disclose the financial condition of individual customers of financial institutions; and

Mr. STEVENSON. Mr. President, the operative language of this modification is in subparagraph 6, which would make it clear that information which discloses the financial condition of customers of financial institutions, is not subject to interagency disclosure—such information would include credit reports, bank accounts, files on individual transactions between banks and customers—matters of that kind.

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

Mr. STEVENSON. I yield.

Mr. RIBICOFF. Do I understand what the Senator is interested in doing is preserving the privacy of an individual person not to be disturbed or have his financial transactions disclosed? I understand that to be the purport of the amendment of the Senator from Illinois.

Mr. STEVENSON. That is the purport of the amendment; not to require regulatory agencies to disclose any such information about the financial condition of customers of financial institutions to the Consumer Protection Agency.

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

Mr. STEVENSON. I yield.

Mr. BROCK. The Senator from Illinois has, I think, correctly stated the situation. It does not conform with the proposal of the Senator from Tennessee who offered the original language in the bill in the form of a committee amendment, which was adopted by the Committee on Government Operations.

My concern is a very specific concern in the sense of the fact that this Nation too often these days embarks upon new controls or procedures or laws which although well intentioned have the effect of destroying personal privacy. This assault is upon one of our most fundamental freedoms.

I offered in committee an amendment which would preclude this agency from access to and revelation of any information with regard to individual customers of a financial institution or privileged records and accounts of such institutions.

The Senator from Illinois has very carefully worded the amendment to be more specific than that proposal which I drew up. There is no distinction between the desire of the Senator from Illinois and the Senator from Tennessee; we both seek the same objective.

I appreciate the Senator's concern with this matter and his interest in it and his support. I wish to guarantee that privacy and privileges of the citizens of this country. We are embarked on too many exercises to damage or even destroy that basic American freedom.

Mr. President, I am prepared to support the amendment. I would like to list two or three things to be sure we are in consonance.

I understand this would preclude access to credit reports and bank accounts, records of loans he might have sought; it would apply to bank examinations of that institution that are not covered under the Freedom of Information Act, where we already have an exclusion, but it would cover those areas of examinations that are simply for the purpose of the regulatory agencies to maintain that financial solvency of that institution.

They would be excluded, as I understand it, so that there could not be jeopardized the liquidity or basic stability of a financial institution by access to or disclosure of highly privileged information that might put them in a disadvantageous position.

Is that a fair statement of the Senator's intent?

Mr. STEVENSON. The Senator is certainly correct as to the disclosure of information about the financial condition of customers of financial institutions. No such information under this amendment would be required to be disclosed by the regulatory agency to the Administrator. In no case are we talking about public disclosure. This is confined to interagency disclosure.

Mr. BROCK. That is correct.

Mr. STEVENSON. All of the information we are talking about would be, I think, very clearly protected from public disclosure by the Freedom of Information Act.

Mr. BROCK. I understand that.

Mr. STEVENSON. And it specifically refers to bank examiner reports.

Mr. BROCK. That is correct.

Mr. STEVENSON. Bank examiner reports might be protected under existing law or under the provisions of Section 11 of this bill, including specifically section 11(c)(5), but to the extent such reports are not protected either in this bill or by existing law and went beyond the financial condition of individual customers of the bank, they would be subject to access by the Consumer Protection Agency.

Mr. BROCK. What I am saying is that the confidentiality with respect to the borrower or depositor, or customer of that institution would be protected. That is No. 1. The Senator clearly stated it is his intention to guarantee that confidentiality.

I think the language is clear. As the Senator said, other sections would also apply; the Freedom of Information Act guarantees against disclosure, and other sections deal with it.

What we are doing is to protect against what might be called a potential fishing expedition which could yield highly unimportant results having nothing to do with consumer protection.

Mr. STEVENSON. I share the Senator's concern. We are concerned only about public disclosure of any information which would adversely affect any competitive position or reputation of any financial institution.

I do not believe this amendment could possibly have that effect. It leaves the existing protections of the law as they are. It adds the additional protection for the customers of financial institutions. And, of course, this bill, itself, contains additional protection. If later on the problem were to arise, of course, we could consider the matter in the Banking Committee, of which we are both members. I think that is exceedingly unlikely. I cannot see any such problems.

It is not a matter which has received any hearings in any of the committees which have considered this bill.

Mr. BROCK. Let me say to the Senator, I think he has drawn a very precise amendment, which is explicit in its terms and in its intent. That is what I supported, because I do not think there is any opportunity for confusion or contradiction in the specific language or in the intention. We do protect the institutions, we do protect the institutions' customers, and that is what it is all about. I very much appreciate the Senator's responses. I do appreciate his respect for the confidentiality of certain privileged banking information, both of an institutional nature and the nature as it pertains to their customers.

Mr. President, I am prepared to accept, support and vote for the amendment.

Mr. STEVENSON. Mr. President, I want to again commend the Senator from Tennessee for raising this matter, and especially for expressing his genuine and, I think, correct concern about privacy of customers of financial institutions. I am glad to have his support.

Mr. President, I will modify the amendment further to change the first line to read, "strike all after the semicolon" instead of "strike all after the word 'agency' ".

The PRESIDING OFFICER. The amendment will be so modified.

Mr. STEVENSON. Mr. President, I think this matter has been sufficiently discussed. I am prepared to vote.

Mr. RIBICOFF. Mr. President, I want to take this opportunity of expressing my appreciation to both the Senator from Illinois and the Senator from Tennessee for their constructive work and cooperation in clearing up many doubts on committee amendment No. 4 and making it a better and more effective amendment. My commendation to both Senators for that.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Illinois to the committee amendment.

The amendment of the Senator from Illinois to the committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the committee amendment, as amended.

Committee amendment No. 4, as amended, was agreed to.

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The legislative clerk read as follows:

At the beginning of line 17, strike out "(6)" and insert "(7)"; on page 82, after line 19, insert:

(h) It is the sense of the Congress that small business enterprises should have their varied needs considered by all levels of government in the implementation of the procedures provided for thoughout this Act.

(i)(1) In order to carry out the policy stated in subsection (h), the Small Business Administration (A) shall to the maximum extent possible provide small business enterpriess with full information concerning the provision of the procedures provided for throughout this Act which particularly affect such enterprises, and the activities of the various departments and agencies under such provisions, and (B) shall, as part of its annual report, provide to the Congress a summary of the actions taken under this Act which have particularly affected such enterprises.

(2) To the extent feasible, the Administrator shall seek the views of small business in connection with establishing the agency's priorities, as well as rules and regulations which will be promulgated for the purpose of implementing this Act.

(3) In administering the programs provided for in this Act, the Administrator shall respond in an expeditious manner to the views, requests, and other filings by small business enterprises.

(4) In implementing this Act, the Administrator shall insofar as practicable, treat all businesses, large or small, in an equitable fashion; due consideration shall be given to the unique problems of small businesses so as not to discriminate or cause unnecessary hardship in the administration or implementation of the provisions of this Act.

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

Mr. RIBICOFF. Mr. President, this amendment was adopted by the full committee at the suggestion of Senator BROCK.

The amendment directs the Administrator and all other Federal agencies to give due consideration to the special problems of small businesses when acting under the act. The Administrator is directed to respond in an expeditious manner to the views, requests, and other filings made by small business enterprises. The Administrator is required to consult with the representatives of small businesses when establishing the agency's priorities and procedures. Finally, the Small Business Administration is directed to provide small businesses with information about the act and its implementation, and to provide Congress with a summary of the effect of the act on small businesses.

The amendment assures that the CPA and all other Federal agencies will keep the special problems of small businesses in mind when implementing the act. It will prevent any chance of small businesses being discriminated against or being caused unnecessary hardship. The amendment represents an important recognition of the special problems of small businesses.

It is my understanding that there is no opposition to this amendment, and I ask for its consideration.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. TAFT. Mr. President, I am not going to express opposition to the amendment. I do want to express some doubts about the position just expressed by the distinguished Senator from Connecticut. I admire and agree with the objectives of the committee amendment, and certainly recognize the necessity, in proceeding with legislation of this kind, for giving proper consideration to the problems of small business. Unfortunately, however, I feel I do have to disagree with the Senator in his apparent conclusion that there is some way in which you can do this and still enact the provisions of this bill.

Many of my constituents have discussed being under constant fire and barrage from various agencies of the Federal Government. The unfortunate part is the tremendous burden of administrative costs in just handling the inquiries and the contacts by Government agencies. Even though there may be no violation of any kind involved, and the conduct of the company may be very fine conduct, merely the redtape and the additional contacts which they have inevitably impose an inordinate and discriminatory burden upon small business.

That is the reason, of course, why there have been some proposals to exempt small business. I am sure there may be amendments offered later along these lines. I do not in any way disagree with the objectives or the language of the committee amendment, so I will not oppose it at this time. I do register a dissent as to the fact that we can handle the problems involved in this way.

Mr. RIBICOFF. Mr. President, I appreciate the point of view of the distinguished Senator from Ohio. I do believe that with this amendment and the amendment that we adopted by Senator DOMENICI, we have gone a long way to remove many of the apprehensions and fears of small business.

The Domenici amendment, as I understand, affects some 94 percent of the business in this country.

Mr. President, I move the adoption of committee amendment No. 5.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment No. 5.

Committee amendment No. 5 was agreed to.

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The legislative clerk read as follows:

On page 88, line 9, after "1977.", insert "Any subsequent legislation to authorize appropriations under this Act for the fiscal year beginning on July 1, 1977, shall be referred in the Senate to the Committee on Government Operations and to the Senate Committee on Commerce."; after line 13, insert a new section, as follows:

EVALUATION BY THE COMPTROLLER GENERAL

SEC. 21. (a) The Comptroller General of the United States shall audit, review, and evaluate, the implementation of the provisions of this Act by the Consumer Protection Agency.

(b) Not less than 30 months nor more than 36 months after the effective date of

This Act, the Comptroller General shall prepare and submit to the Congress a report on his audit conducted pursuant to subsection (a), which shall contain, but not be limited to, the following:

(1) an evaluation of the effectiveness of consumer representation activities;

(2) an evaluation of the effect of such agency activities on the efficiency, effectiveness, and procedural fairness of affected Federal agencies in carrying out their assigned functions and duties;

(3) recommendations concerning any legislation he deems necessary, and the reasons therefor, for improving the implementation of the objectives of this Act as set forth in section 3.

(c) Copies of the report shall be furnished to the Administrator of the Consumer Protection Agency, the chairmen of the Senate Committees on Commerce and on Government Operations, and the chairman of the Committee on Government Operations of the House of Representatives.

(d) Restrictions and prohibitions under this Act applicable to the use or public dissemination of information by the Agency shall apply with equal force and effect to the General Accounting Office in carrying out its functions under this section.

And, on page 89, at the beginning of line 21, change the section number from "21" to "22".

Mr. RIBICOFF. Mr. President, the amendment provides that any legislation renewing the agency's authorization in 1977 shall be referred in the Senate to the Government Operations Committee and to Commerce Committee.

This amendment will assure that these two committees will review the agency's operations after the first 3 years. These committees must be satisfied the CPA is operating successfully before Congress authorizes any further amount for its operation.

The amendment is an important safeguard. I recommend its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

All of the committee amendments have now been agreed to. The bill is open for further amendment

Mr. TAFT. Mr. President, I would like to continue my remarks at this time on the question that I asked earlier today: Who represents everyman? In doing so, I would like to continue to read from a letter I received from a representative of a very large retail business, constantly dealing with consumers, which I think makes his observations and his comments valuable.

I continue to read from a portion of this letter, as follows:

The need perceived by consumers, as we understand it, is for an established agency of government which:

a) has no other interest but the consumer interest;

b) will keep informed about all activities of government affecting the consumer interest;

c) will insure that the consumer viewpoint and the facts supporting it are presented to, indeed advocated before, all other agencies in connection with such activities.

It is such a Consumer Protection Agency which we favor and indeed urge upon you.

The present proposals seem to be directed to an alleged *additional* need which we believe does not exist or which, if it does exist, must be dealt with by the Congress in a more direct and efficient fashion than this legislation provides. This alleged need is to insure that these other agencies of government, having had the consumer viewpoint adequately presented to them by the CPA, will act responsibly—and if they do not, to provide a means to challenge their decisions. This "need" is often expressed through accusations that the administrative agencies are "captives of the industries they regulate" and cannot be trusted to carry out their mandate to act in the public interest.

As troubled as we are about the level of public distrust of all established institutions, whether in business, government or elsewhere, we must believe that the overwhelming majority of officials and staffs of government agencies try to do their jobs in a responsible fashion to the best of their abilities in the public interest, just as most Senators and Congressmen do. If they sometimes fail to do so, it is as likely as not because they don't have all the facts. The Consumer Protection Agency we favor would provide those facts.

Such an agency in the form proposed in S-707 and HR-13163 on the other hand, much as it is heralded as "non-regulatory" and therefore impliedly unobjectionable, would become a superior among equals. Each agency before which it appears would know that however responsibly, and with what expertise, it sought to determine the public interest, the CPA would have a right of appeal unique in administrative law. As a watcher of the watchers, it would breed more distrust, hesitancy and fear.

Then, as I read earlier, and I think it is worth reading in this context:

If one assumes that administrative agencies will act irresponsibly, is there not the same risk that the Administrator of the Consumer Protection Agency will act irresponsibly even though the statute exhorts him not to do so? The remedy for irresponsibility is to bring change to the irresponsible agency, not to create another agency with overriding watchdog authority. Correction of irresponsibility at the source will invite trust, action-oriented programs, and certainty.

The specifics of the concerns with the legislation before you have been argued at length many times in many places and I have not repeated them here, although I do urge your thoughtful attention to Senator Ervin's Minority Views in the Commerce Committee report.

My point is simply that as a responsible business we favor an appropriate Consumer Protection Agency which meets perceived consumer needs, but as thoughtful and concerned corporate citizens we believe it would be a mistake to burden that function with powers which not only do not help to meet those needs but also burden the processes of government with distrust and uncertainty.

Mr. President, I think this is an outstanding and a very succinct observation as to the choice Congress has in facing up to this problem.

They would give the new agency unlimited power to second-guess and override decisions of Cabinet officers and other Government agencies. Once the Consumer Protection Agency entered a case, it would oppose official actions and appeal to the courts from decisions of the Federal Trade Commission, the Federal Communications Commission, the Securities and Exchange Commission, the Interstate Commerce Commission, the Agriculture Department, the Interior Department—and on down the line— ad infinitum.

The Consumer Protection Agency could force one thousand and one Federal offices to subpoena books, papers and witnesses; force them to give up their own records and data; ask that they conduct product performance tests; require them to report on the conduct of their affairs; compel cooperation on publicizing any information deemed "useful to consumers."

These bills would, I believe, hinder, not help, effective representation of consumer interests within the Federal Government. It is wisely said that justice delayed is justice denied, and the delay factor alone that is certain to result from the CPA seems sure to create injustice, paralysis, defensiveness, and maladministration in a host of administrative agencies and departments.

Already the Federal Trade Commission the President's Consumer Advisor—Mrs. Virginia Knauer—the Food and Drug Administration, the Consumer Product Safety Commission, and a host of other agencies throughout the executive branch are charged with consumer concerns of all kinds.

Mr. KENNEDY. Mr. President, will the Senator yield for a very brief unanimous consent requests, without losing his right to the floor?

Mr. TAFT. I am glad to yield.

Mr. KENNEDY. Mr. President, at the conclusion of today's business, I wanted to call up my amendment No. 1573 and ask that it be the pending business on Monday next.

I have talked with the floor manager of the bill and understand that he has communicated with the minority member, so that this would be the pending amendment.

With the understanding of the manager of the bill, and with the indulgence of the Senator from Ohio, I ask unanimous consent that the amendment be called up and be made the pending business.

The PRESIDING OFFICER (Mr. BARTLETT). Is there objection?

Mr. ALLEN. Mr. President, reserving the right to object, I would like to have an opportunity to look at the amendment. I suggest the absence of a quorum.

Mr. KENNEDY. If the Senator will withhold that request, I had asked the Senator from Ohio to yield, and he is making a statement. So I will withhold the request, in order not to interfere with the time of the Senator from Ohio, and I plan to come back.

Mr. RIBICOFF. Mr. President, I think we can settle it. It was the hope of the majority whip that before the day was over, an amendment could be called up that would be the pending order of business on Monday. There would be no votes or discussion on the amendment today, but it would be deferred until Monday, at which time it would be called up in due course and full debate would take place on it. There would be no action on it today.

Mr. ALLEN. The only trouble, I might say, is that the Senator from Ohio has an amendment he has been trying to get in for some days now. Also, I am anxious to see the committee amendments adopted.

Mr. RIBICOFF. All the committee amendments have been adopted.

Mr. ALLEN. The Senator from Ohio has an amendment, and I would like to

see some amendments come in that might stand a little better chance of being adopted than this amendment. This might bring things to a halt, if it provides what I understand it does provide.

I would like to interpose an objection at this time, but possibly later in the afternoon something could be done. Perhaps we could talk to the Senator from Ohio, who has an amendment. He has been asking the Senator from Alabama when he might get it in. I was under the impression that we were going to be able to get it in after the committee amendments were disposed of.

Mr. RIBICOFF. I say to the distinguished Senator from Alabama that I did not know there was any such arrangement. The committee amendments have been adopted, and I did not know about any other amendment that anyone wanted to put in. I am sorry I did not know that the Senator from Ohio had an amendment that he wanted to put in. I knew that the Senator from Massachusetts had an amendment, and I was anxious to accommodate the leadership, so that we would have ongoing business on Monday.

Mr. ALLEN. Then, too, we might have some amendments that could be disposed of this afternoon. I would like us to do what we could to perfect the bill, if it is capable of being perfected or improved.

Mr. RIBICOFF. I am wondering, under the circumstances, whether we could have a unanimous consent agreement that after the disposition of the amendment by the Senator from Massachusetts, we could make the next order of business the amendment of the Senator from Ohio, so long as the request has been made by the Senator from Massachusetts before the Senator from Ohio has made a request. I have no objection to having unanimous consent that the Senator from Ohio's amendment follow the disposition of the Kennedy amendment.

Mr. ALLEN. As I say, ever since the bill has been before the Senate, the Senator from Ohio (Mr. METZENBAUM) has been seeking to get the aemndment in. I told them that I thought it could come in after the other amendments.

I wonder whether we could let the Senator from Ohio's amendment come first and this amendment come second.

Mr. KENNEDY. If the Senator will yield, I have no other interest than having an early consideration of my particular amendment and trying to work out a satisfactory timing with the floor manager of the bill and with the leadership. So I will be glad to withhold the request until later on in the afternoon, and I will make such a request at an appropriate time, unless the Senator from Ohio has, with the understanding of the manager of the bill, called up his amendment. In an attempt to comply with the leadership and the floor manager I wish to offer this amendment.

I think if the Senator from Ohio is interested, he has every opportunity to offer his amendment and call it up.

Mr. RIBICOFF. If the Senator will yield, the Senator from Ohio has the floor—I did not realize the reference was to the junior Senator from Ohio, who is not on the floor.

Mr. ALLEN. That is correct.

Mr. RIBICOFF. Naturally, I have no objection to which order it takes. To me, we are going to have to deal with these amendments as they come up.

The Senator from Massachusetts is on the floor asking for consideration. I have no objection whatsoever to asking unanimous consent that Senator METZENBAUM'S amendment follow that of the Senator from Massachusetts, as long as the Senator from Massachusetts is on the floor, and the Senator from Ohio is not.

Mr. TAFT. Mr. President, there are other contingencies here. One is that I have an amendment to bring up and discuss, at least discuss today, whether it is called up as part of the business or not.

I had not as yet committed myself but for the fact that I see no reason why I could not do so, if I wish to do so.

I would ask the Chair a parliamentary inquiry whether if I offer an amendment, having the floor, by offering the amendment and calling it up whether it does not become the order of business?

The PRESIDING OFFICER. That is correct, it would become the order of business.

Mr. KENNEDY. Mr. President, if the Senator from Ohio will indulge me for one more moment, I would like to make it very clear for the RECORD that there are other amendments to this bill and that some of these amendments are ready to be considered. I will take the opportunity to bring up my amendment at an early date, and will cooperate with the floor manager in seeking an appropriate time.

I want to thank the Senator from Ohio for yielding the time and I thank the Senator from Connecticut and indicate to him that I will be ready to offer this amendment at the earliest possible available time.

Mr. RIBICOFF. May I make a comment, in fairness to our colleague, that if there is the intention of the Senator from Ohio to bring up his amendment today for completion and a vote, I would hope the respective cloakrooms would get word to the respective Senators on both sides of what may take place, because there had been an impression that there probably would be no more votes today, under the circumstances, and hot lines should get busy at once.

There is no desire on my part to cut off discussion today on any amendment. I am willing to stay here on the floor as long as necessary without any time limitation.

Mr. KENNEDY. Mr. President, I withhold my request.

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. TAFT. Mr. President, unavoidably, a new Consumer Protection Agency, with the absolute right to intervention, will complicate and confuse these efforts to respond to genuine consumer need and lead to a constant in-house competition as to which agency can be the most militant and the most visible consumer champion.

The new Agency could be counted on to become a constant critic not only of business but also of competing activities within government, greatly hindering genuine efforts to solve problems which affect consumers.

As presently conceived the Consumer Protection Agency would be a power unto itself, largely uncontrollable by anyone.

When the Consumer Protection Agency official decides that a certain course or position is "in the best interests of consumers," who can call that decision into question? He would have the power to operate independently of the wishes of both the executive branch and of Congress itself.

WHO SPEAKS FOR EVERY MAN

This has been an alarming accounting, to be sure, but the true malignancy does not appear until one considers the fallacious and unworkable concept of a single consumer voice in the Federal Government. I submit that the presently proposed concept of a Consumer Protection Agency contains more good will than commonsense.

It is beyond my comprehension how the proposed agency with 50 to 100 lawyers can divine the will of millions of consumers. Average consumers readily express their desires and needs each day in the marketplace—voting as it were—with dollars and cents. Trying to plumb the consumer's wishes—hopefully to anticipate them—companies annually conduct millions of interviews, analyze tens of thousands of personal letters, and carefully test market new and improved products over extended periods of time. And now we are saying that one agency, that, in reality, will only be responsive to vocal minorities, can indeed represent our mythical "everyman"—know his ephemeral wants, needs, and desires—in their infinite variety. Perhaps the Consumer Protection Agency will indeed be staffed with soothsayers.

The hard fact is that consumer interest is as broad, as varied, as complex as the entire U.S. economy or the entire U.S. population. The great bulk of producers of consumer goods exists to serve an infinite variety of consumer interests in an infinite variety of circumstances. What is in the interests of one consumer in one set of circumstances may well be contrary to the interests of another consumer in another set of circumstances. Each consumer has his own needs, his own desires, his own standards of satisfaction.

We, in Congress, have recognized this fact by delegating to specific Federal agencies the responsibility for representing certain consumer interests in certain circumstances. The Food and Drug Administration is assigned to look after the consumer's interest in the safety of food and drugs. The Federal Trade Commission is charged to protect the consumer from unfair trade practices. The Securities and Exchange Commission protects the consumer in the investment of his funds, and so forth. These are areas of great complexity and expertise in which it seems unlikely that the CPA would have the skill or background to assess the public interest.

To superimpose over all of this a single

agency with the authority to speak for all consumers in all of their interests and in all circumstances is—I repeat—a fallacious and unworkable concept. The entire idea of speaking for the "consumer interest" breaks down when put into practice as a single Government function.

Which consumers will the omniscient agency represent? It likely will favor lower prices, but oppose labor views in wages, tariffs, and other matters; favor low utility rates, but deny expanded electric service to other consumers; demand low farm prices, but reduce income of farmers, who, indeed, are consumers themselves. A particular "consumer interest" is not necessarily synonymous with the "public interest"—it is only one part of the public interest and hence may conflict with it, and hence might be made with the public interest.

This leads us back to my main point that the Consumer Protection Agency would inevitably lead to minority rule in matters affecting consumers. The well-intentioned but overly ambitious Consumer Protection Agency would compound the very problem it is attempting to eliminate—inadequate, unrealistic advocacy for all consumers.

As a political force in Washington today, the so-called consumer movement is a broad spectrum of vocal minority views on a great variety of issues. Each consumer group has its own platform which it represents as the overriding consumer interest and which it advocates in preference to all other consumer interests. Each consumer group has its "issue."

For example:

Where automobiles are concerned, the alleged consumer interest is in safety—not cost, or reliable operation, or comfort, or style, and so forth.

Where foods are concerned, the alleged consumer interest is in nutrition—not cost, or taste, or variety of foods, and so forth.

Where packaging is concerned, the alleged consumer interest is in standardization of packages—not convenience in use, or proper protection of the product, or cost, or eye appeal, and so forth.

Where grocery shopping is concerned, the alleged consumer interest is in unit pricing so that one can buy on the basis of cost per ounce—not product quality, or performance, or variety of choice, and so forth.

The great majority of American consumers do not espouse any one of these particular issues. Yet inevitably issues such as these would be the "stock in trade" of the Consumer Protection Agency. The most aggressive minority consumer groups would have a vehicle, in the form of the Consumer Protection Agency, to enforce their views before the various branches of the Federal Government and to impose those views on the public at large.

In this way, the majority interests of the great mass of American consumers, who did not seek representation in these "activist" political groups, would be overridden by the minority view which is represented actively via the Consumer Protection Agency. We will have minority rule instead of majority rule.

ADEQUATE MECHANISMS ALREADY EXIST

This country does not need—nor should it tolerate—an agency that is legally empowered to force its subjective view of consumer interest on the many agencies which are already charged to protect consumers. The notion is inimical to due process, to our system of checks and balances and our traditional aversion to any one, single, almighty power.

There are those who propose that the Consumer Protection Agency would seek the prevention of unfair or deceptive trade practices. Now that mandate sounds familiar. Perhaps the Chairman of the Federal Trade Commission should comment on the need to have an agency with a parallel function to his agency's. The proposition sounds terribly wasteful.

Consider also that 36 Federal agencies have already said that more than 1,300 specific types of proceedings and activities in their areas would be subject to the proposed Consumer Protection Agency's intervention, participation or appeal.[1] In addition, some agencies have acknowledged that the Consumer Protection Agency could potentially intrude into everything they did.

Recognizing that the taxpayers already have a heavy burden in supporting these legions of agency personnel—a new, largely duplicative, super agency, with a starting price tag of $25,000,000 seems a very poor bargain indeed—perniciously more mythical than our "everyman." Not included in the price tag, but certain to be charged to the taxpayers will be the additional attorneys and staff of the agencies to reply to the charges of the CPA.

Before we spend all that money legislating Nirvana for the buffeted consumer, we should recognize that the concept of a Consumer Protection Agency conflicts unnecessarily with our free market system.

This system, while far from perfect—and sometimes in need of a steadying hand from Government—is nonetheless the most effective system man has devised in response to true consumer interest.

If we agree—and I think we must—that there is no "everyman," then the concept of a Consumer Protection Agency contains the seeds of its own destruction. The Consumer Protection Agency seeks to represent a monolithic consumer interest which simply does not exist. I envision—as I mentioned earlier—situations occurring where the Consumer Protection Agency may have to represent one consumer's interest at the expense of another.

Which consumer is to get the Consumer Protection Agency's nod? How many other consumers would actually be represented by the strident plantiff who has been so fortunate to have been granted an audience by the Consumer Protection Agency's omnipotent tribunal?

Take, for example, the issues of safety, quality, and durability of a given product. As the degree of safety—or quality—or durability of a product increases, so usually does its price. There is an obvious trade-off in each case. One consumer may wish to pay a higher price for increased quality, another may wish to accept lesser quality in return for a lower price.

Within our free market system different consumers will reach different conclusions as to what constitutes an acceptable trade-off and make their purchases accordingly. Thus, the free market system neatly eliminates a possible dilemma. In similar circumstances, a Consumer Protection Agency would probably choke on its own profundity.

Granted, the public interest may require that a certain minimum safety standard be met. But this is the function of a regulatory agency such as the Consumer Product Safety Commission which is specifically charged with balancing all the competing interests involved. On the other hand, a Consumer Protection Agency would not have to trifle with such balancing.

Conceivably, in a proceeding before the Product Safety Commission, the Consumer Protection Agency could press for the highest standard of safety achievable regardless of cost. It could do this with complete disregard of previously acceptable standards, frustrate the free market system and cut off economic choices for many more consumers than those few it represents in any one proceeding. The big loser—as too often is true—would be the poor.

I contend that there are already ample Federal agencies to protect the consumers' interest. Congress' job is not to proliferate these agencies, but to see that they discharge their duties in the interest of consumers.

In addition, voluntary consumer protection efforts within the private sector have accelerated and give promise of being more quickly responsive to legitimate consumer concerns and complaints than could a Federal superagency participating in administrative proceedings. I cite the work of the National Business Council for Consumer Affairs and the Council of Better Business Bureaus.

The National Business Council for Consumer Affairs has produced a series of guidelines which amount to codes of conduct in such areas as promotion and advertising, advertising substantiation and packaging and labeling. Congressional endorsement and specific requests to trade associations and corporate officials to implement these codes might produce a higher level of concern for consumer interests among producers of goods and services and a greater degree of consumer satisfaction than would the presumptious voice of a Consumer Protection Agency bureaucrat claiming to represent all mankind.

We should use and encourage the self-disciplinary efforts of the private sector.

Another example: The Council of Better Business Bureaus already has established consumer arbitration facilities in two-thirds of its more than 130 branches, and many of us in Congress already are referring complaints from consumer constituents to the council for

[1] Report of the Committee on Government Operations on S. 3970, S. Rept. No. 92-1100, 92nd Cong. 2d Sess., at 89, 100.

investigation and resolution. I see this kind of activity as far more constructive than establishing another layer of bureaucratic supervision. Certainly the individual consumer seeking protection against deceptive practices and prompt resolution of his complaints can best be served by the voluntary steps of the private sector which exists and thrives in direct relation to its ability to serve consumers.

THE SOLUTION

The cure then does not lie in the creation of a superagency, or the appointment of an arbiter of elegance after the fashion of Ancient Rome, or abdication to an Orwellian global planner. The cure lies in reform of those existing agencies which are not living up to their charge from Congress and the executive branch to be responsive to consumers. The cure importantly lies in encouraging the free market system to function as it alone can in the consumer interest.

Working with existing agencies and the private sector are tangible, workable, results-oriented goals. I think our attention has been diverted too long from these achievable goals by wistful rhapsodizing over the creation of a burdensome, restrictive, costly, and ill fated supersolution, superplacebo, superagency.

As praiseworthy as the goal may be, I submit that our efforts would be better spent in cranking up existing mechanisms on behalf of consumers than trying to legislate a fairy godmother or guardian angel for them.

If, however, we are to have a Consumer Protection Agency, I would urge that it truly reflect the voice of each person and that it be responsive to those of our citizens who are not necessarily organized into a vocal minority or special interest group. That is part of the reason I am this day offering the "ombudsman agency" amendment to the Agency for Consumer Advocacy Act. Let us face it, creating a superagency and empowering it with extraordinary rights and remedies contributes to distrust and uncertainty in our Government at a time when Americans feel their Government has become distant and more impersonal. I fear there is a great feeling of frustration engulfing our citizens that they are too remote from the decision-making process which affects their lives. Growing administrative abuse on the part of a Federal, State, and local bureaucracy substantially adds to this feeling of frustration.

The ombudsman established by my amendment will become a citizen's grievance officer and an impartial guardian of the people's rights against potential governmental abuse on the part of the Agency for Consumer Advocacy. The major provisions of my amendment I shall summarize in a moment.

The amendment is designed to establish a legislatively appointed independent grievance officer with wide-ranging investigatory powers. Since he has no power to directly change an administrative decision, his effectiveness depends upon public confidence in his integrity and upon his resulting power to publicize administrative abuse. To that end, in my view the ombudsman fulfills a very necessary role in obtaining a proper balance in promoting and protecting the interests of the people of the United States as consumers of goods and services.

Mr. President, I would like to summarize at this time the Ombudsman Agency amendment, and I send the amendment to the desk and ask that it be printed.

The PRESIDING OFFICER. Without objection, the amendment will be received and printed.

Mr. TAFT. Mr. President, this amendment starts with an expression of its declaration of purpose.

The first section, section 3(5) covers this aspect of the amendment. This section expresses the principal purpose of the creation of the Ombudsman Agency is to oversee and insure that the purposes of the Consumer Protection Agency and the Administrator's role in connection with it remain responsive to the needs and views of the people of the United States engaged in endeavors including consumer interests, such as the pursuit of civil rights, public health, education, women's rights, and other worthy goals and objectives.

Then we have a section dealing with definitions.

We then have a section dealing with representation of consumer interests before Federal agencies. The amendment, this section, removes the right of the Administrator to intervene as a party or otherwise participate for the purpose of representing the interests of consumers in Federal agency proceedings. It provides that he may attempt intervention as a party or otherwise request participation in such proceedings.

There is a provision calling for judicial review. This removes the Administrator's standing to maintain judicial review of any Federal agency action reviewable under law and provides that the Administrator may petition for judicial review of any Federal agency action so reviewable under law.

I would be glad to yield to the Senator from Alabama to make a unanimous-consent request, without losing my right to the floor.

INCREASED PARTICIPATION BY THE UNITED STATES IN THE INTERNATIONAL DEVELOPMENT ASSOCIATION

Mr. SPARKMAN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2665.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 2665) to provide for increased participation by the United States in the International Development Association, which were to strike out all after the enacting clause, and insert:

That the International Development Association Act (22 U.S.C. 284 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 14. (a) The United States Governor is hereby authorized to agree on behalf of the United States to pay to the Association four annual installments of $375,000,000 each as the United States contribution to the Fourth Replenishment of the Resources of the Association.

"(b) In order to pay for the United States contribution, there is hereby authorized to be appropriated without fiscal year limitation four annual installments of $375,000,000 each for payment by the Secretary of the Treasury.".

SEC. 2. Subsections 3 (b) and (c) of Public Law 93-110 (87 Stat. 352) are repealed and in lieu thereof add the following:

"(b) No rule, regulation, or order in effect on the date subsections (a) and (b) become effective may be construed to prohibit any person from purchasing, holding, selling, or otherwise dealing with gold in the United States or abroad.

"(c) The provisions of subsections (a) and (b) of this section shall take effect either on December 31, 1974, or at any time prior to such date that the President finds and reports to Congress that international monetary reform shall have proceeded to the point where elimination of regulations on privat ownership of gold will not adversely affect the United States' international monetary position.".

SEC. 3. The International Development Association Act (22 U.S.C. 284 et seq.) is amended by inserting at the end thereof the following:

"SEC. 15. The United States Governor is authorized and directed to vote against any loan or other utilization of the funds of the Association for the benefit of any country which develops any nuclear explosive device, unless the country is or becomes a State Party to the Treaty on the Non-Proliferation of Nuclear Weapons (21 UST 483).".; and to amend the title so as to read: "An Act to provide for increased participation by the United States in the International Development Association and to permit United States citizens to purchase, hold, sell, or otherwise deal with gold in the United States or abroad."

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

The motion was agreed to.

Mr. SPARKMAN. I thank the Senator from Ohio.

CONSUMER PROTECTION AGENCY FOR CONSUMER ADVOCACY

The Senate continued with the consideration of the bill (S. 707) to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

Mr. TAFT. Mr. President, the guts of the amendment are found in section 23(A). It establishes an ombudsman agency in the legislative branch of government.

The ombudsman is jointly appointed by the President pro tempore of the Senate and the Speaker of the House for a period of 4 years by and with the advice and consent of the Senate, and solely on the basis of his expertise in analyzing administrative and problems of law. The ombudsman shall not be a candidate or holder of any elected office nor shall he engage in any other employment.

The ombudsman serves for a term of 4 years unless removed for cause by a two-thirds vote of each House. The deputy ombudsman assumes the function of

the ombudsman when the ombudsman is incapacitated.

With respect to the duties of the ombudsman, section 24(A) provides that the ombudsman is authorized to conduct or cause to be conducted full and complete investigations upon receipt of a written complaint from any person forwarded by such person or by a Member of the Senate or the House of Representatives or any standing, special or select committee of the Senate or the House of Representatives with respect to an administrator's act which might be: First, contrary to the Constitution, Federal law, or Federal regulation; second, unreasonable, unfair, arbitrary, or inconsistent with the general course of an Administrator's functioning; third, based wholly or partly on a mistake of law or fact; fourth, based on improper or irrelevant grounds; or fifth, undertaken without prior consideration of the interests of the people of the United States, including the interests of consumers as previously defined in section 4(11) of the act.

Under the bill, the ombudsman would have standing to contest and the right to oppose the intervention of the Administrator in any Federal agency proceedings or any civil proceeding in a court of the United States as provided by sections 7(A) and 8(A) respectively.

The bill further provides if the administrator is allowed to intervene or participate in proceedings pursuant to either of those sections, then, as a matter of right, the ombudsman may intervene or participate in the proceedings in the same way as does the administrator.

There are other provisions which I will not go into in great detail here, which go into the mechanism and the authorities and the financing of the ombudsman.

I feel that the principle, however—and let me just close by pointing out that the principle—of this amendment is to see to it that in these circumstances, if we should pass this bill setting up an agency for consumer advocacy, there would be a voice for those that the consumer advocate is not representing, other consumers, other members of the public, because if we make the assumption that the public interest, the standing public interest, agencies that are already there, such as the ICC or FTC or other regulatory bodies of that sort, are not representing the public interest generally, and are not representing consumer interests adequately, therefore you have an advocate for consumers coming in with one point of view, and it seems to me only fair and only proper that we have someone who is looking after the entire public interest in this regard. That is what the ombudsman would do, and that is the purpose of the ombudsman agency amendment I am proposing.

Mr. President, I have further explanation of the ombudsman agency amendment that I would ask unanimous consent be included at this point in the RECORD.

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

OMBUDSMAN AGENCY AMENDMENT: THE CONSUMER PROTECTION AGENCY ACT

SEC. 3(5). Declaration of purpose. This section expresses the principal purpose of the creation of the Ombudsman Agency—to oversee and insure that the purposes of the Consumer Protection Agency and the Administrator's role in connection therewith remain responsive to the needs and views of the people of the United States engaged in endeavors, including consumer interests, such as the pursuit of civil rights, public health, education, women's rights and other worthy goals and objectives.

SEC. 4(16). Definitions. This section defines the term ombudsman.

SEC. 7(A). Representation of consumer interests before Federal agencies. This amendment removes the right of the Administrator to intervene as a party or otherwise participate for the purpose of representing the interests of consumers in Federal agency proceedings and provides that he may attempt intervention as a party or otherwise request participation in such proceedings.

SEC. 8(A). Judicial review. This amendment removes the Administrator's standing to maintain judicial review of any Federal agency action reviewable under law and provides that the Administrator may petition for judicial review of any Federal agency action so reviewable under law. The Administrator's right of intervention is also modified to provide that he may intervene as a party or otherwise participate in any civil proceeding in a Federal court which involves the review or enforcement of a Federal agency action if in his descretion the interest of consumers are substantially affected.

SEC. 23(A). Establishment of Ombudsman Agency. This section establishes the Ombudsman Agency in the legislative branch of Government.

The Ombudsman is jointly appointed by the President pro tempore of the Senate and the Speaker of the House of Representatives for a period of 4 years by and with the advice and consent of the Senate and solely on the basis of his expertise in analyzing administrative and problems of law. The Ombudsman shall not be a candidate or holder of any elected office nor shall he engage in any other employment. (Subsections (B) (C)).

The Ombudsman serves for a term of 4 years unless removed by cause, by ⅔ vote of each House. The Deputy Ombudsman assumes the function of the Ombudsman when the Ombudsman is incapacitated. (Subsections (D), (E), (F)).

SEC. 24. (a) Duties of the Ombudsman. This section authorizes the Ombudsman to conduct or cause to be conducted full and complete investigations upon receipt of a written complaint from any person forwarded by such person or by a Members of the Senate or the House of Representatives or any standing, special, or select committee of the Senate or House of Representatives with respect to an administrator's act which might be—

"(1) Contrary to the Constitution, Federal law, or Federal regulation;

"(2) Unreasonable, unfair, arbitrary, or inconsistent with the general course of an administrator's functioning;

"(3) Based wholely or partly on a mistake of law or fact;

"(4) Based on improper or irrelevant grounds, or

"(5) Undertaken without prior proper consideration of the interests of the people of the United States including the interests of consumers as previously defined in section 4(11) of this Act.

Under the bill, the Ombudsman shall have standing to contest and the right to oppose the intervention of the administrator in any Federal agency proceedings or any civil proceeding in a court of the United States as provided by sections 7(a) and 8(a), respectively. (Subsection (b)).

The bill further provides that if the Administrator is allowed to intervene or participate in proceedings pursuant to either section 7(a) or 8(a), then as a matter of right the Ombudsman may intervene or participate in the proceedings to the same extent as does the Administrator. (Subsection (c)).

SEC. 25. Organization of office. This section contains general authority for the Ombudsman to appoint personnel for his office; to delegate authority to such personnel; to cooperate with and refer matters where appropriate, to the administrative conference of the United States and to the legal services programs; to conduct private hearings; and issue regulations. (Subsections (1) through (6)).

The Ombudsman is also required to prepare and submit annually to the President, the Speaker, and to the President pro tempore of the Senate, a report on his activities and he is also directed to submit a final report setting forth recommendations for the adoption of the Ombudsman concept by agencies of the Federal Government. (Subsection (7)).

SEC. 26. Exempted matters. This section provides that the Ombudsman shall not investigate complaints: Involving those agencies listed in Sec. 17(D); any administrative action occurring outside the United States; any administrative action occurring more than a year to the date on which the complaint was filed or should have been filed; and any complaint by the Ombudsman exercising his discretion that the complaint pertains to a matter outside of his power, the complainant does not have sufficient interest in the subject matter of the complaint, the complaint is trivial, frivolous, or not otherwise made in good faith, the Ombudsman's resources are insufficient for adequate investigation or the complaint has been delayed too long to justify examination of it or its merits. (Subsections (1) through (4)).

SEC. 27. Recommendations. This section authorizes the Ombudsman, after investigation of a complaint, to recommend that the Administrator give the matter further consideration; modify a determination; or more fully explain an administrative act.

The Ombudsman is authorized to recommend such further action as he deems necessary and he may require the Administrator to inform him of any actions taken upon his recommendations or the reasons for not complying therewith.

Before announcing a conclusion or recommendation, the Ombudsman shall provide the administrator with an opportunity to take appropriate responsive action or to have its comment or reply appended to such conclusions or recommendations.

SEC. 28. Availability of information. All Government agencies are directed to furnish the Ombudsman with such information, reports, etc., as he shall require with the exception of matters required to be kept secret relating to national defense or foreign policy. (Subsections (A) and (B).)

SEC. 29. Ombudsman's immunities. This section precludes court review of the Ombudsman's proceedings, opinions, or expressions. (Subsection A.)

The Ombudsman and his staff are immune from civil prosecution for official acts or omissions (Subsection B) and cannot be compelled to testify or provide evidence in any judicial or administrative proceeding as to matters within his official cognizance. (Subsection C.)

SEC. 30. Rights and duties of witnesses.

This section authorizes the payment of fees and travel allowances to witnesses before the Ombudsman as are provided witnesses in the courts of the United States.

SEC. 31. Effect on other laws. This section provides that no remedy or right of appeal afforded under any law or regulation shall be limited by this act.

SEC. 32. Authorization of appropriations. This section authorizes $500,000 for fiscal year 1975; $500,000 for fiscal year 1976; and $700,000 for fiscal year 1977 to be disbursed by the Secretary of the Senate upon vouchers approved by the Ombudsman.

WHITE-COLLAR CRIME AND THE CONSUMER PROTECTION AGENCY

Mr. MOSS. Mr. President, for the past 5 years Congress has debated the creation of an organization whose task would be the representation of the consumer before the Federal regulatory agencies. During these long years of debate, millions of people have been the victims of consumer frauds, injured by spurious financial operations.

The Equity Funding scandal is probably the best publicized example of the effects of consumer fraud on the public. Equity Funding, the Watergate of the business world, stunned the financial industry with revelations of the massive and complex nature of its bogus operations.

Equity Funding Life Insurance Co.—EFLIC—a subsidiary of Equity Funding Corporation of America, perpetrated this enormous crime against the investing public through a device known as a pyramiding scheme. The corporation counterfeited securities, in which as much as $100 million may have been involved, to be used as assets for other ventures. Bogus life insurance policies were created, sold to other insurance companies and the proceeds later collected by Equity Funding shareholders alone have been estimated at $300 million.

Significantly, the Equity Funding fraud was not discovered through the appropriate regulatory channels, but through information provided by a disgruntled former employer of Equity Funding to a Wall Street securities analyst.

Ronald Secrist, former employee of Equity Funding, did not notify the stock exchange, the SEC, or the State insurance departments because he was convinced the regulatory bodies could not or would not uncover the fraud. Precisely for this reason a vital Consumer Protection Agency must be created to provide the impetus necessary for a thorough and ongoing regulatory agency action against wrongs in the business and financial community.

Equity Funding provides a significant commentary on the widespread deficiencies in current accounting practices. Since 1964, Equity Funding has issued public financial reports that were duly certified by accountants as "fairly presented in conformity with generally accepted accounting principles." The auditors failed to detect that $25 million in bonds alleged to be in a Chicago bank were not on deposit; nor did they detect the nonexistence of $77.7 million in IOU's for loans made to nonexistent mutual fund shareholders. Since the uncovering of this massive fraud, auditors have identified $153 million in fictitious or fraudulently inflated assets.

The question that remains to be satisfactorily answered is how this massive deception could have continued for so long and at such dimensions when the corporation was subject to the scrutiny of both the SEC and the State insurance regulatory departments. The answer is all too clear—none of these agencies is able to properly divorce itself from the industries it is bound to regulate. The SEC has the dual function of protecting investors and advancing the vested interests of the stock market and the financial industry. These are at best conflicting roles. Consequently, it is the individual investor who suffers most. No wonder over 800,000 small investors have left the securities market in recent years.

The Consumers Protection Agency has a definite role to play in the area of securities regulation. As a strong cohesive voice for the consumer investor it could petition for the adoption of effective and uniform accounting practices sufficiently monitored to detect such fraudulent activities as Equity Funding.

The following two examples further illustrate the great need for an effective consumer advocate in the securities area. In one of the largest Federal criminal securities fraud cases in history, eight officials of Four Seasons Nursing Centers of America, Inc., Walston and Co.—a recently liquidated brokerage house—and Arthur Anderson & Co., and one of the Big Eight accounting firms, were indicted and charged with defrauding shareholders of Four Seasons and other companies by various schemes intended to arouse interest in the stock and thereby increase its price. The defendants defrauded investors by misrepresenting and falsifying financial statements. In addition to the $200 million estimated loss by stockholders, the State of Ohio was defrauded by the company's financial statements into granting a $4 million loan to Four Seasons. Four principal defendants allegedly profited to the amount of $21 million.

In May 1973, in what the Wall Street Journal called potentially the biggest brokerage house debacle since the crisis days of 1970, Weis Securities was charged with fraud by the SEC; and the Government-sponsored investors insurance fund sought liquidation of the firm. Weis Securities was a major New York Stock Exchange member with 43,000 customer accounts, 400 salesmen, and 27 branch offices. Weis had survived various audits until one employee told the NYSE that accounting procedures in the reports were highly inaccurate and unethical. In July 1973, the five top officers were indicted by a Federal grand jury in New York on charges of conspiracy, securities fraud, and mail fraud.

The list of security fraud cases is extensive. Each case represented money irretrievably lost by individual investors who depended upon the integrity of the business community and the vigilance of the regulatory agencies charged with ferreting out fraud. The fact is that consumers can be severely hurt not only by small "fly-by-night" operations, but by major corporations and financial institutions cloaked in a mantle of respectability, as well. As has been clearly demonstrated, in case after case, the magnitude of white-collar crime is staggering. In its handbook on white-collar crime, the U.S. Chamber of Commerce confirmed the findings of the President's Commission on Enforcement and Administration of Justice that "not less than $40 billion was lost annually due to white-collar crimes."

Many of the problems facing the public in the broad area of consumer fraud can be crystallized by the recent conflict in the home financing industry. In 1972 Federal Housing Administration officials uncovered schemes by real estate speculators who bought up marginal housing and then sold it at hefty mark-ups to low-income families. The families could not meet the inflated payments on the FHA-insured loans, and, as a result, massive defaults occurred. Federal investigators obtained more than 50 indictments aganist real estate firms, contractors, builders, FHA employees, and others in cities across the Nation.

In response to these scandals, then Secretary of Housing and Urban Development, George Romney, ordered tougher regulations for obtaining FHA insurance. Appraisal procedures were tightened and mortgage lenders required to certify that homes had been properly inspected. Consequently, lower income and middle-income families, the very people the FHA programs were designed to assist, find it impossible to obtain home financing. Applications by lenders for FHA mortgage insurance in the first quarter of 1973 were down more than 50 percent from 1972.

The proposed Consumer Protection Agency could speak for potential homeowners by encouraging the FHA to loosen its restrictions on financing while maintaining its strong position against illegal and unethical activities. As reported in the Wall Street Journal on May 15, 1973, the FHA's behavior exemplified "a classic case of overreacting." Such detrimental results to the prospective homeowner might have been avoided had there been an organization responsible for consumer advocacy.

The chamber of commerce, one of the most vociferous opponents of the CPA bill, concedes in its 1974 handbook on white-collar crimes:

(1) that although the commissioner of white-collar crime is not dependent on violence or force, the risk, threat, or occurrence of physical injury or psychological trauma can be a consequence; (2) Some forms of white-collar crime contribute to the existence, severity, or profitability of other forms of criminal activities; and (3) a major long-term impact of white-collar crime is loss of public confidence in business, industry, and the professions, and debasement of competition.

Further, emphasizing the plight of the consumer, as regards white-collar crime, the chamber quotes one study which concluded that consumer fraud has resulted in a "lingering frustration by market consumers who, although they feel cheated, are convinced that justice is not an available mechanism to redress their grievances because the cost and time are too great."

The Chamber of Commerce of the United States has thus presented in its report on white-collar crime one of the most convincing arguments to date in support of the CPA.

Consumers lack three advantages enjoyed by business: time, money, and access to information. Business has the time, money, and technical expertise to closely monitor and lobby agencies which regulate their particular field of interest. Consumers seldom have any of these assets.

CPA, armed with substantial independence, would help redress the balance between industry and consumers, insuring that the decisionmaking process in regulatory agencies hear both sides of an issue. The research for adequate consumer protection demands the creation of a strong and vigorous advocate whose sole purpose is the representation of consumer interests. Consider what consumers have had to endure against gouging prices, inflation, and massive frauds since this session began. Is it not time to do something for 200 million consumers that is effective and preventive of waste and corruption. I urge you, my colleagues to respond to the needs of your constituents by voting in favor of a strong S. 707.

Mr. HANSEN. Mr. President——

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. HANSEN. Mr. President, first, I would like to compliment the distinguished Senator from Ohio (Mr. TAFT) for a very lucid and incisive presentation of facts that in many cases are poorly understood at best, and certainly scarcely understood at all, by most Americans.

I think the Senator has made a very important contribution to the kind of understanding that should prevail before the Senate can do the job that is expected of it by Americans in representing the majority of all Americans.

I think the remarks by the distinguished Senator from Ohio bring to mind the situation we know to be altogether too true, that: if one can contrive a catchy slogan for a piece of legislation, immediately we will get a number of people, perhaps a majority, who will be inclined to think that sounds fine and that we should support it.

Mr. TAFT. Mr. President, if the Senator will yield?

Mr. HANSEN. I would be very happy to yield.

Mr. TAFT. I appreciate the Senator's very kind remarks.

The other problem we face admittedly—he probably is facing and I am, too—is that sometimes the media do not all too well understand what the principles are, and we come under considerable attack in taking these positions. But, nevertheless, I feel that we have that duty, that is part of our job, and we are, in effect, acting for the interests of the consumer ourselves, and the public interest, and when we do call for a prolonged discussion of issues which, while they may have fine-sounding phrases, when we get down to and look into the mechanism and how they would actually work it may be directly contrary, as I believe this legislation is, to the consumer and the public interest, both.

I thank the Senator.

Mr. HANSEN. I agree with my distinguished colleague from Ohio.

Oftentimes that which the media is capable of doing does not always result in its accomplishment. There is a school of thought rampant today in America which says that advocacy, advocacy journalism, is the new order of the day. Students are being taught that if they find this society of ours less than perfect, it should be their responsibility as responsible practitioners of the art of journalism to try to change it.

With that sort of directive coming from schools and colleges, we find that some young people, who are willing workers, and who have the energy, and the intelligence, and the desire to try to find what the facts are, are inculcated by their mentors with the idea that just reporting what the facts are does not serve their purpose. Rather, if they are to be the responsible citizens that they would aspire to be, it becomes their duty under such an advocacy concept to try to tilt, or to cast the facts in a way so as to result in the development of a consensus that will recognize merit in the particular idea they have, and result in the kind of activism that winds up eventually on the law books of the country, and brings about change in the social order.

I say to one who has had great experience in this field, my good friend, the distinguished Senator from Ohio (Mr. TAFT), that these are some of the reasons I think his contribution today has been so noteworthy. I compliment him, and appreciate it very much.

Mr. President, as in the past, I alert my colleagues to the subtle and hidden dangers to the Federal Government, to business, and eventually to the consumer which lie shrouded in the clouded language of S. 707, the Consumer Protection Act.

Attractively titled and supporting a noble purpose, S. 707 appears to be the long-in-coming answer by the Federal Government to the vulnerable consumer's problems. By passage of this bill, we are assuring them that their consumer worries are at an end, and that this new agency will constantly be pursuing their best interests. But will it? Has this new super agency been designed to do that? Or are we possibly adopting dangerous precedent legislation which will in the longrun work against the public interest?

I ask these questions in the hope of using them to illustrate my point that they cannot completely or satisfactorily be answered by this piece of legislation.

S. 707's impact on the Federal Government will be pervasive. The agency's administrative head will have powers above those of any other agency director, and in addition will be able to use the regulatory powers of all the other agencies to carry out his duties. In describing the extent of the CPA administrator's powers, U.S. Deputy Attorney General Ralph E. Erickson has publicly stated that the Justice Department views the proposed agency's powers of advocacy and intervention in Federal administrative agencies' decisionmaking as "too broad, and pose a threat that the orderly and effective dispatch of public business in the public interest might be significantly disrupted."

The CPA Administrator's right to judicial review of agency decisions will disrupt the finality of agency determinations. Business operations which are often affected by an agency's final ruling, will be perpetually placed in compromising positions of doubt as to the finality of those decisions. The constant sword of the CPA's intervention will hang by the thin thread of an administrator's whim.

The appointed chief of the CPA cannot be an expert in all fields of consumerism. Yet he is given the arduous task of deciding what the consumer interest is and what actions will be best to bring this interest about. In line with his power of judicial review, he will file suit against other agencies' decisions. Again the American taxpayer and consumer will be further extending and contributing to the waste of tax revenues in legal fees representing two agencies of the United States. The CPA's views will essentially be those of a single interest group in each situation, and all American taxpayers will have paid to have those views heard before the Federal courts.

Mr. ERVIN. Mr. President will the Senator yield for a question?

Mr. HANSEN. I am happy to yield to the Senator from North Carolina.

Mr. ERVIN. Mr. President, I invite the Senator's attention to page 62 and to the committee amendment which has been adopted to subsection (b), which gives the Administrator the tremendous power to interject himself and his views, his written advice and his written views or submissions or oral views or submissions in any proceeding of any kind before any Federal agency—in the exercise of his unbounded and uncontrolled discretion. Then, it states:

> Such submission need not be simultaneous with that of any other person.

If this means anything, it means the Administrator can go and presumably present evidence, present arguments, when the other parties are not there. In other words, it authorizes him to travel like Nicodemus in the night, to whistle in the air to any Federal agency on any proposition any Federal agency is authorized to deal with. Is that correct?

Mr. HANSEN. That would be the indication.

Mr. ERVIN. Does the Senator from Wyoming agree with the Senator from North Carolina that the human being who is capable of exercising with wisdom all of the vast powers that this bill would give to the administrator has not yet been created by the Good Lord?

Mr. HANSEN. I did not quite hear the question of the Senator.

Mr. ERVIN. My question is, Does the Senator agree with the Senator from North Carolina that a human being would have to be endowed with such profound wisdom to exercise wisely all the powers in this bill, if enacted into law,

powers which would be given to the administrator, and has not yet been created by the Lord God Almighty?

Mr. HANSEN. I do agree with the gentleman from North Carolina. I thank him for his very pertinent observations.

A recent column in the Washington Star-News by Ralph Nader supported the passage of S. 707. He pointed out that many unfair agency business and industry practices, in his opinion, have been exposed through Senate committee hearings and later corrected through legislation.

Mr. Nader lauded those committees who worked in such areas, and pointed out the logical need for the establishment of the CPA. Yet, to create the CPA, or ACA as it is known now would amount to a delegation and the release of a congressional power to agency oversight. Congress would be vesting an historic power in an executive branch agency.

Mr. PERCY. Mr. President, will the distinguished Senator from Wyoming yield for just a moment on the comment of the distinguished Senator from North Carolina without losing the right to the floor?

Mr. HANSEN. I will be very happy to yield to my distinguished colleague from Illinois.

Mr. PERCY. First, I trust that we can now refer to this agency as the ACA rather than the CPA. I hope this will be somewhat more acceptable. It has been incorporated as an amendment and accepted by the floor managers of the bill.

Second, I wish to address the question posed by my distinguished colleague, the chairman of the Government Operations Committee, as to whether the Good Lord has created a man with the wisdom to carry out the duties and responsibilities of the office of Administrator of the Agency for Consumer Advocacy. I would think that the distinguished Senator from North Carolina would be the last one that I know of to underestimate the creative capabilities of our Maker. As I look at the duties and responsibilities of this office, I would not hesitate to say that the Senator from Illinois knows a dozen people he could name in a relatively short period of time. One name that comes off the top of my head is now the vice president of Montgomery Ward & Co., who knows this bill intimately, who supports it, and who, I think, would be acceptable, and should be acceptable, to a large segment of the business community. He is a distinguished businessman and lawyer of long standing who has held the interest of the consumer at heart.

I would like to know specifically, if it is at all possible, what particular duties and responsibilities go beyond the capabilities, capacity, judgment and wisdom, that the Good Lord has endowed to a great many of the distinguished Members of the Senate, the House, and the executive branch of Government, in carrying out these duties.

They are not that awesome. They are not so all-encompassing that they cannot be comprehended by even the average mind. The interests have to be balanced, obviously.

It would be the hope of the Senator from Illinois, Mr. President, if and when the ACA is approved, that the President of the United States would nominate from a long list of nominees that could and would be sent to him, a man or woman of distinguished capability and competence who could fairly and justly carry out these duties. They certainly do not go beyond the duties of dozens of other jobs that we have in the executive branch of Government, or beyond the capabilities of many people we would know.

From the standpoint of the Senator from Illinois, I know the distinguished Senator, my beloved colleague, is anxious to retire and fish and think and contemplate. He has earned that right. But if the President would see fit to nominate "Private Citizen Sam Ervin" as the ACA director, and he would be willing to assume that responsibility, the Senator from Illinois would vote aye on a confirmation request of that kind. I am extremely confident that once given a responsibility, whether it is a judicial responsibility or an executive responsibility, or a legislative responsibility, the distinguished Senator from North Carolina, who places the national interest above all interests, would be endowed by the Creater with the confidence to carry out what I consider to be not Herculean duties, but duties that are simple, and laid down in black and white.

A 3 to 1 vote passing CPA in the House of Representatives indicates they have confidence we can find such a person. When the political platforms of both political parties called for the creation of an independent agency, it seems that the parties did not underestimate the capabilities of the Creater and Maker to give us a man or woman endowed with such wisdom and judgment as to carry on not awesome duties and responsibilities, but the responsibilities and duties outlined in very simple terms in the bill before us.

Mr. ERVIN. Mr. President, will the Senator from Wyoming permit the Senator from North Carolina to make a comment?

Mr. HANSEN. I am glad to yield to the Senator from North Carolina.

Mr. ERVIN. I am glad the Senator from Illinois talked about fishing. Under this bill, since it relates to the health of consumers, and since it also relates to prices paid by consumers, this administrator would have to be gifted with the finite wisdom of knowing what fish, when consumed, are best calculated to promote the health of the consumer. That is just one of 50 million things he would have to know. I do not know anybody who can quite answer that question yet.

I would say, if the Senator from Illinois can dig up anybody who has the wisdom to exercise these vast powers, we ought to nominate him, by acclamation, for President of the United States immediately.

I do not put anything past the powers of the Almighty, but I would say that the Almighty, in His wisdom, has never yet, between the time when they are gathered and sang for glory and creation, and this moment, created any human being who has the experience and wisdom to exercise wisely all the powers that this bill would give to the administrator.

I think, while the power of the Lord is not limited, if we ever find a man like that, he is going to be just about a little bit less than Almighty in his wisdom. I do not think that human being has ever been created, and I do not think he ever will be created until long after the last lingering echoes of Gabriel's horn dwindles into ultimate silence.

I thank the Senator.

Mr. PERCY. Mr. President, without losing his right to the floor, would the distingushed Senator from Wyoming yield for a comment?

Mr. HANSEN. I yield.

Mr. PERCY. The Senator from Illinois has indicated an interest in another job. I wonder, whether I was competent, qualified, and capable of being a Senator, because I had had no legislative experience before. I am not a lawyer, but I am surrounded by 70 or 75 lawyers.

In a period of years I have felt relatively comfortable with the duties and responsibilities of this office and have indicated an interest in another office.

I would say without, I hope, undue humility or without overstating the competence of the Senator from Illinois, that I would hope I would be endowed with sufficient wisdom to assume the duties and responsibilities of this position. There would be people who I would say would be far more qualified than the Senator from Illinois by training, experience and background. It would be highly desirable to have a lawyer as head of this agency.

But when 39 States of the Union have, in one form or another, or by one name or another, a consumer protection agency or an advocate for the consumer, and we have a telegram which the Senator from Illinois inserted in the RECORD recently from 31 Governors, urging that the Congress of the United States establish an independent agency and that the President appoint a director of consumer affairs or consumer protection, I would think that there are a great many others who think the Good Lord has created sufficient men or women who could assume this confidence. As for a woman, we have an outstanding example in Virginia Knauer, just as we had in Esther Peterson, when she had State responsibilities. I would say that we have adequate personnel, male or female, to fill this job.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me, briefly?

Mr. ERVIN. I do not have the floor.

The PRESIDING OFFICER (Mr. STEVENS). The Senator from Wyoming has the floor.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me, briefly, with the understanding that he will not lose his right to the floor?

Mr. HANSEN. I am happy to yield.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. President, later today, the distinguished Senator from Ohio (Mr. METZEN-

BAUM) will offer an amendment. I ask unanimous consent that it now be in order to order the yeas and nays on the Metzenbaum amendment, and I ask unanimous consent that the vote not occur on the Metzenbaum amendment prior to 3:30 p.m. on Monday next.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me, briefly, for a further unanimous-consent request, under the same arrangement?

Mr. HANSEN. I am happy to yield.

Mr. RIBICOFF. Mr. President, if the Senator will yield, for a clarification, because of the comment of the Senator from Ohio, as I understand the unanimous-consent request, it is that the vote not occur before 3:30. That does not mean it will occur at 3:30.

Mr. ROBERT C. BYRD. The Senator is correct, and I hope the Chair will sustain my undersatnding.

The PRESIDING OFFICER. The Senator is correct.

CLOTURE MOTION—UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the 1 hour of debate under rule XXII, on the motion to invoke cloture, which was submitted by Senator RIBICOFF and the requisite number of Senators, not begin running until 3 p.m. on Tuesday next, rather than 1 p.m., as originally ordered.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator from Wyoming for his usual courtesy in yeilding.

CONSUMER PROTECTION AGENCY FOR CONSUMER ADVOCACY

The Senate continued with the consideration of the bill (S. 707) to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

Mr. HANSEN. Mr. President, I was greatly interested in the exchange between the Senator from Illinois and the Senator from North Carolina.

I must say that my very brief insights into the dimensions of the powers of the Almighty certainly do not enable me to make any profound observations upon the intelligence of any one individual, as seems to be provided by the distinguished Senator from Illinois in believing that there are people with the ability to make the sort of decisions necessarily, successfully, and fairly to implement the provisions of the proposed legislation before the Senate.

As a matter of fact, it would be the opinion of the Senator from Wyoming that he is not sure there is sufficient collective intelligence within this entire body to write the kind of legislation that would be required to implement what the Senator from Illinois and the other proponents of this bill have in mind.

The distinguished Senator from Illinois amazes the Senator from Wyoming in believing that Government has any business getting into this kind of role.

I recall that when I first learned of the distinguished Senator from Illinois, he was then, I believe, president of Bell & Howell, at the age of 29. I thought then, and have thought many times—I see the evidence all about us—that one of the important differences that sets America apart, that explains why we are so successful, why we accomplish what we do, why it was Americans who left their footprints on the Moon; is that with our unique kind of government, based upon a written Constitution, embodying as wide an extension of freedom as possible to all people, including businessmen, we have struck upon the spark that keeps America going; and that is that we do not believe any one way is best in America.

Unlike the Soviets, we do not have Government trying to dictate to manufacturers, to farmers, to businessmen, to labor, what they should do and what they should make. From time to time, we lay down guidelines and rules, and we change them from time to time as we learn from experience that there may be better ways of spelling out the broad framework of regulation which will better serve our people.

We can all agree the unique thing about American business is that Government does not tell businessmen what to do. The people who buy the products—the housewives, the customers in America's shops and stores and supermarkets and automobile showrooms—make the decisions that guide the investors as they redesign products and as they bring onto the market new products. If the free enterprise, profit-oriented economy has done one thing, it has demonstrated a never-failing ability to reflect what people want. That is one of the great things about America.

So it surprises me that the distinguished Senator from Illinois, my cherished friend and colleague, would now propose drawing upon the brilliant business career he has, and say that Government ought to take over these functions and try to tell people what they are going to produce, how they are going to advertise it, what is best in the marketplace, and then, in the determination of a single man, the Administrator of this agency—formerly the Consumer Protection Agency but now the Agency for Consumer Advocacy—give this one man the authority to bring legal action against individuals, against companies, and, in fact, against other agencies of Government.

I do not think that this is the sort of concept that has filled America's markets with the outstanding great produce we find in them today. It is not the kind of attitude that has developed the 10,001 products that are at once the amazement and the envy of the rest of the world when they come to the United States for the first time.

I am not saying, nor has the Senator from North Carolina said, that we do not need any rules. Of course, we need some rules and we have a number of rules still on the books, but as one taxpayer in a nation of taxpayers, as one person who is concerned about inflation—a double-digit inflation, they call it these days, because the rate of it is growing by at least 10 percent and, as we know, oftentimes more per year—I am concerned and disturbed that anyone would say we have not any better thing to do with our tax dollars than to set up yet another agency of Government. I am concerned that there are those who would have such an agency take those tax dollars and be able to bring suit against individuals, against partnerships, against companies, against corporations, and against other agencies of the Government, in order that the so-called public interest may best be served.

I make these observations because there is a growing disenchantment with some of the things that have been taking place in this country in the last few years. I think we are finding out that it is not hard for a group of politicians to decide the kind of society we ought to have and then to draft and design the kind of legislation which they believe will bring about this Utopian state of affairs that every 2 years just before election they proclaim to their constituents is on the horizon. And further, they are moved to say that the way to insure its accomplishment and its being brought into being is to reelect them.

There is a growing disenchantment in America with politicians who promise more than they can deliver. There is a growing realization among all Americans, I am sure that there is not a single Member of this body that has not received a very significant amount of mail from his constituents saying, "Inflation is the most important thing, the most serious problem we have in this country today."

When they say that, they are not implying that is the only problem, they are not minimizing the troubles right here in Washington, they are not forgetting Watergate, they are not forgetting or laying aside any other considerations, but they are saying that unless we do something about getting a handle on inflation all of our other accomplishments could go down the drain.

We know as students of history that it will not take too many more interventions by Government in business to bring the typical American businessman to his knees.

A few years ago, I was one of the majority of all but two Members of this body who voted for OSHA, Occupational Safety and Health Agency. Who could be against what was called "safety and health?" From what I know of it now, I wish I had been against it. I was not against it because I was caught up in the magnetic charm of a name that promises more than it can deliver.

I did not know then, at the time I was voting for that act, that there would not be any reduction in writing of all of the rules that apply under OSHA. I was one

of the many Senators who did not know we were enacting legislation that would not permit a Federal inspector to advise a businessman what he needed to do to comply with the law. Those charged with enforcing the law could not set foot on a business establishment without citing and fining the business if a violation were found. Yet the law and all of its voluminous regulations were not printed and available to the businessman to even find out what was involved.

I say these things, Mr. President, because that is the kind of a law we are dealing with here.

That situation underscores the reasons we had better make sure we know what is in this bill that would create an agency for consumer advocacy.

Mr. METZENBAUM. Mr. President.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I call up my amendment No. 1563 to S. 707 at this time.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 86, strike out lines 22 through 24.

Mr. METZENBAUM. Mr. President.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise today to offer an amendment to S. 707, the Consumer Protection Agency Act. I believe this amendment is necessary to insure that this bill fully benefits the American consumer in the marketplace.

Presently, section 17(e) provides that the proposed Consumer Protection Agency shall not participate in any decision of the Federal Communications Commission with respect to the renewal of a radio or television broadcasting license.

This provision was not included in the bill which my distinguished colleague, the senior Senator from Connecticut, first introduced in this body last year. Nor was such a clause included in the consumer measure passed by an overwhelming margin only 2 months ago in the House of Representatives. Furthermore, neither in the committee reports nor in the bill itself is there any discussion or explanation as to why the CPA should be excluded from participating in FCC license renewal decisions.

My amendment would eliminate this provision and allow the CPA to present the consumer viewpoint in these hearings.

Never before has this country been more concerned with the rights of consumers. In the communications field, this concern for the broadcast consumer was articulated by Congress in the original legislation to regulate the industry, the Communications Act of 1934. The courts have recognized public ownership of the airwaves and asserted the need to protect and regulate public interest in broadcasting. The license granted a broadcaster must be used in a way beneficial to community interests.

At present, stations are subject to regulatory examination only once every 3 years. There are proposals pending to extend this period to 5 years, thus diminishing the opportunities to challenge a broadcaster's service to his community. Should that proposed legislation become law, it makes it more imperative that the consumer be represented and have an advocate in license renewal proceedings.

As Chief Justice Burger, while sitting on the U.S. Court of Appeals for the District of Columbia, observed in a much-quoted 1966 decision, Office of Communication of United Church of Christ against FCC:

Unless the listeners—broadcast consumers—can be heard, there may be no one to bring programing deficiencies or offensive overcommercialization to the attention of the Commission in an effective manner.

It should be emphasized that the Chief Justice's purpose was not to undercut the structure of the broadcasting industry, but "only to vindicate broad public interest relating to a licensee's performance of the public trust inherent in every license."

The Commissioners and staff members of the FCC, as with most other regulatory agencies, have too often proven themselves more susceptible to pressures from special interests than they are responsive to the public interest. As the Senate Government Operations Committee majority report concludes:

Representation of an interest so vital to the public welfare as that of the consumer is too important to be left to chance.

I quote further:

The way to assure as fair a decision as possible is to let advocates from the different sides make the best arguments each can. It will be up to the regulatory agency . . . not the CPA to decide from among the arguments made where the best solution to the problem lies.

It should be noted that there is no guarantee that the Agency would always oppose the renewal of existing licenses; indeed, the CPA might even file a brief on behalf of the existing licensee, recognizing its service to community interests.

I urge my colleagues to join with me in amending S. 707 to fulfill the needs of the broadcast consumer.

Mr. MOSS. Mr. President, once again that which has been called impeachment politics has been raised by the President of the United States. I refer here to the information which was revealed on Tuesday that the President will veto the Consumer Protection Agency Act unless drastic changes are made.

Frankly, I am disturbed, disappointed, and disgusted by this development. I am disturbed first because the President has strongly endorsed the concept of a Consumer Protection Agency on numerous occasions. I am disappointed because many months of hard work were spent by the Office of Management and Budget and the Congress to eliminate those provisions which were considered offensive to the administration. And lastly, I am disgusted because those provisions which appear to be objectionable to the President are those which are essential to the establishment of a vigorous, independent consumer advocate.

How can we enact legislation creating an "independent" consumer advocate if the "independent" agency must enunciate an administration point of view? Whether it be a Democratic or Republican administration, whether it be a liberal or a conservative administration, in order to truly function, the consumer advocate must be independent. An effective consumer advocate must be able to argue his case on the merits and support of the interests he is protecting.

By the very nature of its function as an advocate, the agency for consumer advocacy will be continually taking positions in controversial matters. Thus, it is essential to insulate the CPA from day-to-day political pressures within the executive branch. Equally important, the CPA's independence insulates the executive branch from direct responsibility for the positions taken by the Administrator.

This insulation is appropriate for the positions the CPA may take will not necessarily be the positions of the administration. The CPA is an advocate, rather than a regulatory decisionmaker, its position does not commit the Federal Government to any policy.

The President, other agencies, and members and committees of Congress will no doubt disagree with the positions taken by the CPA from time to time. Their responsibilities are broader, and whereas these broader constituencies may coincide at times with the interest of consumers, at times they will not. The President and the regulatory agencies must balance consumer interests against other interests in order to reach a policy position. The CPA should provide a new input in Federal decisionmaking, but it should not determine output.

An independent consumer advocate must be secure in his freedom to advocate the consumer interests, openly, without interference, without the threat of retribution. How else can the consumer advocate serve in the painful process of rebuilding confidence in our Government.

Yet, each of the amendments which Roy Ash seeks in the President's name has the sole consequence of eroding that independence. Roy Ash was an excellent advocate for Litton Industries, but I would not want him to be my advocate for the consumers interests. Thus, the very amendments which he espouses in the President's name are the amendments which both a President uncertain of his total control upon government, and a corporate constituency leery of consumer input, would support.

Mr. President, we have been up this road before and have noted the duplicity in the position of our Chief Executive on other legislation. He asked for land use legislation loudly touted his efforts, and scuttled the bill. He asked for surface mining legislation and his forces have eroded that legislation and now threaten its enactment. How well I remember prior to the third cloture vote in 1972 the supporters of the Consumer Protection Agency at that time offered to accept each and every amendment suggested by the President in exchange for his endorsement of a vote for cloture. The result: continued opposition to the legislation. I fear, Mr. President, that

once again we are on that course. Even if every amendment proposed by Mr. Ash is adopted—and I would note that between August and February we have worked closely with the OMB to accommodate virtually every amendment he has previously proposed—there would still be Presidential opposition. I regret to say in view of this past experience that I cannot accept the President's word on this legislation or other matters which now press upon him.

Mr. President, in conclusion let me cite that as far as impeachment politics is concerned it is generally accepted that the President's objective is to obtain a vote of one-third plus one of the Senate to prevent conviction if the House sends impeachment articles to the Senate. Considering the vote last week on a motion to table the entire Consumer Protection Agency bill in which only 23 Senators supported the President, I would note that he would be better off currying favor with the supporters of the CPA rather than its opponents. After all, 66 of us voted against tabling the bill. Lastly, let us also remember, while on the subject of impeachment politics, that our Senate President, now the Vice President of the United States, Mr. Ford, voted for the Consumer Protection Agency in the House in 1971.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR ADJOURNMENT UNTIL MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 o'clock noon on Monday next.

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

ORDER FOR MORNING BUSINESS ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on Monday next, there be a period for the transaction of routine business of not to exceed 30 minutes, with statements therein limited to 5 minutes each.

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

ORDER FOR RESUMPTION OF UNFINISHED BUSINESS ON MONDAY

Mr. ROBERT C. BYRD. Mr. President I ask unanimous consent that at the conclusion of routine morning business on Monday next, the Senate resume the consideration of the unfinished business (S. 707).

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

ORDER FOR ADJOURNMENT FROM MONDAY TO 11:30 A.M. ON TUESDAY, JULY 30, 1974

Mr. ROBERT C. BYRD. Mr. President I ask unanimous consent that when the Senate completes its business on Monday next, it stand in adjournment until the hour of 11:30 a.m. on Tuesday.

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

ORDER OF MORNING BUSINESS ON TUESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday next, after the two leaders have been recognized under the standing order, there be a period for the transaction of routine morning business of not to extend beyond the hour of 12:00 noon, with statements therein limited to 5 minutes.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

SENATE RESOLUTION 368, RELATING TO THE SELECT COMMITTEE ON STANDARDS AND CONDUCT

Mr. ROBERT C. BYRD. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

Resolved, That subsection (a) of the first section of Senate Resolution 338, 88th Congress, agreed to July 24, 1964, is amended by adding at the end thereof the following: "For purposes of paragraph 6(f) of rule XXV of the Standing Rules of the Senate, service of a Senator as chairman of the Select Committee shall not be taken into account."

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

There being no objection, the resolution was considered and agreed to.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene again on Monday next at the hour of 12 o'clock noon. After the two leaders or their designees have been recognized under the standing order, there will be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 5 minutes.

At the conclusion of routine morning business, the Senate will resume the consideration of S. 707, the unfinished business, a bill to establish a Council of Consumer Advisers in the Executive Office of the President, and for other purposes. The pending question at that time will be on the adoption of the amendment by Mr. METZENBAUM. The yeas and nays have been ordered on the Metzenbaum amendment, with the understanding that a vote thereon will not occur prior to the hour of 3:30 p.m.

Other yea and nay votes may occur subsequent to the hour of 3:30 p.m.

As far as Tuesday is concerned, the Senate will resume consideration of the Consumer Protection bill, and votes may occur. A vote will occur on the Ribicoff motion to invoke cloture at around 4:15 p.m.

Under the consent order already granted by the Senate, the 1 hour of debate on the motion to invoke cloture will not begin running until the hour of 3 o'clock p.m. At the hour of 4 o'clock p.m., the automatic quorum call will ensue, and upon the establishment of a quorum—or about 4:15 p.m.—the vote on the motion to invoke cloture, which is a rollcall vote under the rule, will occur.

On Wednesday the Senate will take up H.R. 15544, an act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending June 30, 1975.

Also during next week it is anticipated that the Senate will take up the bill, S. 3792, to amend and extend the Export Administration Act of 1969.

It is anticipated that S. 3569, a bill to amend the Rail Passenger Service Act of 1970, will be taken up.

Other appropriation bills may be ready for floor action next week.

Conference reports, being privileged matters, may be called up at any time, and other measures on the legislative calendar may be called, and rollcall votes may occur.

ADJOURNMENT UNTIL 12 O'CLOCK NOON MONDAY, JULY 29, 1974

Mr. ROBERT C. BYRD. If there be no further business to come before the Senate, Mr. President, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 12 o'clock noon Monday next.

The motion was agreed; and at 3:39 p.m. the Senate adjourned until Monday, July 29, 1974, at 12 o'clock noon.

HOUSE OF REPRESENTATIVES—*Thursday, July 25, 1974*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Jesus said:

I am the light of the world: he that followeth Me shall not walk in darkness, but shall have the light of life.—John 8:12.

God of life and love, whose goodness and glory is in all the world, we thank Thee for this quiet moment of prayer in this Chamber over whose portal is written the words "In God we trust."

Cleanse Thou the thoughts of our hearts that we may go forward into the duties of this day without the bitterness of ill will darkening our minds but with the brightness of good will illuminating our spirits, making us clear channels of positive service to our beloved country.

We pray for our President, our Speaker, these Representatives of our people, and all who work with them and for them. Grant unto them wisdom to see clearly and confidence to act courageously as worthy representatives of the American dream for all people.

In the spirit of the Lord of life we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill and a concurrent resolution of the House of the following titles:

H.R. 15461. An act to secure to the Congress additional time in which to consider the proposed amendments to the Federal Rules of Criminal Procedure which the Chief Justice of the U.S. Supreme Court transmitted to the Congress on April 22, 1974; and

H. Con. Res. 568. Concurrent resolution relating to adjournment to a date certain during the remainder of the 93d Congress.

The message also 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 (H.R. 69) entitled "An act to extend and amend the Elementary and Secondary Education Act of 1965, and for other purposes."

The message also announced that the Senate had passed, with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5094. An act to amend title 5, United States Code, to provide for the reclassification of positions of deputy U.S. marshal, and for other purposes.

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

S. 2125. An act to amend the act entitled "An act granting land to the city of Albuquerque for public purposes," approved June 9, 1906.

The message also announced that Mr. McINTYRE and Mr. BENNETT were appointed as additional conferees on S. 3066, proposed Housing and Community Development Act of 1974.

MOTION TO BE OFFERED BY CHAIRMAN MILLS

(Mr. MILLS asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. MILLS. Mr. Speaker, I take this occasion to announce to the House that on next Tuesday, July 30, I shall seek recognition to call up the conference report on the bill, H.R. 8217, a bill to which the Senate added certain provisions, including changes relating to unemployment compensation and the SSI program, among others, and to make available to the House the motion which I intend to offer with respect to those matters.

Mr. Speaker, I ask unanimous consent to include at this point in the RECORD the text of the motion which I intend to offer.

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

There was no objection.

MOTION TO BE OFFERED BY CHAIRMAN MILLS

Mr. Speaker, I move that the House recede from its disagreement to the Senate amendment to the text of the bill, H.R. 8217, and concur therein with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment to the text of the bill (page 2, after line 6), insert the following:

SEC. 3. The last sentence of section 203(e)(2) of the Federal-State Extended Unemployment Compensation Act of 1970 (as added by section 20 of Public Law 93-233 and amended by section 2 of Public Law 93-256 and by section 2 of Public Law 93-329) is amended by striking out "August 1, 1974" and inserting in lieu thereof "April 30, 1975".

SEC. 4. (a) The second sentence of section 204(b) of the Emergency Unemployment Compensation Act of 1971 is amended to read as follows: "Amounts appropriated as repayable advances and paid to the States under section 203 shall be repaid, without interest, as provided in section 905(d) of the Social Security Act."

(b) Section 903(b) of the Social Security Act is amended by striking out paragraph (3).

SEC. 5. Section 1631 of the Social Security Act is amended by adding the following at the end thereof:

"REIMBURSEMENT TO STATES FOR INTERIM ASSISTANCE PAYMENTS

"(g)(1) Notwithstanding subsection (d)(1) and subsection (b) as it relates to the payment of less than the correct amount of benefits, the Secretary may, upon written authorization by an individual, withhold benefits due with respect to that individual and may pay to a State (or a political subdivision thereof if agreed to by the Secretary and the State) from the benefits withheld an amount sufficient to reimburse the State (or political subdivision) for interim assistance furnished on behalf of the individual by the State (or political subdivision).

"(2) For purposes of this subsection, the term 'benefits' with respect to any individual means supplemental security income benefits under this title, and any State supplementary payments under section 1616 or under section 212 of Public Law 93-66 which the Secretary makes on behalf of a State (or political subdivision thereof), that the Secretary has determined to be due with respect to the individual at the time the Secretary makes the first payment of benefits. A cash advance made pursuant to subsection (a)(4)(A) shall not be considered as the first payment of benefits for purposes of the preceding sentence.

"(3) For purposes of this subsection, the term 'interim assistance' with respect to any individual means assistance financed from State or local funds and furnished for meeting basic needs during the period, beginning with the month in which the individual filed an application for benefits (as defined in paragraph (2)), for which he was eligible for such benefits.

"(4) In order for a State to receive reimbursement under the provisions of paragraph (1), the State shall have in effect an agreement with the Secretary which shall provide—

"(A) that if the Secretary makes payment to the State (or a political subdivision of the State as provided for under the agreement) in reimbursement for interim assistance (as defined in paragraph (3)) for any individual in an amount greater than the reimbursable amount authorized by paragraph (1), the State (or political subdivision) shall pay to the individual the balance of such payment in excess of the reimbursable amount as expeditiously as possible, but in any event within ten working days or a shorter period specified in the agreement; and

"(B) that the State will comply with such other rules as the Secretary finds necessary to achieve efficient and effective administration of this subsection and to carry out the purposes of the program established by this title, including protection of hearing rights for any individual aggrieved by action taken by the State (or political subdivision) pursuant to this subsection.

"(5) The provisions of subsection (c) shall not be applicable to any disagreement concerning payment by the Secretary to a State pursuant to the preceding provisions of this subsection nor the amount retained by the State (or political subdivision).

"(6) The provisions of this subsection shall expire on June 30, 1976. At least sixty days prior to such expiration date, the Secretary shall submit to Congress a report assessing the effects of actions taken pursuant to this subsection, including the adequacy of interim assistance provided and the efficiency and effectiveness of the administration of such provisions. Such report may include such recommendations as the Secretary deems appropriate.".

SEC. 6. (a) Section 1611 of the Social Security Act is amended—

(1) in subsection (a)(1)(A), by inserting "(or, if greater, the amount determined under section 1617)" immediately after "$1,752";

(2) in subsection (a)(2)(A), by inserting "(or), if greater, the amount determined under section 1617)" immediately after "2,628";

(3) in subsection (b)(1), by inserting "(or, if greater, the amount determined under section 1617)" immediately after "$1,752"; and

(4) in subsection (b)(2), by inserting "(or, if greater, the amount determined under section 1617)" immediately after "$2,628".

(b) Part A of title XVI of such Act is further amended by adding at the end thereof the following new section:

"COST-OF-LIVING ADJUSTMENTS IN BENEFITS

"SEC. 1617. Whenever benefit amounts under title II are increased by any percentage effective with any month as a result of determination made under section 215(i), each of the dollar amounts in effect for such month under subsections (a)(1)(A), (a)(2)(A), (b)(1), (b)(2) of section 1611, and subsection (a)(1)(A) of section 211 of Public Law 93-66, as specified in such subsections or as previously increased under this section, shall be increased by the same percentage (and rounded, when not a multiple of $1.20, to the next higher multiple of $1.20), effective with respect to benefits for months after such month; and such dollar amounts as so increased shall be published in the Federal Register together with, and at the same time as, the material required by section 215(i)(2)(D) to be published therein by reason of such determination."

SEC. 7. (a) Section 15(c)(2) of Public Law 93-233 is amended by striking out "December 1, 1974" and inserting in lieu thereof "March 1, 1975", and by striking out "July 1, 1975" and inserting in lieu thereof "March 1, 1976".

(b) Section 15(c)(5) of Public Law 93-233 is amended by striking out "March 1, 1975" and inserting in lieu thereof "June 1, 1975", and by striking out "October 1, 1975" and inserting in lieu thereof "June 1, 1976".

(c) Section 15(d) of Public Law 93-233 is amended by striking out "January 1, 1975, except that if the Secretary of Health, Education, and Welfare determines that additional time is required to prepare the report required by subsection (c), he may, by regulation, extend the applicability of the provisions of subsection (a) to cost accounting periods beginning after June 30, 1975" and inserting in lieu thereof "July 1, 1976".

SEC. 8. Section 249B of the Social Security Amendments of 1972 is amended by striking out "June 30, 1974" and inserting in lieu thereof "June 30, 1977".

SEC. 9. (a) Section 1902(a)(14)(B)(i) of the Social Security Act (relating to certain cost-sharing fees required to be paid by some individuals under medicaid) is amended by striking out "shall" and inserting in lieu thereof "may".

(b) The amendment made by subsection (a) shall be effective January 1, 1973.

SEC. 10. (a) Section 211(a)(1) of the Social Security Act is amended by inserting after "material participation by the owner or tenant" each time it occurs the following: "(as determined without regard to any activities of an agent of such owner or tenant)".

(b) Section 1402(a)(1) of the Internal Revenue Code of 1954 (relating to definition of net earnings from self-employment) is amended by inserting after "material participation by the owner or tenant" each time it occurs the following: "(as determined without regard to any activities of an agent of such owner or tenant)".

(c) The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1973.

SEC. 11. (a) The staff of the Joint Committee on Internal Revenue Taxation shall conduct a comprehensive study and investigation of the operation and effect of the Renegotiation Act of 1951, as amended, with a view to determining whether such Act should be extended beyond December 31, 1975, and, if so, how the administration of such Act can be improved. The Joint Committee staff shall specifically consider whether exemption criteria and the statutory factors for determining excessive profits should be changed to make the Act fairer and more effective and more objective. The Joint Committee staff shall also consider whether the Renegotiation Board should be restructured.

(b) In conducting such study and investigation the staff of the Joint Committee on Internal Revenue Taxation shall consult with the staffs of the Renegotiation Board, the General Accounting Office, the Cost Accounting Standards Board, and the Joint Economic Committee.

(c) The staff of the Joint Committee on Internal Revenue Taxation shall submit the results of its study and investigation to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate on or before September 30, 1975, together with such recommendations as it deems appropriate.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 15472—AGRICULTURE-ENVIRONMENTAL AND CONSUMER APPROPRIATIONS, 1975

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 15472) an act making appropriations for agriculture-environmental and consumer protection programs for the fiscal year ending June 30, 1975, and for other purposes.

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

There was no objection.

CONFERENCE REPORT (H. REPT. NO. 93-1227)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15472) "making appropriations for Agriculture-Environmental and Consumer Protection programs for the fiscal year ending June 30, 1975, 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 amendments numbered 3, 4, 5, 6, 10, 14, 18, 19, 20, 21, 22, 23, 24, 33, 38, 39, 42, 43, 44, 45, 47, 49, 50, 52, 57, 58, 59, 64, 65.

That the House recede from its disagreement to the amendments of the Senate numbered 26, 27, 28, 29, 32, 36, 37, 55, 61, 66, 67 and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by the Senate, insert the following:

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, including the dissemination of agricultural information and the coordination of informational work and programs authorized by Congress in the Department, management support services to selected Agencies and Offices of the Department of Agriculture, and for general administration of the Department of Agriculture, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department of Agriculture, and not to exceed $15,000 for employment under 5 U.S.C. 3109, $16,973,000, of which $4,054,000 shall be available for the Office of Communication and, of which total appropriation not to exceed $822,000 may be used for farmers' bulletins, which shall be adapted to the interests of the people of the different sections of the country, an equal proportion of four-fifths of which shall be available to be delivered to or sent out under the addressed franks furnished by the Senators, Representatives, and Delegates in Congress, as they shall direct (7 U.S.C. 417), and not less than two hundred and thirty-two thousand two hundred and fifty copies for the use of the Senate and House of Representatives of part 2 of the annual report of the Secretary (known as the Yearbook of Agriculture) as authorized by 44 U.S.C. 1301: *Provided*, That this appropriation shall be reimbursed from applicable appropriations for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551-558: *Provided further*, That not to exceed $2,500 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary: *Provided further*, That in the preparation of motion pictures or exhibits by the Department, this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

None of the funds provided by this Act shall be used to pay the salaries of any personnel which carries out the provisions of section 610 of the Agricultural Act of 1970, except for research in an amount not to exceed $3,000,000; projects to be approved by the Secretary as provided by law.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $10,000, for employment under 5 U.S.C. 3109, $15,751,000, and in addition, $5,081,000 shall be derived by transfer from the appropriation, "Food Stamp Program" and merged with this appropriation.

And the Senate agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$204,839,000"; and the Senate agree to the same.

Amendment numbered 7: That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$79,048,000"; and the Senate agree to the same.

Amendment numbered 8: That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$7,306,000"; and the Senate agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$16,437,000"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows: In lieu of the sum named by said amend-

ment insert "$105,149,000"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$149,544,000"; and the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$2,030,000"; and the Senate agree to the same.

Amendment numbered 15: That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$214,488,000"; and the Senate agree to the same.

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$26,913,000"; and the Senate agree to the same.

Amendment numbered 17: That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$22,026,000"; and the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$17,500,000"; and the Senate agree to the same.

Amendment numbered 30: That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$6,000,000"; and the Senate agree to the same.

Amendment numbered 31: That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$350,000,000"; and the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$51,016,000"; and the Senate agree to the same.

Amendment numbered 35: That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$108,000,000"; and the Senate agree to the same.

Amendment numbered 40: That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$277,926,000"; and the Senate agree to the same.

Amendment numbered 41: That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$53,240,000"; and the Senate agree to the same.

Amendment numbered 46: That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$194,116,000"; and the Senate agree to the same.

Amendment numbered 48: That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: "Agricultural Stabilization and Conservation Service"; and the Senate agree to the same.

Amendment numbered 51: That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,415,000"; and the Senate agree to the same.

Amendment numbered 53: That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$38,269,000"; and the Senate agree to the same.

Amendment numbered 54: That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$38,043,000"; and the Senate agree to the same.

Amendment numbered 60: That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$1,299,630,000"; and the Senate agree to the same.

Amendment numbered 62: That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$28,000,000"; and the Senate agree to the same.

Amendment numbered 63: That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$30,000,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendment numbered 56.

JAMIE L. WHITTEN,
GEORGE E. SHIPLEY,
FRANK E. EVANS,
BILL D. BURLISON,
WILLIAM H. NATCHER,
NEAL SMITH,
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ROBERT H. MICHEL,
BILL SCHERLE,
J. K. ROBINSON,
ELFORD A. CEDERBERG,
Managers on the Part of the House.

GALE W. MCGEE,
WILLIAM PROXMIRE,
ROBERT C. BYRD,
HERMAN E. TALMADGE,
ROMAN HRUSKA,
MARK O. HATFIELD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15472) making appropriations for agriculture-environmental and consumer protection programs for the fiscal year ending June 30, 1975, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—AGRICULTURAL PROGRAMS

Department of Agriculture

Departmental Administration

Amendment No. 1: Restores House language stricken by the Senate for the Office of the Secretary and the Office of the Inspector General in lieu of the language provided by the Senate. Provides a total appropriation of $16,973,000 for the Office of the Secretary instead of $16,773,000 as proposed by the House. The conferees are in agreement that the Office of Inspector General shall be restored to its status prior to the reorganization which was effective January 9, 1974.

Agricultural Research Service

Amendment No. 2: Appropriates $204,839,000 for Agricultural Research Service instead of $202,789,000 as proposed by the House and $212,579,000 as proposed by the Senate. The increase over the amount provided by the House includes the following: $300,000 for predator control research; $250,000 for soybean research; $500,000 for soil erosion research (Pacific Northwest); $100,000 for pickle, onion and related research; $200,000 for bee research, Laramie, Wyoming; $50,000 for wild rice research; $150,000 for agricultural transportation research; and $100,000 for wild oats research.

The Conference Report also includes $400,000 for additional personnel at the Richard B. Russell Laboratory. This additional funding is solely for additional personnel at this location. The conferees are in agreement that the additional personnel at this location shall not be at the expense of personnel limitations at other ARS facilities.

The conferees did not approve $630,000 proposed for a dairy cattle management and forage research laboratory. This item has been passed over without prejudice and the Department is directed to provide the Appropriations Committees of the House and Senate with a report based on a complete study of the extent of forage and dairy cattle management research now being performed with recommendations as to needs for additional research in this area and the most efficient way in which the additional research can be performed.

The conferees also did not approve $1,000,000 for the construction of a human nutrition laboratory in Grand Forks, North Dakota. This project has been deferred without prejudice until the Department achieves more complete staffing of current laboratory facilities. Every effort should be made to provide full staffing for available laboratory space at the earliest possible time.

Amendment No. 3: Deletes language proposed by the Senate earmarking $45,000 for research and maintenance of the Eastern South Dakota Soil and Water Conservation Research Farm at Madison, South Dakota.

Amendment No. 4: Provides that $6,420,000 shall remain available until expended as proposed by the House instead of $3,100,000 as proposed by the Senate.

Scientific Activities Overseas

(Special Foreign Currency Program)

Amendment No. 5: Appropriates $5,000,000 for Scientific Activities Overseas as proposed by the House instead of $10,000,000 as proposed by the Senate.

Animal and Plant Health Inspection Service

Amendment No. 6: Appropriates $402,564,000 for Animal and Plant Health Inspection Service as proposed by the House instead of $403,564,000 as proposed by the Senate.

The conferees direct that within available funds the Department conduct a review and report to the Appropriations Committees of the House and the Senate the current situation with regard to tubercular swine, the need for an eradication or indemnity program, and the probable total cost of such a program.

Cooperative State Research Service

Amendment No. 7: Appropriates $79,048,000 to carry into effect the provisions of the Hatch Act instead of $77,048,000 as proposed by the House and $81,707,000 as proposed by the Senate.

Amendment No. 8: Appropriates $7,306,000 for grants for cooperative forestry research instead of $6,606,000 as proposed by the House and $8,349,000 as proposed by the Senate.

Amendment No. 9: Appropriates $16,437,000 for contracts and grants for scientific research instead of $16,287,000 as proposed by the House and $16,577,000 as proposed by the Senate. The increase of $150,000 over the House amount is for taro research.

Amendment No. 10: Appropriates $1,500,000 for Rural Development Research as proposed by the House instead of $3,000,000 as proposed by the Senate.

Amendment No. 11: Appropriates a total appropriation of $105,149,000 for the Cooperative State Research Service instead of $102,299,000 as proposed by the House and $110,491,000 as proposed by the Senate.

Extension Service

Amendment No. 12: Appropriates $149,544,000 for Cooperative Agricultural Extension work under the Smith-Lever Act instead of $147,294,000 as proposed by the House and $153,230,000 as proposed by the Senate.

Amendment No. 13: Appropriates $2,030,000 for the Pest Management Program instead of $1,680,000 as proposed by the House and $2,530,000 as proposed by the Senate.

The Department is directed to report to the Appropriations Committees of the House and the Senate the current capability and methods used in the conduct of an effective boll weevil control program.

Amendment No. 14: Appropriates $1,500,000 for Rural Development Education as proposed by the House instead of $3,000,000 as proposed by the Senate.

Amendment No. 15: Appropriates total funding of $214,488,000 for the Extension Service instead of $211,888,000 as proposed by the House and $220,174,000 as proposed by the Senate.

Statistical Reporting Service

Amendment No. 16: Appropriates $26,918,000 for the Statistical Reporting Service instead of $26,818,000 as proposed by the House and $28,043,000 as proposed by the Senate.

Within available funds the Department is directed to make an estimate of the domesticated horse population from information available that will be sufficient to warrant the allocation of funds under the provisions of the Animal Health Research Act.

Economic Research Service

Amendment No. 17: Appropriates $22,026,000 for Economic Research Service instead of $21,751,000 as proposed by the House and $22,076,000 as proposed by the Senate. The increase over the amount provided by the House is to continue and conclude the economic studies which are underway regarding predator losses, predator management and related predator data.

Agricultural Marketing Service

Marketing Services

Amendment No. 18: Appropriates $39,665,000 for the Agricultural Marketing Service as proposed by the House instead of $39,815,000 as proposed by the Senate.

Funds for Strengthening Markets, Income, and Supply (section 32)

Amendment No. 19: Earmarks $131,400,000 of section 32 funds for child feeding and nutritional programs authorized by law in the School Lunch Act and the Child Nutrition Act as proposed by the House instead of $134,200,000 as proposed by the Senate.

Amendment No. 20: Deletes language proposed by the Senate to provide $1,400,000 to assist local public or nonprofit agencies with the cost of distributing supplemental foods to pregnant and lactating women and to children.

The conferees are seriously concerned with the current status of funding for the section 32 fund. The purpose for which this fund was established can be achieved only if sufficient funds are available to purchase in toto any commodity that becomes surplus. During the past few years the assets of this fund have been greatly reduced by the expenditure for purposes other than which the fund was created. The Secretary is directed to take every possible action to preserve the solvency of this fund.

Foreign Agricultural Service

(Transfer from section 32)

Amendment No. 21: Provides that $2,117,000 of section 32 funds shall be available to the Foreign Agricultural Service as proposed by the House instead of $3,117,000 as proposed by the Senate.

The conferees' action on this item is not to be construed as an attitude not in favor of market development in foreign countries. On the contrary the conferees endorse energetic action in this area. In view of the current status of section 32 funding, the conferees are of the opinion that every possible effort must be made to reduce expenditures from this fund.

Public Law 480

Amendment No. 22: Deletes language proposed by the Senate which would have permitted various adjustments in the Public Law 480 program which were considered necessary for humanitarian purposes.

The action of the conferees on this item does not preclude necessary adjustments in the Public Law 480 program for humanitarian needs. The ten percent restriction included in the bill applies only to Title I funds of Public Law 480 appropriated in this bill.

Commodity Credit Corporation

Limitation on Administrative Expenses

Amendment No. 23: Restores House language stricken by the Senate which provided for an independent Sales Manager who shall report directly to the Secretary or Under Secretary of Agriculture.

TITLE II—RURAL DEVELOPMENT PROGRAMS

Department of Agriculture

Rural Development Service

Amendment No. 24: Appropriates $955,000 for the Rural Development Service as proposed by the House instead of $1,295,000 as proposed by the Senate.

Rural Development Grants

Amendment No. 25: Appropriates $17,500,000 for Rural Development Grants instead of $10,000,000 as proposed by the House and $25,000,000 as proposed by the Senate.

The conferees are in agreement that special attention shall be given to the development of new industry.

Rural Electrification and Telephone Revolving Fund Loan Authorizations

Amendment No. 26: Provides that insured loans of not less than $750,000,000 be made for Rural Electrification Loans as proposed by the Senate instead of $650,000,000 as proposed by the House.

The conferees are in agreement that the Administrator shall notify the Appropriations Committees of the House and the Senate at least 30 days in advance of his intention to make a loan under the guaranteed provisions of Public Law 93-32, and no such loans or commitments shall be made or finalized prior to the expiration of this 30-day period.

Amendment No. 27: Provides that rural telephone loans shall be made in an amount not less than $200,000,000 as proposed by the Senate instead of $150,000,000 as proposed by the House.

Farmers Home Administration

Agricultural Credit Insurance Fund

Amendment No. 28: Provides for real estate loans in the amount of $420,000,000 as proposed by the Senate instead of $370,000,000 as proposed by the House.

Amendment No. 29: Earmarks $400,000,000 for farm ownership loans as proposed by the Senate instead of $350,000,000 as proposed by the House.

Mutual and Self-Help Housing

Amendment No. 30: Appropriates $6,000,000 for Mutual and Self-Help Housing instead of $4,000,000 as proposed by the House and $10,000,000 as proposed by the Senate.

Rural Development Insurance Fund

Amendment No. 31: Provides $350,000,000 for Industrial Development Loans instead of $300,000,000 as proposed by the House and $400,000,000 as proposed by the Senate.

Rural Community Fire Protection Grants

Amendment No. 32: Appropriates $7,000,000 for Rural Community Fire Protection Grants as proposed by the Senate.

In administering this program the Department is directed to adhere strictly to the program authorization contained in Public Law 92-419.

Salaries and Expenses

Amendment No. 33: Appropriates $128,682,000 for Salaries and Expenses as proposed by the House instead of $133,682,000 as proposed by the Senate.

The conferees are concerned with the severe personnel limitations that have been imposed on the Farmers Home Administration notwithstanding a workload that has increased tremendously. The Department is directed to give every possible consideration to increasing the personnel limitation consistent with the workload increase.

TITLE III—ENVIRONMENTAL PROGRAMS

Environmental Protection Agency

Agency and Regional Management

Amendment No. 34: Appropriates $51,016,000 for agency and regional management activities instead of $49,016,000 as proposed by the House and $53,016,000 as proposed by the Senate.

The conferees will expect the agency to conduct a detailed study of its ADP requirements agencywide and report its findings to the House and Senate Appropriations Committees. In addition, the conferees direct the agency to defer the purchase of the computer now under lease at Research Triangle Park, North Carolina until the Committees have had an opportunity to review the study.

The conferees further agree that ample room exists within the agency's ADP budget to absorb a reduction of $2,000,000.

Energy Research and Development

Amendment No. 35: Appropriates $108,000,000 for energy research and development activities instead of $103,000,000 as proposed by the House and $123,000,000 as proposed by the Senate.

The Senate receded on the increase of $10,000,000 for the development of new automo-

tive power systems. The Senate had added $10,000,000 to demonstrate the commercial application of municipal and other wastes as an energy source for industrial combustion and related activities and the conferees agreed to $5,000,000 for this purpose.

Amendments Nos. 36 and 37: Delete language which repeated the agency's authority to transfer funds to other agencies as proposed by the House.

Amendment No. 38: Provides language limiting funds for the development of new automotive power systems to $7,200,000 as proposed by the House.

Research and Development

Amendment No. 39: Appropriates $175,668,000 for research and development activities as proposed by the House instead of $176,668,000 as proposed by the Senate.

The Senate had added $1,000,000 for the agency to establish an information clearinghouse to compile and disseminate information concerning new developments related to the agency's research and development programs. The conferees are in agreement that sufficient funds are available within the agency's research and development budget, as proposed by the House, to establish such a clearinghouse.

Abatement and Control

Amendment No. 40: Appropriates $277,926,000 for abatement and control activities instead of $257,426,000 as proposed by the House and $306,426,000 as proposed by the Senate.

The Senate receded on the $5,000,000 increase for testing and certification of motor vehicles.

The Senate receded on the proposed increase of $4,000,000 for the Clean Lakes Program since language is contained in the bill providing for the transfer of $75,000,000 in Housing and Urban Development water and sewer grant funds to EPA for the Clean Lakes Program.

The conferees agreed to an increase of $4,000,000 for industrial and nonpoint pollution source control instead of $7,000,000 as proposed by the Senate.

The conferees agreed to an increase of $1,000,000 for technical assistance and technology transfer in the solid waste program instead of $3,000,000 as proposed by the Senate.

The conferees agreed to an increase of $2,000,000 for water quality technical assistance and planning as proposed by the Senate.

The conferees agreed to an increase of $1,000,000 for air pollution monitoring and surveillance instead of $3,000,000 as proposed by the Senate.

The conferees agreed to increase grants to States for pollution control by $7,500,000 for water programs and $5,000,000 for air programs instead of $12,500,000 for each program as proposed by the Senate.

Enforcement

Amendment No. 41: Appropriates $53,240,000 for enforcement programs instead of $52,740,000 as proposed by the House and $53,740,000 as proposed by the Senate.

The conferees agreed to an increase of $500,000 for the Water Quality Permit Program instead of an increase of $1,000,000 as proposed by the Senate.

Buildings and Facilities

Amendment No. 42: Appropriates $1,400,000 for buildings and facilities as proposed by the House instead of $1,700,000 as proposed by the Senate.

Amendment No. 43: Deletes language proposed by the Senate which required the agency to cooperate with the University of Nevada to design and acquire additional research facilities at the Las Vegas campus.

The conferees will expect the agency to review their research facilities in Las Vegas and to report to the House and Senate Appropriations Committees.

Scientific Activities Overseas

Amendments Nos. 44 and 45: Restore language, as proposed by the House, which allows the agency to transfer up to $4,000,000 from other appropriations available to the agency for purposes of carrying out scientific activities overseas. The Senate bill would have provided for a direct appropriation of $4,000,000 for this purpose.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Conservation Operations

Amendment No. 46: Appropriates $194,116,000 for Conservation Operations instead of $192,116,000 as proposed by the House and $196,216,000 as proposed by the Senate. The increase over the amount provided by the House is for soil surveys in the Fort Union coal area of Montana, North Dakota, South Dakota, and Wyoming.

The Department is directed to consolidate information already available from previous studies on potential agricultural land in Alaska.

Watershed and Flood Prevention Operations

Amendment No. 47: Appropriates $122,643,000 for Watershed and Flood Prevention Operations as proposed by the House instead of $124,801,000 as proposed by the Senate.

The conferees have passed over the West Virginia project without prejudice. The $1,161,000 provided in the Second Supplemental Appropriations Act, 1974 will permit the initiation of work on this project as soon as the required approvals are obtained.

Agricultural Stabilization and Conservation Service

Amendment No. 48: Inserts heading "Agricultural Stabilization and Conservation Service" instead of "Agriculture Stabilization and Conservation Service" as proposed by the Senate.

Agricultural Conservation Program

Amendment No. 49: Authorizes a 1975 program level of $225,000,000 as proposed by the House instead of $200,000,000 as proposed by the Senate.

Of the total amount provided in conference, not to exceed $35,000,000 shall be available for long-range practices. The conferees are in agreement that practices under this program should be recommended by the community and county committeemen and that the approved practices should be those which were in effect for the 1970 program.

Amendment No. 50: Deletes language proposed by the Senate which would have established a limitation for an individual participant in the State of Alaska of $3,000.

TITLE IV—CONSUMER PROGRAMS

Department of Health, Education, and Welfare

Office of Consumer Affairs

Amendment No. 51: Appropriates $1,415,000 for the Office of Consumer Affairs instead of $1,365,000 as proposed by the House and $1,465,000 as proposed by the Senate.

General Services Administration

Consumer Information Center

Amendment No. 52: Appropriates $996,000 for the Consumer Information Center as proposed by the House instead of $886,000 as proposed by the Senate.

Consumer Product Safety Commission

Amendment No. 53: Appropriates $38,269,000 for the Consumer Product Safety Commission instead of $36,219,000 as proposed by the House and $42,569,000 as proposed by the Senate. The conference amount includes $200,000 for space costs.

Federal Trade Commission

Amendment No. 54: Appropriates $38,043,000 for the Federal Trade Commission instead of $37,743,000 as proposed by the House and $38,543,000 as proposed by the Senate.

The $200,000 and 11 positions for the Bureau of Economics were deleted because as of June 30, 1974, 16 existing positions were vacant. The positions were also deleted because of the failure of the Bureau of Economics to comply with the congressional directives to broaden the recruitment base.

Amendment No. 55: Provides that line-of-business data may be obtained from not to exceed 500 firms, as provided by the Senate, rather than 250 firms as provided by the House. While the language will permit collection of data from up to 500 firms, the conferees note that this is a new program with many complex and difficult technical questions and under these circumstances an initial mailing of less than 500 may be prudent until more experience is gained.

Amendment No. 56: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment. The conference agreement provides that the information in the line-of-business program shall be used only for statistical purposes, as provided in the House bill.

A new paragraph is added providing that the Federal Trade Commission shall separately obtain information for law enforcement purposes under existing practices and procedures, or as changed by law subsequent to the passage of this appropriation bill.

The stipulations of this section relating to the FTC's line-of-business survey are not to be interpreted as barring any duly authorized FTC personnel from inspecting the information provided in these line-of-business reports. Similarly, the stipulations of this section should not be read as qualifying the FTC's compulsory process power.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 57: Deletes language permitting publication in an enforcement proceeding of data on individual firms contained in line-of-business reports.

Amendment No. 58: Deletes language limiting access to data in line-of-business reports to employees of the Federal Trade Commission duly authorized in the premises. The language as approved will limit access to the data to employees of the Federal Trade Commission, and will exclude all others.

Amendment No. 59: Deletes language which would have made data in line-of-business reports available to various other agencies of the government. These agencies will have access to similar type data to the extent that such access is authorized by the existing laws under which the various agencies operate.

Department of Agriculture

Child Nutrition Programs

Amendment No. 60: Appropriates $1,309,630,000 for Child Nutrition Programs instead of $1,283,630,000 as proposed by the House and $1,315,630,000 as proposed by the Senate.

Amendment No. 61: Provides for the transfer of section 32 funds in the amount of $541,601,000 as proposed by the Senate instead of $641,601,000 as proposed by the House.

Amendment No. 62: Earmarks $23,600,000 for the nonfood assistance program instead of $22,000,000 as proposed by the House and $34,000,000 as proposed by the Senate.

Amendment No. 63: Earmarks $30,000,000 for the special food service programs for children instead of $20,000,000 as proposed

by the House and $40,000,000 as proposed by the Senate.

Amendment No. 64: Deletes language proposed by the Senate which would have increased from 10 to 15 per centum the amount of funds provided under Public Law 92-433 for administrative expenses.

Food Stamp Program

Amendment No. 65: Restores House language stricken by the Senate which provided certain prohibitions against the use of food stamps by college students.

General Provisions

Amendment No. 66: Deletes language proposed by the House which would have prohibited the agency from reallocating unobligated fiscal year 1973 construction grant funds. The agency has reported that the entire $2,000,000,000 original allotment to the States for fiscal year 1973 was obligated prior to the June 30, 1974 deadline and as a result no State was required to lose such funds to reallotment. Therefore, the provision is no longer required.

Amendment No. 67: Deletes section 512 of the General Provisions as provided by the Senate. This provision provided $7,000,000 for Rural Community Fire Protection Grants which has been transferred to the Farmers Home Administration section of the appropriations bill.

Personnel Limitations

The conferees are in agreement and so direct that all additional personnel provided for in this conference report shall be above and beyond any personnel limitations currently in effect.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1975 recommended by the Committee of Conference, with comparisons to the fiscal year 1974 total, the 1975 budget estimate total, and the House and Senate bills follow:

New budget (obligational) authority, fiscal year 1974	$10,588,101,000
Budget estimates of new (obligational) authority, fiscal year 1975	[1] 13,432,863,100
House bill, fiscal year 1975	13,405,420,000
Senate bill, fiscal year 1975	13,667,397,300
Conference agreement	13,571,395,000
Conference agreement compared with—	
New budget (obligational) authority, fiscal year 1974	+2,983,294,000
Budget estimates of new (obligational) authority (as amended), fiscal year 1975	+138,531,900
House bill, fiscal year 1975	+165,975,000
Senate bill, fiscal year 1975	−96,002,300

[1] Includes $275,000 contained in Senate Document 93-90 and not considered by the House.

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Managers on the Part of the House.

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ROMAN HRUSKA,
MARK O. HATFIELD,
Managers on the Part of the Senate.

CALL OF THE HOUSE

Mr. HOSMER. 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. 407]

Anderson, Ill.	Diggs	Lehman
Arends	Dorn	McSpadden
Ashley	Drinan	Mitchell, Md.
Badillo	Esch	O'Hara
Blatnik	Evins, Tenn.	Patman
Brasco	Flynt	Powell, Ohio
Burke, Calif.	Foley	Railsback
Burlison, Mo.	Ford	Rangel
Burton, Phillip	Gettys	Rarick
Butler	Giaimo	Rees
Carey, N.Y.	Gray	Rodino
Casey, Tex.	Green, Oreg.	Roncalio, Wyo.
Chappell	Griffiths	Rooney, N.Y.
Chisholm	Hansen, Idaho	Rostenkowski
Clark	Hansen, Wash.	Ruppe
Clay	Hawkins	Steele
Conyers	Hébert	Sullivan
Culver	Hogan	Teague
Davis, Ga.	Holifield	Thompson, N.J.
Davis, S.C.	Hudnut	Van Deerlin
Dennis	Jones, Tenn.	Wiggins

The SPEAKER. On this rollcall 371 Members have recorded their presence by electronic device, a quorum.

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

APPOINTMENT OF CONFEREES ON H.R. 11537, CONSERVATION PROGRAMS ON MILITARY AND OTHER FEDERAL LANDS

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill, H.R. 11537, to extend and expand the authority for carrying out conservation and rehabilitation programs on military reservations, and to authorize the implementation of such programs on certain public lands, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Michigan? The Chair hears none, and appoints the following conferees: Mrs. SULLIVAN, Messrs. DINGELL and GOODLING.

PERMISSION FOR SUBCOMMITTEE ON AERONAUTICS AND SPACE TECHNOLOGY TO SIT DURING GENERAL DEBATE

Mr. WYDLER. Mr. Speaker, I ask unanimous consent that the Subcommittee on Aeronautics and Space Technology of the Committee on Science and Astronautics may meet during debate this afternoon.

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

There was no objection.

SURFACE MINING CONTROL AND RECLAMATION ACT OF 1974

Mr. UDALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 11500) to provide for the regulation of surface coal mining operations in the United States, to authorize the Secretary of the Interior to make grants to States to encourage the State regulation of surface mining, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Arizona.

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 further consideration of the bill H.R. 11500, with Mr. SMITH of Iowa in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday, titles II through VIII inclusive were subject to amendment at any point, and there was pending an amendment offered by the gentleman from California (Mr. HOSMER) to title II of the committee amendment in the nature of a substitute. Before recognizing the gentleman from California, the Chair will state for the information of the Committee of the Whole that there are 42 minutes remaining out of 50 minutes debate allocated to title II under the unanimous consent agreement of Tuesday, July 23.

Before the Chair recognizes the gentleman from California, the Chair will reiterate his announcement of yesterday that if listed Members who have printed their amendments to title II in the RECORD would agree to offer those amendments during the 42-minute period, and to be recognized for 1 minute and 20 seconds, the Chair will recognize both committee and noncommittee members for that purpose.

The Chair will request that Members who have amendments printed in the RECORD and who insist upon 5 minutes for debate defer offering those amendments until the conclusion of the 42 remaining minutes.

The Chair understands the gentleman from California (Mr. HOSMER) wishes to be recognized for 1 minute, 20 seconds on the pending amendment.

The gentleman is recognized.

Mr. HOSMER. Mr. Chairman, the requirements for data in a permit application, including maps, geologic information, core drillings, hydrologic information, laboratory analyses, and a great variety of other detailed information, as required in H.R. 11500 will prove to be

so expensive to develop and such an onerous burden that many small miners will simply not be able to comply, and are, therefore, likely to go out of business. This would eliminate that source of needed coal in this period of severe energy shortage and thereby further endanger the achievement of energy independence by this Nation.

My amendment would correct an anti-small business complexion of section 210 of this bill. With 65 percent of the surface mines producing less than 50,000 tons per year, and nearly 90 percent of the auger mines producing less than 50,000 tons per year, the economic impact upon these small operators to develop and submit such sophisticated, costly, and largely unnecessary information is at once apparent. It would appear that the bill was carefully designed to squeeze the small miner out of business. Is it any wonder that the measure has been characterized as being "anti-small business"?

Under section 210 there are 17 paragraphs describing the data to be submitted with a permit application. This occupies nearly six pages of the bill simply listing the data to be supplied. In addition, the mining and reclamation plan requires another nine paragraphs to list the information to be supplied. Some of this information will be extremely costly to come by, such as the detailed map described in section 210(b)(9), which map must be prepared under the direction of or certified by a professional engineer or registered land surveyor and a professional geologist.

This map must show contour lines showing elevation and depicting the topography, the surrounding drainage area, the location and name of all roads, railroads, rights-of-way, utility lines, oil wells, gas wells, water wells, lakes, creeks, streams, rivers, springs, and other surface water courses, the name and boundary lines of the present owners of abutting property showing the location of buildings within 1,000 feet of the permit area and the use of each building. In addition, other maps must be supplied showing the proposed mine area, test borings, core samples, water tables, aquifers, essentially all geologic data conceivable with respect to an area.

Moreover, there must be chemical analysis of the properties of both the overburden and the coal, with data on the potential of acid or toxic forming materials in the overburden and of the strata lying beneath the coal. These are merely three samples of the type of data that must be supplied with a permit application.

On the other hand, my amendment provides for the submission of sufficient and adequate data to allow and aid the regulatory authority to make all the appropriate and necessary evaluations and assessments of the proposed reclamation plan, to insure that good reclamation can and will be accomplished in accordance with that plan.

My amendment would require the submission of data and information on how the mining and reclamation plan will be achieved, as well as information on the proposed mining site and on past permit performance by the applicant. Adherence to Federal air and water pollution laws is recognized by requiring a listing of all violations of such laws, rules or regulations that occurred during the year prior to the date of permit application.

Under my amendment, the mining and reclamation plan data submission requirements contain general categories of information necessary to assure that the operator has performed a premining site evaluation in sufficient depth to plan the operation to facilitate a return of the site to a useful status following mining. Also, the planning information required, as specifically enumerated in promulgated regulations, would be sufficient to assure the regulatory agencies that provisions have been planned to prevent damage of the permit area during mining.

Under my amendment, the applicant is required to file for public inspection a copy of his application with an appropriate official approved by the regulatory authority in the locality where the mining operation is proposed to occur. Publication of a description of the property to be mined in a generally circulated newspaper in the locality of the permit area for a specific length of time is required.

Under my amendment, the permit renewal provisions provide the right of successive renewals provided the permittee has complied with the permit, require a listing of claim settlements or judgments arising from operations under the permit, written assurance of continuation of the performance bond, and additional or new information required under this section. All parties who participated in the review and hearing proceedings on the initial permit will be informed of any permit renewal application.

Furthermore, my amendment would provide appropriate protection for confidential proprietary information. As the Department of the Interior pointed out in its objections to H.R. 11500:

It is essential that the application requirements of the bill be modified to provide for preserving the confidentiality of competitively sensitive material made available by permit applicants.

Mr. Chairman, I ask for the adoption of my amendment, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HOSMER) to the committee amendment in the nature of a substitute.

The amendment to the committee in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MRS. MINK TO THE COMMITTEE AMENDENT IN THE NATURE OF A SUBSTITUTE

Mrs. MINK. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mrs. MINK to the committee amendment in the nature of a substitute: Section 210(b), page 175, line 13, strike all words after "geologist" and the words "surface information" on line 14 and insert in lieu thereof the following: "when specific subsurface information is deemed essential and requested by the regulatory authority."

Mrs. MINK. Mr. Chairman, with regard to this amendment it was the proposal of the Pennsylvania delegation. They expressed concern that the requirement of having a geologist was an onerous one with respect to many of the smaller operations affecting surface coal mining. This new language is intended to make it quite clear that the "or" which precedes the words "registered land surveyor" makes that selection in the alternative and that the requirement of having a geologist should be for the purpose of providing specific subsurface information which is deemed essential and requested by the regulating authority. This is qualifying language.

Mr. Chairman, I urge adoption of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Hawaii (Mrs. MINK) to the committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. SYMMS TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. SYMMS. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. SYMMS to the committee amendment in the nature of a substitute:

On page 234, following line 17, add a new subsection "f" as follows and reletter the subsequent subsections.

"Sec. —. Every citizen of and within the United States may seek to enjoin before any United States District Court every effort to restrict the surface mining of coal upon a showing that such restriction will increase United States dependence upon imported fuels or will impair employment security among citizens of the United States: *Provided*, That any such injunction which may be issued by the U.S. District Court does not impair the obligation of surface mining operations to restore the mined land to substantially useful and relatively attractive condition."

Mr. SYMMS. Mr. Chairman, the purpose of this amendment is to soften the effect that this bill poses as a threat to us in coal production because under the present language in the bill every citizen has a right to sue in court to stop mining if an individual citizen or a group of citizens consider it to be damaging to the environment. This bill states that the area that is surface mined must be returned to the approximate contour that existed before any mining occurred. The term is vague and leaves the door open for excessive lawsuits and litigation under the above-mentioned provision.

This amendment will soften the language that is in the bill. It was carefully drawn by counsel to point out the fact that any citizen who can establish in

court that we are relying more and more heavily on foreign imports of oil or other energy sources because of the lawsuits that have taken place under this legislation will be allowed the right to go to court and sue for his right to be allowed to mine coal as long as reasonable measures to protect the environment are taken.

This gives the committee a choice of reasonable reclamation and a concern for human environment—warm houses, jobs, and food on the table.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho (Mr. SYMMS) to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. SYMMS) there were—ayes 13, noes 23.

Mr. SYMMS. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment to the committee amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. SEIBERLING TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. SEIBERLING. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING to the committee amendment in the nature of a substitute: Section 214, (a), page 204, line 25, delete all words after the word "weeks", and on page 205, delete all of line 1 and on line 2, delete the words "of letters which he has sent to" and insert in lieu thereof the words "The regulatory authority shall notify", and on line 5, delete the word "his" and insert in lieu thereof the words "the operator's".

Mr. SEIBERLING. Mr. Chairman, I yield to the gentlewoman from Hawaii.

Mrs. MINK. Mr. Chairman, again this is another suggestion made by the Pennsylvania delegation that instead of requiring that the applicant shall submit copies of letters that he has written to each of the local governmental agencies and planning agencies, that the regulatory authority have the responsibility of notifying the Government agencies so they can in turn respond to the pending application.

Mr. Chairman, I move the adoption of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING) to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mrs. MINK) there were—ayes 25, noes 15.

So the amendment to the committee amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. FLOOD TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. FLOOD. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. FLOOD to the committee amendment in the nature of a substitute: Page 242, line 15, add section 227:

ANTHRACITE COAL MINES

The Secretary is hereby authorized to and shall issue separate regulations according to time schedules established in the Act for the interim and permanent programs for anthracite coal surface mines, if such mines are regulated by environmental protection standards of the State in which they are located. Such alternative regulations shall adopt, in each instance, the environmental protection provisions of the State regulatory program in existence at the date of enactment of this Act in lieu of: sections 201 (b) and (c), 202, 209 (except subsection 209(d)(3)), 210, and 211 of this Act. Provisions of sections 216 and 217 are applicable except for specified bond limits and period of revegetation responsibility. All other provisions of this Act apply and the regulations issued by the Secretary of Interior for each State anthracite regulatory program shall so reflect; *Provided, however,* That upon amendment of a State's regulatory program for anthracite mining or regulations thereunder in force in lieu of the above cited sections of this Act, the Secretary shall issue such additional regulations as necessary to meet the purposes of this Act.

The Secretary of Interior shall report to Congress biennially, commencing on December 31, 1975, as to the effectiveness of such State anthracite regulatory programs operating in conjunction with this Act with respect to protecting the environment and such reports shall include those recommendations the Secretary deems necessary for program changes in order to better meet the environmental protection objectives of this Act.

Mr. FLOOD. Mr. Chairman, this extension, I point out, is a very peculiar geographical and geological situation. Ninety-eight percent of the anthracite coal mined in the United States is in Pennsylvania. Forty-three percent of it is used for heating consumption. This amendment has nothing to do with avoiding the provisions of the act and is very strongly written, to be sure.

This is a Federal statute, not simply a State law. It is a Federal law to enforce the law, and Federal inspectors make the inspections. The provisions here of the State law which were enumerated and read by the Clerk are incorporated in the Federal law.

There is no desire to evade the environmental provisions of this law, quite the contrary. H.R. 11500 is important to the State of Pennsylvania, and to the Nation, and I strongly urge its adoption.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, the anthracite coal industry has some special purposes and is in about 1 percent of production, I am told.

We have worked this out pretty carefully with Mr. FLOOD and some of the Pennsylvania people, and it is acceptable to this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. FLOOD) to the committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was agreed to.

AMENDMENTS OFFERED BY MR. QUILLEN TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. QUILLEN. Mr. Chairman, I offer two amendments to the committee amendment in the nature of a substitute, and I ask unanimous consent that these amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. QUILLEN to the committee amendment in the nature of a substitute: On page 215, beginning on line 9, delete the following sentence: "In addition, as part of any bond release application, the applicant shall also submit copies of letters which he has sent to various local governmental bodies, planning agencies, and sewage and water treatment authorities, or water companies in the locality in which the surface mining and reclamation activities took place, notifying them of his intention to seek release from the bond."

Following line 16, page 215, insert in lieu thereof the following new subsection and reletter the remaining subsections accordingly:

"(f) With any application for total or partial bond release filed with the regulatory authority, the regulatory authority shall notify the municipality in which a surface mining location is located by certified mail at least 30 days prior to the release of all or a portion of the bond."

On page 234, line 8, after the words "to any party" insert the words "(including any permittee defending an action brought pursuant to this section)".

Mr. QUILLEN. Mr. Chairman, the amendments are self-explanatory.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, these amendments deal wtih the procedure for notification in the bond release section of the bill. We have worked through several drafts with the gentleman from Tennessee, and we feel that the purposes of the bill are carried out by his amendments, and simplify and improve it. Therefore, the amendments are agreeable.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from California.

Mr. HOSMER. Mr. Chairman, I am not very enthralled with the gentleman's amendments, but I think that we will accept them.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Tennessee (Mr. QUILLEN) to the committee amendment in the nature of a substitute.

The amendments to the committee amendment in the nature of a substitute were agreed to.

AMENDMENT OFFERED BY MR. M'KAY TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. McKAY. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. McKAY to the committee amendment in the nature of a substitute: Section 209, subsection d, No. 9, on page 171 of the bill, lines 14 and 15, strike out "the national forests,".

Mr. McKAY. Mr. Chairman, under the existing bill, we would eliminate totally from mining permits the national forests along with national parks, wildlife refuges, and wilderness preserves.

With 70 percent of my State in Federal land, I feel that we need some controls which would be provided by this bill, but to totally eliminate the possibility of mining of coal from the forests, I do not think should be done.

Therefore, I would like to eliminate the national forests from this total exclusion from mining entirely. That is the purpose of the amendment.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. McKAY. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I would like to compliment the gentleman from Utah on his amendment. I too have some very substantial national forests in my district. There is no coal in the Angeles National Forest within my district, but I think where we do have coal in a national forest it can be controlled on a reasonable basis by the Federal Government through the forestry service as to how it is to be mined.

Mr. Chairman, I think the amendment is a correct one.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. McKAY. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, I would like to say that the gentleman from Utah has offered a very wise and, in my opinion, thoughtful amendment. There are 187 million acres in the national forest system. And under the multiple purpose concept, should be available to mining.

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

Mr. RUPPE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, with 187 million acres of national forest land in the United States, it would seem to me very unwise policy to provide categorically that there cannot be any mining of coal in that vast acreage.

At the present time the Federal Government is very careful to insure that the Federal forest acreage will not be despoiled. Certainly the Federal Government will not permit leases where there could be any danger to the ecological or other values in the national forest system. The fact of the matter is that the national forest lands are multiple-purpose lands and should be recognized as such in this bill.

I think we would be well advised to let the Department of the Interior or the Federal Forest Service make the decision as to whether mining should be permitted in the forest system, rather than to categorically prohibit mining in all of that multimillion acreage in the United States.

PARLIAMENTARY INQUIRY

Mr. ROUSSELOT. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ROUSSELOT. In this time frame, when somebody might object or support the amendment, how does he get time to do it? He does not?

The CHAIRMAN. Not unless he is on the list.

Mr. ROUSSELOT. In other words, if anyone wants to oppose the amendment, he has no time; is that correct?

The CHAIRMAN. Not unless the gentleman is on the list announced by the Chair.

Mr. ROUSSELOT. That is what I mean, so we are now in that wonderful situation where we cannot speak up.

Mr. UDALL. Mr. Chairman, am I on the list of speakers? I would like to use my time against this amendment.

The CHAIRMAN. The gentleman has already used his time.

AMENDMENT OFFERED BY MR. DINGELL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. M'KAY TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. DINGELL. Mr. Chairman, I offer an amendment as a substitute for the amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. DINGELL as a substitute for the amendment offered by Mr. McKAY to the committee amendment in the nature of a substitute: On page 171, line 13, strike all through the semicolon on line 23 and insert the following:

"(9) the mining operations are not located within any area of the National Park System, the National Forest System, the National Wildlife Refuge System, the National Wilderness Preservation System, or the Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act: *Provided, however,* That this paragraph shall not prohibit surface mining operations in existence on the date of enactment of this Act within any area of the National Forest System or the Wild and Scenic Rivers Systems or on lands within either system where the deeds conveying the surface lands to the United States reserve the coal and provide for the mining thereof;".

Mr. DINGELL. Mr. Chairman, I offer a substitute for the McKay amendment.

The McKay amendment changes adversely important provisions of the bill by eliminating the application of the prohibition in the bill against strip mining the national forest lands. It opens the national forest lands to strip mining.

My amendment says that one cannot strip mine in the national forest system as does the basic bill, but it does more. It attacks a particularly unfortunate provision in the bill which would allow strip mining where presently existing substantial commitments have been made. This, I think, is an important defect. My amendment says, instead, that this paragraph will not prohibit strip mining operations in existence at the date of enactment of the act within any national forest area or any of the other lands covered where the deeds conveying the surface lands to the U.S. reserve the coal and provide for the mining thereof.

Therefore, Mr. Chairman, I would point out that my amendment is superior to that offered by my colleague from Utah.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL) as a substitute for the amendment offered by the gentleman from Utah (Mr. McKAY) to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. DINGELL) there were—ayes 23, noes 15.

So the substitute amendment for the amendment to the committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah (Mr. McKAY), as amended, to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. DINGELL) there were—ayes 31, noes 8.

So the amendment, as amended, to the committee amendment in the nature of a substitute was agreed to.

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

The CHAIRMAN. The Chair will count. Eighty-one Members are present, not a quorum.

The Chair announces that 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 and six Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

AMENDMENT OFFERED BY MR. ROUSSELOT TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. ROUSSELOT. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. ROUSSELOT to the committee amendment in the nature of a substitute: Page 232, line 10, strike out "SEC. 223." and insert a "SEC. 223." to read as follows:

SEC. 223. (a) Except as provided in subsection (c) of this section any person having an interest which is or may be adversely affected by actions of the Secretary or the regulatory authority may commence a civil action on his own behalf in an appropriate United States district court—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to

be in violation of any regulation, order, or permit issued under this Act;

(2) against the Secretary where there is alleged a failure of the Secretary or State regulatory authority to perform any act or duty under this Act which is not discretionary.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to remedy such violation or failure and to apply any appropriate civil penalties or injunctive relief under this Act.

(b) No action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the alleged violation (i) to the Secretary, (ii) to the State in which the alleged violation occurs, and (iii) to any alleged violator of the regulation, order, or permit, or provision of this Act;

(B) if the Secretary or State has commenced and is diligently prosecuting administrative or judicial action to require compliance with the regulation, permit, order, or provision of this Act, but in any such action in a court of the United States any person described in subsection (a) may intervene as a matter of right;

(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the regulatory authority. Notice under this subsection shall be given in such manner as the Secretary shall prescribe by regulation.

(c) The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, except against the United States or any Federal officer or agency, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(d) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of this Act or to seek any other relief (including relief against the Secretary or a State agency).

(e) The Secretary, if not a party in any action under this section, may intervene as a matter of right.

Mr. ROUSSELOT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROUSSELOT. Mr. Chairman, I will try to be brief in describing this amendment. I am sorry that we have denied ourselves adequate time again to discuss these kinds of important amendments and this language, but so be it.

Mr. Chairman, my amendment to section 223 of H.R. 11500 substitutes new citizen suits language for the existing language of H.R. 11500, and corrects some serious deficiencies in that existing language.

The first principal change is to require a person bringing a citizen suit to have an interest which is or may be adversely affected. The existing language of section 223 does not require that the complainant have an interest, and, therefore, could open the floodgates to all kinds of spurious and harassing lawsuits. Such an open invitation to sue could seriously hamper and disrupt the orderly administration of the act, even to promulgation of State or Federal regulations under it, not to mention the opportunities for harassment of operators. Certainly, the Congress does not intend to authorize by statute the abuse of legal process, but that is the effect of section 223 if not amended.

The second principal change is to authorize the court to issue orders directly for the remedy of violations. Existing language authorizes the courts to order the regulatory authority to "perform such act or duty."

The third principal change is to delete subsection (b) of section 223, which authorizes damage suits in the U.S. district courts "regardless of the amount involved or citizenship of the parties." Damage suits should be brought in State courts or Federal courts in accordance with existing law and rules of civil procedure regarding jurisdiction. There is no reason to modify the existing law with respect to the jurisdiction of courts in a civil action seeking damages for injury suffered. Furthermore, the existing subsection (b) authorizes the awarding of "attorneys fees." It does not limit such award to "reasonable attorneys fees" as is customary in a statute of this type.

The fourth principal correction incorporated in my amendment is to eliminate the right of private individuals to intervene in criminal prosecutions. The existing language of subsection 223(c)(1)(B) is subject to that interpretation. Nowhere else in the annals of Anglo-American jurisprudence is a private citizen allowed to intervene "as a matter of right" in a criminal prosecution and become a coprosecutor with the Attorney General. The right of a person with an interest to intervene in a civil action for injunctive or other appropriate relief, is preserved by my amendment.

The fifth principal change made by my amendment is to delete the authorization to award costs, attorneys fees, or expert witness fees against the United States or any Federal officer or agency. Such awards, as a matter of policy, should not be allowed, and I am not aware of any instance in the law where they are permitted against the Government where the Government is acting in its sovereign capacity as regulator.

Mr. Chairman, I urge adoption of my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ROUSSELOT) to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. UDALL) there were—ayes 14, noes 23.

So the amendment to the committee amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. RANDALL TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. RANDALL. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. RANDALL to the committee amendment in the nature of a substitute: at page 232, section 223, at line 10, strike all of lines 10, 11, and substitute therefor: "Except as provided in subsection (c) of this section any person having an interest which is or may be adversely affected by actions of the secretary or the regulatory authority may commence a civil action on his own behalf in an appropriate United States district court.

Mr. RANDALL. Mr. Chairman, on line 11, page 232, the language of the bill is far too broad when it gives the right to sue to "any person." We have had a little experience in our Congressional District by suits brought against some engineering projects by individuals who live in New York City and who cannot possibly establish an interest or claim they are affected adversely by such a project as the Truman Dam and Reservoir in west central Missouri. They have brought suit under the Evironmental Protection Act without showing any interest or any adverse effect from the dam. They tied up the project for months in the courts. The same thing could happen here, in this surface mining control bill.

My amendment simply requires the person filing a suit to have some interest that is adversely affected. The way the language is presently worded in the bill there could be a whole series of suits without any adverse interest required to be shown and brought simply for the purpose of harassment.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. RANDALL. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, the gentleman's amendment states what we considered the law to be and what we intended in this bill but I think it is better to expressly state it the way the gentleman has, and I find the amendment agreeable.

Mr. RANDALL. I am grateful to the gentleman for his acceptance of my amendment.

May I continue on for just a moment to point out that all of us in west central Missouri have had to spend considerable sums of money for counsel fees to fight these really disinterested individuals from New York City who had no real interest or were not adversely affected by the Truman Reservoir Project. The litigants who filed under the name of the Environmental Defense Fund — had never seen the project or had never been in Missouri. That kind of thing should not be repeated in this surface mining bill.

Mr. Chairman, before I sit down I hope to make an observation or two concerning the committee bill, H.R. 11500, and H.R. 12898, the Hosmer substitute. I supported the Hosmer substitute because I felt that it was a more reasonable measure and it would be less inflationary in the years ahead when we have to use the coal that we have in this country. Someone has quite appropriately put the situation in perspective by saying that long after the Arabs have used all their oil we will still have our coal and they will be begging us to share it with them.

Mr. Chairman, we have large quanti-

ties of coal in this country. There is considerable coal that has been mined by surface mining in the district which I am privileged to represent. A lot of the land has been left in a condition that is relatively worthless. Very little effort has been made to restore it.

Within the last year or two there has been a State law passed in Missouri which is a long step in the right direction.

For some reason I find that there are misgivings as to whether or not State enforcement will be either as effective or as diligent as Federal control. I do not believe that the Federal Government enjoys any great advantage over the States on enforcement, but I do believe that a way must be found to use the coal to be mined by so-called strip mining or surface mining without complete destruction of the land.

In my judgment, a coal company should not be permitted to walk away and leave a large stretch of what could be called "badlands." These lands should not be left in a scarred condition.

Surface mining simply cannot be eliminated. It is too important a source of coal to be eliminated. That is why I oppose the Hechler substitute, which would virtually stop all strip mining. On the other hand, there must be a requirement that the land must be put back in such a condition that it may be used again. The very obvious and apparent reason for this kind of mining is that there is just not enough coal left in the country to do otherwise.

Mr. Chairman, I might be constrained to take a much less enthusiastic view of H.R. 11500 if it were not for the fact that our entire coal industry does not rise or fall simply by what happens to surface or strip mining. It is difficult to acquire accurate figures and statistics, but if my information is correct, perhaps as little as 3 percent and certainly not much over 5 percent of our coal is mined as the result of surface mining operations. Certainly more will be surface-mined in the future. But now is the time to take some reasonable precautions to put the land back in a condition so that it can be used.

H.R. 11500 has been amended; it has been moderated; it has been improved by a series of amendments. There is no longer a requirement that the land be put back in its original condition, but that it be put back in a condition where it is usable. For example, the bill has been modified to the point that if cost-wise it would be prohibitive to put the land back to where it could be cultivated for such agricultural purposes as the growing of corn, then there is the alternative of an option to restore the land to where it could serve as orchardland or forestland. These are all reasonable amendments. That is why I find as we come near the end of this debate that I am able to support H.R. 11500.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. RANDALL) to the committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. DELLENBACK TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. DELLENBACK. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. DELLENBACK to the committee amendment in the nature of a substitute: Line 11, page 232, insert "having an interest which is or may be adversely affected" between "person" and "may.".

Delete line 25 on page 232, and line 1 on page 233 through "as the case may be", and insert in place thereof "order such violation or failure to be corrected".

Beginning on line 7, and continuing on line 8, page 233, delete "regardless of the amount involved or citizenship of the parties".

Mr. DELLENBACK. Mr. Chairman, this does three things to the citizen suit section. It makes it clear that the person bringing a suit must have an interest which is or may be adversely affected. Second, it clears up some confused language at the bottom of page 232 and makes clear that the power to order correction of the violation is present. Third, on page 233 it removes the extra broadening of the jurisdiction of the court by deleting the words "regardless of the amount involved or citizenship of the parties" and leaves in effect the normal bases for going into Federal court as the pertinent bases.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. DELLENBACK. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, I support the gentleman's amendment. I think it is very good and sound.

Mr. DELLENBACK. I thank the gentleman.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. DELLENBACK. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, this is similar to the amendment which was offered by the gentleman from Missouri. We thought it was implied in the bill clearly that one had to have an interest adversely affected, but the gentleman's language makes it specific and clears this question and makes it a better bill. We would accept the amendment.

Mr. DELLENBACK. Mr. Chairman, I appreciate the gentleman's remarks.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. DELLENBACK) to the committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. RONCALIO OF WYOMING TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. RONCALIO of Wyoming. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. RONCALIO of Wyoming to the committee amendment in the nature of a substitute: Page 200 on line 4 change the semicolon after "manner" to a period and add the following proviso: *"Provided*, That nothing in this subsection shall be construed to prohibit the standard method of room and pillar continuous mining."

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO of Wyoming. Mr. Chairman, I yield to the gentlewoman from Hawaii.

Mrs. MINK. Mr. Chairman, this is again another amendment offered by the Pennsylvania delegation to make sure that this method of underground mining is clearly understood to be an acceptable procedure provided all other assurances of the subsection are met. It was clearly the intent of the bill. I urge the amendment be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wyoming (Mr. RONCALIO) to the Committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was agreed to.

AMENDMENTS OFFERED BY MR. KETCHUM TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. KETCHUM. Mr. Chairman, I offer two amendments to the committee amendment in the nature of a substitute, and I ask unanimous consent to have them considered en bloc despite the fact that they are to two sections, but they are very similar amendments.

The Clerk read as follows:

Amendments offered by Mr. KETCHUM to the committee amendment in the nature of a substitute: Page 161, line 6, following line 6 insert a subsection (d) as follows:

"(d) Prior to the approval of a state program the Secretary shall prepare a surface coal mining and reclamation economic impact report for each state seeking financial assistance under this Act. The surface coal mining and reclamation economic impact report shall be submitted to the Committee on Interior and Insular Affairs of the United States Senate and House of Representatives."

Page 161, line 25, following line 25 insert a subsection "(d)" to read as follows:

"(d) The Secretary shall prior to the implementation of a federal program pursuant to this Act, prepare a surface coal mining and reclamation economic impact report, for each state in which a federal program is to be implemented, and the Federal Lands Program to be implemented pursuant to section 225 of this Act. The surface coal mining and reclamation economic impact report shall be submitted to the Committee on Interior and Insular Affairs of the United States Senate and House of Representatives.

The CHAIRMAN. Is there objection to the request of the gentleman from California to consider his amendments en bloc?

There was no objection.

Mr. KETCHUM. Mr. Chairman, these two amendments, I really believe that even the authors of this bill will accept, principally because they do no damage to the bill in any way, shape or form. They do not delay anything. All that it says that prior to the approval or disapproval, an economic impact statement will be filed and it will come to us.

It is not going to deny anybody a permit. It will come to us, so that we can see what we have or have not done to affect the economy of the area. It could include, as an example, a description of the economy of the State, the returns from mined coal and the impact of mined improvements, what effect it will have on the public schools, roads, et cetera.

We have addressed ourselves to this in the bill in some sections. I can see no objection to this amendment. It is only going to let us know what we have done to the States and to the Federal Government economically.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. KETCHUM) to the committee amendment in the nature of a substitute.

The question was taken: and on a division (demanded by Mr. KETCHUM) there were—ayes 19, noes 21.

Mr. KETCHUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendments to the committee amendment in the nature of a substitute were rejected.

AMENDMENT OFFERED BY MR. ANDREWS OF NORTH DAKOTA TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. ANDREWS of North Dakota. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. ANDREWS of North Dakota to the committee amendment in the nature of a substitute: On page 239, line 20, delete the word "may" and insert in lieu thereof the word "shall" and reletter accordingly.

Mr. ANDREWS of North Dakota. Mr. Chairman, if amended, this provision under the Federal lands section would read as follows:

The Secretary shall require as one of the terms and conditions of any permit, lease or contract to surface mine coal owned by the United States that the lessee, permittee or contractor give satisfactory assurances that the anti-trust laws of the United States will be complied with and that no class of purchasers of the mined coal shall be unreasonably denied purchase thereof.

The rationale behind my amendment is to guarantee to smaller coal companies and other purchasers with smaller requirements the availability of Federal coal. At the present time, sales patterns of coal leased by the Federal Government are characterized by disproportional availability to the larger purchasers resulting in a disadvantage to the small purchasers.

What this amendment simply does is to require the Secretary of the Interior to see to it that lessees—permittees of Federal coal comply with our Natien's antitrust laws.

The necessity of guaranteeing smaller companies access to Federal coal is seen by noting that fewer than 5 percent of the surface coal mines in the United States produce as much as 200,000 tons of coal annually. In addition, 65 percent of the 2,300 surface coal mines in the United States produce 50,000 tons or less a year. Certainly, the small surface coal mines should have the protection of this country's antitrust laws without waiting for the Department of Justice to initiate proceedings or having to undergo the large economic burden themselves and perhaps have to experience long judicial delays. With the demands of the energy crisis upon us, everyone should be assured that they will have equal access to the vast reserves of strippable Federal coal on the most equitable basis possible.

For these reasons, I urge your adoption of this amendment.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, this is a good amendment. It says that the Secretary shall carry out the antitrust laws, and helps the little utilities and little companies. It says that there will not just be emphasis on the bigs.

Mr. Chairman, I accept the amendment and hope it is adopted.

Mr. RONCALIO of Wyoming. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Wyoming.

Mr. RONCALIO of Wyoming. Mr. Chairman, would the gentleman mind asking unanimous consent to strike the word "permanent?" All leases are temporary to some extent.

Mr. ANDREWS of North Dakota. Mr. Chairman, my amendment, if I could advise my colleague from Wyoming, is very simple. It just deletes the word "may" and inserts in lieu thereof the word "shall." It changes none of the other language. It just changes "may" to "shall."

Mr. RONCALIO of Wyoming. I thank the gentleman.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from California.

Mr. HOSMER. Mr. Chairman, I oppose the amendment on the grounds that I think it would be too restrictive.

Mr ANDREWS of North Dakota. I can appreciate the comment of the gentleman, but this is something we feel we need in our area, and to enforce the antitrust laws, I think, is in the best interests of this Nation. When the gentleman looks at the charts out in the lobby, he will see how the concentration of energy is coming to be in fewer and fewer bigger companies.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, I wholeheartedly support the amendment offered by the gentleman from North Dakota.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, does that mean, however, that if a company opens a coal mine in the future, it cannot develop long-term contracts with one or two utilities, but actually must make its coal available even on a short-term basis to anyone who comes along?

Mr. ANDREWS of North Dakota. Not at all. It merely says that the company has to comply with the antitrust laws and not discriminate.

Mr. RUPPE. It does not mean, then, that it has to guarantee availability to every type of user?

Mr. ANDREWS of North Dakota. It means it has to comply with the antitrust laws of the country.

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentlewoman from Hawaii.

Mrs. MINK. Mr. Chairman, I want to commend the gentleman for offering this amendment, and I certainly support it. I hope it can be adopted.

The CHAIRMAN. The question is on the amendment to the committee amendment in the nature of a substitute offered by the gentleman from North Dakota (Mr. ANDREWS).

The amendment to the committee amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. ECKHARDT TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. ECKHARDT. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT to the committee amendment in the nature of a substitute: On page 166, after line 5, add the following sentence: "After a person having an interest which is or may be adversely affected has filed a petition and before the hearing, as required by this subsection, any person may intervene by filing allegations of facts with supporting evidence which would tend to establish the allegations.".

Mr. ECKHARDT. Mr. Chairman, this goes to a matter that is not related to the citizens' suit question, but deals only with administrative procedure. Section 206 petition may be filed that no strip mining be done in a given area.

Under section 206 it is stated that any person having an interest which is or may be adversely affected shall have the right to file such petition.

I do not disturb that language at all, because nobody ought to be able to commence such a proceeding unless he is threatened by some action that contemplates strip mining.

I merely insert a provision on page 166, after line 5, saying that after such an administrative process is commenced, any person may intervene and file a like petition stating that person's interest.

What this would do is simply provide what most administrative processes permit anyway; that is, persons representing a public interest, but not having a specific private interest, may state their objection to strip mining in the area, or for that matter, may assert an interest in strip mining in the area.

Of course, it would be completely in-

appropriate for us to permit the commencement of a hearing before a committee of Congress by someone, a member of the general public. But on the other hand, it would be entirely improper for us to restrict our hearing only to those who come in and prove to us an interest after the hearing has begun.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I find this amendment acceptable, although I am unable to agree completely with the text of the gentleman's amendment, As I understand it, all the gentleman is saying in this amendment, is that someone can intervene and that the public can be heard in the hearing, provided that someone who has an interest has initiated the process in the first place.

Mr. ECKHARDT. That is right, and this is not in the lawsuit. This is only in the administrative process.

Mr. UDALL. For that purpose, I think it is a good amendment. The more participation we have, the better will be the procedure.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. Do I understand that the intervenor would not be an instigator on the question of the administrative ruling? Is that correct?

Mr. ECKHARDT. That is right.

Mr. STEIGER of Arizona. Anybody can question it?

Mr. ECKHARDT. That is right. It has to be started first by the party in interest.

Mr. STEIGER of Arizona. The party in interest must start it?

Mr. ECKHARDT. Yes.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT) to the committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HECHLER of West Virginia to the committee amendment in the nature of a substitute: Page 172, line 4, strike the word "and" and insert therein the following subsection:

"(12) the area proposed to be mined does not include any terrain with slopes greater than 20 degrees from the horizontal; and".

Renumber the following subsections accordingly.

Mr. HECHLER of West Virginia. Mr. Chairman, this is a very reasonable amendment. It does not go as far as the amendment which was sponsored by the gentleman from Georgia (Mr. YOUNG), which initiated a 20-degree ban on strip mining in the mountains during the interim period.

This action does not take effect for 38 months, or until the permanent standards take effect.

Mining on steep slopes is the most destructive form of mining.

I think it is very unfortunate that in the course of discussion of this bill, we have accepted amendments which the industry can live with, and we have accepted amendments that the people cannot live with.

It seems to me, Mr. Chairman, that this Capitol is swarming with lobbyists from the coal companies and utilities. As a matter of fact, I just wondered how coal can be mined during this week with all the coal and utility executives here.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from California.

Mr. HOSMER. Mr. Chairman, as long as the gentleman is speaking about lobbying, I think he ought to know that on the floor of this House there is a known member of the staff who works for the Appalachia Commission, and he has been here throughout the consideration of this bill. If that is not lobbying, I do not know what lobbying is. He has been right smack in the middle of the room.

Mr. HECHLER of West Virginia. Mr. Chairman, I decline to yield further to the gentleman.

I suggest also that the life of the people in the mountains has been threatened even more by an amendment that was apparently drafted by the West Virginia Surface Mining and Reclamation Association which was sent down here to try to weaken opposition to mountaintop removal, which is the most devastating form of mining.

Mr. Chairman, I suggest that the people of the mountains do not have an opportunity to be recognized here.

Mr. SLACK. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I gladly yield to the gentleman from West Virginia.

Mr. SLACK. Mr. Chairman, I will ask the gentleman this:

Has my friend visited any of the model mines in the State of West Virginia?

Mr. HECHLER of West Virginia. I have. I will state further I have not been impressed by those mines.

Mr. SLACK. Mr. Chairman, I will ask this further question:

Did the gentleman take the delegation to those mines when the delegation visited West Virginia, or did the gentleman take them to the mines that were surface-mined back during World War II and in the early 1950's?

Mr. HECHLER of West Virginia. Mr. Chairman, I will ask the gentleman: Where was he when the gentlewoman from Hawaii (Mrs. MINK) and the gentleman from Arizona (Mr. UDALL) came to West Virginia to see these mines?

Mr. SLACK. I am advised the gentleman took them to the old mines but did not take them to the model mines engaged in mountaintop mining. Is that not true?

Mr. HECHLER of West Virginia. Mr. Chairman, I will advise the gentleman that we went right over the Cannelton Mine in Montgomery, W. Va., and I am sure the delegation inspected model mines.

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentlewoman from Hawaii.

Mrs. MINK. Mr. Chairman, I would like to concur with what the gentleman (Mr. HECHLER) said; that our subcommittee did indeed try to put together a balanced field inspection trip. We went to see what we considered were the worst examples that were readily available to us, and we did take the time to examine those areas which the industry suggested were the best evidences of reclamation.

I believe the gentleman (Mr. HECHLER) was with us throughout the entire trip, and he made a definite contribution toward our understanding of the problems in the State of West Virginia.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, if the Members will go out and look at the color photographs in the Speaker's lobby, they will see photographs I made on our subcommittee trip showing the very areas we are talking about, depicting the good mountaintop mining and other practices in West Virginia and bad practices in West Virginia. They can see that the differences between the good and bad practices are striking and significant.

Mr. HECHLER of West Virginia. Mr. Chairman, I appreciate the gentleman's comment. I also appreciate the support of the very able gentlewoman from Hawaii, which refutes the contention of my good friend, the gentleman from West Virginia, that we did not visit these areas.

The gentleman was in Charleston at the time, and he could very well have accompanied the committee. I do not want to put this argument on a personalized basis, Mr. Chairman, because I want to speak up for the people who are being threatened in these areas and who will continue to be threatened.

Most of the talk so far has been in terms of protecting those who sit in the board rooms and whose profits may be cut by some action of the Congress. It seems to me that we must face up to this issue very directly as representatives of the people and protect those people who are being threatened by strip mining in the mountains.

Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

POINT OF ORDER

Mr. HOSMER. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. HOSMER. Mr. Chairman, the gentleman from Arizona has spoken for a minute and 20 seconds already.

The CHAIRMAN (Mr. SMITH of Iowa). The Chair will state that under the rule, when the amendment has been printed

in the RECORD, the author of the amendment gets 5 minutes in support of his amendment and an opponent gets 5 minutes in opposition to the amendment, regardless of a time limitation.

The Chair overrules the point of order.

Mr. UDALL. Mr. Chairman, in this bill we have tried to legislate results, not particular techniques or practices. We have said that if operators can responsibly mine and reclaim on 20 degrees or 30 degrees or 25 degrees with modern equipment, technology and methods, they can go ahead and mine if they can produce a satisfactory result and reclaim the land in accordance with provisions of this act. I do not know what the technology is going to be 5 or 10 years from now, but this amendment would artificially place out of bounds all the coal that happens to lie on slopes above 20 degrees.

Mr. Chairman, we rejected by a very substantial vote a very similar amendment offered by the gentleman from Georgia (Mr. YOUNG) the other day. I think it would be unwise to take this arbitrary action at this time, and I oppose the amendment.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. Mr. Chairman, I thank the gentleman for yielding.

I do not know, but perhaps in this instance those Members who oppose this amendment may not have had the benefit of the subcommittee's disclosures. If they did, I believe they would support this particular amendment.

In my view it is time we stopped being cosmetic. If we are going to control strip mining we had better control strip mining. So I urge the support of the amendment offered by the gentleman from West Virginia (Mr. HECHLER).

I thank the gentleman for yielding.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER) to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. UDALL) there were—ayes 20, noes 25.

Mr. HECHLER of West Virginia. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment to the committee amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. ECKHARDT TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. ECKHARDT. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT to the committee amendment in the nature of a substitute: Page 205, line 16, after the word "person" strike all through the word "interest".

Mr. ECKHARDT. Mr. Chairman, this is a section that goes to a process under the bill by which permits are issued.

On page 205, it is permitted that—

Any person with a valid legal interest or the officer or head of any Federal, State, or local governmental agency or authority shall have the right to file written objections to the proposed surface mining and reclamation operation . . .

There has been a rather complex interpretation of who is a person with an interest contained in the Mineral King case. Of course, the Mineral King case dealt with a legal proceeding in court and what constituted standing in such a proceeding. In that case it was held that there must be some person who is himself among the injured in order for that person to have standing in court.

As the Members will remember, that case involved a commercial intrusion in a very beautiful area. The Sierra Club was objecting, but the Sierra Club was held not to have standing because it had not shown that any individual interest was involved.

Mind you, this amendment does not go to any court proceeding. All this does is permit any person—and that would include a person with a real and true knowledge and interest in environmental concerns—to call for a process before the agency, in which a public hearing would be held to find out whether strip mining was desirable or undesirable.

For the life of me I cannot see any reason why organizations of concerned citizens, merely because they are not directly and personally affected in an adverse way should not also be heard in such administrative hearings.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, I cannot imagine what is going to happen to the small operator in this country if each time he applies for a mining permit anyone in the United States anywhere can make an immediate effort to have this application blocked. I would say that this would mean the end of the small operator.

Mr. ECKHARDT. Mr. Chairman, I decline to yield further. The gentleman from Michigan should speak on his own time.

Mr. Chairman, I have had experience in this area with respect to hearings held by the Corps of Engineers respecting dredging for oyster shells in Galveston and Trinity Bay, and similar hearings by the Corps of Engineers with respect to projects leading toward the purchase of land to move persons out of areas of subsidence.

These hearings are not difficult. Fifty or 75 people may be heard in a day or two. The control of the hearing is completely under the agency. It is not like a law case in which one is entitled to subpena information, to use discovery process, to cross-examine witnesses.

All this amendment calls for is the protection of a right of a concerned individual or organization to appear and make his case. That is all. It does not say he has the right to cross-examine; it does not say he has the right of appeal; but would we for a moment deny a person the right to come before one of our committees because he did not show himself to be a lobbyist with a specific interest but was simply representing what he thought was in the public good? All this amendment does is let a concerned citizen have the same voice as a corporation or individual with a commercial interest in the administrative proceeding.

Mr. Chairman, I ask for an aye vote on the amendment.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment goes contrary to the spirit of the Randall and Dellenback amendments which we adopted earlier which seeks to give some assurance. We are not going to have these proceedings and court proceedings wide open to any person who simply wants to harass someone applying for a permit. I see the rationale behind the gentleman's proposal, and under other circumstances it might be agreeable. We have repeatedly given assurances to industry and those concerned about how for this bill reaches; but we are not going to open wide the doors to any little old lady in Toledo with a bad disposition and a typewriter to harass any coal operator any place in the United States.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from California.

Mr. HOSMER. I thank the gentleman for yielding.

Obviously there is some sort of a ground swell for this particular phraseology that is offered by the gentleman from Texas. I suspect that it would either be accepted here or in the conference.

Mr. UDALL. No; I can assure the gentleman that the gentlewoman from Hawaii (Mrs. MINK) and I consider that we have a balanced bill, with the Randall and Dellenback amendments.

Mr. HOSMER. I think the gentleman from Arizona's and the gentlewoman from Hawaii's misconception that they have a balanced bill is what has kept us on the floor here for lo these 9 days now.

Mr. UDALL. I thought there was a question on the disposition of the balance.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT) to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. ECKHARDT) there were—ayes 3, noes 15.

So the amendment to the committee amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. FRASER TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. FRASER. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

PARLIAMENTARY INQUIRY

Mr. HOSMER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HOSMER. Is the gentleman's amendment being offered under rule XXIII, clause 6?

Mr. FRASER. Mr. Chairman, the amendment has been printed in the RECORD.

The Clerk read as follows:

Amendment offered by Mr. FRASER to the committee amendment in the nature of a substitute: Page 172, line 4, strike the word "and" and insert therein the following subsection:

"(12) the area or region in which the mining is to take place has an annual average precipitation of at least ten inches; and".

Renumber the following subsections accordingly.

Mr. FRASER. Mr. Chairman, the purpose of my amendment is to prohibit surface mining of coal where average annual rainfall is less than 10 inches.

The National Academy of Sciences, in a February 1974 study, "Rehabilitation Potential of Western Coal Lands," states:

Those areas receiving 10 inches (250 mm) or more of annual rainfall can usually be rehabilitated.

The drier areas cannot—at least easily—

Revegetation of these areas can probably be accomplished only with major, sustained inputs of water, fertilizer, and management. . . . Rehabilitation of the drier sites may occur naturally on a time scale that is unacceptable to society, because it may take decades, or even centuries, for natural succession to reach stable conditions.

It has been pointed out that a better index of rehabilitation potential would be "the ratio of precipitation to evaporation during the growing season"—but, in any case, 10 inches of annual rainfall represents a minimum threshold for successful reclamation.

The Department of the Interior has estimated that two-thirds of the land stripped for coal has never been reclaimed—over 2.5 million acres, an area larger than the State of Delaware. Several million acres more have been rendered inaccessible through highwalls created when coal is scooped from hillsides by contour strip mining, walls as high as 100 feet.

Successful reclamation requires four things: First, restoration of the land to approximate original contours; second, elimination of highwalls; third, no deposit of spoil on downslopes; and fourth, revegetation.

Revegetation is the last and vital step in reclamation. Without it, we cannot prevent erosion or lessen acid runoff.

Water is the key element in success revegetation. The National Academy of Sciences study notes:

Effective precipitation (that which both wets the soil minerals and is available to growing plants) is the determinant factor for successful plant growth and soil development.

All the evidence confirms that successful reclamation is not possible in extremely arid areas.

EPA's Russell Train and John Quarles have called for strict controls on surface mining where reclamation is possible and an absolute prohibition on such mining where restoration of the land is not possible.

My amendment would prohibit strip mining of coal only where all agree successful reclamation cannot take place—where average annual rainfall is less than 10 inches. I ask for your support of this amendment to the committee bill, to provide the minimum protection needed for the land concerned.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. I wish to ask the gentleman a question. Is the gentleman's language dependent upon the previous 12-month rainfall or the previous decade for the average annual rainfall or the previous century's mean rainfall? On what does the gentleman predicate the 10 inches?

Mr. FRASER. It is an annual average so the average would be established by taking the rainfall over a period of time.

Mr. STEIGER of Arizona. Over what period of time does the gentleman have in mind, is my question. Is it the prior century? It is important because of course there are areas in which there is a rather wide fluctuation of rainfall, from none to very little.

Mr. FRASER. I would assume a period over a decade would be reasonable.

Mr. STEIGER of Arizona. The gentleman has not put that in his language but he feels this colloquy will solve that. Is that correct?

Mr. FRASER. My view would be that what is called for is a period of time sufficient to predict the likely average for the period during which revegetation has to take place. I would assume a decade would be reasonable under the circumstances.

Mr. STEIGER of Arizona. I know the gentleman must have given this a great deal of thought and I am disappointed he did not come up with this. Since this is an absolute prohibition we should have some absolute parameter to the definition. Would the gentleman agree it is a little vague as it is as to how we would establish the 10-inch rainfall requirement?

Mr. FRASER. It is my understanding that official records are kept for various areas of the country that identify average levels of rainfall and that this is an established and standard concept. The exact length of the period necessary for the purposes of my amendment could best be established by administrative regulation. The details would be worked out by the Department of Interior, under normal administrative procedures. The principle, however, should be established in the law.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. Mr. Chairman, the official figures on rainfall are determined and published by the National Oceanographic and Atmospheric Administration and they are very clearly delineated as to which sections of the country have 10 inches of rainfall or less than or more than 10 inches of rainfall. I respect the gentleman from Arizona very much but I think he has raised a rather quibbling question. The National Academy of Sciences has very clearly set forth in its study the damage which can be done in those areas which are stripped where the rainfall is less than 10 inches, and the impossibility of reclamation. These figures are available to the gentleman as they are to other Members of Congress.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from California.

Mr. HOSMER. Mr. Chairman, the period of time you are going to average the figures is of course vital because there are not only annual particular rainfall variations but they also vary in the decades.

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

Mr. HOSMER. Mr. Chairman, I rise in opposition to the amendment.

This kind of amendment we have before us is an example of the charade that is being played here on the floor. Today, I have not indulged in a lot of quorum calls because the die has been cast. The troops are heading toward the cliff and they are going to walk over it, come what may, with this bill. I just want my warnings printed in the RECORD so that those who may be here next year and the year after will be able to read that the gentleman from California (Mr. HOSMER) said with this bill we shall have a coal shortage, an energy shortage and a depression. During subsequent elections, I want the Members to try and explain why they participated in this kind of folly which will bring disaster to this great Nation.

The amendment, that is brought before us concerning average annual rainfall, does not specify the period over which the average is to be calculated; an omission demonstrating the highest kind of idiocy. Average rainfall is dependent upon the period of time selected and will vary in accordance with that criterion. Similar ambiguity hung up the courts for 10 years in the case of Arizona against California and prevented the progress in the reclamation of the West.

This amendment is typical of other provisions throughout this legislation. This bill was written by a man who is on the floor today, who is not even an employee of the House and who has significantly contributed to an environmentally overweighted bill, a bill that ignores other national values which are necessary to maintain a viable society.

Even if my opposition to this one amendment were successful, however, that would not begin to make a dent in the improvements in this bill that are required.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. HOSMER. I yield to the gentleman from Arizona.

Mr. UDALL. I dispute almost everything the gentleman has said. And I join him in his opposition to this amendment. It raises an absolute standard. We require a 10-year period of bonding in these western regions. An operator has to come in with a plan to revegetate before he can get a permit. Just as I opposed the general prohibition of mines on 20-degree slope, I oppose this amendment.

Mr. HOSMER. This is similar to the situation when John Paul Jones was fighting a battle at sea. "Down came the sails and the mast," and John Paul said, "Let's not give up the ship."

And one of the besmeared and gunsmoked men said, "There is always somebody that doesn't get the word."

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. HOSMER. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. Does the gentleman disagree with the National Academy of Sciences that it is impossible to reclaim where rainfall is under 10 inches?

Mr. HOSMER. Beauty is in the eye of the beholder. That is not what the report of the National Academy of Sciences said.

Mr. HECHLER of West Virginia. If the gentleman will just read the report——

Mr. HOSMER. I do not yield any further. I demand regular order.

I make the point of order that the gentleman is out of order.

That report from the National Academy of Sciences said no such thing.

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

The CHAIRMAN. The Chair will count. Fifty-five Members are present, not a quorum.

The Chair announces that we 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 and one Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The gentleman from California is still recognized for 1 minute.

Mr. HOSMER. Mr. Chairman, I urge that Members reject the pending amendment or that Members who want to see this bill made even more subject to a veto that it already is, adopt the pending amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. FRASER) to the committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. HOSMER TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HOSMER. Mr. Chairman, under rule XXIII, clause 6, I offer my amendment No. 45 to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HOSMER to the committee amendment in the nature of a substitute: Page 162, line 20, strike out "SEC. 206." and insert a new "SEC. 206" to read as follows:

"SEC. 206. (a) To be eligible to assume primary regulatory authority pursuant to section 203, each State shall establish a planning process enabling objective decisions to be made based upon public hearings and competent and scientifically sound data and information as to which, if any, areas or types of areas of a State (except Federal lands) cannot be reclaimed with existing technology to satisfy applicable standards and requirements of law. The State agency will not issue permits for surface coal mining of such areas unless it determines, with respect to any such permit, that the technology is available to satisfy applicable performance standards.

"(b) The Secretary, and, in the case of national forest lands, the Secretary of Agriculture, shall conduct a review of the Federal lands and determine, pursuant to the standards set forth in subsection (a) of this section, areas or types of areas on Federal lands which cannot be reclaimed with existing technology to satisfy applicable standards and requirements of law. Permits for surface coal mining will not be issued to mine such areas unless it is determined, with respect to any such permit, that the technology is available to satisfy applicable performance standards.

"(c) In no event shall a permit for surface coal mining operations be issued after the date of enactment of this Act for lands located within any area of the National Park System, the National Wildlife Refuge System, the National Wilderness Preservation System, or the Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act: *Provided, however,* That this paragraph shall not prohibit surface mining operations in existence on the date of enactment of this Act, or those for which substantial legal and financial commitments were in existence prior to September 1, 1973; but, in no event shall such surface mining operations be exempt from the requirements of this Act.

"(d) In no event is an area to be designated unsuitable for surface coal mining operations on which surface coal mining operations are being conducted on the date of enactment of this Act, or under a permit issued pursuant to this Act, or where substantial legal and financial commitments in such operations are in existence prior to the date of enactment of this Act. Designation of an area as unsuitable for mining shall not prevent mineral exploration of the area so designated."

Mr. HOSMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HOSMER. Mr. Chairman, under the same conditions, I offer in addition my amendments Nos. 121, 127, 118, and 142 to the committee amendment in the nature of a substitute, and I ask unanimous consent that all of these amendments be considered en bloc and considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HOSMER. Mr. Chairman, I make the additional unanimous consent request that instead of the 25 minutes to which I might be entitled because of the application of rule XXIII, consisting of 5 minutes for each one of these amendments, notwithstanding that rules, I be recognized only for 5 minutes in toto.

The CHAIRMAN. The Chair will advise the gentleman that 5 minutes on his amendments considered en bloc is all the time the gentleman is entitled to in any event.

Amendments Nos. 121, 127, 118, and 142 offered by Mr. HOSMER are as follows:

Amendments offered by Mr. HOSMER to the committee amendment in the nature of a substitute: Page 227, line 11, strike out "SEC. 221." and insert "SEC. 221." to read as follows:

SEC. 221. (a)(1) Any action of the Secretary to approve or disapprove a State program pursuant to section 203 of this Act or to prepare and promulgate a Federal program pursuant to section 204 of this Act shall be subject to judicial review only by the appropriate United States Court of Appeals upon the filing in such court within thirty days from the date of such action of a petition by any person who participated in the administrative proceedings related thereto and who is aggrieved by the action praying that the action be modified or set aside in whole or in part. A copy of the petition shall forthwith be sent by registered or certified mail to the other parties, the Secretary, and the Attorney General and thereupon the Secretary shall certify and the Attorney General shall file in such court the record upon which the action complained of was issued, as provided in section 2112 of title 28, United States Code.

(2) Any promulgation of regulations by the Secretary pursuant to sections 211, 212, and 225 of this Act shall be subject to judicial review only by the appropriate United States Court of Appeals in accordance with the procedures set forth in subsection (1) of this section.

(3) All other orders or decisions issued by the Secretary pursuant to this Act shall be subject to judicial review only in the United States District Court for the locality in which the surface coal mining operation is located. Such review shall be in accordance with the Federal Rules of Civil Procedure. In the case of a proceeding to review an order or decision issued by the Secretary under section 224 of this Act, the court shall have jurisdiction to enter an order requiring payment of any civil penalty assessment enforced by its judgment.

(b) The court shall hear such petition or complaint on the evidence presented and on the record made before the Secretary. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

(c) In the case of a proceeding to review any order or decision issued by the Secretary under this Act, the court may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate

pending final determination of the proceeding if—

(1) all parties to the proceeding have been notified and given an opportunity to be heard on a request for temporary relief;

(2) there is a substantial likelihood that the person requesting such relief will prevail on the merits of the final determination of the proceeding; and

(3) such relief will not present imminent danger to the public health and safety or cause significant imminent environmental harm to the land, air, or water resources which cannot reasonably be considered reclaimable within the scope of the bonded reclamation plan.

(d) The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the order or decision of the Secretary.

Page 229, line 24, strike out "SEC. 222." and insert a "SEC. 222." to read as follows:

SEC. 222. (a) (1) A notice or order issued to a permittee pursuant to the provisions of subparagraphs (a) (2) and (3) of section 220 of this title, or to any person having an interest which is or may be adversely affected by such notice or order or by any modification, vacation, or termination of such notice or order, may apply to the Secretary for review of the notice or order within thirty days of receipt thereof or within thirty days of its modification, vacation, or termination. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing, at the request of the applicant or person having an interest which is or may be adversely affected, to enable the applicant and such person to present information relating to the issuance and continuance of such notice or order or the modification, vacation, or termination thereof. The filing of an application for review under this subsection shall not operate as a stay of any order or notice.

(2) The permittee and other interested persons shall be given written notice of the time and place of the hearing at least five days prior thereto. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code.

(b) Upon receiving the report of such investigation, the Secretary shall make findings of fact, and shall issue a written decision, incorporating therein an order vacating, affirming, modifying, or terminating the notice or order, or the modification, vacation, or termination of such notice or order complained of and incorporate his findings therein.

(c) Pending completion of the investigation required by this section, the applicant may file with the Secretary a written request that the Secretary grant temporary relief from any notice or order issued under section 220(a)(3) of this title together with a detailed statement giving reasons for granting such relief. The Secretary may grant such relief, with or without a hearing, under such conditions as he may prescribe, if—

(1) the applicant shows that there is substantial likelihood that the findings of the Secretary will be favorable to him; and

(2) such relief will not present imminent danger to the health or safety of the public or cause significant imminent environmental harm to the land, air, or water resources which cannot reasonably be considered reclaimable within the scope of the bonded reclamation plan.

(d) Following the issuance of an order to show cause as to why a permit should not be suspended or revoked pursuant to section 220(a)(4), the Secretary shall hold a public hearing after giving written notice of the time, place, and date thereof. Any such hearing shall be of record and shall be subject to section 554 of title V of the United States Code. Within sixty days following the public hearing, the Secretary shall issue and furnish to the permittee and all other parties to the hearing a written decision, and the reasons therefor, concerning suspension or revocation of the permit. If the Secretary revokes the permit, the permittee shall immediately cease surface coal mining operations on the permit area and shall complete reclamation within a period specified by the Secretary, or the Secretary shall declare as forfeited the performance bonds for the operation.

(e) In view of the urgent need for prompt decision of matters submitted to the Secretary under this section, action shall be taken as promptly as practicable, consistent with adequate consideration of the issues involved.

Page 221, line 23, strike out "SEC. 220." and insert a "SEC. 220." to read as follows:

SEC. 220. (a) (1) Whenever, on the basis of any information available, including receipt of information from any person, the Secretary has reason to believe that any person is in violation of any requirement of this Act or any permit condition required by this Act, the Secretary shall notify the State regulatory authority, if one exists, in the State in which such violation exists. If no such State authority exists or the State regulatory authority fails within ten days after notification to take appropriate action to cause said violation to be corrected or to show good cause for such failure and transmit notification of its action to the Secretary, the Secretary shall immediately order Federal inspection of the surface coal mining operation at which the alleged violation is occurring unless the information available to the Secretary is a result of a previous Federal inspection of such surface coal mining operation. When the Federal inspection results from information provided to the Secretary by any person, the Secretary shall notify such person when the Federal inspection is proposed to be carried out and such person shall be allowed to accompany the inspector during the inspection.

(2) When, on the basis of any Federal inspection, the Secretary or his authorized representative determines that any permittee is in violation of any requirement of this Act or any permit condition required by this Act, which violation also creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause significant imminent environmental harm to land, air, or water resources, which cannot reasonably be considered reclaimable within the scope of the bonded reclamation plan, the Secretary or his authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the violation. Such cessation order shall remain in effect until the Secretary or his authorized representative determines that the violation has been abated.

(3) When, on the basis of a Federal inspection which is carried out during the enforcement of a Federal program or a Federal lands program, or during Federal enforcement of a State program in accordance with subsection (b) of this section, the Secretary or his authorized representative determines that any permittee is in violation of any requirement of this Act or any permit condition required by this Act, but such violation does not create an imminent danger to the health or safety of the public, or cause or can be reasonably expected to cause significant imminent environmental harm to land, air, or water resources which cannot reasonably be considered reclaimable within the scope of the bonded reclamation plan, the Secretary or his authorized representative shall issue a notice to the permittee or his agent fixing a reasonable time for the abatement of the violation. If, upon the expiration of the period of time as originally fixed or subsequently extended, the Secretary or his authorized representative finds that the violation has not been abated, he shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the violation. Such cessation order shall remain in effect until the Secretary or his authorized representative determines that the violation has been abated.

(4) When, on the basis of a Federal inspection which is carried out during the enforcement of a Federal program, or a Federal lands program, or during Federal enforcement of a State program in accordance with subsection (b) of this section, the Secretary or his authorized representative determines that a pattern of violations of any requirements of this Act or any permit conditions required by this Act exists or has existed, and if the Secretary or his authorized representative also finds that such violations are caused by the unwarranted failure of the permittee to comply with any requirements of this Act or any permit conditions, or that such violations are willfully caused by the permittee, the Secretary or his authorized representative shall forthwith issue an order to the permittee to show cause why the permit should not be suspended or revoked.

(5) Notices and orders issued pursuant to this section shall set forth with reasonable specificity the nature of the violation and the remedial action required, the period of time established for abatement, and, where appropriate, a reasonable description of the portion of the surface coal mining and reclamation operation to which a cessation order applies. Each notice or other order issued under this section shall be given promptly to the permittee or his agent by the Secretary or his authorized representative who issues such notice or order, and all such notices and orders shall be in writing and shall be signed by such authorized representative. Any notice or order issued pursuant to this section may be modified, vacated, or terminated by the Secretary or his authorized representative. A copy of any such order or notice shall be sent to the State regulatory authority in the State in which the violation occurs.

(b) Whenever the Secretary finds that violations of an approved State program appear to result from a failure of the State to enforce such program effectively, he shall so notify the State. If the Secretary finds that such failure extends beyond thirty days after such notice, he shall given public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Secretary that it will enforce this Act, the Secretary shall enforce any permit condition required under this Act, shall issue new or revised permits in accordance with the requirements of this Act, and may issue such notices and orders.

(c) The Secretary may request the Attorney General to institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which the surface coal mining and reclamation operation is located or in which the permittee thereof has his principal office, whenever such permittee or his agent (A) violates or fails or refuses to comply with any order or decision issued by the Secretary under this Act, or (B) interferes with, hinders, or delays the Secretary or his authorized representative in carrying out the provisions of this Act, or (C) refuses to admit such authorized representative to the mine, or (D)

refuses to permit inspection of the mine by such authorized representative, or (E) refuses to furnish any information or report requested by the Secretary in furtherance of the provisions of this Act, or (F) refuses to permit access to, and copying of, such records as the Secretary determines necessary in carrying out the provisions of this Act. Such court shall have jurisdiction to provide such relief as may be appropriate. Temporary restraining orders shall be issued in acordance with Rule 65 of the Federal Rules of Civil Procedure, as amended. Except as otherwise provided herein, any relief granted by the court to enforce an order under clause (A) of this subsection shall continue in effect until the completion or final termination of all proceedings for review of such order under this title, unless, prior thereto, the district court granting such relief sets it aside or modifies it.

Section 225: Page 239, line 5, After the word "every" insert "new or".

Mr. HOSMER. Mr. Chairman, my amendment to section 206 revises the provisions of section 206 so that a decision relative to the unsuitability of an area for coal surface mining is based upon the reclaimability of that area.

Also, the prohibition against coal surface mining in national parks, wildlife refuges, wilderness areas, and wild and scenic rivers is moved from section 209 to section 206 where it more properly belongs. This will require the adoption of a conforming amendment to section 209 which I will offer later.

With respect to the prohibition of surface coal mining in national forests, Secretary Morton in his May 29, 1974, letter to Chairman HALEY of the House Committee on Interior and Insular Affairs, specifically opposes this proscription. He said:

National forests should be left open for coal development under multiple use principles.

Therefore, the proscription on coal surface mining in national forest lands is eliminated.

The only true test as to whether an area should be designated unsuitable for coal surface mining is: "Can the area be satisfactorily reclaimed?" Other criteria in the bill for so designating areas amount to the taking of an easement—without compensation—for public purposes. If surface coal mining operations would be incompatible with Federal, State, or local plans to achieve essential governmental objectives, it follows that the Federal, State or local government should acquire such lands for such public purposes.

Under existing provisions of H.R. 11500 the mere existence of Federal, State, or local plans for the use of that land at some future time is sufficient to deny the owner his full rights to the use and enjoyment of his property. From reading the language of the bill, plans may or may not be public, they may or may not be approved, and they may or may not be subject to approval by a duly constituted legislative body, and it is possible that the "essential governmental objective" may be to acquire the land at the lowest possible cost for budgetary purposes. If such plans are for the purpose of providing "essential governmental" service, then compensation should be paid, since under our form of government, no landowner should be singled out to carry the financial burden for governmental functions whose beneficiaries are the public in general.

The area may also be designated as unsuitable for surface mining if it is "a fragile or historic land area." Under such circumstances the designation of an area as unsuitable for surface mining is the equivalent of the taking of an easement. Historic lands should be preserved for public purposes, if they are significant. Under such circumstances their preservation can only be accomplished appropriately through the expenditure of public funds for the acquisition of such lands or through some form of voluntary agreement. If they are indeed lands of historic significance, they should be publicly acquired, publicly managed, and made available for the use and enjoyment of the public generally. No single landowner should be saddled with the burden of preservation of historic lands for the benefit of the public.

Over the past decade the House Interior and Insular Affairs Committee has acted upon literally hundreds of bills to acquire and preserve fragile and historic lands. Except in the cases of gifts, the committee has never failed to provide for compensation to the current landowners. The inclusion of this provision flies in the face of that consistent policy which is, of course, consistent with the Constitution. The effort to achieve a similar result through executive fiat, the authority for which is granted in a measure ostensibly providing for the regulation of surface mining reclamation is inappropriate. The House Interior Committee has performed its duty well in providing protection for historic lands and other important land areas requiring preservation, and there is no reason to believe the committee will fail to perform its duty in the future.

Section 206 of H.R. 11500 also provides for the designation of an area unsuitable for surface mining if the mining would affect renewable resource land areas. Mineral resources are not always located conveniently for mining operations, but must be mined where they are found. The fact that some exist on lands supporting a renewable resource should not be a deterrent to their exploration—rather the fact that the land supports a renewable resource should be another factor to be considered in the reclamation plan and the subsequent use of the land to be approved by the appropriate authority. The existence of a "renewable resource" on the land tends to indicate that reclamation can be highly successful, and that the renewable resource can be reestablished in accordance with the principle of sequential multiple use.

And, finally, section 206 provides that an area may be designated as unsuitable for surface mining if such mining would affect "natural hazard lands." This provision was, obviously borrowed from land use legislation, but is inappropriate in surface mining reclamation regulation legislation. If by "natural hazard lands" it is meant areas subject to flood, such as a flood plain, surface mining may actually prove beneficial and lessen the hazard to neighboring lands. But, the construction of major facilities, such as airports, highway interchanges, powerplants and the like, may be unwise on such hazardous lands. If "natural hazard lands" means an area subject to seismic activity, surface mining, if there are mineable deposits, may be the only reasonable use of the land area. Certainly, public facilities, certain industrial facilities, and housing projects should not be constructed in such areas, so those uses would not be "competing." The existence of high seismic activity would have a greater potential impact upon the location of underground mines than on surface mines. In short, the provision makes little sense when applied to surface mining.

This amendment preserves the prohibition against surface coal mining on lands located within any area of the National Park System, the National Wildlife Refuge System, the National Wilderness Preservation System, or the Wild and Scenic Rivers System—including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act—despite the fact that the Secretary of the Interior expressed grave reservations over the proscription "based on our concern with legislative taking of existing private rights."

Mr. Chairman, my amendment to section 220 will substitute the Federal enforcement language of section 217 in H.R. 12898 for the language of section 220 of H.R. 11500. The principal differences are twofold:

First. A shutdown order under the existing language of the bill may be based upon "a condition, practice, or violation." My amendment would change this so that a shutdown order must be based on a violation of the act or of a permit condition.

Second. Under the existing language of section 220, a shutdown order may be issued in cases of "significant, imminent environmental harm." My amendment would qualify that so the "significant, imminent environmental harm" is not merely a disruption caused by the mining, which is and can be reasonably considered reclaimable within the scope of the bonded reclamation plan.

With respect to the first change, a shutdown order is drastic action. Such drastic action must be limited to violations of the act or violations of a permit condition so that the operator knows what activities can result in the issuance of a shutdown order leaving it so vague as to include a "practice or condition" does not give the operator adequate or proper notice of what constitutes a shutdown situation.

With respect to the second change, that is the disruption to the environment "cannot reasonably be considered to be reclaimable within the scope of the bonded reclamation plan," this language

is added to make certain that "significant, imminent environmental harm" does not mean that the mining can be stopped when such environmental disruption will be corrected in the reclamation process. Mining does cause a disruption to the land, just as subway construction, agriculture, and many other human activities do. But the land will be reclaimed—the bill guarantees this by its bonding provision. However, if a stop-mining order can be issued for disruption to the land, even though the disruptions will be corrected in the reclamation process, H.R. 11500 would indeed be a prohibitory bill. While this may not be the intention of the committee bill, it is the effect.

Mr. Chairman, my amendment to section 221 substitutes the language of section 215 of H.R. 12898.

Under the provisions of the existing section 221, judicial review of the approval of a State program shall be in the court of appeals. A petition for review must be filed within 60 days. My amendment would shorten that period to 30 days, but its authorization would not disturb the principal provisions in this regard.

Promulgation of regulations by the Secretary are made subject to review in the court of appeals by my amendment. No mention of judicial review of the Federal regulations is now contained in section 221. Certainly the promulgation of regulations is a matter of such great importance in the administration of this act that judicial review must be clearly and specifically authorized.

Another change made by my amendment is in regard to the record and evidence upon which review may be based. Under the existing language of section 221, judicial review shall be based solely upon the record made before the Secretary. My amendment would allow evidence to be adduced in addition to the hearing record before the Secretary for such judicial review.

With respect to the review of orders and decisions of the Secretary, my amendment achieves two corrections: First, it removes a redundancy with respect to granting temporary relief from an order; and secondly, inserts the qualifier relative to environmental harm that is "reasonably considered to be in the reclamation plan." My new subsection (c) states clearly that no temporary relief from any order or decision can be granted if such relief would present "imminent danger to the public health and safety or caused significant environmental harm."

The existing language of subsection 221(c) exempts the review of any order issued under subsection 220(a)(2), which are orders relative to public health and safety or significant environmental harm. Since relief cannot be granted under my amendment if it would cause imminent danger to public health and safety or significant environmental harm, the exemption for review of such orders is redundant, and may work to deny the operator temporary relief from an erroneous order issued under the provisions of section 220(a)(2).

The qualifier relative to environmental harm that is reasonably considered to be reclaimable within the scope of the bonded reclamation plan, is added so that shutdown orders based upon environmental considerations are reviewable and temporary relief may be granted when those environmental matters will be reclaimed and corrected under the bonded reclamation plan.

Finally, subsection (e) which relates to the review of State programs is eliminated as unnecessary. The existing subsection (e) places jurisdiction for review of action by the State regulatory authority in State courts. It is clear that such law would govern anyway, and, therefore, this subsection is surplusage.

Mr. Chairman, I urge the adoption of my amendment.

The principal changes respecting secretarial review are threefold: First, with respect to the granting of temporary relief by the Secretary, pending completion of the investigation by the Secretary, he is granted discretion as to whether to hold a public hearing in the locality of the permit area or not. Under the existing language of subsection 222 (c) the Secretary must hold a public hearing, which requires notice to parties, publication of time and place, conduct of the hearing, and preparation and review of the transcript.

The purpose of temporary relief is to avoid undue hardship in cases where there is some question over the propriety or correctness of the order. To require a public hearing with all the delays therein entailed would render the provision for such relief a hollow promise indeed. However, if the Secretary feels a hearing should be held, he can require one. It would depend upon the circumstances, and under my language, the Secretary could use his discretion as to whether a hearing was indicated or not. Under the existing language, he has no such discretion.

Second, my amendment incorporates the qualifier that the order or notice from which temporary relief is sought, is not one which can reasonably be considered reclaimable within the scope of the reclamation plan. This would make this section consistent with other amendments I have offered, and consistent with the concept that insofar as reclamation will be carried out and environmental disruptions will be corrected, mining itself should not be allowed as an excuse for unrealistic orders or notices.

Third, my amendment adds a new subsection (e) which recognizes the urgent need for prompt decisions with respect to all matters submitted to the Secretary under the provisions of this section. It exhorts the Secretary to give prompt consideration to all such matters as it is practicable. Members know of instances where important appeals or other decisions have been before the Department of the Interior for substantial periods of time. If administrative review is to be meaningful, it must be conducted promptly, especially since judicial review may not be available until it is completed.

Mr. Chairman, I urge the adoption of my amendment.

The amendment to section 225 is necessary to conform section 225 with similar changes already adopted in section 201 of Mink substitute, section 201, paragraph (h)—allowing both new and existing surface coal mining operations to operate—in order to avoid an 18-month, or longer, moratorium on Federal coal leasing.

In this period of energy shortage, such a moratorium is unwise, unnecessary, and inappropriate. Furthermore, a "freeze" has been in force on Federal coal leasing for nearly 3 years, an additional 18 months will only further aggravate the current shortage.

Since a permanent Federal lands program cannot be inaugurated until after judicial approval of a Federal program—see subsection 201(h), specifically lines 14–15 on page 156—the moratorium could extend far beyond the 18 months; and, judging by recent experience with the Alaska pipeline, that moratorium could extend for years; while the energy shortage becomes more acute.

I would say to my friends on the committee that I know that these amendments are not going to be accepted, but I ask that they be accepted in accordance with the rule of reason, and under the dictates of sanity.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. HOSMER. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman for yielding.

I would like to say with respect to the gentleman's immediate past statement wherein the gentleman indicated that these amendments probably will not be accepted. I wonder if the gentleman in the well, in looking about this great Chamber and the number of Members who are present listening to this very technical, specific and very bad bill, whether the gentleman from California does not feel about like he did in the committee and the action that was taken there?

Mr. HOSMER. Mr. Chairman. I will say to the gentleman from California that I do feel about the same.

When the lights are going out, and there is no air-conditioning and very little heat, when the general public is in an uproar, and looking for the reason of the energy shortage, I will tell the people of our Nation to point their fingers at the U.S. Congress.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendments offered by the gentleman from California (Mr. HOSMER).

Mr. Chairman, I appreciate the cooperation of the gentleman from California in presenting these amendments en bloc, because they are largely rewrites of sections of title II, and I think that with their rejection we will be able to go ahead with title III.

Most of them, as I see them, were in

the Hosmer substitute that was defeated the other day, and I suspect that most of this language will be in the motion to recommit that will be offered at the conclusion of the debate. I believe that the proper course of action to take would be consistent with that which we have done before, and that would be to reject these amendments.

Mr. RONCALIO of Wyoming. Mr. Chairman, would the gentleman yield?

Mr. UDALL. I yield to the gentleman from Wyoming.

Mr. RONCALIO of Wyoming. Mr. Chairman, I would like to comment on Mr. Hosmer's remarks on the energy shortage in America. He assigns the blame on our bill to regulate these resources to decently regulate strip mines, mainly.

It is largely caused by the fact of the concentration of economic power in fewer and fewer companies over the last 40 or 50 years and the absence of vigorous antitrust prosecutions. Thus more and more of our energy resources passed into fewer and fewer hands so that free enterprise became less and less free, and became more and more the consortium of a combination of companies in restraint of trade. So today we have found virtually every source of energy in the hands of a handful of men on the boards of some of the larger central banks of America, and interlocking directorates of major power companies.

This can be cured, ironically enough, by the passage of good legislation like this, now being hampered by the gentleman from California, Mr. HOSMER who is making a grim parliamentary stand to impede it today. Because he, CRAIG HOSMER knows more about uranium enrichment requirements of the next few decades than possibly any person in America outside of a handful of top echelon men in AEC today.

So, Mr. Chairman, I hope that the gentleman from California (Mr. HOSMER), when this bill is passed, can proceed to assure that we avoid uranium enrichment gaps in this Nation.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. Mr. Chairman, I thank the gentleman for yielding, and I want to commend the gentleman from Wyoming (Mr. RONCALIO) representing as the gentleman does a State which was once represented in the Senate by the late great Senator Joseph O'Mahoney, an implacable foe of monopoly. I would point out to the gentleman that 16 out of the top 17 holders of coal reserves in our Nation are oil corporations, steel companies, railroads, and metals interests. I wish to commend the gentleman for pointing out this concentration of power in the coal industry.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California Mr. HOSMER to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. HOSMER), there were—ayes 13, noes 19.

Mr. SYMMS. Mr. Chairman. I demand a recorded vote and pending that. I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Sixty-four Members are present, not a quorum. The call will be taken by electronic device.

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

[Roll No. 402]

Arends	Gray	Patman
Ashley	Griffiths	Podell
Beard	Hanna	Powell, Ohio
Boggs	Hansen, Idaho	Rarick
Brasco	Hansen, Wash.	Rees
Brown	Harsha	Reid
Burke, Mass.	Holifield	Rhodes
Burton, Phillip	Horton	Rooney, N.Y.
Carey, N.Y.	Howard	Rosenthal
Chamberlain	Hudnut	Rostenkowski
Chisholm	Jones, Okla.	Sikes
Clark	Jones, Tenn.	Sisk
Clay	Kluczynski	Steed
Collins, Ill.	Lehman	Steele
Culver	Lujan	Stokes
Davis, Ga.	McKinney	Sullivan
Davis, S.C.	McSpadden	Teague
Dennis	Martin, Nebr.	Thompson, N.J.
Diggs	Mazzoli	Whitten
Dorn	Minshall, Ohio	Wiggins
Evins, Tenn.	Mollohan	Wilson, Charles H., Calif.
Flynt	Murphy, N.Y.	
Fraser	O'Neill	
Gettys	Passman	

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. SMITH of Iowa, Chairman 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. 11500, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 365 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The Chair notes that after the division vote, the gentleman from Idaho had requested that this vote be taken by a recorded vote.

Mr. SYMMS. Mr. Chairman, I withdraw my request.

So the amendments to the Committee amendment in the nature of a substitute were rejected.

The CHAIRMAN. Are there further amendments to title II? If not, the Chair will now compile a list of those Members seeking to debate or offer amendments to title III, and it will allocate the 20 minutes of debate accordingly.

Members standing at the time of the Chair's announcement will be recognized for 2 minutes each.

AMENDMENT OFFERED BY MR. HOSMER TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HOSMER. Mr. Chairman, according to rule XXIII, clause 6, I offer my amendment No. 144 to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HOSMER to the committee amendment in the nature of a substitute: Page 242, line 16, strike out all of "Title III" and insert a new "title III" to read as follows:

"TITLE III—INDIAN LANDS SURVEY

"SEC. 301. (a) The Secretary is directed to study the question of the regulation of surface mining on Indian lands which will achieve the purposes of this Act and recognize the special jurisdictional status of these lands.

"(b) In carrying out this study the Secretary shall consult with Indian tribes, and may contract with or grant to Indian tribes, qualified institutions, agencies, organizations, and persons.

"(c) The study report shall be submitted to the Congress as soon as possible but not later than January 1, 1975."

Mr. HOSMER (during the reading). Mr. Chairman, I ask unanimous consent that further reading of my amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HOSMER. Mr. Chairman, the regulation of surface mining on Indian lands presents unique problems because of the number of different tribes involved and because of the diverse physical, climatic, and geological conditions characteristic of the lands and the coal seams where surface mining occurs.

It may well be in order for a national surface mining law to apply to Indian lands. However, neither the Environment and Mines and Mining Subcommittees nor the full Interior Committee heard testimony from tribes presently engaged in coal surface mining or contemplating surface mining arrangements. My amendment makes it possible for all interests to participate in a thorough ventilation of the issues.

Section 301 would direct the Secretary of Interior to study the question of the regulation of surface mining on Indian lands.

Moreover, it further directs the Secretary to consult with the various tribes, and authorizes the Secretary to contract with or make grants to tribes qualified institutions, agencies, organizations, and persons knowledgeable in this area.

Finally, my amendment requires the results of the study to be submitted to the Congress as soon as possible but not later than January 1, 1975.

And, it is my intention that this report establish the basis for congressional hearings on the subject, providing the tribes with the opportunity to be heard. In the interim, the Secretary of Interior presently has more than ample authority to protect the surface values of all Indian lands from potential ravages of unchecked surface mining. The Secretary now must approve all mineral leases and permits, and pursuant to other sections in H.R. 11500, the Secretary is directed to include terms and conditions in such leases which will meet the environmental protection standards in the bill.

Now, this amendment makes sense to me. It apparently makes sense to a lot of others, too. I am advised—by Mr. Jack Ross who represents the Crow—that In-

dian tribes that have coal rights, such as the Crow of Montana, the Arapaho of Wyoming, the Shoshone of Wyoming, and the three affiliated tribes of the Fort Berthold Reservation in North Dakota, and the Northern Cheyenne Indians of Montana, support my amendment—they want to be heard. The National Congress of American Indians, and the National Tribal Chairmen's Association also support the study amendment. This endorsement represents more than 90 percent of the entire Indian population in this country.

Without this amendment, the surface mining program which would be established by title III of the bill would create an unnecessary and ill-advised overlay. The Secretary of the Interior now has adequate authority to protect Indian lands and is exercising that authority. Both Federal and Indian resources would be needlessly diverted to the separate programs which title III would authorize. This would result in overtaxing the already limited manpower and financial resources available for surface mine reclamation work and dilute the effectiveness of such programs on Indian lands.

The Senate-passed bill contains a similar study provision. Those of us who will be going to conference and want a bill this year, certainly do not need still another point of contention.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. HOSMER. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, I will ask the gentleman this:

Is it correct that the language the gentleman is offering in the form of an amendment to this bill is the identical language that is now contained in the Senate legislation and is a part of that legislation?

Mr. HOSMER. I believe it is; at least, it is very similar.

Mr. RUPPE. Mr. Chairman, I will inform the gentleman what I have said is correct, that it is the same language which is presently in the Senate bill.

Mr. MELCHER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the amendment offered by the gentleman from California (Mr. HOSMER), although it may be similar or identical to the language in the Senate-passed bill, is not truly what the Senate wanted nor is it truly what the Indians wanted.

At the time the Senate enacted its bill last fall, there had not been agreement among the Indian tribes which have a great deal of coal on their lands as to what provisions affecting their land they wanted in the strip mine bill. Since last fall, we have held a series of meetings with various Indian tribes which have coal in order to determine what their wishes were. They elected to have a section contained in this bill giving them jurisdiction over reclamation programs on their own reservations. We have carefully worked out the details with them on this title of the bill. Except for one section of the bill, they are in agreement.

Mr. Chairman, I think I can tell the Members of the House truthfully and honestly that the tribes with the greatest amount of coal in this country are in favor of the House today enacting this title as is. As to the section where they have disagreement, they would like to have that reconsidered in the conference committee between the House and the Senate when the final version of the bill is drafted.

I hope that the House will agree to this title. It has been carefully worked out with Indian tribes. It is important, if Indians on their own reservations are going to go ahead and allow coal development. They want that jurisdiction themselves. They would prefer not to be under the jurisdiction of any State. They would prefer also to have the opportunity to establish that jurisdiction for themselves, meeting the requirements of this bill. If they can do so, this title and this section of the bill says they may have that opportunity. Without this right they are apprehensive about coal development on their reservations. If they fail to meet the requirements, then the Secretary of the Interior would have to take over for them. If they seek higher standards, that is their right, too, under this bill as it is drafted.

I urge defeat of this crippling amendment denying Indians their rights.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HOSMER) to the committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was rejected.

The CHAIRMAN. If there are no further amendments to title III, the Chair will now compile a list of those Members seeking to debate or to offer amendments to title IV, and will allocate the 15 minutes of debate accordingly.

Those Members desiring to be recognized for such purposes will stand.

The Chair will state that the Chair will recognize the Members who were standing for 3 minutes and 20 seconds each.

The Chair recognizes the gentleman from Ohio (Mr. HAYS).

AMENDMENT OFFERED BY MR. HAYS TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HAYS. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HAYS to the committee amendment in the nature of a substitute: Page 251, line 18, strike the word "stated:" and insert in lieu thereof: "stated, and in carrying out the purposes of this Act, the Secretary shall give priority to the county in which the minerals were mined."

Mr. HAYS. Mr. Chairman, I believe that I can explain this amendment in approximately 1 minute.

All it does is to state that the Secretary in this orphan land business, in the reclamation of abandoned land, shall see that when the money goes to the States that they cannot just juggle it around for any reason, political or otherwise, which will not give priority to the county in which the minerals were mined, or those in which the most damage was done.

That is all the amendment does. I think it is only fair that it should be done that way.

At the moment we have a Democratic Governor in Ohio, and I am sure that he would be fair, as I suspect his opponent would be, but, let us make sure that the Democratic Governor does not overlook some Republican counties in Ohio which had damage, and just give priority to Democratic counties, or vice versa if the sad day ever comes that we get a Republican Governor.

Mr. UDALL. Mr. Chairman, if the gentleman from Ohio will yield, the gentleman has discussed this amendment with us. I like the spirit of the amendment in that it carries out that which we really intend to be done; that is, money is going to be placed where the damage occurs, and where the coal is mined.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, I think the amendment is certainly going to be a very useful one, because it is likely a number of mines will be closed because of this legislation. I think, however, that I should point out that it may not be the panacea or the guarantee that it sounds under the legislation. I say that because in the first year there could be $200 million collected under what is really a severance fee. But 50 percent of that money can be taken by the States for reclamation or conservation purposes, and 40 percent of the remainder automatically goes back to local government. It is very likely, instead of $200 million being available from the severance tax for reclamation purposes that $60 million will be available.

Mr. HAYS. Mr. Chairman, I will say that I consider this to be a directive to the States to allocate the money this way; not only the Secretary, but the States. So to that extent it will be helpful.

Mr. Chairman, I have subsequent amendments which will give priority in the reclamation to companies which will be adversely affected, I doubt if any will be, or men whose employment may have been adversely affected, and I doubt that any will be.

Mr. RUPPE. Mr. Chairman, will the gentleman yield further?

Mr. HAYS. I yield to the gentleman from Michigan.

Mr. RUPPE. I thank the gentleman for yielding.

The reason I express my concern is that up to 50 percent of severance tax money goes to the States. That money can be used by the States possibly for reclamation, but it also can be used for conservation purposes. I just want to point out that there is no real assurance that the States will use their 50 percent

of the tax money for reclamation purposes.

Mr. HAYS. Perhaps the gentleman should offer another amendment saying they have to use it, and I would buy it.

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentlewoman from Hawaii.

Mrs. MINK. I thank the gentleman for yielding.

I understand this amendment to mean that even with respect to the States' shares that the Governors in those instances have to spend the money in those areas?

Mr. HAYS. Which give priority, that is right. That is exactly my intent.

Mr. RONCALIO of Wyoming. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Wyoming.

Mr. RONCALIO of Wyoming. I appreciate the gentleman's yielding.

I have a slightly different problem, because three or four counties in Wyoming will be affected by mining in one particular county.

And in Decker, Mont., a few miles north of Sheridan, Wyo., its mine location is in one State, but massive impact on municipal services falls on Sheridan, Wyo. These are local and unique problems that will be ironed out under the gentleman's excellent amendment. I hope it is accepted.

Mr. HAYS. If the reclamation is there, it will also have an impact.

Mr. SEIBERLING. Mr. Chairman, I also rise in support of the gentleman's amendment, and would also like to say that in the amendment that I will offer, the same intent obtains.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. HAYS) to the committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. SEIBERLING TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. SEIBERLING. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING to the committee amendment in the nature of a substitute: Section 401, page 250, line 5 through page 251, line 5, strike subsection (d) and (e), substitute the following new subsections, and renumber the remaining subsection accordingly:

(d) All operators of coal mining operations which are subject to this Act shall, not later than 60 days following the end of the calendar year 1975 and each calendar year thereafter, pay a reclamation fee to the Secretary equal in amount to $2.50 per ton of coal mined by the operator during the preceding calendar year, except that:

(1) A credit, in the amount of $0.01 for each 1000 British Thermal Units (BTU) or major fraction thereof by which the weighted average BTU value of coal mined by the operator during the year falls below 16,000 BTU per pound, shall be allowed upon presentation of reasonable proof; and

(2) A credit not to exceed 90 per centum of the total fee due shall upon presentation of reasonable proof be allowed for any incremental costs and expenses which have been incurred by the operator during such year for—

(A) reclamation activities, facilities and equipment required in order to comply with the standards established by or pursuant to sections 201, 211, and 212 of this Act.

(B) activities, facilities and equipment required in order to comply with the Coal Mine Health and Safety Act of 1969 as amended (Public Law 91–173; 83 Stat. 742);

(C) activities, facilities and equipment required in order to comply with the Federal Water Pollution Control Act (33 U.S.C. 1151–1175) in connection with the mining operation; and

(D) the amount of any reclamation fee, license fee, severance tax or other similar charge required by law to be paid by the operator to any State with respect to coal mining operations in such State, in the proportion that the proceeds of such fee, tax or charge are used by the State to support reclamation activities comparable to those provided for by this Title, but not to exceed 16 per cent of the total fee due before the credits allowable under paragraphs (1) and (2) of this subsection;

(3) Incremental costs and expenses, as used in paragraph (2) of this subsection, means all costs and expenses (including costs of equipment and facilities previously purchased but not previously amortized in accordance with generally accepted accounting practices) which have been necessarily incurred by the operator for the purpose of complying with the particular provisions of law referred to in subparagraphs (A) through (E) of paragraph (2) and which would not have been necessary in the absence of such provisions of law. In no event shall the total of such costs and expenses allowable to the operator under subparagraph (A) of paragraph (2) for a particular calendar year exceed the total amount of the bond or bonds required under section 216(a) with respect to the area in which the operator has completed the extraction of coal during such calendar year.

(e) The Secretary shall make a study of the effect of the reclamation fee and, within six months after the close of the twelve-month period ending June 30, 1977, and in each twelve-month period thereafter, shall report to Congress the results of the study with respect to its effects on the coal mining industry, including the relative competitive positions of deep coal mining and surface coal mining in each major coal mining region of the United States. With his report, he shall include his recommendations as to the extent, if any, that the reclamation fee should be increased or decreased in order to enable the deep coal mining industry to compete effectively with the surface coal mining industry.

(f) The Secretary shall periodically cause an audit to be made of the operations and records of each operator required to pay a reclamation fee under subsection (d) of this section, to determine the correctness of any credits claimed under said subsection. The Secretary shall promulgate regulations governing the imposition, collection, and audit of the reclamation fee and credits. In preparing such regulations, the Secretary shall consult with the Secretary of the Treasury to arrange, so far as feasible, for the Internal Revenue Service to assist in performing auditing activities under this subsection. Any amount taken by the operator as a credit under subsection (d) of this section that has been finally determined as not qualifying for credit thereunder shall be repaid by the operator to the Secretary promptly after such final determination shall have been made, together with interest, at the rate of 6% per annum from the date such credit was taken, and any penalty imposed by law. A determination by the Secretary as to the amount of fee or credit payable by or allowable to an operator shall be deemed prima facie correct.

(g) On or before July 1 of each year, 37½ per centum of the amounts received into the fund from reclamation fees paid under subsection (d) of this section with respect to coal mined in each State shall be paid to the governments of the respective States in which the coal was mined. Such money shall be used by such States, or political subdivisions thereof, for acquisition, reclamation, conservation or development of the public lands of the State, or political subdivisions thereof, or of lands reserved to or owned, within the State, by any Indian tribe, giving prime consideration, in accordance with the priorities set forth in section 402, to the needs of communities which supply or have supplied the major part of the work force for current or former coal mining operations.

Mr. SEIBERLING (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. SEIBERLING. Mr. Chairman, my amendment is also printed in the CONGRESSIONAL RECORD of July 16 on page 23638. I believe I am entitled to speak under the 5-minute rule.

Mr. Chairman, this amendment has been debated at great length in the committee. It was adopted by the subcommittee in substance, and it was removed from the bill by a fairly close vote in the full committee. I am offering it again for purposes of not only the amendment itself but to focus our attention on a problem that besets the coal industry.

What are some of the coal facts of life? The first fact is that only 3 percent of the coal in this country can be mined by the strip mining method, and even if you eliminate coal reserves that cannot be mined by available technology, only 18 percent of the available coal can be mined by strip mining. If we allow strip mining to take over from deep mining and allow the deep mining industry to collapse, in another 20 years we are going to have to reconstitute it from scratch.

I submit that because of the nature of deep mining and the fact that the techniques are handed down from one generation to the next, it will be extremely difficult to do that.

A third coal fact of life which I would like to get across is that there are 2.5 million acres of orphan lands which have been stripped and not reclaimed and have been abandoned. Also there are many deep mines which have been abandoned and which are polluting the waters of our land.

My amendment is a very simple concept. It puts all the coal producers on the same footing as far as congressionally imposed costs are concerned, and I include in those costs not only the costs of reclamation but also coal mine safety

requirements which were imposed by earlier legislation.

Second, it would provide an adequate fund to reclaim orphan lands, which the provision in the present bill would not do.

Here is what my amendment does not do.

It does not add $2.50 a ton to the cost of mining coal, although that is the starting figure set forth in the amendment. After credits, the national average cost per ton of coal would be 92 cents—$1.60 for strip mines and 25 cents for deep mines.

It does not add significantly to the cost of electricity generated by coal. Adding an average of 92 cents to the cost of coal would still leave the cost of coal at less than half the cost of the equivalent of the heat value of oil. This is less than six-hundredths of a cent per kilowatt hour, which is 36 cents per month on the average home electric bill and less than the cost of a package of cigarettes. It is peanuts compared to the recent increases in price of coal, which went up as much as $24 a ton last year. It is peanuts compared to the cost of transporting western coal to the east, which is about $14 a ton.

It does not discriminate against low heat or high heat value coal. It has a clause providing for a Btu adjustment.

It does not result in multiple reclamation fees or similar charges, since credits would be allowed for all such State charges.

It is no more difficult to administer than the business deduction provisions of the Internal Revenue Code, with which industry is already well familiar.

It does not put the burden on the taxpayer to restore the damage caused by industry's past indifference and neglect, as would some proposals to take the fund out of the general revenues.

What does it do?

It restores the competitive balance to deep mine coal, where 97 percent of the coal is. If we really want to end the future destruction of our land surface and solve our energy shortage, we must go underground for coal.

It provides added incentive to make underground mining safer. Despite the coal mine safety law, we all know there is still a tremendous disparity in the safety records of deep mines.

It provides added incentives to good strip mine reclamation.

It provides a fund sufficient to restore the 2.5 million acres of orphan lands in about 15 years and end pollution and other dangers from old deep mines.

It provides reclamation, conservation and development funds for State and local governments to the extent of 37.5 percent of the fund with priority to benefit communities where the work force for the mines resides and where the mines are.

Finally, it puts all mines on the same competitive basis as far as legislatively imposed reclamation, safety, and pollution control costs are concerned.

I have letters from the Governor of the State of Ohio, Mr. Gilligan and the Governor of the State of Michigan, Mr. Milliken, supporting this amendment. I have talked personally to Governor Shapp of Pennsylvania who expressed his support. It is supported by the United Mine Workers, and the AFL–CIO of Ohio. All the leading conservation organizations support it.

AMENDMENT OFFERED BY MR. RUPPE AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. SEIBERLING TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. RUPPE. Mr. Chairman, I offer an amendment as a substitute for the amendment to the committee amendent in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. RUPPE as a substitute for the amendment offered by Mr. SEIBERLING to the committee amendment in the nature of a substitute:

Page 249, line 8, strike all through page 251, line 14 inclusive, and insert therein:

(b) There is authorized to be appropriated to the fund initially the sum of $125,000,000 and such sums as the Congress may thereafter authorize to be appropriated.

(c) The following other moneys shall be deposited in the fund;

(1) moneys derived from the sale, lease, or rental of land reclaimed pursuant to this title;

(2) moneys derived from any user charge imposed on or for land reclaimed pursuant to this title, after expenditures for maintenance have been deducted.

(d) Amounts deposited in the fund shall be available for the acquisition and reclamation of land under section 406, administration of the fund, acquisition and filling of voids and sealing tunnels, shafts, and entryways under section 407 and, for use by the Secretary of Agriculture, of up to one-fifth of the money deposited in the fund annually and transferred by the Secretary of the Interior to the Department of Agriculture for such purposes. Such amounts shall be available for such purposes only when appropriated therefor; and such appropriations may be made without fiscal year limitation.

Mr. RUPPE. Mr. Chairman, the amendment I have offered would do one thing very simply. It would delete the severance tax of 1.23 cents per million Btu's and 30 cents per ton on coal mined and substitute therefor an authorization annually of $125 million for mine reclamation purposes.

Mr. Chairman, if we look at the situation with many utilities around the country, and let us take New York for example, we find, first of all, that the utility can hardly pay its bills and certainly cannot afford to pay 30 cents or any additional amount of money for the coal it consumes for generation purposes. At the same time we find that the customers of that utility, the consumer of that power, is literally up in arms because of ever-increasing prices they have to pay for energy in the country today.

It seems to me it is very unfair of us at this particular time to adopt a severance tax on coal which is going to wind up being paid for, first, by the utilities and, secondly, by the millions of utility consumers around the United States today.

The second thing I worry about is the legislation as we have it on the books today, because actually the legislation will not really provide a measurable and substantial abandoned mine fund. In the first year the revenues from the severance tax could reach $200 million; but let us note that 50 percent of those revenues can be taken and utilized by the States for reclamation purposes possibly, but also for conservation purposes which would have nothing to do with abandoned mines.

Third, out of the money left, after the States take their half share, 40 percent is given to local governments for a variety of purposes that go way beyond the purposes of the reclamation fund.

So I would say there is a strong likelihood that only 30 percent of the moneys taken in the first $200 million of severance or excise tax from the consumer will be available to the Government for reclamation purposes.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. KETCHUM yielded his time to Mr. RUPPE.)

Mr. RUPPE. Mr. Chairman, I thank the gentleman for yielding his time.

The tax will be difficult to administer. Coal varies in amount of Btu's, not only around the country, but even in Appalachia. How is the small company possibly going to measure the amount of Btu's in coal taken during mining?

We talk about fiscal responsibility. This is back door spending in the amount of $200 million. This will rise to $600 million in not too many years. I think a Congress interested in fiscal responsibility should have a different way of addressing the abandoned mine fund.

So I would state again, Mr. Chairman, at a time when the consumers of electric power are up in arms over ever-rising costs of that energy and the utilities themselves, Con Edison, for example, cannot pay its bills, Detroit Edison has to sell its coal inventory because it cannot absorb ever-rising costs, it seems to me we ought to take the abandoned mine reclamation funds from the general revenue of the United States and have the nerve, the integrity, to stand up here and vote $125 million every year for reclamation. It is the type of appropriation I would vote for.

I certainly do not want to take $200 million this year out of the taxpayers' pocketbooks, $400 million in a couple of years and $600 million in a couple of additional years beyond that.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Chairman, I support the gentleman's amendment. It makes a great deal more sense to me to make a general fund expenditure to take care of this than it does for the individual mining company to do that under State law anyway, to do that reclamation. What we are really trying to do is take care of those lands abandoned some years ago by poor policies in mining.

This way, the individuals all over the United States, all of the taxpayers who participate in the benefits of the coal extracted in that manner are going to have

an opportunity, if that is what we would call it, to help pay the bill. I think the gentleman is entirely correct. Without this amendment we are penalizing the coal mining companies, and of course, they are not going to pay the bill. The ultimate consumer is going to pay the total tax on this, and we do not all use coal.

Mr. RUPPE. I thank the gentleman for his comments.

I think it is absolutely correct that the Appalachian practices in the past are the responsibility of all the people of the United States, not the responsibility of those individuals who will be using coal as a source of fuel or as an ultimate source of energy.

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Chairman, I rise in support of the gentleman's amendment and congratulate him for offering this amendment.

As a matter of fact, any ecologist in the country would tell us now, "Never put any taxes, particularly at this time, on food, energy, or fertilizers." Those are the three things no taxes should be added to.

Mr. RUPPE. I certainly agree with that. This is a poor time to saddle the consumers of this country with an extra $200 million tax burden, and the only thing they can look forward to out of this legislation as it is written now is the likelihood and knowledge that it is going to rise to a $400 million and then to a $600 million direct tax levied on already high energy costs.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, what about the taxpayers? It is going to saddle them.

AMENDMENT OFFERED BY MR. M'DADE TO THE AMENDMENT OFFERED BY MR. RUPPE AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. SEIBERLING TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. McDADE. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment to the committee amendment in the nature of a substitute.

POINT OF ORDER

Mr. SEIBERLING. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. SEIBERLING. Mr. Chairman, this is a third degree amendment on an amendment.

The CHAIRMAN. This is an amendment to the substitute.

Mr. SEIBERLING. It is an amendment to the substitute, which is an amendment to my amendment.

The CHAIRMAN. That is not in the third degree.

The Clerk read as follows:

Amendment offered by Mr. McDADE to the amendment offered by Mr. RUPPE as a substitute for the amendment offered by Mr. SEIBERLING to the committee amendment in the nature of a substitute: Page 249, strike out lines 15 through 16 and insert in lieu thereof the following:

(3) appropriations made to the fund, or amounts credited to the fund, under subsection (d).

Page 249, beginning on line 19, strike out "and enforcement and collection of the fee as specified in subsection (d)".

Page 250, strike out line 5 and all that follows down through and including line 14 on page 251 and insert in lieu thereof the following:

"(d)(1) In addition to the amounts deposited in the fund as specified in paragraphs (1) and (2) of subsection (b) there are authorized to be appropriated annually to the fund out of any money in the Treasury not otherwise appropriated, such amounts as are necessary to make the income of the fund not less than $200,000,000 for the fiscal year ending June 30, 1975, and for each fiscal year thereafter.

(2) To the extent that any such sums so appropriated are not sufficient to make the total annual income of the fund amount to $200,000,000 for each of such fiscal years, as provided in paragraph (1), an amount sufficient to cover the remainder thereof shall be credited to the fund from revenues due and provide payable to the United States for deposit in the Treasury as miscellaneous receipts under the Outer Continental Shelf Lands Act. Moneys covered into the fund under this paragraph shall remain in the fund until appropriated by the Congress to carry out the purposes of this title.

Mr. McDADE (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The chair will advise the gentleman from Pennsylvania that the time has been set. The gentleman is not on the list.

Mr. McDADE. Mr. Chairman, may I say that I have this amendment printed in the RECORD. It has been printed for about 10 days.

The CHAIRMAN. This is an amendment drafted as an amendment to the Ruppe substitute, whereas the amendment which the gentleman caused to be printed in the RECORD was drafted as an amendment to the committee amendment.

(By unanimous consent Mr. ESHLEMAN yielded his time to the gentleman from Pennsylvania, Mr. McDADE.)

Mr. McDADE. Mr. Chairman, the amendment I am proposing to the reclamation fund takes a different view from the taxing approaches we have discussed. I would argue a broader view, because I believe we are dealing with the question of how we should be investing our resource money. I say "investing" because we have embarked upon a national commitment to develop our national energy supplies, and coal—our most abundant fossil fuel—is a key to such a commitment.

With this bill we are considering legislation that will get the country back into the coal business. While we proceed to develop the Nation's vast coal reserves, we cannot afford to forget about the 2.5 million acres of abandoned mine-damaged lands which still scar our country.

While no one disputes the need to make a commitment to reclaim abandoned mine lands, the question is how to fund this. I want to move away from the taxing concept involved in both the Seiberling amendment and the Jones amendment presently in the committee bill.

Any tax approach does two things, neither of which we want: First, a tax directly increases the cost of coal to the consumer, whether those consumers burn coal directly to heat their homes, as 43 percent of those in northeastern Pennsylvania do, or whether the electricity the consumer uses is generated by coal-fired utilities which are prevalent throughout the country. Under the tax approaches, these consumers are asked to shoulder the burden of one hundred years of mining damages. This is not reasonable.

Second, a tax is by definition a disincentive. If, as I think, this House has recognized the expanding need for coal as an energy source, how can we turn right around and slap a disincentive on the mining of that coal? We do not need such inconsistencies.

The approach I offer is simple. It takes the resource dividends we are gaining now through our Outer Continental Shelf lands and returns a small amount of these funds to reclaim the damage done in gaining another energy resource, coal.

My amendment provides for funding the abandoned mine reclamation fund from three sources:

First. The sale, lease, or rental of lands reclaimed pursuant to title IV of the committee bill;

Second. Any user charge imposed on or for land reclaimed pursuant to title IV of the committee bill, after expenditures for maintenance are deducted; and

Third. From up to $200 million appropriated annually from the Outer Continental Shelf receipts.

Presently, significant revenues are accruing to the Treasury from bonus bids and royalties stemming from Outer Continental Shelf lands. These increasing revenues represent our national effort to bring the oil reserves of the vast Outer Continental Shelf lands into production. In fiscal year 1974, $6 billion in receipts were generated from these sales. In fiscal year 1975, an estimated $7.6 billion will be generated, and in fiscal years 1976 and 1977, another $10 billion will result from Outer Continental Shelf lands. These funds are plentiful and available. They are resource dollars, and they are general revenues not earmarked for any specific purpose. A small percentage of them should be invested to protect land damaged by the development of another resource.

Mr. Chairman, I believe that one of the basic problems in developing a national energy strategy has been our lack of coordination. We must learn to look at the total problem. Coal cannot be developed independently from our other en-

ergy efforts, especially with the growing inter-relationships between coal, oil, and utility industries. I believe my amendment is a meaningful step forward in a national strategy to invest our mineral receipts wisely in a program of land reclamation. The concept of an abandoned mine reclamation fund is vital to this bill. I hope the members will join with me in creating a fund that prevents rising coal prices for consumers, some incentive to mine coal, and provides sufficient funds for land reclamation and restoration.

Mr. CRONIN. Mr. Chairman, I would like to point out, as a member of the committee that reported this legislation, that I agree completely with the gentleman's suggested amendment. Few of us will disagree that such a reclamation fund must be established to prevent further damage to our environment and to compensate States devastated by strip mining. These States will be able to use these funds for roads, schools, and health facilities so that this country will never again see another Appalachia.

We are all hit hard by taxes, but I think that further taxes on the coal industry at this time would provide one additional disincentive to do the reclamation work that is needed. This amendment would eliminate the taxing approach and would establish a new source of funding—receipts from the leasing of the Outer Continental Shelf. These receipts will reach $10 billion a year in the very near future, and I think that by going into this energy resource we can still provide the funds for reclamation to land devastated to obtain another energy resource.

In addition, I believe that a tax would only be passed on to the consumer—who has already been forced to pay accelerating prices for our energy. I do not believe that consumers should be forced to pay for the excessive damage done by the coal companies.

In Massachusetts, we have a fuel adjustment charge added to our electric bills which compensates the electric utilities for the higher prices of fuel needed to generate electricity. By taxing the coal industries, we will only be increasing our monthly fuel adjustment charges.

This amendment would earmark $200 million of the $10 billion in receipts. This is only 2 percent, and it still leaves plenty of that energy resource money to be utilized for such programs as land and water conservation funding and additional recreation needed by our country.

I congratulate my colleague for his amendment, and I urge my fellow colleagues to support it.

Mr. DELLENBACK. Mr. Chairman, will the gentleman yield?

Mr. McDADE. I yield to the gentleman from Oregon.

Mr. DELLENBACK. Mr. Chairman, I commend Mr. McDADE for this particular suggestion which is before us. I think reclamation is something which needs to be done. When it comes to the fund we are here looking at, Mr. Chairman, I think it is an equitable way of using these dollars. This assures the funding for a very worthwhile purpose.

Mr. McDADE. Mr. Chairman, I thank my colleague for his contribution. I hope the Members will consider this. There is not any reason for it to be limited at this juncture.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. McDADE. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, I have an amendment to offer which would apply to this section of the bill, however I am going to support my colleague with respect to his amendment. I think it has a better chance of survival than the amendment I intend to propose.

(By unanimous consent, Mr. RONCALIO of Wyoming yielded one-half of his allotted time to Mr. McDADE.)

The CHAIRMAN. The gentleman from Pennsylvania is recognized for 1 additional minute.

Mr. RONCALIO of Wyoming. Mr. Chairman, will the gentleman yield for a question?

Mr. McDADE. I yield to the gentleman from Wyoming.

Mr. RONCALIO of Wyoming. I wondered about the question of leasing.

Mr. McDADE. We currently, as the gentleman knows, as a nation are engaged in considerable leasing on the Outer Continental Shelf. That revenue is now running at $7 or $8 billion a year. It goes into the Treasury as general receipts. It is unearmarked except that the land and water fund claims $300 million.

I would say of that $7 or $8 billion, let us earmark but $200 million and cover it into a fund to repair the mine-damaged landscape of our country.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. McDADE. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, at the moment there are about four different ways to finance the reclamation program. The way the gentleman suggests is innovative. It seems to get away from a lot of the arguments about deep versus surface mining.

I think the gentleman has done a real service in giving us an alternative that enables us to avoid a lot of these difficulties and arguments that may prevent us from having any kind of fund.

Mr. McDADE. Mr. Chairman, I thank my colleague.

Mr. ANDREWS of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. McDADE. I yield to the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. Mr. Chairman, I am glad to support the amendment of my colleague from Pennsylvania. I had filed an amendment to this section that would have kept the severance fee in the State where it originated. My amendment would have encouraged the States to enact their own laws under Federal guidelines. The McDade amendment accomplishes the same goal by doing away with a national severance fee and thereby leaving the field open to the States to levy their own severance taxes to meet their socioeconomic needs as well as reclamation needs. It also gives the hard-pressed average householder relief from one more hike in the cost of living. The McDade amendment also represents fairplay for other regions as opposed to the Seiberling amendment which would double the fuel cost of lignite-powered plants in the Midwest.

Mr. Chairman, I appreciate the gentleman's offering this amendment. It solves this East-West problem.

Mr. McDADE. Mr. Chairman, I thank the gentleman. I think we can solve this problem for the Nation through this method. I think we can get away from increased coal taxes, increased electricity taxes, increased rates to the consumers, and still establish a reliable fund which we can use to get about the purpose of repairing the land.

Mr. EILBERG. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from Pennsylvania (Mr. McDADE).

This amendment is predicated on a belief that the public at large rather than the coal industry should be responsible for meeting the cost of restoring land which has been despoiled by strip mining. First of all, I do not believe that this is a valid proposition, and second, there is no logical reason why OCS revenues should be used for this purpose.

In addition, I should bring to my colleagues' attention the fact that there are several conflicting views as to the proper recipients of revenues derived from the development of the Outer Continental Shelf.

For example, some have suggested that OCS revenues be reserved for the environmental impacts caused by the accelerated leasing program recently announced by the administration. Others have recommended that OCS revenues be shared with adjacent coastal States which are most seriously and directly affected by OCS development. In addition, my Subcommittee on Immigration, Citizenship, and International Law has pending before it H.R. 9132, which would share a portion of OCS revenues with adjacent coastal States while the remaining revenues would be placed into a Marine Resources Conservation and Development Fund. This bill has been introduced by the distinguished majority leader and has been cosponsored by 32 other Members of Congress.

Finally, our Government during the current negotiations on the law of the sea has proposed that the United States would share certain revenues derived from oil and gas production on the shelf with the international community. It is, therefore, possible that approval of this amendment today could have an undesirable effect on our current LOS negotiations and may somewhat limit our ability to achieve an acceptable international agreement in Caracas.

All of these competing claims must be considered in detail prior to determining the purposes for which OCS revenues will be used.

Consequently, I believe this amendment is premature in nature, especially since my subcommittee, which has exclusive jurisdiction over the distribution of OCS revenues, intends to hold extensive hearings to resolve these complex issues.

I should also note that the administration is opposed to earmarking OCS revenues for particular purposes and believes that they should continue to be placed in the General Treasury. For example, in commenting on H.R. 9132, the Department of the Interior stated—

The practice of earmarking budget receipts for certain expenditures is not consistent with sound budgetary practice, since it introduces unnecessary inflexibility into the budget process.

For these reasons I urge my colleagues to defeat the amendment offered by the gentleman from Pennsylvania (Mr. McDADE).

AMENDMENT OFFERED BY MR. DENT TO THE AMENDMENT OFFERED BY MR. SEIBERLING TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. DENT. Mr. Chairman, I offer an amendment to the amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. DENT to the amendment offered by Mr. SEIBERLING to the committee amendment in the nature of a substitute: Section 401, page 250, line 5 through line 22, strike subsection (d), substitute the following new subsections, and redesignate the remaining subsections accordingly:

(d) All operators of coal mining operations which are subject to this Act shall, not later than 30 days following the end of the calendar year 1975 and of each calendar quarter thereafter, pay the Secretary with respect to each ton of coal mined by the operator during the preceding calendar quarter, a reclamation fee in the following amounts:

(1) $1.50 per ton for coal mined by surface mining methods, including augering from the exposed outside surface; and

(2) $0.15 per ton for coal mined by underground methods.

(e) The Secretary shall periodically cause an audit to be made of the operations and records of each operator required to pay a reclamation fee under subsection (d) of this section, to determine the correctness of fees paid pursuant to such subsection. The Secretary shall promulgate regulations governing the imposition, collection, and audit of the reclamation fee payments. In preparing such regulations, the Secretary may consult with the Secretary of the Treasury to arrange, so far as is feasible, for the Internal Revenue Service to assist in performing auditing activities under this subsection. A determination by the Secretary as to the amount of fee payable by an operator shall be deemed prima facie correct.

(f) On or before July 1 of each year, 50 per centum of the amounts received into the fund from reclamation fees paid under subsection (d) of this section with respect to coal mined in each State shall be paid back to the governments of the respective States in which the coal was mined; provided, however, that 50 per centum of the amounts received into the fund from mining done on Indian reservations shall be paid back to the respective Indian tribes. Such money shall be used by such State, or political subdivisions thereof, or Indian tribe for acquisition, reclamation, conservation or development of the public lands of the State, or political subdivisions thereof, or Indian tribe, giving prime consideration, in accordance with the priorities set forth in section 402, to the needs of counties in which coal mining operations have or are taking place.

Mr. DENT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. DENT. Mr. Chairman, as one of the sponsors of the act said, there are 3 or 4 different methods of financing the reclamation of the so-called orphaned lands, but one thing has to be made sure and positive: This is the first endeavor by the Federal body to do something about something that should have been done long ago.

For the past 27 years we have been trying in the State of Pennsylvania to clean up our orphaned lands. We have fees which are charged against the coal companies, we have licensing fees, and we have reclamation fees which are charged, but it is too much for the coal companies alone, because they are competitive in this world, operating in 20 States that produce coal. Therefore, they cannot be loaded to the point where they must be, under this procedure, if we are ever going to get rid of the orphaned lands in this country.

These orphaned lands are a disgrace, but where do we put the blame? Where do we lay the blame for what has happened in the past? All of those before us have gone. The mining companies are gone; the railroad companies which were part of the whole deal are gone.

So I am proposing here today to substitute my amendment for the Seiberling amendment, and I am proposing to put a dollar and a half a ton on strip coal, 15 cents on deep coal, with 50 percent going back directly to the State, with priority on the particular land from which the coal was taken and where the damage was committed.

The priority is sound. It goes to the counties, it goes to the Indian tribes if they are covered under this act, and it goes to the localities.

What can be done with this? This will bring in approximately $241 million, less the fees that are paid in the various States for reclamation charges, and less the licensing charges that are levied in the various States which have strip mining.

Mr. Chairman, I have been in the district served by the good Congressman, the gentleman who just preceded me. The gentleman has come up with a very fine innovating idea. But this is a coal property proposition. This must come out of coal, and I believe it can come out of coal. And in 10 years I believe I can guarantee this Congress that there will not be an acre of blighted land in any State of the Union, because it takes this kind of money to accomplish that.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. DENT. I would be happy to yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, I appreciate the gentleman's yielding.

I know of the gentleman's deep concern for this problem, the same as he knows of mine.

I think what we ought to do, I say to my colleague, is to look at our resources in the United States as a totality. I think we have been wrong in the past when we have separated something out as a coal problem or a gas problem or an oil problem. We do have now great resources which belong to us that generate unearmarked funds in the Treasury. I think that is largely a resource dividend. Let us put some of those dividends back in our Nation.

Mr. DENT. Mr. Chairman, I thank my friend, the gentleman from Pennsylvania, for his views on this matter.

If we do not do this now, many of us will never live to see the day when the orphaned lands are cleaned up.

Mr. Chairman, this amendment has the full support of our State mining bureau. Every known body interested in coal mining in the State of Pennsylvania, the environmentalists, the State government, the Bureau of Mines, the Bureau of Sanitation, the Bureau of Ecology and Environment, they have all supported this particular move toward the elimination of the greatest eyesore that has ever been created.

Mr. Chairman, we are not backward in Pennsylvania. We have tried to carry the lead. We have now, for the last 12 years, had all surface mining. We even reclaim the land from which we take our sandstone, our glass sand, and our iron ore.

Any excavation into the ground must come under our surface code. I come to the Members as a pioneer in this field. I introduced the first legislation in the history of the United States on this in 1947. I want the Members to know that it was a difficult job to sell it at that time. The same arguments were made then. But let us look at the arguments:

Five years ago we were selling coal in strip for $11 and $12 a ton. Today, if the metallurgical content is high enough, they are getting as high as $34 and $36 a ton, and some are getting $42 a ton.

Mr. ANDREWS of North Dakota. Mr. Chairman, if the gentleman will yield, my point is that this would affect my district very much, because this tax amounts to virtually a 100 percent tax on coal in my State, coal that our people must have for electricity. Our coal sells for only $1.50 to $2.50 a ton, because it is almost 35 percent water, and we have to use this in the generation of electricity because it is the only fuel we have.

Mr. DENT. I am sorry, but the gentleman's figures do not jibe with the figures we have. There is no coal in the United States, unless it happens to be muck——

Mr. ANDREWS of North Dakota. It is selling for under $2 a ton.

Mr. DENT. If the gentleman can find any coal at that price, I will be the agent for his State tomorrow, and I will get you $5 a ton.

Mr. Chairman, the situation is this: We have the ability to do this, and we can do it now. Why? Because in the foreseeable 10 years that we talk about there will be a market for coal. The energy crisis is not going to pass overnight. There will be a market, and it is during these years that we have to do this. The return to the American people in the future through doing this, the crops that will be grown in the future, the grazing

lands that will be available, the return to the people in forests that we will put on these lands all over the United States; the return from this will be so much greater in return than the sacrifice that we must make.

Who in this room will guarantee that there will not be about another dollar a ton or $2 a ton, or $5 a ton on coal in the next 6 months, whether we pass this bill or not? I know it. Coal is sold on demand. Coal is sold on its analysis. If you get good coal you can sell it for twice as much as bad coal. But at this particular moment, the most important thing we are looking for is energy.

Anybody who knows anything about stripping must understand that it is easy——

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. EVANS of Colorado yielded his time to Mr. DENT.)

Mr. EVANS of Colorado. Mr. Chairman, if the gentleman will yield, my yielding the gentleman this time is the good news that I have. I am sorry, but the bad news is that I do not agree with the gentleman.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I do agree with the gentleman from Pennsylvania, and I am willing to accept the gentleman's substitute for my amendment, because, as far as the abandoned coal mine reclamation is concerned, it will produce the same amount of money as my amendment. As far as restoring the competitive balance between deep mining and strip mining that was thrown out of whack when we passed the Coal Mine Safety Act, it will do that job.

Let us quit kidding ourselves. The people are going to pay for reclamation, whether it comes out of the cost of coal or whether it comes out of the oil leasing revenues, which are part of the general revenues. But it is time we quit externalizing the costs of energy and started putting the costs where they really are. The cost of stripmine reclamation is a cost of energy, and it ought to be paid by the consumers of energy.

Each time we subsidize an industry from the general revenues we distort the economy. I will support the gentleman's amendment.

Mr. DENT. The gentleman could not do it in a nobler cause.

Mr. Chairman, I beg of the Members to give consideration to the two facts I have tried to point out.

First, that the amount of money on 13,500 Btu of coal, that the amount of money on 7,000 Btu lignite, that the amount of money on western strip, either 10,350 or 10,500 Btu, does not amount to enough of an increase to put anybody out of order from that company or any corporation.

But we will have 10 years, and in 10 years we will see a miracle, because we have created miracles in Pennsylvania. We have the most beautiful ponds, the most beautiful parks. We have the most beautiful land reclamation in what used to be substandard soil to begin with. We have cattle and sheep all over our fields that we created out of the wastelands.

Mr. Chairman, I ask the Members to support this legislation I ask them to support this amendment. As I have said many times on this floor, we only have an opportunity very few moments in our lives in the legislative field to do something that will outlive us, that will outlive anyone in this room or in this Chamber today, because it will make it somewhere near the kind of an area that God intended it to be.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Michigan.

Mr. RUPPE. I thank the gentleman for yielding.

The problem with the amendment is that basically it would have it in a way which would be very favorable to Pennsylvania, because the underground mining tax under the gentleman's amendment would be 15 cents, but the westerners and the utilities in my area that use western coal would be hit with a $1.50 tax to pay for it.

Mr. DENT. Mr. Chairman, I decline to yield further.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Montana (Mr. MELCHER).

Mr. MELCHER. Mr. Chairman, I want to ask a question of the gentleman from Pennsylvania, Mr. DENT, if he will engage in colloquy with me.

Is it the intention of the gentleman's amendment to make certain that 50 percent of the money collected would stay in the States or in the Indian reservations where it is collected from mining operations?

Mr. DENT. If the gentleman will yield, that is exactly right, and the other 50 percent of the money is allocated by the Congress of the United States through the appropriation process so that we can pinpoint it to the places needed.

Mr. MELCHER. It is the intention of the gentleman's amendment to utilize that money in those mining areas where strip mining is being done for the purposes such as schools and roads?

Mr. DENT. If the gentleman will yield further, if they are in any way connected to the disturbance caused by the mining operation: subsidence in some cases, water damage in other cases, overflows in other cases, silt runoff in other cases.

Mr. MELCHER. I thank the gentleman.

(By unanimous consent, Mr. MELCHER yielded the balance of his time to Mr. UDALL.)

Mr. UDALL. Mr. Chairman, this is one of the important decisions to be made in this debate. Let me see if I can put it in focus. The thrust of the bill is to stop the creation of orphan lands in the future, to stop the depredations of the past so in future mining we are not going to have current environmental problems continued. We are either going to reclaim and do it right, or we are not going to mine.

This title deals with a peripheral question, but a very vital peripheral question What will we do with the 2½ million acres of land that disgrace this country by lying there damaged from past mining operations? I think there is general agreement we want an abandoned mine reclamation program. We have about four different ways to fund such a program. The committee provision in the bill seems satisfactory to no one. We get into east-west arguments; we get into underground versus surface mining arguments; we get the argument that we are charging 30 cents a ton, and why should the consumers in New York and Boston pay for the sins done in the Appalachian coal fields 40 and 50 years ago?

I do not particularly like the funding provision now in the committee bill, but I want something that can pass muster, that can get enacted, so that we can start this 40- or 50-year business of curing the damages of the abandoned land.

Of all the proposals, I think I like the Ruppe proposal the least. I like him the most, perhaps, but I like his proposal the least in this situation.

What he says is, oh, we are going to have this wonderful abandoned lands program. But where are we going to get the money? We are going to get it out of general appropriations. But I will tell you that when we go to the OMB we will find out where we will get the money from in general appropriations. We will get it from the OMB, from the general appropriations, behind the foreign aid for Albania and behind the fund for Tea Tasters Board and behind the Disarmament Agency, and behind some other of the favorite subjects down there, which means that we simply are not going to get any general appropriation.

We are fooling ourselves if we think the Ruppe-Seiberling proposal will get an adequate amount of money in the fund in a timely way. The Dent proposal, which the gentleman from Ohio (Mr. SEIBERLING) says he will accept, will tax customers of surface mined coal $1.50, and this is roughly five times the amount of the fee contained in the committee bill, the 1.23 cents per million Btu. This is a discriminatory fee relative to underground mined coal which is only assessed 15 cents per ton in this proposal.

The most severe objections I have had have been from the electric company customers around the country who feel they should not have to pay even the 30 cents, and the gentleman says he is going to tax them $1.50. I do not think that is going to get acceptance by the consumers around the country. The strongest objectors I have had have been the utility company customers in Chicago who feel that they should not have to pay 30 cents, and now there is a proposal to charge five times that in order to recoup the damage done in past generations.

So of all the pending proposals I think the one most likely to fly, the one most likely actually to get money which we can put to work is that of my friend, the gentleman from Pennsylvania (Mr. MCDADE). What that says is, let us take the resource money that is available, and

it is fiscally responsible and it is income available now, and we get now $10 million, so let us take a tiny part of that, let us take $200 million a year and put it into this fund and put it to work. In that way we do not have to fight the howl of the utility companies and their customers who say they will have to pay for past sins, and we do not have to fight the fight of East against West, and we do not have to fight the fight of the deep mines against the surface mines. So the one I find which meets the problems we are now faced with if we are going to have a fund is the very innovative proposal of the gentleman from Pennsylvania (Mr. McDADE).

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I mentioned the name of the gentleman from Michigan (Mr. RUPPE), so I yield to him.

Mr. RUPPE. Because of the gentleman's fine words and not necessarily because of the logic of his argument I join in support of the McDade amendment.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, I associate myself with the remarks of the gentleman from Arizona. I agree with him 100 percent.

Mr. Chairman, I rise in support of Mr. McDADE'S amendment to H.R. 11500. This amendment is proposing to utilize already existing funds from the leasing of Outer Continental Shelf lands to the oil companies, and the royalties received from successful offshore drilling. Presently this amounts to $6 billion and will increase to approximately $10 billion by 1976. Mr. McDADE would have the minute sum of $200 million withdrawn from this revenue which is not earmarked for any purpose, to provide for the reclamation of the scars of the past resulting from strip mining in our great country.

My colleague proposes to establish a sound reclamation fund through which we can effectively achieve this end, and at the same time, protect the rights of our already financially overburdened consumers.

While I believe that the amendments of my two good friends, Mr. SIEBERLING and Mr. JONES, are well intended in their desire to revamp the existing ravaged, orphaned lands in this country, the sins of our fathers, I strongly feel that the effects of either of these amendments would result in an unwarranted tax burden on the consumer, especially now in these times of economic uncertainty.

Although my district, and indeed the State of Massachusetts, has never been affected by the destruction caused by surface mining, I strongly feel this dilemma to be a national problem which affects us all.

I, therefore, ask the Members of this House to support this eminently sensible, and worthwhile amendment.

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield, and if the gentleman from Massachusetts will hold up a minute before he leaves the Chamber, the gentleman's constituents are going to be ending up paying $14 a ton and more for coal brought from Wyoming to supply the energy needs for the utilities in his area, whereas we are saying if we impose a fee of $1.50 a ton on strip mined coal and 15 cents a ton on deep mined coal, they will not need the coal from Wyoming. They can get it from West Virginia and Pennsylvania and Ohio, which will be only about one-quarter as far away.

Mr. UDALL. I will say to my friend, the gentleman from Ohio, that he is one of the most exceptional and dedicated members of the committee. He made more input into this bill perhaps, than any Member on our side. He is trying very hard. This is an innovative proposal of his. I regret I must differ with him on this point.

Mr. SEIBERLING. If the gentleman will yield once more, I believe his objections are on tactical grounds, rather than on principle.

Mr. UDALL. In a perfect world, I would like to agree with the gentleman.

Mr. HEINZ. Mr. Chairman, I move to strike the last word.

Mr. DENT. Mr. Chairman, will the gentleman yield for one fast observation?

Mr. HEINZ. I yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Chairman, what is the difference in fuel cost if one is going to put the $200 million on oil or $200 million on coal?

Mr. HEINZ. Mr. Chairman, I would like to just take a couple of minutes, since that is all I have, to address several points. The question of what the Ruppe amendment, as perhaps amended by the McDade amendment, might do in contrast to the Dent amendment. Both represent alternatives to the Seiberling amendment which is pending before us. We must focus on three issues.

No. 1, what is going to happen to the deepmining of coal? Is it just a question of East versus West, as the gentleman from Arizona pointed out, or is there something more fundamental involved?

I would like to suggest to the Committee that since strippable coal is so easy to get, we do run a very substantial risk of driving deep mining out of business for a period of 10 or 15 years. This is because the 1969 Coal Mine Safety Act already penalizes deep mined coal about $1.50 a ton in the form of hidden costs. These costs have already put deep mining at a dangerous disadvantage.

This is a very serious question. It goes beyond the rather parochial interests of my State and the interests of East versus West. Once the deep mining industry is destroyed, it will be difficult and costly to rehabilitate it, not to mention the costs of potentially destroying the economy of an entire region.

The second question is who, if we are going to have a reclamation fund, is to pay for the reclamation fund? Now, several proposals have been advanced; first, that it should come from general revenue. The gentleman from Michigan has recommended that, and the gentleman from Pennsylvania (Mr. McDADE) has proposed alternatively that these funds come from oil revenues from the Continental Shelf. This is not a bad idea, but in both cases it is coming out of existing revenues. We know one thing, we do not have enough revenues to pay our bills now and we have before us an opportunity to do something which this body seems to neglect time after time, which is, when we enact a new program with new costs, to figure out a way to pay for them.

The Dent amendment actually finds new revenues to pay for a program that is a new program. Let me repeat, the Dent amendment provides for new revenues for a new program. In the interest of fiscal responsibility I think it is important that we support the Dent amendment.

It is argued that the fees in the Dent amendment are too high. I argue that they are a modest cost to the consumer. Even if strip-mined coal were to supply 100 percent of our needs—which dependency I hope we never develop—the average household electric utility bill would increase, according to my estimates 36 cents a month, or less than the cost of a package of cigarettes. It is absurd to argue that this is too heavy a price.

Furthermore, the cost in those areas which depend mainly on deep-mined coal, as do most industry and electric utilities in Pennsylvania, would be less than a 5-cent-a-month electric bill increase. And I find it immensely fair that under the Dent amendment those who enjoy the benefits of energy produced from strip-mined coal will pay the cost of reclamation.

There is one final question that this body must confront. While we can, if we must, reduce our demand for energy through activation of a full-range of conservation programs, we cannot and must not reduce the Nation's production of agricultural products. Our people depend on the output of our farmers, the hungry people of the world depend upon our farmers, and increasingly America's international economic position depends upon the export of our farm products.

The coal lands of the West are also agricultural lands which provide a substantial portion of America's beef and grains. Commodities, I believe, are ultimately more valuable to our physical and economic well-being than the strippable coal beneath those pastures and wheatfields. And yet despite the agricultural importance of these lands, we are prepared to remove them from or diminish their production through strip mining or through destruction of vast quantities of scarce Western water in the coal gasification and liquefaction processes. And we do so with no firm assurances that the fragile lands of the Northern Plains, once stripped, can be reclaimed sufficiently to once again produce abundantly farm products and cattle. More importantly, we are about to place vast additional demands on the scarce water resources of the entire Missouri Basin. The result may very well affect dramatically both the

ecology and the agricultural potential of all the downstream Missouri River States, not just the coal States of Wyoming and Montana.

We are talking, therefore, about a huge portion of our Nation's breadbasket—for as little as 3 percent of our Nation's coal supplies.

So, Mr. Chairman, the Dent amendment makes good sense on several grounds:

First. It is simple to administer.

Second. It encourages the strengthening of our underground coal mining industry.

Third. It is fiscally responsible in that it generates new revenues—at an affordable cost—to pay for a new reclamation program, and the costs would be borne by only those consumers who benefit from the use of coal.

Fourth. It would reclaim and return to production stripped and abandoned lands while simultaneously slowing the shortsighted withdrawal of Northern Plains lands from agricultural production.

The Dent amendment, Mr. Chairman, is a sound, necessary approach assuring this country both a strong, balanced coal mining industry and the abundant production of vital farm products.

It deserves all Members' strong support and I urge the House to approve it.

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia (Mr. HECHLER).

Mr. HECHLER of West Virginia. Mr. Chairman, I rise to use my time in support of the Seiberling-Dent amendment. I appreciate very much what the gentleman from Pennsylvania (Mr. HEINZ) has said, because we must focus attention on the deep mining industry where our greatest resources are in this Nation. The strip mining of coal seems to be cheaper, because it is very heavily subsidized and its apparent cheapness comes from the damage it does to the land and to the people.

The Seiberling-Dent amendment puts a 15-cent a ton tax on deep-mined coal, which is a very minimal amount. It helps balance the cost differential between deep and strip mining.

In view of the fact that the coal industry has shown that it is not very well toilet trained in terms of the damage it does and the wastes that are created as a result of both deep and strip mining, it is only fair to the taxpayers and the people of this Nation that we internalize the costs, the real costs of both deep and strip coal mining.

It would be very unfortunate if we reached out to force the taxpayers of the Nation, as has been suggested, by taking this money out of general revenues.

I feel that the proposal of the gentleman from Pennsylvania (Mr. MCDADE) although innovative in nature, nevertheless does not provide the revenues directly from where they should come; namely, from the coal industry itself.

I had a colloquy with the gentleman yesterday in which the gentleman had a full and free opportunity to express his views. I would like to yield very briefly the balance of my time to the gentleman from Pennsylvania (Mr. DENT), whose position I am supporting, along with Mr. SEIBERLING.

First, I yield briefly for a question to the gentleman from Pennsylvania (Mr. MCDADE).

Mr. MCDADE. Mr. Chairman, is it not true if we support any of these separate taxes, what we are doing is not putting the cost on the industry, but in fact and in truth every one of those costs will be passed on to the consumer and we will have higher costs in electricity, higher costs for coal, and we will take a narrow class of consumers and make them carry the burden of financing this reclamation fund?

Mr. HECHLER of West Virginia. I know the gentleman's point. He made it yesterday and I responded.

I believe we should have realistic cost controls, internalize the genuine costs of coal mining, help equalize the costs of deep and strip mining, and that is why I support the Seiberling-Dent amendment.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Pennsylvania.

Mr. DENT. Somehow or other people think the $200 million that we will get from the offshore shelves from the oil company will be paid from out in space somewhere. Are not the consumers going to pay for it? Is it not the same? The idea that this cannot be paid for by the consumer is idiotic. There has not been 1 cent of increase in the cost of labor in the coal mines since the price went from $12 to $34. There has been no increase in any other item, except gasoline and oil used for the things they are hauling around with their shovels out in the strip mines.

Now, the gentleman is telling me, when coal has gone up 300 percent in price, it cannot stand an increase of $1.50 less the fees they pay, less reclamation fees they pay.

Mr. HECHLER of West Virginia. Mr. Chairman, I urge support of the Dent amendment.

Mr. DELLENBACK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it seems to me that we run the risk of finding, as we talk more and more on this issue, that the subject becomes more and more confused instead of simplified. We are mixing up the desire that many of us have for reclamation with the separate issue of impact on various types of coal mining, the question of whether or not we are going to be able to stimulate production of coal, or whether we are going to be holding back the production of coal. Let us look at the two problems separately. Do we want—do we even in areas of this country need reclamation? The answer is, "Yes." Anyone who comes from one of those areas where mining has stripped the soil, or anyone who has a chance to visit those areas, must come away with the feeling that these scars can be removed, and advantageously should be removed. But, when it comes to the question of who should pay for it; when it comes to the question of where the burden will fall, then I must suggest that the Dent proposal is a bad and unfair proposal, and indeed the proposal of the gentleman from Ohio is not an equitable proposal. Both of those proposals, at a time that we need stimulation of the production of coal, would run the very serious risk of inhibiting the production of coal.

If we need reclamation—and I start from the premise that we do need and want that reclamation and we want it for the benefit of the Nation—then the burden should not be placed disproportionately on an area of the country; it should not be placed disproportionately on one kind of mining; it should not through a tax that is a disproportionate tax end up in doing damage to the production of coal when we need to stimulate the production of coal.

The proposal of the gentleman from Pennsylvania (Mr. MCDADE) as the gentleman from Arizona (Mr. UDALL) has said, is the soundest possible suggestion that has been made here today. It reaches for reclamation very soundly, and yet it says that if we are going to do this, it should come out of the general revenues as this would do in effect, and it must do so with assurance that the money will be forthcoming. It is that kind of a balance that I think is important that we work into this particular procedure.

Mr. Chairman, I commend the gentleman from Pennsylvania (Mr. MCDADE) for having come forth with this proposal.

Mr. MCDADE. Mr. Chairman, will the gentleman yield?

Mr. DELLENBACK. I yield to the gentleman from Pennsylvania.

Mr. MCDADE. Mr. Chairman, I thank my distinguished colleague for yielding to me. I express my deepest appreciation to him for his willingness to think about this amendment, which I agree I submitted late. I was involved in appropriations hearings and I did not have an opportunity to come and testify before the Interior Committee, but I found people such as the gentleman from Oregon and the gentleman from Michigan (Mr. RUPPE), who now will support my amendment, willing to think about what is involved here.

What is really involved is paying for this in one of two ways: increasing the cost to every consumer in this Nation, or taking a small part of the resource dollar now going into the Treasury from the sales of peoples' resources and earmarking it to get this job done.

Mr. SYMMS. Mr. Chairman, I move to strike the last word.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. Mr. Chairman, I think this record will be woefully incomplete if we did not get to the bottom line of the conflict here. We have what is an accepted policy about to be

adopted. We are going to attempt to reclaim abandoned mines.

Essentially the dispute originally was over where we should get the money to do this. We have left that now with the amendment of the gentleman from Pennsylvania (Mr. DENT), and we are now attempting to somehow equalize the economic imbalance between the production of underground coal and the production of surface coal.

That is not sophistry; that is just baloney.

It is tough enough to get the committee and the House to agree that we have a responsibility to reclaim abandoned mines. We are agreed on that. If we fall victim to the blackmail of somehow here waving a magic economic wand and equalizing arbitrarily the difference in production, let me tell you what we are going to do in the State of Kansas: In the State of Kansas it is not uncommon for an acre of ground worth about $70 or $80 to produce in the neighborhood of 70,000 tons of coal. Under the amendment of the gentleman from Pennsylvania (Mr. DENT) we are talking about generating somewhere in the neighborhood of $100,000 per acre for this fund. Under his amendment some $50,000 of that will remain in the county where it came from to reclaim lands which do not need reclaiming.

It is a total distortion of the intent of the legislation. It does not solve the problem of reclaiming abandoned mines. What it does do is attempt to distort what is basically an economic differential.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I will yield to the gentleman from Iowa.

Mr. GROSS. I have a suggestion for solving this. Just apply the money for arts and humanities to this, and you will get your money.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, I want to say to my friend, the gentleman from Arizona, that he really has his States confused. The State of Kansas has about a 20-foot rate of thickness per acre foot, which would yield about 800 tons of coal.

In the Western States, we have States that yield or have veins that go from 40 to 60 feet in thickness. The simple mathematics of that is that 1,800 tons would be produced to the acre foot. Multiplied by 40, that would indicate 17,000 tons of coal. Multiply that by $1.50, and you are up to $800,000 per acre in those States.

Under the Dent amendment 50 percent of that would stay in that particular area, but the rest of the country would be paying increased fuel bills.

We start out with a reclamation fee to do reclamation work, and all at once in this bill we come up not only with reclaiming abandoned land, but providing recreation, public utilities, schools, and everything else.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Ohio.

Mr. HAYS. I thank the gentleman for yielding.

I would just like to ask the gentleman from Arizona (Mr. STEIGER) where some of that $70,000 an acre land is in Kansas, because I would like to buy some.

The CHAIRMAN. The gentleman from Wyoming has 1 minute and 50 seconds left.

Mr. RONCALIO of Wyoming. Mr. Chairman, I would like to ask the gentleman from Pennsylvania whether he intends to disturb the distribution formula in any way by his amendment.

Mr. McDADE. As my amendment is now written, all the funds come back to the Treasury, but the gentleman from Wyoming and his colleagues raise an important issue. I have no objection to the views they express.

Mr. RONCALIO of Wyoming. The gentleman has no intention of disturbing its present arrangement that 40 percent of the funds remain in the locality to help with roads and schools.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO of Wyoming. I yield to the gentleman from Arizona.

Mr. UDALL. I understood, when Mr. McDADE first approached me, that 50 percent of the funds and a 40-percent distribution were to be included. The Senate has no provision for that. We have to rewrite it in conference anyway.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO of Wyoming. Yes; I yield to the gentleman from Ohio.

Mr. SEIBERLING. There are two facts we simply cannot get away from. One is the fact that 97 percent of the coal in this country cannot be extracted by strip mining. The other is that the Coal Mine Safety Act has added $1.50 a ton to the cost of deep-mined coal, thus making it increasingly noncompetitive against strip-mined coal.

We have to do something about that if we want to preserve the capability of extracting the greater part of the Nation's coal reserves and ease the pace of devastation involved in strip mining.

Mr. RONCALIO of Wyoming. Mr. Chairman, I agree with that. I would like to see something done about that.

The CHAIRMAN. The Chair will state for the benefit of the members of the Committee of the Whole that the first vote will be on the Dent amendment to the Seiberling amendment.

The second vote will occur upon the McDade amendment to the Ruppe substitute; and following that there will be a vote upon the Ruppe substitute for the Seiberling amendment, whether or not it is amended.

The question is on the amendment offered by the gentleman from Pennsylvania (Mr. DENT) to the amendment offered by the gentleman from Ohio (Mr. SEIBERLING) to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. SEIBERLING) there were—ayes 32, noes 40.

Mr. SEIBERLING. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment to the amendment to the committee amendment in the nature of a substitute was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennslyvania (Mr. McDADE) to the amendment offered by the gentleman from Michigan (Mr. RUPPE) as a substitute for the amendment offered by the gentleman from Ohio (Mr. SEIBERLING) to the committee amendment in the nature of a substitute.

The amendment to the substitute amendment for the amendment to the committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. RUPPE), as amended, as a substitute for the amendment offered by the gentleman from Ohio (Mr. SEIBERLING) to the committee amendment in the nature of a substitute.

The substitute amenument, as amended, for the amendment to the committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING), as amended, to the committee amendment in the nature of a substitute.

The amendment, as amended, to the committee amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. HOSMER TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HOSMER. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

Amendment offered by Mr. HOSMER to the committee amendment in the nature of a substitute: Page 252, line 15, through page 256, after line 19, strike out sections 404 and 405.

Mr. HOSMER. Mr. Chairman, it is extremely important that we understand what section 404 requires. It is primarily aimed at polluting discharges, mine and refuse bank fires and conditions which present an imminent danger to the public. However, these problems are already covered by existing legislation, such as the Water Quality Act, the Clean Air Act, and public nuisance law. If water drainage or refuse bank fires cause pollution in violation of these laws, the mine operator will be required to take necessary corrective action. If the mine operator is responsible for a condition which creates a hazard to the public, he can be required to abate that condition.

The section also addresses hazards to the environment but in many, if not most instances, the lands involved were probably reclaimed in accordance with the then existing laws which were enacted to protect the environment. Furthermore, this bill does not set out or define what constitutes an imminent hazard to the environment and yet requires the elimination thereof by July 1, 1977, or be subject to penalties of this act. This includes the criminal penalties of section 224 and preventing the issuance of any

pending permit, permit revision or permit renewal which could shut down larger company's nationwide operations. The possibility of criminal penalties raises serious constitutional questions, including the argument that such a provision is expost facto.

Our attitude toward the environment has undergone a complete reexamination in the last few years. However, during this period most coal surface mining was regulated by environmental statutes requiring reclamation. It is unfair to use hindsight to punish mine owners and operators for the reclamation they did in the past, because it does not conform to the standards of this bill. The coal is gone now and there is no way the cost of additional reclamation can be recovered. I do not believe the mine owner or operator should be made to assume this burden and, therefore, my amendment eliminates section 404.

Section 405 which I also desire to eliminate provides for services and funding by the Secretary of Agriculture to owners of mined lands which are already available to any landowners through the Soil Conservation Service and the Agricultural Stabilization Committee. Thus, section 405 sets up a needless duplication of Federal services and should be deleted.

I believe that Members of the House Committee on Agriculture should look carefully at this amendment. First, it is an invasion of the committee jurisdiction of their committee. Second, it is largely duplicative of programs already authorized under legislation cleared by the Agriculture Committee and enacted by the Congress. The Agriculture Committee has the expertise in such programs, and this part of the bill should have been reviewed and passed upon by that committee.

I urge deletion of sections 404 and 405 and ask for the adoption of my amendment.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. HOSMER. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, we on this side are willing to agree to strike section 404, but we are not willing to strike section 405.

The gentleman from California has packaged them together. Therefore, would the gentleman be agreeable to ask for a divided vote, a separate vote on each part of his amendment?

Mr. HOSMER. Mr. Chairman, I ask unanimous consent that a separate vote be taken on each portion of my amendment, which provides for the deletion of section 404 and section 405.

The CHAIRMAN. Does the gentleman ask for a division of the question?

Mr. HOSMER. I do, Mr. Chairman. I ask unanimous consent for a division of the question as to sections 404 and 405.

The CHAIRMAN. The question will be divided.

The first question is upon the part of the amendment offered by the gentleman from California (Mr. HOSMER) referring to section 404.

The portion of the amendment, referring to section 404, to the committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. The question is on the portion of the amendment offered by the gentleman from California (Mr. HOSMER), referring to section 405.

The question was taken; and on a division (demanded by Mr. HOSMER) there were—ayes 7, noes 29.

So the portion of the amendment referring to section 405, of the amendment to the amendment to the committee amendment in the nature of a substitute was rejected.

The CHAIRMAN. Are there further amendments to title IV?

AMENDMENT OFFERED BY MR. HOSMER TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HOSMER. Mr. Chairman, I offer my amendment No. 146 as an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HOSMER to the committee amendment in the nature of a substitute: Page 249, line 1, strike out "title IV".

Mr. HOSMER. Mr. Chairman, I shall not linger long on this amendment. We have gone through a virtual Alice in Wonderland in the discussion of title IV. Where is the money going to come from? It is going to come from the Outer Continental Shelf or from some other place where nobody will be hurt.

Obviously, we know that money does not come out of a pump; that this is a real world, and that if it is mandated that sums of money come from any place for mining reclamation they do not go some place else.

There are many millions of people in this country trying to subsist beneath the poverty level of income. That money will not go to them, because it has been earmarked for mine reclamation in order that the landscape will look pretty—landscape which has been sitting, looking ugly, perhaps as far back as the depression in the thirties. But we have been rushing around here today with great enthusiasm, diverting money from places that people need it; need it for medicine, need it for clothing, need it for food, need it to protect the United States against its foreign enemies. All those things are now secondary, because the gentleman from Arizona (Mr. UDALL), and the gentlewoman from Hawaii (Mrs. MINK), have decided, with the help of their friends, that money is going to be taken out of somebody else's pocket to make the landscape look pretty.

When they get through doing that with Appalachia and a few places like that, how about the back side of the Moon, too? That is not very pretty. Maybe we could reclaim that. Maybe we could tax people, and maybe we could take money coming out of the public lands, money coming off of the offshore oil lands, and divert it to clean up the back side of the Moon. But I think there are a lot more serious things in this Nation of ours today, to worry about. I think this is a misallocation of funds. I think this is a misjudgment of priorities. It is a denial of funds where they are needed to areas where they are not needed. It is funds unjustly taken from worthy recipients, taken from worthy needs and allocated to second priorities simply to satisfy the emotionalism that has been raised over this issue—this issue that involves only a small fraction of our land. True, this land has indeed been left in a deleterious condition; however, in spite of that condition, no one is starving or is in jeopardy of life. Rather than reclaim these lands, the required funds should be diverted to benefit the lives of the people of this Nation.

Mr. Chairman, I ask for the adoption of this amendment striking this title which is so unfair.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HOSMER) to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. HOSMER) there were—ayes 2, noes 38.

So the amendment to the committee amendment in the nature of a substitute was rejected.

The CHAIRMAN. If there are no further amendments to title IV, the Chair will now compile a list of those Members seeking to debate or to offer amendments to title V and will allocate the time of debate accordingly.

The Chair will recognize the Members for 50 seconds each.

The Chair recognizes the gentleman from North Dakota (Mr. ANDREWS).

Mr. ANDREWS of North Dakota. Mr. Chairman, I should like to point out at this point in the enactment of this bill this committee has taken a good deal of time in deep study of the problems facing the separate and unique areas of our country. I commend them for the job they have done. I think the House as a whole has written into the act some sensible amendments.

I am particularly gratified that we were able to protect the sole fuel we have in the Upper Midwest, lignite, from a tax that would have been close to 100 percent on the cost of that fuel. Our homeowners are under continual stress because of the rising cost of living, and our homes and businesses depend on a unique fuel, lignite, to run our generating plants. It is much lower in value per ton than eastern coal but its the only fuel we have and we could not stand a confiscatory Federal tax on it. I am deeply gratified that the House turned down an energy tax that would have been devastating to our area.

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

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia (Mr. HECHLER).

Mr. HECHLER of West Virginia. Mr. Chairman, this title V creates an Office of Surface Mining and Reclamation Enforcement in the Department of the Interior. I am very, very sorry, and I regret very much that the authors of this legislation have put this office in the Department of the Interior, because the Secre-

tary of the Interior has publicly and repeatedly indicated his opposition to this bill; and here we are going to give him authority to stipulate some regulations under the bill.

Basically, the biggest trouble with this bill is that the main regulatory authority is in the States who have traditionally shown that they are prisoners of the largest economic interests in those States. This is particularly true of Appalachia. But I cannot, for the life of me, understand why we have put any regulations whatsoever into the hands of a department whose head has indicated that he is opposed to this legislation.

AMENDMENT OFFERED BY MR. HOSMER TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HOSMER. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HOSMER to the committee amendment in the nature of a substitute: Page 265, line 17, strike title V.

Mr. HOSMER. Mr. Chairman, sound administration requires that authority and responsibility for the mined area reclamation program run directly to the Secretary of the Interior. This will provide the Secretary with sufficient flexibility to efficiently manage the program, utilizing available departmental resources where appropriate and adjusting the program as future developments warrant.

Failure to vest authority directly in the Secretary will result in duplication of effort since various agencies within the Department of the Interior are already engaged in activities covered under the act. For example, the Geological Survey as the regulatory authority for the administration of coal mining reclamation regulations of the Bureau of Land Management and the Bureau of Indian Affairs. In addition the Bureau of Mines, the Mining Enforcement and Safety Administration, Bureau of Reclamation, Bureau of Outdoor Recreation, National Park Service, and Bureau of Sport Fisheries and Wildlife all have expertise which can be utilized in the administration of this act.

Expertise in the field of surface coal mine reclamation is a scarce commodity. Establishment of a new office within the Interior Department can only drain sorely needed expertise from the above-mentioned bureaus which deal not only with the environmental problems of coal mining but all other mining as well.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HOSMER) to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. HOSMER) there were—ayes 4, noes 27.

So the amendment to the committee amendment in the nature of a substitute was rejected.

The CHAIRMAN. There being no further amendments to title V, the Chair will now compile a list of those persons seeking to debate or to offer amendments to title VI. Those Members wishing to do so will please rise.

The Chair will recognize the Members for 30 seconds each.

AMENDMENT OFFERED BY MR. UDALL TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. UDALL. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. UDALL to the committee amendment in the nature of a substitute: Strike page 268, line 19, through page 271, line 24, and insert in lieu thereof the following:

SEC. 601. (a) With respect to Federal lands within any State, the Secretary of Interior may, and if so requested by the Governor of such State, shall review any area within such lands to assess whether it may be unsuitable for mining operations for minerals or materials other than coal, pursuant to the criteria and procedures of this section.

(b) An area of Federal lands may be designated under this section as unsuitable for mining operations if such area consists of:

(i) land of a predominantly urban or suburban character, used primarily for residential or related purposes, the mineral estate of which remains in the public domain; or

(ii) lands where such mining operations could result in irreversible damage to important historic, cultural, scientific, or aesthetic values or natural systems, of more than local significance, or could unreasonably endanger human life and property.

(c) Any person having an interest which is or may be adversely affected shall have the right to petition the Secretary to seek exclusion of an area from mining operations pursuant to this section or the redesignation of an area or part thereof as suitable for such operations. Such petition shall contain allegations of fact with supporting evidence which would tend to substantiate the allegations. The petitioner shall be granted a hearing within a reasonable time and a finding with reasons therefor upon the matter of their petition. In any instance where a governor requests the Secretary to review an area, or where the Secretary finds the national interest so requires, the Secretary may temporarily withdraw the area to be reviewed from mineral entry or leasing pending such review: *Provided, however,* That such temporary withdrawal be ended as promptly as practicable and in no event shall exceed two years.

In no event is a land area to be designated unsuitable for mining operations under this section on which mining operations are being conducted prior to the holding of a hearing on such petition in accordance with subsection (c) hereof. Valid existing rights shall be preserved and not affected by such designation. Designation of an area as unsuitable for mining operations under this section shall not prevent subsequent mineral exploration of such area, except that (i) with respect to lands designated under subsection 601(b)(i), such exploration shall require the prior written consent of the holder of the surface estate, which consent shall be filed with the Secretary, and (ii) the Secretary may promulgate, with respect to any designated area, regulations to minimize any adverse effects of such exploration.

(e) Prior to any designation pursuant to this section, the Secretary shall prepare a detailed statement on (i) the potential mineral resources of the area, (ii) the demand for such mineral resources, and (iii) the impact of such designation or the absence of such designation on the environment, economy, and the supply of such mineral resources.

(f) When the Secretary determines that an area on Federal lands is unsuitable for all or certain types of mining operations for minerals and materials other than coal, by reason of the criteria referred to in subsection 601(b), he may withdraw such area from mineral entry or leasing, or condition such entry or leasing so as to limit such mining operations in accordance with his determination, if the Secretary also determines, based on his analysis pursuant to subsection 601(e), that the benefits resulting for such designation would be greater than the benefits to the regional or national economy which could result from mineral development of such area.

(g) Any party with a valid legal interest who has appeared in the proceeding in connection with the Secretary's determination pursuant to this section and who is aggrieved by the Secretary's decision (or by his failure to act within a reasonable time) shall have the right of appeal for review by the United States District Court for the district in which the pertinent area is located.

EXPLANATION

The substitute incorporates a number of suggestions of the American Mining Congress. The following changes have been made:

(1) In subjection (c), the words "having an interest which is or may be adversely affected" have been added to modify the term "person" and thus make it clear that an individual seeking a non-coal designation must have an interest in the affected area.

(2) Language has been added in subsection (c) which will prevent the necessity of the Secretary initiating the review process on frivolous petitions. The substitute requires that the petition "contain allegations of fact with supporting evidence that tends to substantiate the allegations".

(3) Subsection (d) is amended to assure that designations do not interfere with valid existing rights. While this was the intent of the present subsection, the language has been altered to refer to "valid existing rights" which is terminology commonly used in withdrawals from entry under the Federal mining laws.

(4) Finally, the amendment strikes authorization to the Secretary to make grants to the State to develop a program for designating non-Federal and non-Indian lands as unsuitable for mining of minerals other than coal. Originally, this title included a State program, but in attempting to narrow this section to achieve a mechanism that really addresses only the worst abuses within the purview of Federal authority, the State program was limited. As the bill does not include specific authorizations for the purposes of a State grant program, it is better to now debate this subsection.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Chairman, title VI is a title I wrote in the committee to deal with the very difficult situation in my home town of Tucson, Ariz., where large mining operations were threatened in the middle of an urban area. This gives the Secretary of the Interior the authority and discretion to designate areas within urban areas as unsuitable for surface mining operations. It is a very limited title which I have tried to work out to

meet some objections of the industry. I know of no objection to this rewrite which represents a further retreat on my part to make sure we are not locking up areas where a withdrawal is not necessary.

I think it is acceptable. I would hope it would be adopted.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from California.

Mr. HOSMER. That was a rather large phrase of the gentleman that he knows of no resistance to the amendment.

Mr. Chairman, I do have an amendment to the amendment. It would merely strike out title VI.

The CHAIRMAN. Does the gentleman seek recognition?

Mr. HOSMER. Yes. I seek recognition for an amendment to the Udall amendment.

The CHAIRMAN. The Chair will advise the gentleman from California that his amendment to strike title VI is not in order as an amendment to the Udall amendment.

The question is on the amendment offered by the gentleman from Arizona (Mr. UDALL) to the committee amendment in the nature of a substitute.

So the amendment to the committee amendment in the nature of a substitute was agreed to.

Mr. HOSMER. Mr. Chairman, I now offer my amendment to delete title VI.

The CHAIRMAN. The Chair will advise the gentleman from California that the entire title has been amended by the Udall amendment and at this point an amendment to strike the title would not be in order.

Mr. HOSMER. Very well.

The CHAIRMAN. In other words, no more amendments are in order to title VI.

Are there any other Members desiring to be heard for purposes of debate?

Mr. HOSMER. Mr. Chairman, could I be heard at this time?

The CHAIRMAN. The gentleman has used his time.

Mr. SYMMS. Mr. Chairman, I move to strike the last word.

I yield to the gentleman from California (Mr. HOSMER).

Mr. HOSMER. Mr. Chairman, this title, a mischievous title, because it attempts to get into the sticky business of designating areas suitable for mining minerals other than coal on Federal lands. Now, there just did not seem to be a big enough world for the authors of this bill when they zeroed in on coal. Every time we stuck a stick into the ground, they even wanted that to be included under their Act. They were partially dissuaded from such excesses and agreed to limit the bill to surface coal mining, but in this title VI the same desire got cranked up again, and the authors have overstepped their bounds, meddling in areas they should not.

The CHAIRMAN. If there are no further amendments to title VI, the Chair will take requests for recognition from Members to title VII, with 40 minutes of debate.

ANNOUNCEMENT BY THE CHAIR

The CHAIRMAN. The Chair would like to restate the announcement made earlier.

The Chair requests Members who have amendments printed in the RECORD and who will insist upon 5 minutes for debate to defer offering those amendments until the conclusion of the 40 minutes, so that it will not disturb the proceedings.

AMENDMENT OFFERED BY MR. JOHNSON OF CALIFORNIA TO THE COMMITTEE AMENDENT IN THE NATURE OF A SUBSTITUTE

Mr. JOHNSON of California. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. JOHNSON of California to the committee amendment in the nature of a substitute: Page 287, line 10, strike out subsections (a) and (b) through line 2, page 288 and insert in lieu thereof the following and reletter accordingly:

(a) In those instances where the mineral estate proposed to be mined by surface coal mining operations is owned by the Federal Government, and the surface rights are held pursuant to patent, the application for a permit shall include either—

(1) the written consent of the owner or owners of the surface lands involved to enter and commence surface mining operations on such land or a document which demonstrates the acquiescence of the owner of the surface rights to the extraction of minerals within the boundaries of his property by current surfaces mining methods; or

(2) proof of the execution of a bond or undertaking for the use and benefit of the surface owner or owners of the land securing the prompt and full payment of any damages to surface estate, to the crops, to the tangible improvements on the land and to secure the income interest of the surface estate owner in those portions of his land affected by coal surface mining and reclamation operations for the time during which said portions of land are affected. The bond established pursuant to this subsection is in addition to the bond required by section 216 of this Act.

The CHAIRMAN. The Chair will announce the reallocation of time is 1½ minutes.

The gentleman from California is recognized for 1½ minutes.

Mr. JOHNSON of California. Mr. Chairman, members of the committee, the amendment that was just read is an amendment that was prepared by a staff of our committee, both the majority and minority. It was an amendment that was put together after the additional views were printed in the report by Messrs. UDALL, JOHNSON of California, TAYLOR of North Carolina, RUPPE, and MARTIN of North Carolina.

As I understand it, these Members were already of the opinion that the amendment was very necessary to protect the rights of the surface as well as the subsurface.

Mr. Chairman, the amendment that was just read was quite clear. It was not drafted by myself. It was drafted by the experts and gone over by members of the staff of both the majority and the minority. We have had many discussions on it. I think the amendment would alter the provisions of the bill to make it more reasonable. It says, in effect, that where the subsurface coal rights are federally owned, anyone seeking to commence surface mining operations must either, one, secure the written consent or acquiescence of the surface owner to the extraction of the minerals through surface mining methods or otherwise.

I just want to say that this would do away with the veto power or written consent or the second dip from the consumers of the electrical energy in the United States.

COMMITTEE LANGUAGE

Mr. Chairman, section 709 of the committee bill gives to the owner of the surface absolute and complete control over the subsurface estate—even if that subsurface estate is owned by another person or the Federal Government. It says, in effect, that if the subsurface owner wants to exercise his right to extract any coal from the subsurface estate, he must first have the written consent of the surface owner.

JOHNSON AMENDMENT

My amendment would alter this provision of the bill to make it more reasonable. It says, in effect, that where the subsurface coal rights are federally owned, anyone seeking a permit to commence surface mining operations must either:

First, secure the written consent or acquiescence of the surface owner to the extraction of the minerals through surface mining methods or

Second, prove the execution of a bond which will assure the surface owner a right to compensation for any damages to his surface estate.

EXPLANATION

Mr. Chairman, if the Members of this House are serious when they say they recognize that we must allow coal to be mined in a reasonable and environmentally sound manner, then this amendment should be adopted. To enact H.R. 11500 with provisions like the existing section 709 would be totally irresponsible and constitutionally questionable.

Owners of subsurface minerals are property owners, just as much as owners of the surface are. My amendment recognizes the rights of both. The committee language disregards the rights of the subsurface owner and says "you cannot use or enjoy that which you rightfully own." In effect, if we enact the language of section 709 (a) and (b), we are saying that the owner of the subsurface can be denied his property without just compensation contrary to the Constitution.

Legally, when a person buys land and the subsurface estate is reserved, he buys it with knowledge of that fact. Presumably, the price he pays is reduced in proportion to the right reserved. For that reason, as between two private parties, my amendment gives no veto or extraordinary right to compensation to the owner of the surface. Where the subsurface owner is the Federal Government, the case may be a little different. For this reason, my amendment requires the consent of the surface owner or a bond to assure compensation for the losses incurred by the surface owner if surface mining occurs.

Now, Mr. Chairman, let us examine what can, will, and is already happening as a result of the committee language on this issue. First, if a owner of the surface does not want to allow the surface extraction of the coal under any circumstances, he has an absolute veto. He can refuse to allow the owner of the subsurface interest to remove any of his coal. On the other hand, he may decide that he will allow the extraction of the coal by surface mining if the price is right. In short, he will be able to deny the subsurface owner the right to his property unless he is paid enough to satisfy his own interest. This could border on extortion.

In some cases, however, speculators may move in—there is some evidence that this is already happening—and requiring an unfair profit for the limited interest which they own as the price which a subsurface owner must pay to have access to his own property. In other cases, competitors in the energy market—and this is important if we want to assure a competitive free market in the energy field—may buy the surface rights for a fraction of the cost of the subsurface rights. Then they could use this limited ownership as a lever to preclude the development of this subsurface resource.

So you can see how important this issue is. It is important to the owner of the subsurface estate, because it can effectually divest him of his property and destroy his investment. At the same time, it is important to all of us who recognize that we will need to develop more energy resources in the future, because it may mean that large coal deposits cannot be effectively developed. It is important to all Americans who will be the ultimate consumers of the coal produced, because they will have to pay the extra cost which will be attributable to the unjust enrichment of the surface owner and the cost of any inefficiencies which result from creating such a negative power in the surface owner.

CONCLUSION

Mr. Chairman, my amendment deals with this issue in an equitable manner. I do not think that we can intervene where private parties dealt at arms length and purchased either the surface or the subsurface estates. On the other hand, we can deal with the situation where the Federal Government permitted lands to be patented subject to a reservation of the subsurface minerals. My amendment gives the surface owner fair consideration by requiring anyone proposing to develop the subsurface coal resources by surface mining methods to secure the written consent of the surface owner or assure the surface owner that he will receive prompt and full payment for any damages he suffers as a result of the surface mining operations.

I hope that the Members of this House will agree with me that this is the only reasonable way to resolve the dilemma between owners where the surface and subsurface rights have been severed.

Mr. HAYS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is an outrageous invasion of the rights of property owners. What it is saying is that we are going to give any strip coal operator who may buy coal that the Federal Government owns the right of eminent domain over anybody's private property.

That is just one step from saying that I have to sell my farm in Ohio to some strip operator because there is coal under it, even though I own both the coal and the surface.

That is just one step. It is one foot in the door.

If we want to protect the people who own this property, then the strip operator, who is going to make millions and billions of dollars on that thick coal, ought to have to buy the surface or pay the owner whatever it is worth.

Mr. JOHNSON of California. Mr. Chairman, will the gentleman yield?

Mr. HAYS. Yes, I will yield. I want to be fair, but I think the gentleman's amendment is terribly destructive of the rights of the people.

Mr. JOHNSON of California. I think the surface owner is protected under my amendment.

Mr. HAYS. He is not protected if he does not want to give up his farm or ranch or whatever, because the gentleman is giving these characters the right of eminent domain. Whether there is a 50-foot-thick seam of coal—out in Ohio they become multimillionaries on a 24-inch seam—the gentleman should figure out what they are going to become on a 50-foot seam.

This amendment ought not to get a single vote in this Chamber if there is anybody here who believes in human rights and property rights together.

Mr. RONCALIO of Wyoming. Mr. Chairman, I rise in opposition to the amendment.

Commanding every ounce of energy and whatever influence I may have in this body, I agree with every word that has been stated by my good friend, the gentleman from Ohio (Mr. HAYS).

I hold in my left hand three key decisions: One Circuit Court of Appeals, and of the Supreme Court's, and one of Tennessee, Texas, and Pennsylvania, in which the supreme courts of those States have affirmed that neither justice or equity in forcing the surface owner who has acquired his title by homesteading the land to have to go to court and let some judge assess the value of his home or tell him how many dollars are his and to move off his property as the strippers coal lease nullifies his patent or the deed to his land.

The Johnson amendment is outrageous to the people of the West, and I hope the Members vote it down with every vote here.

The CHAIRMAN. The gentleman from Texas (Mr. ECKHARDT) is recognized for 1½ minutes.

Mr. ECKHARDT. Mr. Chairman, I agree with the last speaker and particularly with the gentleman from Ohio.

Clearly this amendment would create a sort of truncated eminent domain procedure by which the surface owner's interested in the property could be utterly destroyed by the mere assurance of the offering of a bond to pay him what may later be determined to be a tremendous loss to him.

There would have to be no determination of any kind of the relative importance of mining coal as against the surface owner's right to live on his property and use it for the purposes for which he has always used it.

When we abuse the power of eminent domain to destroy a man's homestead in order to produce more power, it seems to me that we simply go berserk in the direction of producing energy in this country at the expense of all other values.

Mrs. MINK. Mr. Chairman, I rise in opposition to the amendment.

(By unanimous consent, Mr. DENT yielded his time to Mrs. MINK.)

Mrs. MINK. Mr. Chairman, one of the most important provisions, aside from the restrictions and regulations that we impose on the mining of coal, is this section here in 709.

Real property is the most treasured possession of an individual in our country.

Since we are dealing in this amendment primarily with Federal lands and Federal coal, it seems to me that it is imperative that the Congress address itself to the problems of what kinds of rights we are going to preserve for the surface owners; people who have been in possession of their land for many generations, who are farming on this land, or who are ranchers out in the far West.

These are people whose entire livelihood and style of living as well as of their families, will be in tremendous jeopardy if we do not provide adequate protection in this legislation. The bonding provision which is suggested in the amendment before this House is a sham. There is no way that a bond which may be released 10 years from now is going to provide any kind of consideration or payment for the losses that that family is going to have to sustain today when those tractors move in and start to remove the overburden.

Mr. Chairman, I believe that this House would be making a serious mistake if it jeopardized in any way the very careful language which was written into this bill to safeguard the fee simple ownership of the surface of the lands out West, and that is what this particular amendment will do.

We have provided an alternate provision where the surface owner is a mere lessee, and there we say that their rights can be adequately protected under a lease arrangement with bond protection. But where the surface owner is a private individual with rights in fee simple, it seems to me that it is imperative that the Congress recognize his primary right.

Mr. Chairman, these coal operators out in the West are not small operators. They are huge companies, and in large part they are owned by the oil industry. They are going to name their price.

We just concluded a hearing today before my subcommittee in which we were told that the annual lease for coal calls for less than one dollar per acre, and that these leases are issued in perpetuity. There is nothing the Congress or the Federal Government can do to terminate these leases.

So it seems to me that if coal is a

necessity in this country and if the people need to have energy these coal companies will come up with adequate compensation to buy these rights and provide funds for these families to move out of the area and find another farm to till the soil and to provide a living for their families.

Mr. JOHNSON of California. Mr. Chairman, will the gentlewoman yield?

Mrs. MINK. I yield to the gentleman from California.

Mr. JOHNSON of California. Mr. Chairman, I will ask the gentlewoman this:

Is it not true that these mineral rights were owned by the Federal Government in the first instance, along with the surface rights, and the surface rights were conveyed to various people for certain purposes and certain uses? And does the gentlewoman not think that the mineral rights that are held in reserve for all of the people of the United States should be developed and used for their benefit?

I would say that the reclamation provisions of this act all apply. The reclamation provisions are there to take care of the lands after it is all through.

AMENDMENT OFFERED BY MR. HOSMER AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. JOHNSON OF CALIFORNIA TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HOSMER. Mr. Chairman, I offer an amendment as a substitute for the amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HOSMER as a substitute for the amendment offered by Mr. JOHNSON of California to the committee amendment in the nature of a substitute:

Page 287, line 10, strike out subsections (a) and (b) through line 2, page 228 and insert in lieu thereof the following and reletter accordingly:

(a) In those instances where the surface rights owner is not the owner of the mineral estate proposed to be mined by surface coal mining operations, the application for a permit shall include either—

(1) the written consent of the owner or owners of the surface lands involved to enter and commence surface mining operations on such land or a document which demonstrates the acquiescence of the owner of the surface rights to the extraction of minerals within the boundaries of his property by current surface mining methods; or

(2) proof of the execution of a bond or undertaking for the use and benefit of the surface owner or owners of the land securing the prompt and full payment of any damages to surface estate, to the crops, to the tangible improvements on the land and to secure the income interest of the surface estate owner in those portions of his land affected by coal surface mining and reclamation operations for the time during which said portions of land are affected. The bond established pursuant to this subsection is in addition to the bond required by section 216 of this Act.

(3) Upon a determination by the regulatory authority that damages to the surface estate for which any bond or undertaking has been posted have occurred, the owner of the surface estate shall be paid upon said bond or undertaking eighty percent of the amount of said damages as calculated from the average amount of said damages determined by two Federal or State qualified and licensed appraisers, and the payment of any damages in excess of said eighty percent may be determined by an action brought upon the remaining value of the bond or undertaking or against the operator in a court of competent jurisdiction, and reasonable attorney fees and costs awarded in the discretion of the court.

Mr. HOSMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlemen from California?

There was no objection.

Mr. HOSMER. Mr. Chairman, my amendment extends to non-Federal as well as Federal lands and the surface owner consent provisions of section 709 of H.R. 11500, constitute a substantial shift of rights from the mineral owner of lands to the surface owner. The relative rights of the surface owner vis-a-vis the mineral owner are matters primarily within the purview of State law with respect to non-Federal lands. Federal interference or alteration of those rights could lead to unjust enrichment and invades the proper sphere of State power. The bill also grants new proprietary rights for compensation to permittees and lessees of the surface uses on federally owned lands, even though the permits and leases where issued subject to the right of the Government to issue mineral leases.

With respect to federally owned coal under lands the surface of which has passed into private ownership, the requirement for surface owner consent to surface mining without alternatives, such as bonding or agreement to compensate the surface owner for damages to his estate, is a "giveaway" of Federal coal rights to the surface miner. Under this provision, which is the recently adopted Melcher amendment, the surface owner has a veto power over the leasing and surface extraction of federally owned coal—unless, the coal lessee meets his price to enter and mine. The coal lessee is, then, required to pay twice for the same coal—first he must pay the Federal Government for the lease, including the royalties; and second, he must pay the surface owner.

Besides being unfair, in cases where Federal leases have already been issued, this provision raises several questions of constitutionality, including impairment of contract rights and the taking of property without due process of law and without just compensation.

With respect to Federal coal not yet subject to a lease, coal mine operators, mindful of this requirement to pay twice for the same coal and when considering the competitive market for coal, will be forced to lower their bids for Federal coal leases. Therefore, revenues to the Federal Government from coal leasing will likely be reduced, and the revenues to be returned to the States under the Mineral Leasing Act will also be reduced.

Furthermore, section 709 interjects Federal law into the complex Western water laws. Congress should avoid an interference with established water rights under existing water law in the various Western States because unintended results could cause enormous dislocations.

In any case, the surface owner is entitled to full compensation for actual damages to his surface estate, but no more. This is what my amendment provides—fair and prompt compensation for damages to the surface estate. As H.R. 11500 now reads, the surface owner of Federal coal lands has a veto power of the mining of this coal—coal owned by all the people.

Mr. Chairman, I urge adoption.

The CHAIRMAN. The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, this is one of the major and hardest-fought of the battles connected with this whole legislation. I find myself here against the majority of the committee on which I serve. The committee decided to accept the MELCHER amendment. I opposed the MELCHER amendment, and I do so now.

Briefly, the history of this issue is that in the west is that homesteaders came out there and homesteaded, and they knew they were getting the ownership of the surface but the minerals—the coal—were reserved to the United States. Now much has been said about the intention of the Congress when the minerals were washdrawn. For at least one significant character involved in the debate, such in question was regarded as a policy issue to be decided by a future Congress.

In his 1907 message to Congress proposing the first reservation of rights in coal to the United States, President Roosevelt maintained that the real purpose of such a reservation was the ability to Congress to withhold premature action on the distribution of rights in the coal. Instead, the reservation would allow the development of the surface uses pending a decision as to how the fuel mineral could best be developed in the national interest.

If this government sells its remaining fuel lands they pass out of its future control. If it now leases them, we retain control, and a future Congress will be at liberty to decide whether it will continue or change this policy. Meanwhile, the Government can inaugurate a system which will encourage the separate and independent development of the surface lands for agricultural purposes, and the extraction of the mineral fuels, in such a manner as will best meet the needs of the people and best facilitate the development of manufacturing industries. Transmitted to Congress by President Roosevelt, CONGRESSIONAL RECORD, Senate at 2806 (February 13, 1907).

Obviously, the emphasis was on: First, Congress' right to set policy in the future regarding development of the coal resources; and second, such policy should reflect the national interest in protecting the people's coal resources. It is doubtful that Roosevelt or Congress believed that action would eventually result in the argument that the surface owner should end up with vested rights in the coal.

This is what they get under the Melcher proposal they give the ranchers the right to say no.

One can see what will happen under the committee provision. The coal mining

companies will come to the surface owner and say we need your consent, we would like to mine your land, and the rancher says, sure, give me $5 million.

So you would be giving him the right to prohibit that use of the coal that belongs to the people. You in fact give the surface owner the ownership of the coal. You will be paying for the coal twice—once to the operator and once to the surface owner for whom it is a windfall.

We had the strange business in the committee of the Sierra Club and the National Cattle Association ganging up on this one. The Sierra Club thinks they will stop the mining of all coal, and it will not. It will make millionaires out of the ranchers but it is doubtful that it is going to do much for the environment.

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia (Mr. SLACK).

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. SLACK. I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Chairman, the amendment offered by the gentleman from California was bad enough, but if you take the amendment offered by the gentleman from California (Mr. HOSMER), you will be raping the patient twice. That is in effect what is going to happen.

It is bad enough that you will take the land away from the surface owner, although the Government owns the coal, but as I understand the amendment, by eminent domain they can come in and take my land where I own the coal, and the surface. I say this is contrary to every element of democracy and decency that this country is founded on.

I would say to the gentleman from Arizona (Mr. UDALL) do not cry too much about the coal operators or the Government, because out in those thick seams out there—and I am taking the average—at the present price of coal the operator will get a gross of $20 million an acre.

Now, I do not care if he has to pay the rancher a thousand dollars an acre for land worth $200 an acre. The gentleman calls it a windfall. Well, what do you call $20 million an acre, of which at least $15 million would be profit?

I have seen these instant millionaires all over Ohio.

All you are proposing to do by these two amendments is to take away from the people their own property and give it to a bunch of coal companies—no, let me change that, because most of the Government coal leases in the West are owned by oil companies. So you will give it to a bunch of the big oil companies who are already into your pockets up to their elbows and shoulders.

Have you read the profit statements that came out yesterday?

The CHAIRMAN. The Chair now recognizes the gentleman from North Dakota (Mr. ANDREWS).

Mr. ANDREWS of North Dakota. Mr. Chairman, I rise in opposition to these amendments.

We have been talking here today about property rights, and everybody forgets about the human rights that went into these United States of America.

This Nation through the Congress in this Chamber passed laws 100 years ago urging people to move West. The people went West. They settled there on the land, and they contributed to this great country because they put a lot of themselves into it. Now their grandchildren are farming that land, and maybe their great-grandchildren are farming that land.

The fact is that the Government of the United States retained the coal for all of the people, as the chairman of the committee pointed out, when he said that Teddy Roosevelt said the fuel lying under the soil belongs to the people.

The Government of the United States did this at a time when they did not know that these large strip mining machines would be moved in there. They did it in a day of hand shovels and Fresno scrapers drawn by horse.

Do not start weeping copious tears, or anything else, about the Government getting its share for all of the people, because all it gets is a lousy 6 cents for that coal that is mined.

We should trade that off against a lifetime heritage of the people who live in the West? I think not; I would hope not. I would hope that the people who have farmed and ranched and made this country what it is—even Teddy Roosevelt's ranch which lies in my State—would be protected and their heirs would be protected.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Ohio.

Mr. HAYS. I thank the gentleman for yielding.

The Government is getting 6 cents, and right now it will sell that kind of coal for $20 a ton.

Mr. ANDREWS of North Dakota. That is correct. And they can come in and negotiate with the surface owner. All we are saying is that the man who wants to mine the coal negotiate with the surface owner and say, "Can we come in and mine your coal?" When they reach an agreement, they can move the drag lines in.

Under this amendment, they can move the drag lines in, tell the surface owner they are going to mine the coal, and the cattleman can look out one morning and see his steers with drag lines moving in on them, wondering what happened to their pasture. Do not let the Government break faith with these pioneering people—vote down these amendments.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. TAYLOR).

Mr. TAYLOR of North Carolina. Mr. Chairman, as stated in additional views appearing in the report of the Committee on Interior and Insular Affairs on H.R. 11500, I cannot condone a requirement that the surface owner consent to surface mining where that ownership has been severed from ownership of the underlying coal.

Protection of the rights of a surface owner is important, but I believe if the committee bill goes unamended, the mere fact that a surface owner holds such rights over a coal deposit would result in large windfall benefits from property that he does not own. His veto over the right to mine someone else's coal will be worth whatever a mining company will pay for it.

The people of America need the energy which comes from coal. The people of America own vast resources of coal in many western States, title being in the Federal Government.

Language now in the bill gives a lucky surface owner a veto over the people's right to mine their own coal. Language now in the bill provides unjust enrichment to the surface owner at the expense of American consumers. It will add to the scarcity of coal and the high price of coal. The Johnson amendment will not only provide more coal and help keep coal prices down, but will prevent an inequity, will prevent windfall profits to a lucky few at the expense of all American citizens.

The Johnson amendment, which I support and urge adoption of, does two things:

First, where the rights in the coal have been severed and held by another party, this amendment removes any requirement that the consent of a surface owner be obtained.

Second, where the coal has been reserved to the United States, the amendment requires consent of the surface owner or the posting of a bond to cover the damages to a surface owner caused during the mining process.

This amendment will make it possible to mine coal where the land can be reclaimed and where the surface owner can be repaid for an injury he may suffer. But it will keep the cost of the coal so mined reasonable and uninflated by unjust enrichment.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. RUPPE).

Mr. RUPPE. Mr. Chairman, I rise in support of the Johnson amendment. I want to point out, frankly, that the legislation at the present time in the East as well as in the West would require written consent. I speak of written consent in the East where the focus is on private minerals and private property owners. This amendment would overturn law in the East, both case law and State law. The question of written consent is handled either by law or by the courts in a number of these States—Ohio, Kentucky, and Pennsylvania, for example.

So the bill as written would overturn State law in a number of Eastern States in the United States and overturn court decisions where this problem of written consent has already been resolved.

I cannot help but add my comments to those of the gentleman from North Caroline (Mr. TAYLOR) regarding lands in the West. The legislation as it is on the books today would certainly require the consumers of this country to pay a second price for the minerals to the surface

owners in the West. The value of those minerals is rising. The amount of money a surface owner in the West will collect from minerals he never owned is going to be a stupendous figure in years to come.

The Western surface owner who never owned those minerals is going to be paid more and more and more for the mineral values he did not own, and those moneys are going to come out of the hide of the American taxpayer. They are going to come out of the hide of the utility consumer. This is a great bill for the surface owner in the West who never owned the minerals, but God help the American taxpayer.

The CHAIRMAN. The Chair recognizes the gentleman from Montana (Mr. MELCHER).

(By unanimous consent, Messrs. OBEY and ROSE yielded their time to Mr. MELCHER.)

Mr. MELCHER. Mr. Chairman, this amendment is not just a bad amendment. These are black proposals. They are just as black as coal itself. Read it. There is nothing in there that has any basis in equity. It says written consent is not necessary if a bond is posted by the coal mining company. It has been touted as a means of holding down the cost of electricity.

I have documented a case in point concerning the Pacific Power & Light Co., and I shall place the facts concerning this documentation in the RECORD and only summarize now. I will only summarize by using their example that extinguishing all surface rights of an owner over federally owned coal in Montana and in Wyoming costs up to $1,000 per acre.

That is what they said, and I will accept that. I will not pass judgment on whether that is accurate or not but I will accept their $1,000 per acre figure for complete acquirement of the land and moving the owner off for the sake of illustration. I will accept that as the asking price and go from there. At that figure, the cost of acquiring surface rights comes to 1.8 cents per ton on typical coal leases. What does it cost per kilowatt? It costs 0.00001 cent.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, I really do want to find out before any mine is put into being in the future that any geological reports are going to have to be submitted to the regulatory authority, the surface owner is going to know the value of those minerals, and he is going to collect for the full value of those minerals.

Mr. MELCHER. I thank the gentleman for his contribution, but that figure I just gave comes to two-thirds of 1 cent per month for the homeowner that uses the average of 600 kilowatts per month. That is what it costs a utility company paying the surface owner $1,000 per acre to get him off his land and then they mine the Federal leases of typical quantities of coal in Montana.

Who has the windfall?

I ask, would any citizen, any of us, my colleagues, like to be moved or pushed or shoved from our homes by a mining company that just posts a bond? How would the Members like to be forced to give up their home and their yard, their grass, their trees and their very livelihood by a coal mining company who need not negotiate with the owner, who need only post a bond and move the owner off?

None of us, no American would like that. That is not the American way, because that is giving eminent domain to a private company. I do not believe Congress or any State government has ever given eminent domain of such broad scope to a private individual, to a private company, against the property rights of a landowner. We have never dictated that in America. It is eminent domain when our Government ignores the property rights of landowners and gives a coal company the right to take land from a private property owner without his consent.

Mr. BOLLING. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Missouri.

(By unanimous consent, Mr. BOLLING yielded his time to Mr. MELCHER.)

Mr. MELCHER. Mr. Chairman, these amendments are unfair. They are unscrupulous. They deserve only the depths of oblivion. I ask the Members to vote "no" on both of them. I ask the Members to vote both of them down and damn them to the blackest hole and the deepest darkness of the deepest mine.

Mr. RONCALIO of Wyoming. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Wyoming.

Mr. RONCALIO of Wyoming. Mr. Chairman, it is either we are going to vote this down or we are going to get MIKE MANSFIELD shoved down our throats.

It is one thing or the other. Nobody can live with that.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I think one thing needs to be cleared up. Actually if one owns the surface rights, and that would include the Federal Government, the Federal Government has a right to access to those subsurface interests but only by reasonable means. If the amendment offered by the gentleman from California and even more so if the amendment to the amendment were passed, there would be no limitation whatsoever by which the property could be strip mined. The only result would be that the property could be completely scraped off and paid for, whereas common law access would have to be in accordance with the applied condition of obtaining the mineral interests.

So the greatest change in existing State law would be the passage of these amendments rather than the passage of the bill in its original form. Certainly it is a well-known proposition of constitutional law that one cannot take away the property right of the subsurface owner, he is entitled to his property, but he is not entitled to get to it in any way he wants to—to the destruction of the surface owner.

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK. If the coal company should decide to move in and exercise their subsurface rights to coal, what recourse does the surface owner and rancher have? Who is going to pay for his moving costs, the loss of his coal and the loss of his cattle and all the investments he has put in it? Is he expected to wait for the bond to mature 10 years later?

Mr. MELCHER. That is the crux of this thing. It is very crucial.

These amendments are not just bad amendments; they are black, black proposals, as black as coal itself.

They say written consent is not necessary if a bond is posted by the coal mining company.

It has been touted as a means of holding down the cost of electricity. I have documented a case in point concerning the Pacific Power & Light Co. I shall place the facts concerning this documentation in the record and only summarize now by using their complaint that extinguishing all surface rights of an owner of federally owned coal in Montana and Wyoming costs up to $1,000 per acre.

I shall not pass judgment on their complaint that $1,000 per acre for complete acquirement of the land and moving the owner off is the asking price of the landowner, but at that figure it comes to 1.8 cents per ton on typical Federal coal leases in that area and the cost per kilowatt is .00001 or comes to two-thirds of 1 cent for the 600 kilowatts that tha average homeowner uses in 1 month.

We are talking about landownership that was acquired by homesteaders and the Federal coal reservation by Congress was made on these lands with the idea that only underground mining would be used if the land were mined. We are talking about a property right of these homesteaders when they acquired the title to their land.

How would any citizen, how would you, my colleagues, like to be moved, pushed, shoved from your home by a mining company posting a bond?

How would you, my colleagues, like to be forced to give up your grass, your trees, your house, your fields, your very livelihood by a coal mining company who need not negotiate, who need not consider you, who need not even take cognizance of you if they choose not to do so, who could merely write you a letter telling you of their plans and then post a bond and commence strip mining? That is eminent domain—no more, no less. No matter how you cut it, it is eminent domain.

We have not—in America—dictated eminent domain for strip mining purposes to coal companies. When has our Government ignored property rights for a private company to exercise at their pleasure? We must not do so now. This amendment is unfair, unscrupulous,

and deserves only the depths of oblivion. I ask you to vote no on the basis of property rights of landowners. I ask you to vote it down and to damn it to a black hole as deep as the deepest, darkest coal mine.

Documentation material on these prints follow:

ALBERT W. STONE, UNIVERSITY OF MONTANA, SCHOOL OF LAW, KEY POINTS REFERRING TO THE SURFACE OWNER'S RIGHTS OVER FEDERALLY OWNED COAL

The most recent case was *Stewart v. Chernicky*, 1970 (36), in which Chernicky had strip mined and Stewart sought damages, alleging that his land had been stripped without right. The document in question was a 1902 deed that granted Chernicky the coal and the right of . . . mining . . . also the right to drain and ventilate said mines by shaft or otherwise . . . with a full release of and without liability for damages, for injury to the surface. . . .

The court found that the deed was not specifically for or against strip mining, but placed the burden of proof upon whoever seeks authority to destroy the surface. It acknowledged the general rule enunciated in the 1953 Rochez Bros. case and the 1961 Wilkes-Barre School district case that ambiguities and uncertainties should be resolved against the grantor, but it did not find that the deed gave rise to significant ambiguities and uncertainties. Rather, since strip mining was not common in 1902 when the deed was executed and since it incorporated such language as "ventilate said mines," it found that strip mining was neither intended nor included in the grant of the mineral rights.

Upon satisfactory proof of full compliance with the (several homestead, desert land entry, and stock-raising homestead laws) the entryman shall be entitled to a patent . . . which patent shall contain a reservation to the United States of all the coal in the lands so patented, together with the right to prospect for, mine, and remove the same. . . . (The language continues, reading nearly identically to the 1916 statute quoted below, authorizing licensees of the United States to enter, to prospect, and to mine, and to occupy so much of the surface as may be required, subject to payment of damages or the giving of a bond to secure damages ascertained by a court.) 1910 (38).

All entries made and patents issued under (stock-raising homestead) shall be subject to and contain a reservation to the United States of all the coal and other minerals in the lands so entered and patented, together with the right to prospect for, mine, and remove the same. . . . Any person qualified to locate and enter the coal or other mineral deposits, or having the right to mine and remove the same under the laws of the United States, shall have the right at all times to enter upon the lands . . . for the purpose of prospecting . . . and shall compensate the entryman or patentee for all damages to the crops on such lands by reason of such prospecting. Any person who has acquired from the United States the coal or other mineral deposits in any such land, or the right to mine and remove the same, may re-enter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining or removal of the coal.

SCHILTZ BRIEF

The following are items which indicate that Congress contemplated the traditional mining techniques, using shafts, tunnels, and rooms, which would leave the surface undisturbed except for ingress, egress, stockpiling, railroads, waste dumps, etc.:

Congressman Lacey observes that if the surface and subsurface ownerships were severed the home steader would not be hurt—that the land would be *undermined*, except as to his buildings.

Colloquy between Congressman Lacey and Campbell of the Geological Survey, discussing ventilation plants, airshafts, and water shafts in connection with coal mines, none of which has anything to do with strip mining.

The Congress, based on the committee hearings and reports, contemplated that the reserved coal would be mined by the traditional shaft, tunnel and room method, with incidental damage to the surface for ingress and egress, shafts, dumps, rails, etc.

JULY 23, 1974.

DEAR COLLEAGUE: Last week we wrote of a problem that Montana, Wyoming, the Dakotas, Utah and Colorado have with the homesteaded land taken up by settlers after 1912, when the Federal government retained ownership of the coal underlying their land. The strip mine bill in Section 709(b) requires the consent of the surface owner of these homesteaded lands before it can be strip mined but, as Congress intended, would allow underground mining.

An amendment to allow coal companies only to put up a bond for surface damage and go ahead and strip mine is supported by some on the grounds that it would hold down the cost of electricity.

The facts are that a typical federal coal lease in Wyoming or Montana has 55,000 tons of coal per acre. Some utility companies complain that it costs $1,000 per acre to settle and extinguish all of the rights of the landowner. The cost per kilowatt generated by the coal underneath that one acre of land would be increased $.0000106. Of if measured the other way, if there were no payment to the surface owner the difference in an average home owner's bill using 600 kilowatts would be less than 2/3c per month.

For 2/3c per month, we urge you to support this surface owners' rights portion of the bill and resist weakening amendments that would, in effect, give coal companies the power of eminent domain, completely abridging the rights of the landowners.

Sincerely,

John Melcher, Teno Roncalio, Gunn McKay, Mark Andrews, Frank Denholm, Wayne Owens, Frank Evans, Patricia Schroeder.

Groups supporting our position are: AFL-CIO; National Farmers Organization; National Farmers Union; Environmental Policy Center and numerous environmental organizations; National Rural Electric Cooperative Association; United Auto Workers.

Cost to consumer when an electric company pays $1,000 per acre for the land over Federal coal:

55,000 tons/acre at $4.00/ton=$220,000 coal/acre—asking price for surface is $1,000 per acre at $1,000/acre=1.8 cents per ton.

Impact on the cost of a kilowatt of electricity:

The national average for coal-fired steam electric generation plants of the number of Btu's required to produce one kilowatt-hour of electricity in 1970 was 10,269 Btu's; for the Mountain region (Montana, North Dakota, Wyoming, South Dakota, etc.) this figure was 10,445 Btu's. Source: National Coal Association.

1,000,000 Btu÷10,269 kwhr=97 kilowatt-hours per million Btu's of heat.

Btu value of the Colstrip Mine coal is 8,750 Btu/pound or 8,750 Btu/lb.X2000 lb.= 17.5 million Btu per ton.

Thus, one ton of Colstrip coal can produce: 17.5 million BtuX97 kwhr/million Btu=1697 kilowatt-hours.

With an increase of 1.8 *cents* per ton (based upon surface value of $1,000) the cost per kilowatt-hour is:

.018000÷1697=$.0000106 per kwhr increase.

An average home uses about 600 kilowatt-hours of electricity per month, thus the increase in the cost of a ton of coal of 1.8 cents would amount to: $.0000106 per kwhr.X600 kwhr.=$.00636 or .636 cents per month or approximately ⅔ of 1¢ per month.

A CASE IN POINT

Mr. Chairman, the committee strip mine bill, H.R. 11500, as presented to the House protects property owners' rights where the coal under amended homestead laws are reserved for Federal ownership. Pacific Power & Light, a utility company that serves the Northwest including parts of Montana, Wyoming, Idaho, Oregon, Washington, and California contends that obtaining consent of the landowner to strip mine federally owned coal will force up the price of electricity.

They recommend condemnation procedures be legislated to settle landowners' interests that would expedite mining of coal they have under Federal lease. They have urged me to consider this alternative to protecting surface owners' rights in the manner that the bill now does it.

Condemnation by a coal company or an electric utility company to move aside a landowner and strip mine is a harsh remedy. Their motives should be examined as a case in point:

What does the land cost per acre?

How much coal per acre lies under the land?

How much return would the Government receive for the coal?

Pacific Power & Light has 15 Federal leases in Wyoming, and 5 in Montana which they share with Decker Coal Co. and Peter Kiewitt Co. I shall include with this statement a list of these leases, the acreage of each, and the date and method acquired as provided to me by the Bureau of Land Management.

Federal coal leases may be obtained through a preference right system or through competitive bonus bidding. In either case Pacific Power & Light is required to pay 50 cents per acre per year to retain each lease. On about half of their leases, obtained through competitive bidding, they paid a bonus of $1.01 to $2.28 per acre which, unlike the 50 cents per acre rental, is only paid once. One lease in Montana is held in the name of Peter Kiewitt Co. had a bonus payment of $18.25 per acre.

The Federal lease by itself does not assure Pacific Power & Light that they can mine the coal. First the Interior Department must approve a mining plan and then issue a mining permit.

Pacific Power & Light purchased 5,880 acres of land in Wyoming on some Federal coal leases that they hold. They are in the process, they say, of attempting to buy more land from the owners. While they have not contacted all the owners involved in their 27,146 acres of Federal coal leases in Wyoming, Pacific Power & Light officials say that some of the owners that have been contacted have requested settlements for sale of their land which include compensation for inconveniences, costs of moving, and for what they describe as fringe benefits which range from $750 to $1,000 per acre. That is what Pacific Power & Light would pay

for ownership of the land and to completely eliminate any claims of the landowner.

How much coal is there per acre? Three of their leases picked at random in Wyoming and Montana, as reported by the U.S. Geological Survey have coal veins 21 to 43 feet thick lying underground from 26 to 150 feet. Current contract prices for such coal is around $4 per ton. That averages each acre of land covers 55,000 tons of coal.

Pacific Power & Light, and other companies with Federal coal leases, pays 50 cents per year per acre, and have some leases that they paid a bonus of $1 per acre or more, and will pay a royalty of 17½ cents per ton, or 6 percent of the value of the coal to the United States when and if it is mined. The value of the coal in the case in point is $220,000 per acre. So settling up with the landowner is going to drive up the cost of electricity? In the case in point, Pacific Power & Light is calling the price they are paying for the land and all incidental costs to remove all claims of the surface owner as excessive and inflationary. They have not contacted all of the landowners but object to the fact that the ones that they have contacted are asking as much as .4 of 1 percent of the value of the coal, or 1½ cents per ton, for coal that lies under the land. Windfall profit has been mentioned. The coal is federally owned, the lease costs are nominal, the royalty paid to the United States is 17½ cents per ton, or 6 percent, the coal seams are so thick production will run in a range around 55,000 tons per acre.

Windfall for whom?

The Western homestead land, if it is to be strip mined, needs to be protected by a firm Federal policy. A basic policy we have approved in the committee bill requires consent of the landowner to have his land strip mined for the Federal coal. That is step No. 1.

Then the Interior Department must overhaul their leasing policy, making it relevant to current values of coal, obtain environmental impact statements as required by law, prevent coal leases from being obtained and held by speculators contrary to the public's interest and provide for realistic return to the Federal Government, 17½ cents per ton is too low for coal worth $4 and more per ton. The Interior Department is now proposing 6 percent of the value as an alternative royalty and that is still too low.

Interior Secretary Rogers Morton is preparing a new policy for U.S.-owned coal known as the Energy Minerals Allocations Recommendations System which he launched several months ago. An environmental impact statement is being circulated. Public hearings will be held in Salt Lake City, Billings, Casper, and Denver in August and comments will be received until August 30. A moratorium on new Federal coal leases and approval on mining plans and mining permits began in early 1971, except for a few ongoing operations where it was necessary to approve new mining permits to avoid shutting down a mine.

The public interest in what is to happen to our public lands and where they are to be strip mined for coal, must be protected in the new policy that is being developed. I have called oversight hearings for August 12 and 13 to be held by the Public Lands Subcommittee of the Interior Committee to receive testimony from the Interior Department and the public as to the affect of the development of the Energy Minerals Allocation Recommendations System.

I believe it is timely and pertiment to chart the development of Federal coal—establish the guidelines. This bill H.R. 11500 can set those guidelines for reclamation and protection of our land and water by strong and clear language. It must also protect private property rights of individuals, and I believe it unjust if we did not assure landowners the right to protect that surface—and the right to deny consent for it to be stripped instead of mined by underground methods. It is not going to break the coal companies, the utility companies or anyone else to allow them a penny or two per ton of coal for being uprooted to start a new enterprise and a new life.

I include the following:

State and serial No.	Acreage	Type lease: Competitive	Type lease: Preference	Date issued
LEASES—PACIFIC POWER AND LIGHT CO.				
Montana:				
1. M057934	720.0	X($1.015)		Oct. 1, 1963
2. M069782	2,346.7	X(1.01)		July 1, 1965
Total	3,066.7			
DECKER COAL CO. LEASES				
Montana:				
1. M057934-A	1,840.5	X(1.015)		Oct. 1, 1963
2. M061685	2,360.2	X(1.00)		Mar. 1, 1964
3. M073093	9,409.5	X(18.25)		Aug. 1, 1966
Total	13,610.2			
Wyoming:				
1. W2727	2,880.0		X	Oct. 1, 1969
2. W2728	1,280.0		X	Do.
3. 0321780	2,908.0	X(1.17)		Dec. 1, 1966
4. 0322255	1,869.0	X(2.00)		Do.
5. 0312917	480.0		X	Apr. 1, 1967
6. 0312918	3,779.0	X(2.28)		June 1, 1965
7. 0313558	4,276.0		X	Jan. 1, 1968
8. 0313559	640.0	X(2.28)		June 1, 1965
9. 0244167	1,803.0	X(1.31)		June 1, 1963
10. 092140	671.0		X	July 1, 1962
11. 092141	2,480.0		X	Do.
12. C054769	120.0	[1] X		May 31, 1963
13. 038597	1,400.0		X	Aug. 1, 1958
14. 038602	2,000.0		X	June 1, 1956
15. 041355	560.0	X(1.26)		July 2, 1956
Total acres	27,146.0	11,679	15,467	

[1] No bonus.

LEASES BY PACIFIC POWER AND LIGHT CO. AND DECKER COAL

MONTANA

1. Private leases, 2, 200 acres.
2. State leases, 8, 2,760 acres.
3. Federal leases, 3, 16,676 acres.

WYOMING

1. Private leases, 1, 13,960 acres.
2. State leases, 17, 16,800 acres.
3. Federal leases, 15, 27,146 acres.

Total acres leases in Montana and Wyoming, 78,210 acres.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HOSMER) as a substitute for the amendment offered by the gentleman from California (Mr. JOHNSON) to the committee amendment in the nature of a substitute.

The substitute amendment to the amendment to the committee amendment in the nature of a substitute was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. JOHNSON) to the committee amendment in the nature of a substitute.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. JOHNSON of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment to the committee amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. YOUNG OF ALASKA TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Alaska to the Committee Amendment in the Nature of a Substitute: Page 290, after line 17 insert the following:

ALASKAN SURFACE COAL MINE STUDY

SEC. 713. (a). The Secretary is directed to contract with the National Academy of Sciences-National Academy of Engineering for an in-depth study of surface coal mining conditions in the State of Alaska in order to determine the best set of surface mining regulations under which such mines should operate. The study shall—

(1) identify variations and differences between surface mining conditions in Alaska and surface mining conditions in the Lower 48 with respect to the environmental protection standards in this Act;

(2) identify suitable surface mining standards to assure that post-mining land use is compatible with the habitat, and surrounding terrain;

(3) identify impacts on the environment which could be engendered by current surface mining technology and identify how or if these impacts can be mitigated through the use of alternative mining technologies.

(b) The Secretary is to make a report to the President and Congress on the findings of the study no later than 24 months after the date of enactment of this Act;

(c) The Secretary shall include in his report a draft of Federal regulations to be promulgated to govern surface coal mining operations on Federal lands in the State of Alaska, and a draft of those regulations to use as a standard for determining the adequacy of an Alaskan State program for the regulation of surface coal mining operations;

(d) The draft regulations contained in the report are to be promulgated for comment by the public and other interested parties pursuant to this Act within 12 months of submission of the report to Congress. After considering such comments submitted and revising such regulations as appropriate, the Secretary shall promulgate such standards governing surface coal mining operations in the State of Alaska.

(e) Until the Secretary has made his report to the President and Congress and has promulgated Federal regulations on coal mining operations on Federal lands in Alaska, this Act shall not apply to the State of Alaska.

(f) There is hereby authorized to be appropriated for the purpose of this section $500,000.

Mr. YOUNG of Alaska (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. YOUNG of Alaska. Mr. Chairman, I offer this amendment for actually a study, a 3-year delay of any section of this act for the State of Alaska. We are dealing primarily with a State that is 97 percent owned by the Federal Government, yet has a vast quantity of coal.

I have a letter from the Bureau of Mines in which it is stated under this bill, to their knowledge, it would be nigh on to impossible to do any strip mining in Alaska, due to the climatic conditions and the terrain.

All I am asking in this amendment is for a study of 3 years' time and the report of the Bureau of Mines be submitted to the Congress at that time to tell us what this bill will do to the State of Alaska as far as the mining of coal.

We are talking about the last amendment offered. That amendment would not affect the State of Alaska, but it is all federally-owned. I think the way the present bill is written, it would be nigh on to impossible to take any of that coal. I think it is very important that this amendment be adopted to the bill.

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentlewoman from Hawaii.

Mrs. MINK. Does the amendment of the gentleman in any way affect the other aspects of the bill with respect to the implementation of the regulations and the interim program and all the other matters related thereto?

Mr. YOUNG of Alaska. It does not affect them. What it would do is give them a 24-month study program, plus a 12-month period of submission of the report to Congress.

The CHAIRMAN. The time of the gentleman has expired.

The question is on the amendment offered by the gentleman from Alaska (Mr. YOUNG) to the committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. PEPPER TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. PEPPER. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. PEPPER to the committee amendment in the nature of a substitute: Page 286, after line 23, insert the following:

RESEARCH AND DEMONSTRATION PROJECTS ON ALTERNATIVE COAL MINING TECHNOLOGIES

SEC. 708. (a) The Secretary is authorized to conduct, and promote the coordination and acceleration of, research, studies, surveys, experiments, demonstration projects, and training relating to—

(1) the development and application of coal mining technologies which provide alternatives to surface disturbance and which maximize the recovery of available coal resources, including the improvement of present underground mining methods, methods for the return of underground mining wastes to the mine void, methods for the underground mining of thick coal seams and very deep coal seams, and such other means of mining as may be recommended in the studies authorized under section 704; and

(2) safety and health in the application of such technologies, methods, and means.

(b) In conducting the activities authorized by this section, the Secretary may enter into contracts with and make grants to qualified institutions, agencies, organizations, and persons.

(c) There are authorized to be appropriated to the Secretary, to carry out the purposes of this section, $50,000,000 for each fiscal year beginning with the fiscal year 1976, and for each year thereafter for the next four years.

And renumber the succeeding sections accordingly.

The CHAIRMAN. The gentleman from Florida (Mr. PEPPER) is recognized for 1½ minutes.

Mr. PEPPER. Mr. Chairman, all this amendment does is to authorize the program of research in respect to improving the techniques of mining which are recommended by the Bureau of Mines of the Department of the Interior.

We do not have at the present time—due to the fact that other energy bills have not become law—we do not have authorization for that type of expenditure. I think we ought to provide the basis for future appropriations when it seems desirable by the Appropriations Committee and is approved by the Congress to increase the production of coal in the Nation—so essential to our well-being and security.

I ask consideration of the matter by the distinguished gentleman from Arizona (Mr. UDALL) handling this bill.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, do I understand that the Bureau of Mines now does not have sufficient research funding authorization, or no funding authorization over the particular area the gentleman outlined?

Mr. PEPPER. That is correct. In fact, when we had the Interior appropriation bill here in respect to improving coal mining technology a little bit ago, they had to get a waiver of points of order for the Appropriations Committee to present an appropriation of $46 million in fiscal year 1975, because there had not been an authorization.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, this adds specific research authority to and strengthens the general research authority in the bill. We have got to get going to find new means and methods to deal with coal mining problems and this authority is an essential step.

Mr. PEPPER. That is right.

Mr. UDALL. Mr. Chairman, I think this is a good amendment and I am going to support it.

Mr. PEPPER. Mr. Chairman, this Congress has an opportunity to shape a national policy for the development of coal to meet our present and future energy needs which can be both economically and environmentally acceptable. The issue of regulation of surface coal mining has been debated for too long now and the damage of the past mining operations is testimony to the need for this legislation.

Strip mine coal production has been on the increase since the end of World War II and it now contributes almost one-half of the Nation's coal output. In 1943, the total coal production of 590 million tons was identical to the coal industry's output last year. However, deep mined coal contributed 200 million more tons in 1943 than in 1973. This shift in mining methods over the 30-year period has resulted in the closing of many hundreds of deep mines and the loss of almost 275,000 skilled underground coal miners.

This situation cannot persist if this Nation is to regain, once again, a self-reliance upon its own resources for energy generation. In the very near future we are going to have a critical need for those 275,000 deep miners as well as the technical expertise necessary to manage an efficient, highly productive deep mining industry. Despite all the excitement over the availability of easy-to-reach strippable coal reserves in the West, it is the deep minable reserves of coal which will pull this Nation through the tightening world energy shortage. But, this will not come about with a casual approach to revitalizing the underground coal mining industry. It will require great sums of money for the research and development of more efficient, safer methods of mining the coal and getting it to the consumer. Underground coal mining must be given incentives in the East and in the West. In the words of Russell E. Train, Administrator of the Federal EPA.:

The sooner we can make underground mining more economically attractive, more technologically feasible and more socially acceptable as a way of life, way of employment, the better off we're going to be. The underground reserves are by all odds the predominant sources that we have. We're going to have to get at this in any event.

The strip mining industry has enjoyed a competitive advantage over the deep mining industry since the passage of the Federal Coal Mine Health and Safety Act of 1969. That act has brought about great changes in the deep mines of America and the problems that plagued that industry in the past are fast coming under control. This has come about with new hardships placed upon the operators of the deep mines. The safety regulations are expensive and have resulted in a decrease in productivity but the benefits to the miners cannot be calculated and the costs of energy must include the costs of worker safety and evironmental protection as a part of the real cost.

The additional operating expense has caused the price of deep mine coal to rise above the cost of strip mined coal. Combine this with the fact that until recently the strip-mine operator has been able to externalize some of the operating expenses by doing partial reclamation or no reclamation at all because of weak reclamation laws in the various States, and it is easy to see why there has been a steady increase in strip mining.

Now the United States has turned its attention to coal as a primary fuel to meet our energy needs. Coal was the fuel for the railroads, mills, homes, steel foundries, and electric powerplants until diesel fueled locomotives and the cheap natural gas and imported oil undercut much of the coal market. But, that situation is beginning to reverse itself with the insecurities of importing oil, the growing shortages of natural gas, and the commitment toward energy independence and greater reliance upon our own resources for energy. Coal may once again become the king of fuels.

The President, the Federal Energy Agency, other Federal agencies, and the energy industry are working to map out strategies for greater reliance upon coal for the short- and long-term future energy demands of the country. This has brought about a variety of plans and an equal number of opposing views as to the means by which this Nation will mine its coal. For some of the coal industries there is a strong emphasis upon the thick, shallow, western seams of subbituminous coal found in the northern Great Plains States and in the Southwest. While others maintain that the coal should be mined from the traditional coal fields of Appalachia and the Midwest. We have all heard by now, the arguments from both sides on the controversial shift of the coal industry from the traditional coal fields of the East to the new, undeveloped strip mines of the West.

I want to see the Nation meet its energy demand with clean, environmentally safe and economically acceptable fuels. But, I am also concerned with the whole picture and it causes me concern to see the planners of our energy future running off in one direction which may lead us to another fuel crisis somewhere around the turn of the century.

Not too long ago we witnessed the birth of a natural gas industry in this country and before we knew it everyone was plugging into the natural gas transmission system. There was no great concern for the lifespan of the gas reserve back then. We looked upon it as an inexhaustable resource. Electric generation plants were fueled with the natural gas and no one questioned that it might be an inefficient use of that clean fuel. Now, we are being told that there may not be enough natural gas for sections of the county to add new customers and the Federal Power Commission requires the curtailment of gas during the winter months to certain types of customers.

We may have an analogous situation with our coal reserves. On the one hand we are told of the abundance of our coal deposits; enough to fuel the Nation for centuries. According to the figures I have seen, I would agree with those estimates. The U.S. Geological Survey has estimated that we have about 1.5 trillion tons of coal under our lands and these are only the identified deposits. The total coal resources may be as high as 3 trillion tons. Any way you look at it, we do have many centuries of coal supplies. But that should not cause us to go about the mining of that coal in a haphazard manner without first evaluating all of the impacts associated with that policy. We have learned that the quickest and the easiest methods of energy development may not always be the best for the Nation.

I have a copy of the background paper of the coal extraction research and development program devised by the Interior's coal extraction task force in which they have made startling conclusions regarding the nature and extent of our coal reserves. I would like to submit for the RECORD, the section which deals with various coal mining strategies that might be followed by the coal industry as a means of supplying our increasing coal demands.

The report analyzed the coal reserve base according to strip mine and deep mine reserves. Of the total coal in the ground, the report estimated that 193 billion tons are easily accessible to mining with the West holding about 36 percent of the reserves and the Appalachian and Midwestern fields holding the remaining 64 percent. Moreover, only 22 percent of this coal can be strip mined and 78 percent can only be recovered by deep mining.

It discussed the projections of the Nation's future energy demand. Using an annual energy demand increase of 4.2 percent, the 1985 coal demand was estimated to be roughly equivalent to 2 billion tons. That is more than triple the 1973 coal production for the entire Nation. It would require increasing coal production by about 12 percent per year and doubling of coal production by 1980.

Two alternative coal mining production strategies were evaluated. Strategy 1 was a maximum reliance upon surface mining to achieve the stated coal demand.This assumes that production from the western surface reserves will expand from 50 million tons in 1972 to 1.4 billion tons by 1985. Surface mining in the East will increase modestly from 250 to 380 million tons and underground mining in the West will not be initiated and eastern deep mining will not expand from its present 300 million tons.

Strategy 2 balances the increased production between regions and mining methods. Surface mining would increase initially but after 1980 would be reduced by relying more heavily on deep mining in both the East and West. Eastern deep mining is assumed to double to 600 million tons by 1985 and after 1985, large increments of western deep mine coal development are made. By 2000, some 200 million tons are assumed to be available from this location. Conversely, production from surface mines in the East is being steadily reduced after 1985.

I should mention that since strategy 1 relies upon the lower heat value of western coal, it will require mining about 3 billion tons more than strategy 2. At the 1973 average of $7.07 per ton, that means an additional cost of more than $21 billion between now and the year 2000.

The conclusions of the task force were that strategy 1 would exhaust the current surface mine reserves in the West by 1986 and about 67 percent of the eastern strippable reserves.

Strategy 1 was determined to cause rapid regional changes and exhaust a very high portion of surface coal reserves in both the East and the West by the year 2000, threatening rapid decline in surface mine development after the turn of the century. Thus, it would cause an initial rapid transition which may be followed by a rapid downturn. That, of course, is the "boom and bust cycle" which has plagued certain industries and regions of the country. According to strategy 1, the coal in the western strip mine fields would be mined out before the mortgage was paid on the strip mine worker's home.

For the above reasons, strategy 1 could not be depended upon to maintain the needed production output from 1986 to 2000 and was found unacceptable as a coal mining policy. Whereupon, the task force began to design a research and development program which emphasized the mining of deep mine coal reserves.

In keeping with the conclusions of the coal extraction task force and the findings and purpose section of this legislation, I have introduced an amendment to authorize the appropriation of $50 million, annually, for the research and development of alternative means of mining coal which can provide the Nation with the necessary coal to meet our fast-growing demand.

The deep mine industry is going to be called upon to carry a greater share of the coal production and this will require larger, more efficient mines, using the latest technologies developed in the more advanced European deep mines. The productivity of the mines must improve as well as the safety procedures, equip-

ment, and training programs for the miners. This will require a firm dedication on the part of the coal industry and the Federal Government. This will require the expenditure of many millions of dollars but the benefits to the Nation will be felt as new technologies come on line which will reduce the operating expenses through more efficient mining thus lowering the cost of deep mine coal.

A research and development program for deep mining should include funds for the design of new mining systems which will increase the productivity from the present 12 tons per man-shift to 30 tons per man-shift.

Longwall and shortwall mining systems, being implemented in European mines are beginning to win acceptance in U.S. underground mines. Additional study to determine greater applicability of this innovation in U.S. coal fields will aid in determining for coal mine operators where the longwall system can be used.

Remote control operation of mining equipment, such as the continuous miner and roof bolter, will substitute human control for remote control in dangerous mining operations.

Continuous haulage systems designed to carry the coal mined from the face of the coal seam to the preparation plant outside the mine will do much to speed up the underground mining operation by allowing continuous mining of the coal with no downtime for coal transfer. Since coal handling in the mine is one of the principal bottlenecks in today's underground production, success in this area will have extremely high benefits.

Mining systems for deep mining of western coal seams must be designed for the efficient mining of the thick coal and lignite beds of the West which must be added to the Nation's recoverable reserve category.

Another innovation which must be funded is the recovery of methane gas from unmined coal seams prior to the mining operation. Methane gas is another of the major impediments to increases in present productivity. In some areas 40 percent of the downtime of the face equipment is due to shutdown of the equipment when methane gas builds up to the danger level. Under the earlier research it was discovered that the methane gas could be pumped from the coal seam before mining begins. The gas could be piped to eastern markets and the revenue used to pay the cost of opening the future deep mine. If successful this could double the Nation's gas reserves and eliminate a key impediment to productivity and a major safety hazard in underground mining.

Dr. Thomas V. Falkie, Director of the Bureau of Mines, recently announced the expenditure of over $46 million for fiscal year 1975 for making existing technology in deep mining more productive and for devising the type of technology that will be needed for producing coal from deep coal deposits.

My amendment will provide $50 million, annually, for the next 5 years, after fiscal year 1975, to provide the answers to the problems facing the deep mining industry in this Nation. As we go forth to pioneer new advances in the deep mining industry we can be assured of a long lasting, secure energy source in the deep mine reserves of coal in this Nation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. PEPPER) to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. HOSMER) there were—ayes 26; noes 6.

Mr. HOSMER. Mr. Chairman, inasmuch as this is a $50 million a year appropriation, I demand a recorded vote.

A recorded vote was refused.

So the amendment to the committee amendment in the nature of a substitute was agreed to.

AMENDMENTS OFFERED BY MR. EVANS OF COLORADO TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. EVANS of Colorado. Mr. Chairman, I offer three amendments to the committee amendment in the nature of a substitute, and I ask unanimous consent that these amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. EVANS of Colorado to the committee amendment in the nature of a substitute: Page 287, line 9, strike out "protection of the surface owner" and insert in lieu thereof "protection of the surface owner and owners of water rights".

Page 288, beginning on line 23, strike out "affect the hydrologic balance of water on or off site," and insert in lieu thereof "adversely affect the hydrologic balance of water on or off site, or diminish the supply or quality of such water,".

Page 289, strike out lines 3 through 15 and insert in lieu thereof the following:

(2) evidence of the capability and willingness to provide substitute water supply, at least equal in quality, quantity, and duration to the affected water rights of such owners.

(e)(1) An owner of water rights adversely affected may file a complaint detailing the loss in quality and quantity of his water with the regulatory authority.

(2) Upon receipt of such complaint the regulatory authority shall—

(A) investigate such complaint using all available information including the monitoring data gathered pursuant to section 219(b)(2);

(B) within 30 days issue a specific written finding as to the cause of the water loss in quantity or quality, if any;

(C) order the mining operator to replace the water, in like quality, quantity, and duration, within 30 days if the loss of such water was found to be due to the surface coal mining operations; and

(D) order the suspension of the operator's permit for failure to replace such water until such time as the operator has provided the substitute water supply.

(f) Nothing in this act shall be construed as affecting in any way the right of any person to enforce or protect, under applicable State law, his interest in water resources affected by a surface coal mining operation.

Mr. EVANS of Colorado (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

(By unanimous consent, Mr. JOHNSON of Colorado yielded his time to Mr. EVANS of Colorado.)

Mr. EVANS of Colorado. Mr. Chairman, the first amendment amends the title on page 287 to say "protection of the surface owner and protection of water rights."

On page 288 I just have one word. In the third line from the bottom I insert the word "adversely," so we are saying "adversely affect the hydrologic balance."

On page 289 after all of subsections (2) and (3), I insert the real meat of this amendment.

What I am talking about here is very much in line with what we just talked about and disposed of as it related to the manner in which we deal with the owners of surface land.

This body has said that it does not want to have the rights of the owners of surface land condemned by the use of a bond in the hands of the coal operators. I am saying the same thing here as it relates to the owners of water rights.

In my part of the country and in the arid West, land is not worth a dime unless you can have water which you can use or apply to it for a beneficial use. This has been the means by which the West was settled. Without it, we would not exist.

These are important property rights. If someone comes along to surface mine coal and one alleges he owns water rights and that the proposed mining is going to adversely affect these water rights, under my amendment he can go to the authority and so complain.

The authority then has the obligation of determining whether or not the surface mining of coal will adversely affect the water rights.

If it does, then it says in my amendment that, first of all, there should be a 30-day period of time within which to issue a specific written finding. If it does find that the water rights would be adversely affected, the authority has the right under subsection (D) to order a suspension of the operator's permit for failure to replace such water until such time as the operator has provided a substitute water supply.

In my last section, I simply say—

Nothing in this Act shall be construed as affecting in any way the right of any person to enforce or protect, under applicable state law, his interest in water resources affected by a surface coal mining operation.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Colorado. I will be happy to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I would strongly oppose the gentleman's amendments for the same reason that I opposed the committee provision that Mr. JOHNSON of California wants to strike. They are not parallel.

The Melcher amendment, now in the bill, says that one has to get the surface owner's consent before he mines. What the amendment of the gentleman from Colorado does is to say that one has to get the consent of the owners of the water rights, people who have water rights, before anyone can mine.

I would hope that we would have a bonding provision covering both, first, owners' property rights and then owners' water rights, if we are going to deal in a uniform way with both.

For that reason, Mr. Chairman, I cannot support the gentleman's amendments.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Colorado. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, I understand the gentleman's concern.

It would appear to me, however, that the value of the minerals in the western lands where the Federal Government owns those minerals is going to be paid for three times. It is going to be received once by the Federal Government when the minerals are sold. The minerals are going to be paid for a second time to the landowner, and now it looks as though the water rights owners will get a third grab at the value.

People who pay electricity bills are going to pay threefold for the value of the western minerals, once to the Government, once to the landowner, and then to the owner of the water rights.

Mr. EVANS of Colorado. If any companies are allowed to take, by virtue of a simple bonding procedure, land including the water rights, the entire manner of living and way of life of the West is going to be tragically changed, not only tragically changed, but I think permanently changed.

I cannot recommend to my colleagues in the House more strongly the need for the adoption of my amendment.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Colorado. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. Let me say this: I am as big a cowboy as anybody here, and probably as much involved in my constituency in landownership. However, in my view, we are doing a tremendous disservice to the average landowner and average water owner.

Under existing law, there is a great deal of protection for both the water owner and the landowner, and just to put a loaded gun in the hands of the water owners and landowners, to me certainly would be unworthy of this House, in spite of all the great rhetoric.

Mr. EVANS of Colorado. Mr. Chairman, I understand the position of the gentleman. However, I will say that with the authority established here in this bill as National Federal policy, they may say to those who seek to strip mine coal, "We will give you, through the bonding provisions, the right to condemn a man's water rights if you pay him for it." That may answer, by force of a hand, that man's damages, but in the process it affects many other people and jeopardizes their way of life in an area where water is extremely short; it affects the rights of many others in the States besides the owners of water rights.

Mr. Chairman, I hope that the Committee will accept my amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Colorado (Mr. EVANS) to the committee amendment in the nature of a substitute.

The amendments to the committee amendment in the nature of a substitute were agreed to.

AMENDMENT OFFERED BY MR. STEIGER OF ARIZONA TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. STEIGER of Arizona. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. STEIGER of Arizona to the committee amendment in the nature of a substitute: page 287—line 9—strike SEC. 709 And insert the following:

SEC. 709. PROTECTION OF THE SURFACE OWNER.—(a) Except as provided in subsection (b) of this section, in those instances in which the surface owner is not the owner of the mineral estate proposed to be mined by surface mining operations the application for a permit shall include the following:

(1) the written consent of, or a waiver by, the owner or owners of the surface lands involved to enter and commence surface mining operations on such land, or, in lieu thereof,

(2) the execution of a bond or undertaking to the United States or the State, whichever is applicable, for the use and benefit of the surface owner or owners of the land, to secure the immediate payment equal to any damages to the surface estate, which the operation will cause to the crops, or to the tangible improvement of the surface owner as may be determined by the parties involved or as determined and fixed in an action brought against the permittee or upon the bond in a local court of competent jurisdiction. This bond is in addition to the performance bond required for reclamation by this Act.

(b) All coal deposits, title to which is in the United States, in lands with respect to which the United States is not the surface owner thereof are hereby withdrawn from all forms of surface mining operations and open pit mining, except surface operations incident to an underground coal mine.

Mr. STEIGER of Arizona (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

(By unanimous consent, the following Members yielded time to Mr. STEIGER of Arizona, as follows: Mr. SKUBITZ, 40 seconds; Mr. HECHLER of West Virginia, 30 seconds; and Mr. MILLER, 1½ minutes.)

The CHAIRMAN. The Chair recognizes the gentleman from Arizona (Mr. STEIGER).

Mr. STEIGER of Arizona. Mr. Chairman, it is ironic that we find ourselves in this position. I will tell the Members, for those Members who are not aware of the situation, that this amendment is the infamous Mansfield amendment. This amendment is offered exactly as written. I am sorry the staff did not catch that.

I offer this amendment because I am convinced that the language that is now written in the bill is completely unacceptable. The Mansfield amendment, for those Members who may not understand it—and I hope I have the attention of at least some of the Members—prohibits mining on any Federal land, any public land. It is an amendment which passed the Senate in overwhelming fashion.

It is my firm contention that this bill is in such a terrible condition now that the only way to insure a veto is to agree to the Mansfield amendment at this point. That is my purpose for introducing this amendment.

I will tell my friends who believe in no mining that this is an excellent chance for them to strike a blow for the position which they support. It also seems to me that it is going to be very tough on those "deep-breathers" among the Members who support the no-mining or limited-mining concept.

If indeed the Federal lands belong to these deep-breathers, this is the chance for Members who support their position to strike a blow for the protection of those lands, and if we accept this amendment and it is agreed to in exactly the the same form it is in the Senate, the conference will not be able to take it out, and we will have permanently locked up the Federal lands, to the joy of every deep-breather in the country and, I expect, to the despair of every consumer in the country. We now have our chance to fish or cut bait.

Mr. Chairman, there are some Members who have told me the President would not veto this bill with this in it. I will tell the Members I am the last one to stand here and predict what the White House will or will not do. I will tell the Members the President has not consulted me on this matter, nor on any other matter, I wish the record to show.

However, Mr. Chairman, it is a very serious amendment, and I do hope that those Members who want to protect the land will vote "aye" on this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Montana (Mr. MELCHER).

Mr. MELCHER. Mr. Chairman, I shall only take a few seconds to say that I do not believe the amendment is offered in all seriousness, and it strikes me as odd that it would be offered by the gentleman from Arizona (Mr. STEIGER).

I must, however, also point out that it does contain the provision as to eminent domain that we just voted down in our previous vote.

I urge defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. STEIGER) to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. STEIGER of Arizona) there were—ayes 8, noes 29.

So the amendment to the committee

amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HECHLER of West Virginia to the committee amendment in the nature of a substitute: On page 287, line 8, strike out the period, insert a comma and add: "including recommendations for increasing the production from underground coal mines"

Mr. HECHLER of West Virginia. Mr. Chairman, this merely adds to the annual report section a stipulation that the Secretary should submit recommendations for increasing the production from underground coal mines. In view of the fact that the overwhelming reserves of our coal are coal reserves of underground coal, it would seem to me that this would be the kind of an innocuous amendment that the committee would be enthusiastic about.

Mr. UDALL. Mr. Chairman, if the gentleman will yield, we are enthusiastic about it, and we accept it. We think we ought to encourage underground mining at the same time we are responsibly surface mining.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER) to the committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. HAYS TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HAYS. Mr. Chairman, I have a published amendment which I offer to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HAYS to the committee amendment in the nature of a substitute: Page 290, after line 17 insert the following two new sections.

PREFERENCE FOR PERSONS ADVERSELY AFFECTED BY THE ACT

SEC. 713. (a) In the award of contracts for the reclamation of abandoned and unreclaimed mined areas pursuant to title IV and for research and demonstration projects pursuant to section 707 of this Act the Secretary shall develop regulations which will accord a preference to surface mining operators who can demonstrate that their surface mining operations, despite good-faith efforts to comply with the requirements of this Act, have been adversely affected by the regulation of surface mining and reclamation operations pursuant to this Act.

(b) Contracts awarded pursuant to this section shall require the contractor to afford an employment preference to individuals whose employment has been adversely affected by this Act.

ASSISTANCE TO PERSONS UNEMPLOYED AS A RESULT OF THIS ACT

SEC. 714. (a) The President is authorized and directed to make grants to States to provide to any individual unemployed, if such unemployment resulted from the administration and enforcement of this Act and was in no way due to the fault of such individual, such assistance as the President deems appropriate while such individual is unemployed. Such assistance as a State shall provide under such a grant shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as unemployment in the area caused by such administration and enforcement continues (but not less than six months) or until the individual is reemployed in a suitable position, but not longer than two years after the individual becomes eligible for such assistance. Such assistance shall not exceed the maximum weekly amount under the unemployment compensation program of the State in which the employment loss occurred and shall be reduced by an amount of private income protection insurance compensation available to such individual for such period of unemployment.

(b) The President is authorized and directed to make grants to States to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of individuals and families who, as a result of financial hardship caused by any such unemployment, have received written notice of dispossession or eviction from a residence by reason of foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, entered into prior to the employment loss. Such assistance shall be provided for a period of not to exceed one year or for the duration of the period of financial hardship, whichever is the lesser.

(c)(1) Whenever the President determines that, as a result of any such employment loss, low-income households are unable to purchase adequate amounts of nutritious food the President is authorized, under such terms and conditions as it may prescribe, to distribute through the Secretary of Agriculture coupon allotments to such households pursuant to the provisions of the Food Stamp Act of 1964, as amended, and to make surplus commodities available.

(2) The President, through the Secretary of Agriculture, is authorized to continue to make such coupon allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including the consequences of the employment loss on the earning power of the households to which assistance is made available under this section.

(3) Nothing in this subsection shall be constructed as amending or otherwise changing the provisions of the Food Stamp Act of 1964, as amended, except as they relate to the availability of food stamps in such an employment loss.

(d) The Secretary of Labor is authorized and directed to provide reemployment assistance services under other laws of the United States to any such individual so unemployed. As one element of such reemployment assistance services, such Secretary shall provide to any such unemployed individual who is unable to find reemployment in a suitable position within a reasonable distance from home, assistance to relocate in another area where such employment is available. Such assistance may include reasonable costs of seeking such employment and the cost of moving his family and household to the location of his new employment.

(e)(1) The President, acting through the Small Business Administration, is authorized and directed to make loans (which for purposes of this subsection shall include participations in loans) to aid in financing any project in the United States for the conduct of activities or the acquisition, construction, or alteration of facilities (including machinery and equipment) required by the administration or enforcement of this Act, for applicants both private and public (including Indian tribes), which have been approved for such assistance by an agency or instrumentality of the State or political subdivision thereof in which the project to be financed is located, and which agency or instrumentality (including units of general purpose local government) is directly concerned with problems of economic development in such State or subdivision, and which have been certified by such agency or instrumentality as requiring the loan successfully to remain in operation or at previous levels of employment.

(2) Financial assistance under this section shall be on such terms and conditions as the President determines, except that—

(A) no loan shall be made unless it is determined that there is reasonable assurance of repayment;

(B) no loan, including renewals or extension thereof, may be made hereunder for a period exceeding thirty years;

(C) loans made shall bear interest at a rate determined by the Secretary of the Treasury but not more than 3 per centum per annum;

(D) loans shall not exceed the aggregate cost to the applicant of acquiring, constructing, or altering the facility or project;

(E) the total of all loans to any single applicant shall not exceed $1,000,000; and

(F) the facility or project has been certified by the regulatory authority as necessary to comply with the requirements of this Act.

(f) Where the loss, curtailment, removal, or closing of any industrial or commercial facility resulting from the administration and enforcement of this Act causes an unusual and abrupt rise in unemployment in any area, community, or neighborhood, the Small Business Administration in the case of a nonagricultural enterprise and the Farmers Home Administration in the case of an agricultural enterprise, are authorized to provide any industrial, commercial, agricultural, or other enterprise, which has the potential to be a major source of employment for a substantial period of time in such area, a loan in such amount as may be necessary to enable such enterprise to assist in restoring the economic viability of such area, community, or neighborhood. Loans authorized by this section shall be made without regard to limitations on the size of loans which may be otherwise be imposed by any other provision of law or regulation promulgated pursuant thereto.

(g) The President is authorized to make grants to any local government which, as a result of the administration and enforcement of this Act, has suffered a substantial loss of total revenue (including both real and personal property tax revenue). Grants made under this section may be made for the tax year in which the loss occurred and for each of the two tax years. The grant for any tax year shall not exceed the difference between the annual average of all revenues received by the local government during the three-tax-year period immediately preceding the tax year in which such loss occurred and the actual revenue received by the local government for the tax year in which the loss occurred and for each of the two tax years following such loss but only if there has been no reduction in the tax rates and the tax assessment valuation factors of the local government. If there has been a reduction in the tax rates or the tax assessment valuation factors then, for the purpose of determining the amount of a grant under this section for the year or years when such reduction is in effect, the President shall use the tax rates

and tax assessment valuation factors of the local government in effect at the time of such loss without reduction, in order to determine the revenues which would have been received by the local government but for such reduction.

(h) Any owner or operator of a surface coal mine, or employee (or former employee) of a surface coal mine, who would otherwise be eligible for assistance under this section, in lieu of such assistance may utilize the preference accorded in section 713 of this Act in receiving contracts or employment in the conduct of reclamation activities authorized by section 406 of this Act.

(i) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(j) The Secretary shall report to the Congress on the implementation of this section not later than thirty months after the enactment of this Act, and annually thereafter. The report required by this subsection shall include an estimate of the funds which would be necessary to implement this section in each of the succeeding three years.

(k) The Secretary shall report to the Congress not later than July 1, 1976, on the impact of the administration and enforcement of this Act on employees and owners or operators of firms with gross capital values of less than $500,000, together with a recommendation on a program granting relief to such employees and owners or operators for losses in capital value sustained as a consequence of the administration and enforcement of this Act.

Mr. HAYS (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with, and that it be printed in the RECORD, and I will attempt to explain the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. HAYS. Mr. Chairman, we have heard the reading of the first section which in effect says that the Secretary shall develop regulations which will—and I am paraphrasing—give first chance to a surface operator, who may be adversely affected and who can demonstrate that he has been, to contracts on reclamation projects.

The second section in effect does the same thing for persons who might be unemployed as a result of this act. I do not think there will be any or many of either, but in any case I do not think this protection that would be put in by these two sections would be out of the ordinary.

The second section goes also to providing assistance beyond the 6 months unemployment compensation if the person is not eligible for unemployment compensation, and at no higher rate than he would get if he were eligible. I think the two amendments serve as an added protection both to the operator and to the miner, and I would hope that they would be accepted unanimously.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

I voted against a similar amendment in the committee on the theory that the gentleman has expressed.

We want this bill to be able to increase surface coal mining, plus we believe it will. As the gentleman from Ohio said, he does not think there will be much need for this, but just in the event that some people or small business firms that are engaged in mining are going to lose work, and individuals are going to be unemployed, they should be given preference in the reclamation field and in other aspects of this bill. So I am going to support the amendment.

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentlewoman from Hawaii.

Mrs. MINK. I thank the gentleman for yielding.

I think one of the major problems in this whole coal mining scene is the movement of the industry out to the West and the severe jeopardy this places the declining coal industry in Appalachia. So it is not a case of our bill affecting the miners in the Appalachian area, but rather it is industry moving out to where they can dig out 66,000 tons of coal in one acre of land. For those people in Appalachia who are going to be affected because of this movement out West, I think the gentleman's amendment is an imperative. If they get thrown out of work as a consequence of this drift out to the West, then it seems to me their labor ought to be placed in reclamation work.

Mr. HAYS. I thank the gentlewoman.

I might say that the land that can be put back into production in the East or in Appalachia, or at least that part of it in Ohio, is very productive land. We are growing up to 150 bushels of corn per acre on the hills that they are stripping before the stripping that is, so it is not wasteland in eastern Ohio.

I ask that the amendment be adopted.

Mr. KETCHUM. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I really have no objection to this amendment at all, but this points up what a phony process we go through here. We spent almost a year and a half, and we have heard everyone here tell how thoroughly we debated this bill in committee. Nothing could be further from the truth. Let me point out, and let the record show, that I have in my hand here a transcript of the hearings of the committee, and on April 30 these same provisions were removed from the bill by a vote of 25 to 3. Interestingly enough, two of the individuals who have just accepted that amendment did not oppose taking them out. The only three individuals that voted against it were Messrs. SEIBERLING, MARTIN of North Carolina, and CRONIN.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. HAYS) to the committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. RUPPE TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. RUPPE. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. RUPPE to the committee amendment in the nature of a substitute: Page 282, line 14, after the period insert the following words: "The general elevation of the overall mined area may be lower than its original elevation, provided that all highwalls are eliminated, in cases in which the removal of coal results in insufficient material from any or all portions of the mined site being available to return the then mined site to its original elevation."

The CHAIRMAN. The Chair will ask the gentleman, Was this printed in the RECORD?

Mr. RUPPE. Something was printed in the RECORD similar to it, but I have changed the language somewhat.

The CHAIRMAN. It must be identical. If the amendment was not printed in the RECORD there can be a vote on the amendment but there will be no time for debate.

The question is on the amendment offered by the gentleman from Michigan (Mr. RUPPE) to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. RUPPE) there were—ayes 4, noes 18.

So the amendment to the committee amendment in the nature of a substitute was rejected.

The CHAIRMAN. If there are no further amendments to title VII, the Chair will now compile the list of those Members seeking to debate or to offer amendments to title VIII and will allocate the 10 minutes accordingly.

Eight Members have arisen, so there will be approximately 1¼ minutes for each.

AMENDMENT OFFERED BY MR. HOSMER TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HOSMER. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HOSMER to the committee amendment in the nature of a substitute: On page 290, line 18, strike title VIII.

Mr. HOSMER. Mr. Chairman, my amendment deletes all of title VIII. It eliminates the State Mining and Mineral Resources Research Institutes. This title would fragment and undermine the priorities of current research efforts. It would create an inflexible and expensive program, precluding the best use of available research talents of the Nation, regardless of location. Furthermore, the Congress has enacted legislation authorizing revenue sharing in the form of block grants which are not earmarked. It seems far more sensible to allow the states to use their own judgment as to whether a mineral institute is needed within the State.

Members should recall that a bill containing provisions similar to title VIII passed the 92d Congress (S. 635), but

that bill was vetoed because spreading the green around with abandon just won't advance mining and mineral resources affairs.

The Secretary has indicated that adequate authority already exists for support of needed mineral research programs. Therefore, this entire title is not needed.

Mr. Chairman. I urge the adoption of my amendment.

Mrs. MINK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is a very critical title which we have included in this bill. Incidentally, as separate legislation it has passed the House several times. The many public colleges which have separate schools of mines have testified before various committees of the Congress that one of the biggest difficulties they are experiencing is in the training of expert personnel in the field of mineral engineering.

I think one of the ways we can support the need for research and development and implementation of new techniques in mining is to support these State schools and other public institutions with the very meager assistance this bill provides.

I realize that the administration and the Members of the minority have opposed various sections of this title but I think it is vital if we are going to do the job that is required to make the advancements needed to develop mineral technology, not only for coal but also for other minerals. We are going to have to support these colleges and develop the kinds of institutions this section calls for and give them at least this minimal R. & D. support.

Mr. Chairman. I urge that the amendment be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HOSMER) to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. HOSMER) there were—ayes 6, noes 28.

So the amendment to the committee amendment in the nature of a substitute was rejected.

The CHAIRMAN. The Chair recognizes the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO of Wyoming. Mr. Chairman, with regard to the reservation just concluded on title VII, I would like to ask the gentleman from Arizona (Mr. UDALL) to clarify the meaning of "written consent," found in section 705 (23) on page 282 of the bill. I would like to inquire as to whether the intent of the committee was to void all written consents obtained by an operator prior to date of enactment, as found on line 17.

Mr. UDALL. Mr. Chairman, I thank the gentleman for drawing attention to this particular phrase "after the date of the enactment of this Act." The intent of the committee was not to void all written consents obtained prior to date of enactment. This inclusion of that phrase was a simple oversight of the committee, and one which I believe can be corrected in conference. I thought this approach was preferable to offering an amendment, which would exhaust some of the remaining time of debate on title VII. I hope this clarifies the gentleman's understanding of the term. "written consent."

Mr. RONCALIO of Wyoming. Mr. Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. MURTHA TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. MURTHA. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. MURTHA to the committee amendment in the nature of a substitute: On page 302, line 19, after the word "research," change the period to a comma and add the following: "two of whom shall be representatives of working coal miners."

Mr. MURTHA. Mr. Chairman, I would like to offer a very simple amendment, but one which I believe will make a very important input on the operation and implementation of strip mining regulations and reclamation.

Title VIII, section 810 of the bill creates an Advisory Committee on Mining and Mineral Research. The committee would be composed of nine persons, including the Director of the Bureau of Mines; the Director of the National Science Foundation; President of the National Academy of Sciences; President of the National Academy of Engineers; Director of the U.S. Geological Survey; and four persons knowledgeable in the field of mining and mineral resources.

My amendment, Mr. Chairman, would not add any new members to the nine-member committee, but would designate that one of the four persons knowledgeable in the mining field would have to be representative of working coal miners.

The committee's purpose involves making recommendations to the Secretary of the Interior on all matters relating to mining and mineral resources research. I can think of no group of men who could add more practical and important information to this committee than representatives of the working miners themselves.

These are hard-working men. These are talented men. These are concerned men. In Pennsylvania, coal miners have individually made many valuable suggestions and contributions that have strengthened our own mining regulation law. The suggestions have benefited coal producers and environmental groups. This same contribution can result at the Federal level.

I believe this is a sound amendment, Mr. Chairman. It strengthens the input of this committee and helps to insure that our strip mining regulation laws will be strong, and that they benefit from the practical experience of the men who work with the mines every day of their lives.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from California.

Mr. HOSMER. I want to say, a lot of people around here have never seen a piece of coal and have never dug a piece of coal, so I have brought to this Chamber a piece of coal. I would hope that every Member would take a look at it before he votes for this bill tonight.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. MURTHA) to the committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia (Mr. HECHLER).

Mr. HECHLER of West Virginia. Mr. Chairman, I move to strike out the last word. This is a little more than a "pro forma" amendment, because the last word of the bill is the word "expenses." I shall vote against this bill because it puts the expense burden on the backs of the people of the mountains.

The fatal defect of H.R. 11500 is that it gives primary authority to the States. The history of every single piece of progressive legislation to protect people in this country is that those who are regulated always cry: "Leave it to the States, they are closer to the people." What they really mean is that "The States aren't powerful enough to control big conglomerates, so let us weaken control by giving it to the States." This has been true in the fields of civil rights, education, health, workmen's compensation, wage and hour legislation, pure food and drug laws, coal mine safety, or any effort to help people.

You know the economic and political history of this Nation. You know the realities of economic and political pressure. You know that neither a State legislature nor any administrative authority can stand up against the wealth and power of a dominant economic group.

Let us not kid ourselves—you cannot expect West Virginia, where coal is king, to do very much to regulate strip mining. You cannot expect Kentucky, or Virginia, or Tennessee to do very much at the State level. In Pennsylvania, where enforcement is a little better, the coal industry does not run the State since coal constitutes a relatively minor part of the State's economy.

Time after time in this debate, I have heard the bill's sponsors aver that the States can regulate if they choose to do so. Just try that in West Virginia and see how far you can get.

What we are doing in this bill is making people of Appalachia a national sacrifice area for the power-hungry strippers. By giving opportunity for the citizens to protect and sue, you are really putting the burden on the backs of the people in the hollows who have to fight their own battles against the ruthless and arrogant conglomerates.

I have heard the gentleman from California (Mr. HOSMER) use the term "hara-kiri." If there ever was a clear case of hara-kiri, it is strip mining. As the draglines and D–9 dozers rip off the

land and the people, it is just like plunging a samurai sword into the Nation's vitals.

When the Farmintgon, W. Va., coal mine disaster struck, killing 78 West Virginia coal miners of November 20, 1968, the conscience of the Nation was aroused, and Congress enacted the Federal Coal Mine Health and Safety Act of 1969. But strip mining is a slow disaster which chokes the people, one by one, and does not bring the dramatic headlines.

Where is the United Mine Workers of America? They have a stake, and every coal miner has a stake in coal mine health and safety so they lobby heavily to protect the coal miners. But the UMWA has its eyes on the welfare and retirement fund, and every worker in a strip mine is likely to side with the company against strong regulation, because it is in the economic interest of the company to cut corners in reclamation. The life of the strip miner is not on the line where reclamation is concerned, as it is with mine safety.

I know that my position as an abolitionist is not palatable to the United Mine Workers of America, which wants to organize the strip miners in the coal rush already moving westward. I know they are going to count this as a key labor vote.

I know that the environmental lobbyists are feverishly lining up support for H.R. 11500.

No union, no industry, no environmental lobby, and no economic or political power is going to control my vote except the people.

I intend to vote against this weak bill.

So far as strip mining is concerned, I will be out watching, investigating and reporting on what happens under this bill. My parents are both from Missouri and you will have to show me.

I am even more firmly an abolitionist on strip mining.

Like another abolitionist of the 19th century—

> I am in earnest,
> I will not equivocate;
> I will not excuse.
> I will not retreat a single inch
> And I will be heard!

The CHAIRMAN. The time of the gentleman has expired.

Mr. SYMMS. Mr. Chairman, I move to strike the last word.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I will vote in favor of the Surface Mining Control and Reclamation Act and commend those who have worked so hard to bring this bill to its present form. This legislation has been termed a historic landmark proposal and I suppose it is. In my judgment, it is needed to insure that major public interest requisites are fulfilled regarding the extraction of coal.

In order to fulfill domestic energy needs and promote our independence from imported foreign fuels, we will need to significantly expand the production of coal, which is our most plentiful fossil fuel. The recent so-called energy crisis only served to highlight the need for increased coal utilization. Coal liquefaction and gasification hold promise here. But, until these processes are commercially feasible, strip mining which currently provides half of the total U.S. coal production is necessary. On the other hand, the strip mining of coal, if not carefully regulated, leaves an aftermath of environmental devastation. I have seen the barren and lifeless ugly scars upon once beautiful landscapes in southeastern Ohio. Once ravaged by the shovels and draglines, such land, if not reclaimed, is for all practical purposes worthless. This fact is common knowledge, and I will not go into further detail.

The environmental and other adverse impacts of strip mining can, however, be reduced to a highly acceptable minimum. All that is needed is a strong and effective mining control and reclamation law. In Ohio, we have State strip mining regulations that are among the toughest in the Nation in terms of reclamation and related ecological safeguards. This law is now working effectively, and contrary to the predictions of the coal lobby doomsayers when it was being debated in the Ohio General Assembly, the State's coal industry is still quite healthy, profitable, and generally competitive with coal operations in other jurisdictions.

I support the committee bill because I feel it strikes an effective balance between the two alternatives offered today. With all due respect to my distinguished colleague from West Virginia, I submit that his substitute bill would be unnecessarily restrictive because it would soon prohibit the strip mining of all coal. While I share his view that the preponderance of all coal reserves in the United States is only obtainable by deep mining, the fact remains that energy demands in the next few years will necessitate a significant amount of strip mining. All coal that can be recovered consistent with environmental safeguards should be utilized. To do otherwise would be an unreasonable waste of a valuable resource.

The substitute offered by the distinguished gentleman from California was too weak. As I see it, there are insufficient reclamation standards. It contains no deep mining provisions, unreasonably limits citizen suits, and inadequately protects a surface owner's rights. It is basically a bill favorable to the strip mining industry.

By comparison, the committee bill H.R. 11500 is an effective middle-ground approach to the two proposals previously mentioned. It will allow the surface mining of coal where it is consistent with effective environmental protection and reclamation. It also adequately protects the rights of citizens who may become affected by strip mining operations. By insuring the protection of the surface mining of coal while protecting the environment, it meets two important national priorities. H.R. 11500 in committee form is a responsible approach, and I will vote for its passage.

Mr. SYMMS. Mr. Chairman, I respect the gentleman from West Virginia (Mr. HECHLER) and congratulate him for his fine statement in the well. However, I must say that I disagree with him. I have a very dear and gentle friend in Irvington, N.Y., who has always said that we should never pass a law in order to gain an advantage for one man at the expense of another man. I think he stated very clearly what this bill does.

Mr. Chairman, I intend to vote against it. I am very sorry the Hosmer substitute did not carry. I want to congratulate the gentleman from California (Mr. HOSMER). As H.R. 11500 wound its way through the legislative process, Mr. HOSMER early and austutely observed that H.R. 11500 could have a serious effect on our energy situation, if enacted as written. When the mantle of leadership fell upon him as the ranking minority member of the committee, he resolutely told the committee of his opposition to the legislation and of his firm intent to oppose its passage if not balanced to respect both the energy and environmental ethics.

The gentleman from California has displayed to all of us the courage of his convictions and a kind of leadership and campaign which at times is necessary to oppose legislation in this House. His knowledge of the rules of the House and their tactical employment demonstrates his skill and leadership. I commend him for a job well done and state that in my judgment the next Congress will miss the fine gentleman, CRAIG HOSMER.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, as we debate the merits of surface mining today, I think the watchword should be balance. After last winter's energy shortage alerted us to the potential of coal as a solution for our energy needs. I think it is important that we properly exploit this valuable resource to benefit the American consumer. Yet as we do this, I think it is equally important that we protect another valuable resource—the American landscape. I think that H.R. 11500, the committee bill, reflects a more balanced and sensible approach than either of the proposed substitute bills. It approaches the problem of surface mining as a way to meet our energy needs, yet still works to protect our environment. While I think H.R. 11500 is a sound compromise, I still think that some amendments to strengthen the environmental protections are in order. Let me elaborate.

The thrust of H.R. 11500 is the establishment of uniform regulations which will make it possible to open up the great coal reserves we have out West while reclaiming the land so it can be used again. Since there are twice as many tons of coal west of the Mississippi River than there are in the East, and since that western coal is more easily strippable from the Great Plains, we should be wary lest passage of this bill let loose a stampede to western production, leaving the eastern production crippled. The strengthening amendments, while they protect our environment, achieve this end, and in the process guarantee some stability to eastern energy needs.

Even though we in New England rely on coal for only 17 percent of our energy needs, it is necessary to consider the impact that opening up western reserves would have on the consumers in our area. Our heavy reliance on imported fuel oil has left us prey to the whims of Middle East potentates who tripled our oil prices since last year. An obvious example of the economic dislocation this rise effected appears on each consumer's bill each month via the fuel cost adjustment. Under this adjustment, the price of fuel oil is passed directly on to the consumer with a preliminary regulatory hearing. With oil prices skyrocketing to $14 a barrel, some people have found the fuel cost exceeds their monthly base rate.

Utility companies support the Hosmer substitute, H.R. 12898, as an easier way to strip more coal out of the Western States, and argue that such an expansion in production would benefit the Nation as a whole, since the price of coal will be low nationwide and a bargain, compared with oil. I have some skepticism with respect to this claim, however, and the reason is transportation costs. Quite frankly, it is not at all cheap to put coal on a train out West and ship it across the Hudson River into New England. In fact, it costs over twice as much to transport coal from the Western States to New England than it does to move coal from eastern mining States by ship, or even across the Atlantic from Poland.

Not only that, but if the utility companies in the East become increasingly dependent on western coal—whose sulfur content is higher than eastern coal—these higher fuel costs could be passed on directly to the consumer through fuel cost adjustment, instead of through a base rate established after public hearings. Even if western production costs are dirt cheap, I still do not see how we can realistically lower the cost of moving this coal to New England.

Consequently, a marked shift to coal dependence from oil dependence could be no benefit to the consumer, and we could find that we have only changed fuels, not lowered prices. If you think consumers are outraged at the fuel cost adjustment now, I shudder to think what would happen if utility industries, in an effort to break out of our oil dependence, ended up having to pass on high coal costs to the consumer. Furthermore, if our quest for self-sufficiency dramatically escalates the price of coal, I find it hard to believe that the price of coal will continue to remain a bargain, even if we strip the western plains bare.

I use the fuel cost adjustment as an example because I think it points up some of the fallacies in the arguments used by proponents of weak surface mining legislation. To enact legislation that would shift all our eggs into the one basket of western production would not only have a disastrous effect on the environment, but could lead to an equally disastrous collapse of the eastern mining industry as well, thereby leaving New England consumers locked into an even greater oil dependency.

Let us face it. Coal which can be surface mined accounts for only 3 to 18 percent of all our coal reserves, and sooner or later we are going to have to go underground. I agree with Russell Train, Administrator of the Environmental Protection Agency, that much as we need new energy sources, the American people just will not want to stand for a law which irresponsibly destroys our environment just to exploit 3 percent of our reserves. This is especially true if, 30 years from now, our surface mine reserves are played out, our deep mining industry is crippled, and we face a new and more frightening energy shortage.

For these reasons, I think that maintaining a balance between eastern and western production of coal is of paramount importance. The strong environmental protections set forth in amendments by Mr. BIESTER and Mr. EVANS to preserve and protect our water resources, and by Mr. YOUNG to end strip mining on slopes greater than 20 degrees, are especially important to protecting our western land, to maintain surface mining as a viable short-term solution to our energy needs, and to providing the industry with sufficient incentive to go underground.

I should like to comment briefly on the amendment offered by Mr. SEIBERLING as the best illustration of how the balance between surface mining and deep mining can be maintained. His amendment establishes a $2.50 per ton reclamation fee on both deep- and surface-mined coal, but allows the industry up to 90 percent for costs associated with safety and conservation efforts. After the credits are taken, an effective tax of only 92 cents per ton will be the eventual average tax, industrywide. More importantly, this tax breaks down to an average of $1.60 per ton for strip-mined coal, but only 25 cents per ton for deep-mined coal. The reason for this disparity is that more investments in safety costs and other deep mining expenses can be deducted for strip mining expenses. Thus, the surface mining segment of the industry is given a strong incentive to shift to deep mining to take advantage of these credits.

Is this cost yet another burden on the consumer? I do not think so. At most, this would raise the average residential consumer bill 36 cents a month. But the benefits of this tax are well worth the price, and the alternatives are disastrous. The reclamation schedule under this amendment goes to establish a fund for restoration of land which has already been surface mined. Each year that we let go by without regulation sees a minimum of 80,000 new acres chewed up. To put this figure in perspective, if this coal were stripped in my district, five out of the seven towns would not exist next year. In other words, 2 more years of inaction by Congress, and an area equaling all the towns in my district—and then some—would be wiped out. And this is only a conservative estimate.

This illustration should show the importance of relaiming surface-mined land so it can be put back to productive use instead of being left to lie ugly and useless. I think this approach is the most sensible and the most efficient way of raising more money more quickly and putting it to better use. Not only that, the money the industry pays to this fee goes to reclaim mines which have been abandoned but whose reserves are not played out.

As Mr. SEIBERLING has noted, since 1970, almost 1,600 mines, most of them in the East, have closed because it simply was not economical to keep them running. The fund would generate new money to reopen these mines in a way which is neither as expensive nor as time consuming as putting a new mine into production; thus, the short-term benefit to the consumer is apparent, and the long-term benefit to the deep mining industry, and ultimately to the consumer, would be another result.

I should parenthetically note that H.R. 12898, the Hosmer substitute, by comparison, has no such abandoned mine reclamation provision, nor does it make any effort to correct the problems of past misuse of our land. Unfortunately, this is only one of many deficiencies in this bill.

Since my time is limited, I will not discuss the other major environmental amendments, but I think this discussion has illustrated why amendments such as Mr. SEIBERLING'S is vital to protect our Western lands and to keep them from becoming as ugly and scarred as the surface mined Appalachian mountains. At the same time, these amendments plan ahead for the future when deep mining—a bargain for its enormous reserves, lower sulfur content, lower price, and potential for rapid production—could be the predominant source of energy, not only for the East and Midwest, but for the Nation as a whole.

In light of this fact, some may ask why I do not support H.R. 15000, the Hechler substitute to end strip mining. Quiet honestly, I think that this past winter has shown us the problems of becoming locked into one dominant energy source. If we sink ourselves into coal dependency at the moment, I think this could merely be substituting fuels without solving problems now faced by New England consumers. No one really knows right now what our future energy picture will look like, whether oil prices will plummet, whether desulfurized coal will eventually cost more than oil, or what. For that reason, I think that both substitutes pull us too far in both directions. I think this is the wrong time to commit ourselves too strongly to strip mining, as H.R. 15000 does.

The problem of bending too far in any one direction became sharply focused earlier this year, when modifications of the Clear Air Act had to come before Congress. I think that adoption of either of these substitute bills could force us on to the same disastrous zigzag course which Congress had tended to take in the past. I think that H.R. 11500 strikes a harmonious balance for meeting our present needs in an orderly fashion, while keeping our options open for the future. For these reasons, I support H.R. 11500 as a flexible, balanced approach to meeting our energy and environmental needs, and will work to strengthen the environmental protections on the floor.

Mr. YATRON. Mr. Chairman, it is with a profound sense of concern that I rise in support of the Flood amendment to H.R. 11500.

The fact is that I represent one of the

five districts in the entire Nation which has an extremely vital stake in the outcome of our consideration of this legislation.

The Sixth District of Pennsylvania includes Schuylkill County, which still has an estimated 9 billion tons of recoverable anthracite in its fields. This is a much larger reserve than the other counties which comprise the Anthracite Coal Belt.

Mr. Chairman, if the Flood amendment is not adopted, some 3,500 persons will be unemployed in my district, the economy of which is already depressed. Let there be no doubt of the adverse consequences of our failure to approve the amendment to these families in my district and to the area per se.

I underscore the fact that the Flood amendment is in no way in conflict with the intent and aim of this legislation. As a matter of fact, Pennsylvania has the most stringent mining reclamation law in the country. This amendment which I so strongly support will not result in any harm to the environment, I assure you.

I have first-hand knowledge that this is so, because many hours have been devoted to discussions and meetings not only with local mining operators but with Pennsylvania State officials as well. These persons are directly involved in the strict application of the Pennsylvania reclamation law and they share my conviction that the Flood amendment is responsible and reasonable.

In addition, the amendment has been strongly endorsed by the AFL–CIO and the United Mine Workers. I feel that this fact lends credence to the desirability of adopting the Flood amendment.

Mr. Chairman, we have here a unique situation. Naturally, I am concerned with the protection of the economic interests of my district, but the Flood amendment relates to anthracite, which is geographically and geologically unique—and it comprises less than 1 percent of all coal produced nationwide.

The Pennsylvania law clearly recognizes the difference between bituminous and anthracite coal. As I stated, it is the strongest and toughest strip mine law in the Nation. It allows the continued mining of anthracite, while preserving the stringent environmental controls contained therein.

Pennsylvania Governor Shapp and Pennsylvania officials have also endorsed the Flood amendment. If approved, the Federal Government would enforce the law, citizen participation would certainly be maintained at all levels, and Pennsylvania's existing law would be in no way weakened through future amendment.

Unfortunately, over the last several decades, there has occurred a steady decline of the Pennsylvania anthracite industry. Production has declined from 29 million tons in 1953 to 7.1 million tons in 1972. An annual production of 6 million tons are estimated for 1974, not an encouraging projection for my district.

Very simply, the Flood amendment seeks to apply the Pennsylvania Surface Mining Conservation and Reclamation Act—recognized as the strongest in the entire United States—to the surface mining of anthracite coal, on which the future economic viability of the area heavily depends.

This fact, coupled with the fact that the Flood amendment is not in conflict with environmental considerations, lends credence to the need for adoption of this amendment.

I urge my colleagues to clearly recognize the merits of the amendment.

Mr. Chairman, I submit for the RECORD a forceful editorial which appeared in the Reading Times of March 30, touching upon this subject. The statements in the editorial are extremely well taken and are worthy of recognition:

COAL IS BACK IN ENERGY SCENE

Like it or lump it—King Coal is on the way back.

The concensus of scientists, industrialists, legislators and educators at the 1974 Pennsylvania Power Conference is that coal is the cornerstone of America's "interim" energy program.

Pennsylvania, the "Saudi Arabia" of coal in the United States, will be called upon to play a vital role in the crash program to buy time and help meet a very real energy crisis.

Eventually, the conferees—people concerned with where our next btu's are coming from—agreed nuclear power, which now represents 1 per cent of the nation's energy output (equal to all the firewood that's burned) must take the lead.

But for the next quarter century—if America is to attain energy self-sufficiency and cut itself loose from overseas blackmail—our economy and standard of living will hinge on a national commitment to clean-coal usage.

While coal reserves comprise 88 per cent of our fossil fuel resources (a known 1.5 trillion-ton supply so vast it will last for centuries at any conceivable level of energy demand), it provides only 17 per cent of our gross energy.

Presently 37 per cent of U.S. petroleum need is imported. By 1985, it is estimated, our imports would be 50 per cent if the demand was to continue and nothing was done on the home front.

Clearly, this is intolerable and hence the need to concentrate on coal, nuclear power, electricity and oil shale.

But coal and nuclear energy are interwoven with a clean environment.

The argument for coal, staunchly supported by realistic oil and electric interests, doubtless will find its stiffest opposition in Congress and in environmentalists who, surprisingly, failed to mount an attack during the two-day meeting in Hershey.

John C. Sawhill, 37-year-old deputy administrator of the Federal Energy Office (FEO) and President Nixon's "Project Independence" prophet, said the U.S. needs to increase domestic coal production 10 per cent a year to an output of nearly one billion tons a year by 1980.

The fly ash in the ointment, according to Robert V. Price, executive vice president of the National Coal Assn., is if Congress virtually prohibits surface mining, as some lawmakers advocate, then "there simply is no way" coal can meet the energy challenge.

The coal industry can only double or treble production by 1985, he said, if coal operators are permitted to mine every ton they can by both underground and surface means.

Perhaps envisioning an impending clash with ecologists, Price admitted it is imperative to "civilize" coal combustion so its impact on the environment can be held to an absolute minimum.

When coal was removed, as our main fuel, there was 30 per cent less pollution going up into the sky.

"Until coal can be burned without endangering human health or property," Price said, "only that fraction of our coal reserves that are low in sulfur will be able to contribute to easing the energy shortage now upon us."

However, in his next breath, Price declared Congress must amend sections of the Clean Air Act of 1970 and modify surface mining (the euphemism for strip mining) to make the most of coal's potential by whatever means it can be mined.

"If Congress all but outlaws surface mining," he said, "there is simply no way we can meet the energy challenge from underground mines alone. We can try until hell freezes—but we will all freeze first!"

Perhaps. But we in Pennsylvania who remember the rape of the coal fields are going to have to make some personal decisions and examine the options carefully—whether it is better to freeze to death or to choke to death.

We must assure adequate pollution controls and make sure surface mining is accompanied by adequate reclamation measures.

The shift from oil-oriented energy base to coal and nuclear power can't be brought about overnight by any Buck Rogers-style technology, as one speaker asserted.

The change will come about through the cooperative, well-reasoned efforts of all segments of society taking all factors into consideration.

One fact emerges. This is one time the future will not be like the past. In this situation, the past cannot be used as a guidepost for the future.

We have a chance to stop our careless drift toward energy dependence. Whether we can become totally self-sufficient by 1980 as President Nixon indicated is not the important question.

It is the direction that is important.

Future generations will hold us to blame if we fail to take steps now to assure energy self-sufficiency which will enable our offspring to live in a strong and independent nation.

Mr. BRADEMAS. Mr. Chairman, as a supporter of the efforts being led by the gentleman from Arizona (Mr. UDALL), and the gentlewoman from Hawaii (Mrs. MINK), to regulate the surface mining of coal and for other purposes, I am pleased to read into the RECORD at this point the text of a most thoughtful letter written by one of my constituents, Miss Wendy Armstrong, of Elkhart, Ind.

Miss Armstrong, the daughter of Mr. and Mrs. Jon Armstrong, is a student in the first grade who wrote her letter to me after having read an article in a magazine concerning pollution.

I commend Mis Armstrong for her thoughful, indeed, eloquent statement on the need for the passage of H.R. 11500.

Her letter follows:

ELKHART, IND.

DEAR MR. BRADEMAS: I wish you would stop the strip mining. It is tearing up our environment. It tears up wildlifes homes. Wildlife that does stay would die of starvation.

I wish you would also stop pollution.

If people put oil where ducks swim it could get on the ducks and they would not be able to swim or fly or walk. They too would die of starvation.

Also, when it pollutes air, birds and other things that fly would die.

When people pollute the ground wildlife could step on a piece of glass. It could go in its foot and it could die.

Please make those things stop.

Love,

WENDY ARMSTRONG.

Mr. KOCH. Mr. Chairman, as a Congressman from New York, I have been

asked why I supported Congressman HECHLER's substitute strip mining bill, which could have possibly raised energy costs for my constituents. It would be inconsiderate of me to limit myself to such local interests if the environmental damages of strip mining and the vast areas of land affected are taken into account.

In every respect, strip mining is more devastating to the land than underground mining. Strip mining involves the destruction of the land surface throughout the area mined and the spread of destruction far beyond the mining area through siltation, pollution, and flooding. Congressman UDALL has proposed that this land can be reclaimed, but the essential question facing the House is the potential success of such reclamation. Because of the particular characteristics of our land, it is impossible to successfully reclaim strip mined land in the United States. In Appalachia, for example, a combination of steep slopes, pyritic shales, and thin topsoil creates significant reclamation problems. There is serious acid drainage in midwestern lands, and even when the toxic materials are buried, leaching still continues. The key to western reclamation is water, but western lands are characterized by a general scarcity of this resource. In the arid areas of the West, just as in the Midwest and the East, reclamation faces grave difficulties.

Some of my colleagues have argued that in a time of energy shortages, Congress should not abolish strip mining. However, strippable reserves are forecasted to be exhausted in 20 years, and if we are to meet the country's energy requirements, we will have to rely on deep mine coal. Economically recoverable deep mine reserves outnumber strippable reserves 8 to 1, 356 billion tons to 45 billion tons. As H.R. 15000 proposes, strip mining should be orderly phased out in order to allow time for deep mining to step up production.

This production, contrary to the coal industry's recent statements, can be facilely augmented. It is ironical that when proponents of strip mining employ the energy crisis to justify their views, a significant part of the existing deep mine capacity remains unused. The majority of U.S. mines operate two shifts a day, and many operate only 4 or 5 days a week. Because the coal industry has so strongly emphasized strip mine production, many deep mines have been closed that still have recoverable reserves. If we opened the 50 largest mines that were closed between 1970 and 1972, we could increase deep mine production by nearly 14 million tons annually.

Unfortunately the Hechler strip mine bill failed by a vote of 69 to 366. While strip mined coal is cheaper than deep mined coal, Congress did not adequately consider the more significant economic loss that will result from the destruction of millions of acres of our land. The House is now considering the Udall strip mine bill. While I believe that the inequities of this bill make it far inferior to the Heckler bill, it will still serve to minimize the environmental damages of strip mining. I hope that the House will take favorable action on Congressman UDALL's bill.

Mr. PETTIS. Mr. Chairman, because I must leave on official business this evening, I want to state my strong support right now for passage of H.R. 11500, the Surface Mining Control and Reclamation Act.

As the hour grows late and it is obvious that the House will not complete action on the legislation any time soon, I regret that I may not be here when the final vote is taken. With the rest of my colleagues here in the House, I have sat through 6 long days of debate on H.R. 11500. I trust the pending amendments to the bill can be taken care of soon, so we can have a final vote before I go, because, in my book, 6 days is a lot of time to devote to any piece of legislation if you cannot help determine whether it ultimately passes or fails. And, this is especially true when the bill is as important as this one.

I hope we will be able to complete action on the bill before I must leave, but if we cannot, I urge my colleagues to pass H.R. 11500 and want the RECORD to show my support for this vital legislation.

Mr. TREEN. Mr. Chairman, I am voting against H.R. 11500 not because I oppose its purposes but because of my serious reservations about the constitutionality of major portions of the bill.

I wish I did not have these constitutional doubts, because I strongly believe that the beauty and vitality of this land of ours must be preserved, and that those who gather resources from our land are obligated not to harm it in the process. I do not believe this obligation necessarily requires the restoration of the land to its original configuration, but it does require that the user leave it in a form which comports with esthetic and utilitarian values. Enforcement of its obligation, where needed, lies primarily within the authority reserved by the several States, which reservation is affirmed by the 10th amendment.

If anything good comes out of the controversy over executive abuse of power, it will be a renewed understanding that the Constitution must remain the guiding force in our free society and Federal system. The exercise of power in the Federal Government is justified only so long as it comports with the grants of power and the limitations on power as defined in the Constitution.

Unfortunately, many members of the legislative branch do not realize that abuse of power is not confined to the executive department. Nothing is so indicative of this lapse of self-criticism in Congress as our penchant for passing legislation simply because, in our opinion, it is good in substance—without even broaching the question of whether it is a constitutional exercise of power.

That we believe a measure is "good" is not alone sufficient reason to enact it. The proposed legislation must also lie within the limits of congressional powers as defined in article I, section 8 of the Constitution. I am afraid with the current legislation, the surface mining bill, we are again covering up the constitutional issue.

The only justification substantively for this legislation is that only the Federal Government has the power to establish a nationwide policy. But without the imprimatur of constitutionally delegated powers, this rationale boils down to an argument which is incompatible with our constitutional system: the end justifies the means.

With H.R. 11500, the Federal Government will enter into an area that is constitutionally the province of the States—the regulation of land use. The Federal Government has only so much power as the people delegated to the Federal Government through the States by the process of constitutional ratification and amendment. A reading of article I, section 8 of the Constitution, the principal enumeration of the powers of Congress, reveals that the States have not delegated the regulation of land use to the Federal Government. The only justification of H.R. 11500 that could possibly be wrenched out of the Constitution is, of course, the commerce clause. Congress' authority to regulate interstate commerce, as interpreted by the Federal courts, has come to subsume almost every species of negotiation, manufacture, and movement of services, products, or persons affecting interstate commerce. But, as large as this regulatory ambit has grown, it has not yet grown to include the regulation of land itself as distinguished from the products which eventually move from State to State. H.R. 11500, I would remind my colleagues, does not regulate coal; it regulates the use of land itself. By what logic may land itself be defined as interstate commerce? Land is not a species of movement; land does not move from State to State. If there is anything anywhere which should not come under the definition of interstate commerce, it would seem to be land.

The surface mining bill is long and involved. A plausible constitutional case can be made to defend some provisions of the bill. Land erosion does effect waterways, which the Supreme Court in Gibbons against Ogden said comes within the commerce clause.

But most of the bill is constitutionally very dubious; and some provisions of the bill could come under the Commerce clause only by the most far-fetched interpretation. Under the latter I would include the provisions requiring reclamation of land to its original condition and provisions setting aside areas as unfit for surface mining. For example, section 204 of the bill would authorize the Secretary of Interior to prepare and implement a Federal program for the regulation of surface mining in any State which fails to formulate and implement regulations to the satisfaction of the Secretary. Section 206 would authorize the Secretary to include in this plan areas designated as unsuitable for surface mining. In determining what areas are unsuitable, the Secretary, according to section 206, could consider potential damage to "important historic, scientific, and esthetic values and natural systems." Whether the terrain of a State is interstate commerce is dubious enough. Whether the esthetic value of that land is a proper criterion for the regulation of interstate commerce is not dubious—it is preposterous. Mr. Chairman, I am not saying that the esthetic value of land is an unjustifiable reason for preserving land—I am not saying that at all. I am questioning

whether the esthetic value of the land is the proper subject for Federal regulation; and I am saying that if we interpret land as being interstate commerce and if we consider esthetic values a criterion for Federal regulation, is there anything, or any activity, anywhere, which does not come under the commerce clause?

Mr. Chairman, I am well aware that in our technologically complex society interstate commerce includes more than it did 200 years ago or a hundred years ago or 25 years ago. But I believe, unless we apply some logical limits to the definition of interstate commerce, that the definition is totally useless because it means nothing and everything. If the framers of the Constitution wanted Congress to regulate every activity of man, they would not have incorporated the commerce clause into the Constitution; they would have incorporated a clause giving Congress the power to do anything it likes.

Mr. Chairman, some might suggest that it is up to the Supreme Court to determine the validity of this vast new extension of the commerce clause. But I believe that our constitutional system is durable only if each of the three branches of the Federal Government adheres to its own sense of the constitutional restrictions of its power. By passing a bill we cannot constitutionally justify, we are abjuring this responsibility. The spirit of the Constitution—the spirit that there are limitations to governmental power—is not the attitude that each branch may do what it likes unless checked by another branch of the Government. This is the spirit of methodical anarchy.

Mr. KETCHUM. Mr. Chairman, we have just concluded 6 strenuous days of debate on the bill H.R. 11500, relative to the strip mining of coal. I firmly believe, Mr. Chairman, that those of us opposing this bill have made a case against its passage. As it now stands, this debate has lasted longer than any previous bill on the floor during my short tenure, and has amply demonstrated that this bill was not ready for floor debate, and is now in such shape as to preclude even its authors from knowing what the bill contains. During the course of this debate, the Members of the House have demonstrated a total lack of interest by their absence from the floor. Never during the debate, except for recorded votes or quorum calls, were there over 60 Members on the floor. It is no wonder our constituents have such a low esteem of this body. This bill is a very complex and technical instrument, and one which will have profound effects on our whole economy, yet it seems no one cared enough to be really informed.

Had this bill addressed itself simply to reclamation of strip mining damage which had occurred in the years prior to present high and tough State standards, it could have passed with little debate, and rightly so. However, such is not the case. This bill imposes Federal standards upon all States engaged in this practice, and, in essence, repeats what has so often happened in the past. We are telling our people: First, that our elected State legislators are not bright enough to do their jobs, which is totally untrue; second, that we here in Washington know what is best for the people, which is equally untrue; and third, that we deem it necessary to more strongly centralize our Government, a premise I cannot and will not accept. By way of analogy, we are saying, "Because the Federal Government, in its infinite wisdom, believes one make of automobile to be best, all you folks will have to drive one."

How did this bill arrive on the floor, Mr. Chairman? I can tell the body that it came to the floor voted on by the Interior Committee through the use of proxy vote. Members who had never attended sessions were voted in favor of this bill. While our rules permit this, it is an outrageous exercise, and is not to be condoned. Let us hope the Bolling committee recommendations on reform will be approved, and stop this practice. On one occasion, when I objected to this procedure, I was told it would not make any difference if the Member was in Spain, his vote would still be cast. A wonderful way to legislate, Mr. Chairman; if the people only knew.

Now to the cost. No one really knows the cost; all the figures which appear in the bill are estimates. It is estimated that the Federal Government will give $10 million in assistance to the States in the first year, rising to $30 million by 1977. Estimates of Research Institute expenditures start $200,000 for 1975, growing to $400,000 for years after 1977. A cost of $7 to $10 million is estimated to be spent by the Corps of Engineers to restore one small project alone—and nowhere in this bill is there even an estimated mention of administrative cost. And, Mr. Chairman, with less than 1½ minutes of debate, the House put in $50 million more for research. Could this mean more "Frisbee type" research? Who knows? Now then, Mr. Chairman, where were all those high-flown words on inflation we heard such a short time ago? Where were all the Members, Republicans and Democrats alike, who swore they would hold the line on spending and save the Nation? If for no other reason this bill should have failed. Our people will feel the impact in their power and heating bills with a vengeance.

This bill insures that the big companies will get bigger, and the small man we claim to care so much about will die. Have you ever seen "Big Muskie," Mr. Chairman? Five stories high, operated by three men, costing millions. Do you suppose a little guy could buy one?

I could go on, Mr. Chairman, but I shall not. I guess we have heard enough. After the 6-day exhibition on the floor, I am constrained to say—is anybody listening? Does anybody give a damn?

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. SMITH of Iowa, Chairman 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. 11500) to provide for the regulation of surface coal mining operations in the United States, to authorize the Secretary of Interior to make grants to States to encourage the State regulation of surface mining, and for other purposes, pursuant to House Resolution 1230, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

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

MOTION TO RECOMMIT WITH INSTRUCTIONS OFFERED BY MR. HOSMER

Mr. HOSMER. Mr. Speaker, I offer a motion to recommit with instructions.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. HOSMER. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit with instructions.

The Clerk read as follows:

Mr. HOSMER moves to recommit the bill, H.R. 11500, to the Committee on Interior and Insular Affairs with instructions to report the same back to the House forthwith with the following amendment: Strike out all after the enacting clause and insert in lieu thereof the text of H.R. 12898, as follows:

That this Act may be cited as the "Surface Coal Mining Reclamation Act of 1974".

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TITLE I—FINDINGS AND PURPOSES

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FINDINGS

SEC. 101. The Congress finds that—

(a) the extraction of coal by underground and surface mining from the earth is a significant and essential activity which contributes to the economic, social, and material well-being of the Nation;

(b) there are surface and underground coal mining operations on public and private lands in the Nation which adversely affect the environment by destroying or diminishing the availability of land for commercial, industrial, recreational, agricultural, historic, and forestry purposes, by causing erosion and landslides; by contributing to floods and the pollution of water, land, and air; by destroying public and private property; by creating hazards to life and property; and by precluding post-mining land uses common to the area of mining;

(c) surface and underground coal mining operations presently contribute significantly to the Nation's energy requirements, and substantial quantities of the Nation's coal reserves lie close to the surface, and can only be recovered by surface mining methods, and therefore, it is essential to the national interest to insure the existence of an expanding and economically healthy coal mining industry;

(d) surface and underground coal mining operations affect interstate commerce, contribute to the economic well-being, security, and general welfare of the Nation and should be conducted in an environmentally sound manner;

(e) the initial and principal continuing responsibility for developing and enforcing environmental regulations for surface and underground coal mining operations should rest with the States; and

(f) the cooperative effort established by this Act is necessary to prevent or mitigate adverse environmental effects of present and future surface coal mining operations.

PURPOSES

SEC. 102. It is the purpose of this Act to—

(a) encourage a nationwide effort to regulate surface coal mining operations to prevent or substantially reduce their adverse environmental effects, to stimulate and encourage the development of new, environmentally sound surface coal mining and reclamation techniques, and to assist the States in carrying out programs for those purposes;

(b) assure that the rights of surface landowners and other persons with a legal interest in the land or appurtenances thereto are protected from the adverse impacts of surface coal mining operations pursuant to the provisions of this Act;

(c) assure that surface coal mining operations are not conducted where reclamation as required by this Act is not feasible;

(d) assure that the coal supply essential to the Nation's energy requirements, and to its economic and social well-being is provided in accordance with the policy of the Mining and Minerals Policy Act of 1970; and

(e) assure that appropriate procedures are provided for public participation in the development, revision, and enforcement of regulations, standards, mining and reclamation plans, or programs established by the Secretary or any State pursuant to the provisions of this Act.

TITLE II—CONTROL OF ENVIRONMENTAL IMPACTS OF SURFACE COAL MINING OPERATIONS

INTERIM REGULATORY PROCEDURE

SEC. 201. (a) On and after ninety days from the date of enactment of this Act, no person shall open or develop any new or previously mined or abandoned site for surface coal mining operations on lands on which such operations are regulated by a State regulatory authority unless such person has obtained a permit from such regulatory authority. All such permits shall contain terms requiring compliance with the interim surface coal mining and reclamation performance standards specified in subsection (c) of this section. The regulatory authority shall act upon all applications for such permit within thirty days from the receipt thereof.

(b) Within one hundred and twenty days from the date of enactment of this Act, the State regulatory authority shall review and amend all existing permits in order to incorporate in them the interim surface coal mining and reclamation performance standards of subsection (c) of this section. On or before one hundred and eighty days from the date of issuance of such amended permit, all surface coal mining operations existing at the date of enactment of this Act on lands on which such operations are regulated by a State regulatory authority shall comply with the interim surface coal mining and reclamation performance standards in subsection (c) of this section with respect to lands from which the overburden has not been removed.

(c) Pending approval and implementation of a State program in accordance with section 203 of this Act, or preparation and implementation of a Federal program in accordance with section 204 of this Act, the following interim surface coal mining and reclamation performance standards shall be applicable to surface coal mining operations on lands on which such operations are regulated by a State regulatory authority, as specified in subsections (a) and (b) of this section:

(1) with respect to surface coal mining operations on steep slopes, no spoil, debris, or abandoned or discarded mine equipment may be placed on the natural or other downslope below the bench or cut created to expose the coal seam except that spoil from the cut necessary to obtain access to the coal seam may be placed on a limited or specified area of the downslope: *Provided*, That the spoil is shaped and graded in such a way so as to prevent slides, and minimize erosion, and water pollution, and is revegetated in accordance with paragraph (3) below: *Provided further, however*, That the regulatory authority may permit limited or temporary placement of spoil on a specified area of the downslope on steep slopes in conjunction with mountain top mining operations which will create a plateau with all highways eliminated, if such placement is consistent with the approved postmining land use of the mine site;

(2) with respect to all surface coal mining operations, the operator shall backfill, compact (where advisable to insure stability or to prevent leaching of toxic materials), and grade in order to restore the approximate original contour of the land with all high walls, spoil piles, and depressions eliminated, unless depressions are consistent with the approved postmining land use of the mine site;

(3) The provisions of paragraphs (1) and (2) of this subsection shall not apply to surface coal mining operations where the permittee demonstrates that the overburden, giving due consideration to volumetric expansion, is insufficient or more than sufficient to restore the approximate original contour, in which case the permittee, at a minimum, shall backfill, grade, and compact (where advisable) in order to cover all acid-forming and other toxic materials, to achieve an angle of repose based upon soil and climate characteristics for the area of land to be affected, to provide adequate drainage, and to facilitate a land use consistent with that approved for the postmining land use of the mine site;

(4) the regulatory authority may grant exceptions to paragraphs (1) and (2) if the regulatory authority finds that one or more variations from the requirements set forth in paragraphs (1) and (2) will result in the land having an equal or better economic or public use and that such use is likely to be achieved within a reasonable time and is consistent with surrounding land uses and with local, State, and Federal law;

(5) with respect to all surface coal mining operations, permanently establish, on regraded and all other lands affected, a stable and self-regenerative vegetative cover, where cover existed prior to mining and which, were advisable, shall consist of native vegetation;

(6) with respect to all surface coal mining operations, remove the topsoil in a separate layer, replace it simultaneously on a backfill area or if not utilized immediately segregate it in a separate pile from the subsoil, and if the topsoil is not replaced in a time short enough to avoid deterioration of topsoil, maintain a successful cover by quick growing vegetation or by other means so that the topsoil is protected from wind and water erosion, contamination from any acid or toxic material, and is in a usable condition for sustaining vegetation when replaced during reclamation, except if the topsoil is of insufficient quantity or of poor quality for sustaining vegetation, or if another material from the mining cycle can be shown to be more suitable for vegetation requirements, then the operator shall so remove, segregate, and protect that material which is best able to support vegetation, unless the permittee demonstrates that another method of soil conservation would be at least equally effective for revegetation purposes;

(7) with respect to surface disposal of coal mine wastes, coal processing wastes, or other wastes in areas other than the mine workings or excavations, stabilize all waste piles in designated areas, through compaction, layering with incombustible and impervious materials, and grading followed by vegetation of the finished surface to prevent, to the extent practicable, air and surface or ground water pollution, and to assure compatibility with natural surroundings in order that the site can and will be stabilized and revegetated according to the provisions of this Act;

(8) with respect to the use of impoundments for the disposal of coal processing wastes or other liquid or solid wastes, incorporate sound engineering practices for the design and construction of water retention facilities which will not endanger the health or safety of the public in the event of failure, that construction will be so designed to achieve necessary stability with an adequate margin of safety to protect against failure, that leachate will not pollute surface or ground water, and that no fines, slimes and other unsuitable coal processing wastes are used as the principal material in the construction of water impoundments, water retention facilities, dams, or settling ponds;

(9) prevent to the extent practicable adverse effects to the quantity and quality of water in surface and ground water systems both during and after surface coal mining and reclamation; and

(10) minimize offsite damages that may result from surface coal mining operations and institute immediate efforts to correct such conditions.

(d)(1) Upon petition by the permittee or the applicant for a permit, and after public

notice and opportunity for comment by interested parties, the regulatory authority may modify the application of the interim surface coal mining and reclamation performance standards set forth in paragraphs (1), (2), (3), and (4) of subsection (c) of this section, if the permittee demonstrates to the satisfaction of the regulatory authority that—

(A) he has not been able to obtain the equipment necessary to comply with such standards;

(B) the surface coal mining operations will be conducted so as to meet all other standards specified in subsection (c) of this section and will result in a stable surface configuration in accordance with a surface coal mining and reclamation plan approved by the regulatory authority; and

(C) such modification will not cause hazards to the health and safety of the public or significant imminent environmental harm to land, air, or water resources which cannot reasonably be considered reclaimable.

(2) Any such modification will be reviewed periodically by the regulatory authority and shall cease to be effective upon implementation of a State program pursuant to section 203 of this Act or a Federal program pursuant to section 204 of this Act.

(e) The Secretary shall issue regulations to be effective one hundred and eighty days from the date of enactment of this Act in accordance with the procedures of section 202, establishing an interim Federal surface coal mining evaluation and enforcement program. Such program shall remain in effect in each State in which there are surface coal mining operations regulated by a State regulatory authority until the State program has been approved and implemented pursuant to section 203 of this Act or until a Federal program has been prepared and implemented pursuant to section 204 of this Act. The interim Federal surface coal mining evaluation and enforcement program shall—

(1) include inspections of surface coal mining operations on a random basis (but at least one inspection for every site every three months), without advance notice to the mine operator, for the purpose of evaluating State administration of, and ascertaining compliance with, the interim surface coal mining and reclamation performance standards of subsection (c) above. The Secretary shall cause any necessary enforcement action to be implemented in accordance with section 217 with respect to violations identified at the inspections;

(2) provide that the State regulatory agency file with the Secretary copies of inspection reports made;

(3) provide that upon receipt of State inspection reports indicating that any surface coal mining operation has been found in violation of the standards of subsection (c) of this section, during not less than two consecutive State inspections or upon receipt by the Secretary of information which would give rise to reasonable belief that such standards are being violated by any surface coal mining operation, the Secretary shall order the immediate inspection of such operation by Federal inspectors and necessary enforcement actions, if any, to be implemented in accordance with the provisions of section 217. The inspector shall contact the informant prior to the inspection and shall allow the informant to accompany him on the inspection; and

(4) provide that moneys authorized pursuant to this Act shall be available to the Secretary prior to the approval of a State program pursuant to section 203 of this Act to reimburse the States for conducting those inspections in which the standards in subsection (c) above, are enforced and for the administration of this section.

(e) A coal surface mine operator operating pursuant to a valid permit and awaiting administrative action on his application for a permit from the appropriate regulatory authority may during the period prior to approval or disapproval of a State program pursuant to section 203 of this Act and for six months thereafter continue to operate his surface mine beyond the date of expiration of his permit subject to the terms and conditions of his permit or application in the event the appropriate regulatory authority has not acted on his application by the time his permit expires.

"(f) On and after the date of enactment of this Act, no person shall open, develop, or extend any new or previously mined or abandoned site for surface coal mining operations within any area of the National Park System, the National Wildlife Refuge System, or the National Wilderness Preservation System. Nothing in this Act shall be construed as authorizing surface coal mining operations within Federal lands where such mining is prohibited on the date of enactment of this Act by law, regulation, order, deed, or other instrument."

PERMANENT REGULATORY PROCEDURE

SEC. 202. Not later than the end of the one hundred-and-eighty-day period immediately following the date of enactment of this Act, the Secretary shall promulgate and publish in the Federal Register regulations covering a permanent regulatory procedure for surface coal mining and reclamation operations setting permanent surface coal mining and reclamation performance standards based on the provisions of sections 213 and 214, and establishing procedures and requirements for preparation, submission and approval of State programs, and the development and implementation of Federal programs under this title. Such regulations shall not be promulgated and published by the Secretary until he has—

(a) published proposed regulations in the Federal Register and afforded interested persons and State and local governments a period of not less than forty-five days after such publication to submit written comments thereon;

(b) consulted with and considered the recommendations of the Administrator of the Environmental Protection Agency with respect to those regulations promulgated under this section which relate to air or water quality standards promulgated under the authority of the Federal Water Pollution Control Act (33 U.S.C. 1151–1175) and the Clean Air Act, as amended (42 U.S.C. 1857); and

(c) held at least one public hearing on the proposed regulations.

The date, time, and place of any hearing held on the proposed regulations shall be set out in the publication of the proposed regulations. The Secretary shall consider all comments and relevant data presented at such hearing before final promulgation and publication of the regulations.

STATE PROGRAMS

SEC. 203. (a) Each State in which surface coal mining operations are or may be conducted, and which proposes to assume State regulatory authority under this Act, shall submit to the Secretary, by the end of the twenty-four month period beginning on the date of enactment of this Act, a State program which demonstrates that such State has the capability of carrying out the provisions of this Act and meeting its purposes through—

(1) a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act and the regulations issued by the Secretary pursuant to this Act;

(2) a State law which provides sanctions for violations of State laws, regulations, or conditions of permits concerning surface coal mining and reclamation operations, which sanctions shall meet the minimum requirements of this Act, including civil and criminal penalties, forfeiture of bonds, suspension, revocation, and withholding of permits, and the issuance of notices and orders by the State regulatory authority or its inspectors;

(3) a State regulatory authority with sufficient administrative and technical personnel, and sufficient funding to enable the State to regulate surface coal mining and reclamation operations in accordance with the requirements of this Act;

(4) a State law which provides for the effective implementation, maintenance, and enforcement of a permit system, meeting the requirements of this title for the regulation of surface coal mining and reclamation operations on lands within the State;

(5) establishment of a process for the designation of lands unsuitable for surface coal mining operations in accordance with section 205; and

(6) establishment, for the purpose of avoiding duplication, of a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with any other Federal or State permit process applicable to the proposed operations.

(b) The Secretary shall not approve any State program submitted under this section until he has—

(1) solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise pertinent to the proposed State program;

(2) consulted with and considered the recommendations of the Administrator of the Environmental Protection Agency with respect to those aspects of a State program which relate to air or water quality standards promulgated under the authority of the Federal Water Pollution Control Act (33 U.S.C. 1151–1175) and the Clean Air Act, as amended (42 U.S.C. 1857);

(3) held at least one public hearing on the State program within the State; and

(4) found that the State has the legal authority and qualified personnel necessary for the enforcement of the surface coal mining and reclamation performance standards. The Secretary shall approve or disapprove a State program, in whole or in part, within six full calendar months after the date such State program is submitted to him.

(c) If the Secretary disapproves any proposed State program, in whole or in part, he shall notify the State in writing of his decision and set forth in detail the reasons therefor. The State shall have sixty days in which to resubmit a revised State program, or portion thereof.

(d) For the purposes of this section and section 204, the inability of a State to take any action to prepare, submit or enforce a State program, or any portion thereof, because the action is enjoined by the issuance of an injunction by any court of competent jurisdiction shall not result in a loss of eligibility for financial assistance under title III of this Act or in the imposition of a Federal program. Regulation of the surface coal mining operations covered or to be covered by the State program subject to the injunction shall be conducted by the State until such time as the injunction terminates or for one year, whichever is shorter, at which time the requirements of this section and section 204 shall again be fully applicable.

(e) If State compliance with this section requires an act of the State legislature, the Secretary may extend the period for submission of a State program up to an additional twelve months.

FEDERAL PROGRAMS

SEC. 204. (a) The Secretary shall prepare, promulgate, and implement a Federal program for the regulation of surface coal mining operations in any State which fails to—

(1) submit a State program covering sur-

face coal mining and reclamation operations by the end of the twenty-four-month period beginning on the date of enactment of this Act;

(2) resubmit an acceptable State program, or portion thereof, within sixty days of disapproval of a proposed State program, in whole or in part: *Provided*, That the Secretary shall not implement a Federal program prior to the expiration of the initial period allowed for submission of a State program as provided for in clause (1) of this subsection; or

(3) adequately implement, enforce, or maintain a State program approved pursuant to section 203.

(b) Prior to implementation of a Federal program pursuant to section 204(a), the Secretary shall consult with and publicly disclose the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having expertise pertinent thereto and shall hold at least one public hearing within the State for which the Federal program is to be implemented.

(c) Whenever a Federal program is promulgated for a State pursuant to this Act, any statutes or regulations of such State which are in effect to regulate surface coal mining operations subject to this Act shall, insofar as they are inconsistent or interfere with the purposes and the requirements of this Act and the Federal program, be preempted and superseded by the Federal program.

DESIGNATING AREAS UNSUITABLE FOR SURFACE COAL MINING OPERATIONS

SEC. 205. (a) To be eligible to assume primary regulatory authority pursuant to section 203, each State shall establish a planning process enabling objective decisions to be made based upon public hearings and competent and scientifically sound data and information as to which, if any, areas or types of areas of a State (except Federal lands) cannot be reclaimed with existing techniques to satisfy applicable standards and requirements of law. The State agency will not issue permits for surface coal mining of such areas unless it determines, with respect to any such permit, that the technology is available to satisfy applicable performance standards.

"(b) The State regulatory authority shall designate a surface area as unsuitable for certain types of surface coal mining operations if the State regulatory authority determines that reclamation pursuant to the requirements of this Act is not physically feasible."

(c) The Secretary, and, in the case of national forest lands, the Secretary of Agriculture, shall conduct a review of the Federal lands and determine, pursuant to the standards set forth in subsection (a) of this section, areas or types of areas on Federal lands which cannot be reclaimed with existing techniques to satisfy applicable standards and requirements of law. Permits for surface coal mining will not be issued to mine such areas unless it is determined, with respect to any such permit, that the technology is available to satisfy applicable performance standards.

(d) In no event is an area to be designated unsuitable for surface coal mining operations on which surface coal mining operations are being conducted on the date of enactment of this Act, or under a permit issued pursuant to this Act, or where substantial legal and financial commitments in such operations are in existence prior to the date of enactment of this Act. Designation of an area as unsuitable for mining shall not prevent mineral exploration of the area so designated.

EFFECT ON STATE LAW

SEC. 206. Any provision of State law or regulation in effect upon the date of enactment of this Act, or which may become effective thereafter, and provides more stringent regulations of surface coal mining and reclamation operations than the provisions of this Act, or any regulation issued pursuant thereto, shall not be construed to be inconsistent with this Act.

PERMITS

SEC. 207. (a) Except as provided in subsection (c) of this section, on and after six months from the date on which a State program is approved by the Secretary, pursuant to section 203 of this Act, or the Secretary has promulgated a Federal program for a State not having a State program, pursuant to section 204, no person shall engage in surface coal mining operations unless such person has obtained a permit in full compliance with this Act from the appropriate regulatory authority.

(b) All permits issued pursuant to the requirements of this Act shall be issued for a term not to exceed five years and shall be nontransferable: *Provided*, That a successor in interest to a permit holder who applies for a new permit within thirty days of succeeding to such interest and who is able to obtain the bond coverage of the original permit holder may continue surface coal mining and reclamation operations until such successor's application is granted or denied.

(c) Any person engaged in surface coal mining operations pursuant to a permit issued under section 201 and awaiting administrative action on his application for a permit from the appropriate regulatory authority in accordance with this section may continue to operate for a four-month period beyond the time specified in subsection (a) of this section if the appropriate regulatory authority has not acted on the application.

PERMIT APPLICATION REQUIREMENTS: INFORMATION, AND MINING AND RECLAMATION PLANS

SEC. 208. (a) Each application for a permit pursuant to a State or Federal program under this Act shall be submitted in a manner satisfactory to the regulatory authority and shall contain:

(1) the names and addresses of the permit applicants (if the applicant is a subsidiary corporation, the name and address of the parent corporation shall be included); every legal owner of the property (surface and mineral) to be mined; the holders of any leasehold or other equitable interest in the property; any purchaser of the property under a real estate contract; the operator if he is a person different from the applicant; and, if any of these are business entities other than a single proprietor, the names and addresses of principals, officers, and resident agent;

(2) the names and addresses of every officer, partner, director, or person performing a function similar to a director, of the applicant, together with the name and address of any person or group owning, of record or beneficially, 10 per centum or more of any class of stock of the applicant and a list of all names under which the applicant, partner, or principal shareholder previously operated a surface coal mining operation within the United States or its territories and possessions;

(3) a description of the type and method of surface coal mining operation that exists or is proposed;

(4) evidence of the applicant's legal right to enter and commence surface coal mining operations on the area affected;

(5) the names and addresses of the owners of record of all surface and subsurface areas abutting on the permit area;

(6) a statement of any current or previous surface coal mining permits in the United States held by the applicant and the permit identification;

(7) a statement of whether the applicant, any subsidiary, affiliate, or persons controlled by or under common control with the applicant, has held a Federal or State surface coal mining permit which subsequent to 1960 has been suspended or revoked or has had a surface coal mining performance bond or similar security deposited in lieu of bond forfeited and a brief explanation of the facts involved in each case;

(8) such maps and topographical information, including the location of all underground mines in the area, as the regulatory authority may require, which shall be in sufficient detail to clearly indicate the nature and extent of the overburden to be disturbed, the coal to be mined, and the drainage of the area to be affected;

(9) a copy of the applicant's advertisement of the ownership, location, and boundaries of the proposed site of the surface coal mining and reclamation operation (such advertisement shall be placed in a newspaper of general circulation in the locality of the proposed site at least once a week for four successive weeks and may be submitted to the regulatory authority after the application is filed);

(10) a schedule listing any and all violations of this Act and any law, rule, or regulation of the United States or of any department or agency in the United States pertaining to air, or water environmental protection incurred by the applicant in connection with any surface coal mining operation during the one-year period prior to the date of application. The schedule shall also indicate the final resolution of any such notice of violation.

(b) Each application for a permit shall be required to submit to the regulatory authority, as part of the permit application, a surface coal mining and reclamation plan which shall contain:

(1) the engineering techniques proposed to be used in the surface coal mining and reclamation operation and a description of the major equipment; a plan for the control of surface water drainage and of water accumulation; a plan where appropriate for backfilling, soil stabilization, and compacting, grading, and appropriate revegetation (where vegetation existed prior to mining); an estimate of the cost per acre of the reclamation, including statements as to how the permittee plans to comply with each of the applicable surface coal mining and reclamation performance standards establish under this Act;

(2) the consideration which has been given to developing the surface coal mining and reclamation plan in a manner consistent with local physical, environmental, and climatological conditions and current surface coal mining and reclamation technologies;

(3) the consideration which has been given to insuring the maximum practicable recovery of the coal;

(4) a detailed estimated timetable for the accomplishment of each major step in the surface mining and reclamation plan;

(5) the consideration which has been given to making the surface coal mining and reclamation operation consistent with applicable State and local land use programs;

(6) a description, if any, of the hydrologic consequences of the surface coal mining and reclamation operation, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and ground water systems including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding area so that an assessment can be made of the probable cumulative impacts of all anticipated surface coal mining in the area upon the hydrology of the area and particularly upon water availability;

(7) a statement of the results of test boring or core samplings from the land to be affected including where appropriate the surface elevation and logs of the drill holes so

that the strike and dip of the coal seems may be determined; the nature and depth of the various strata of overburden; the location of subsurface water if encountered and its quality; the thickness of the coal seam found; an analysis of the chemical properties of such coal to determine the sulfur content and the content of other potentially acid or toxic forming substances of the overburden and the stratum lying immediately underneath the coal to be mined; and

(8) proprietary information, if made available to the public would result in competitive injury to the applicant, may be designated confidential and, if accepted by the regulatory authority shall be subject to the provisions of section 1905 of title 18, United States Code. Appropriate protective orders against unauthorized disclosure or use by third parties may be issued with respect to such information, and violations of such orders shall be subject to penalties set forth in section 219 of this Act.

(c) Each applicant for a surface coal mining and reclamation permit shall file a copy of his application for public inspection with an appropriate official, approved by the regulatory authority, in the locality where the mining is proposed to occur, except for that information pertaining to the coal seam itself.

(d) A valid permit issued pursuant to this Act shall carry with it a right of successive renewals upon expiration provided that the permittee has complied with such permit. "The holder of the permit may apply for renewal shall be issued, subsequent to public hearing upon the following requirement and written finding by the regulatory authority that—" Prior to approving the renewal of any permit, the regulatory authority shall review the permit and the surface coal mining and reclamation operation and may require such new conditions and requirements as are necessary or prescribed by changing circumstances. A permittee wishing to obtain renewal of a permit shall make application for such renewal within one year prior to the expiration of the permit. The application for renewal shall contain:

(1) a listing of any claim settlements or judgments against the applicant arising out of, or in connection with, surface coal mining operations under said permit;

(2) written assurance by the person issuing the performance bond in effect for said operation that the bond continues and will continue in full force and effect for any extension requested in such application for renewal as well as any additional bond the regulatory authority may require pursuant to section 210 of this Act;

(3) revised, additional, or updated information required under this section.

Prior to the approval of any extension of the permit, the regulatory authority shall notify all parties who participated in the public review and hearings on the original or previous permit, as well as providing notice to the appropriate public authorities, and taking such other steps as required in section 209 of this Act.

PERMIT APPROVAL OR DENIAL PROCEDURES

SEC. 209. (a) The regulatory authority shall notify the applicant for a surface coal mining and reclamation permit within a period of time established by law or regulation, not to exceed ninety days, that the application has been approved or disapproved. If approved, the permit shall be issued after the performance bond or deposit and public liability insurance policy required by section 210 of this Act has been filed. If the application is disapproved, specific reasons therefor must be set forth in the notification. Within thirty days after the applicant is notified that the permit or any portion thereof has been denied, the applicant may request a hearing on the reasons for said disapproval unless a hearing has already been held under section 209(f). Such hearing shall be held in the locality of the proposed surface coal mining operation as soon as practicable after receipt of the request for a hearing and after appropriate notice and publication of the date, time, and location of such hearing. Within sixty days after the hearing the regulatory authority shall issue and furnish the applicant and any other parties to the hearing the written decision of the regulatory authority granting or denying the permit in whole or in part and stating the reasons therefor.

(b) Within ten days after the granting of a permit, the regulatory authority shall notify the State and the local official who has the duty of collecting real estate taxes in the local political subdivision in which the area of land to be affected is located that a permit has been issued and shall describe the location of the land.

(c) Prior to the issuance of a permit, the regulatory authority may require the applicant to alter his proposed surface coal mining and reclamation plan with respect to the methods, sequence, timing of specific operations in the plan, or the deletion of specific operations or areas from all or part of the plan in order to assure that the surface coal mining and reclamation objectives of this Act are met.

(d) No permit will be issued unless the regulatory authority finds that:

(1) all applicable requirements of this Act and the State or Federal program have been satisfied;

(2) the applicant can demonstrate that reclamation as required by this Act and the appropriate State or Federal program under this Act can be accomplished under the surface coal mining and reclamation plan contained in the permit application;

(3) the land to be affected does not lie within three hundred feet from any occupied dwelling, unless the owner thereof waives this requirement, nor within three hundred feet of any public building, school, church, community, or institutional building, or cemetery; or the land to be affected does not lie within one hundred feet of the outside right-of-way line of any public road, except that the regulatory authority may permit such roads to be relocated, if the interests of the public and the landowners affected thereby will be protected;

(4) no lake, river, stream, creek, or watercourse may be moved, interrupted, or destroyed during the surface coal mining or reclamation process except that lakes, rivers, streams, creeks, or watercourses may be relocated where consistent with the approved mining and reclamation plan; and no surface coal mining or reclamation activities will be conducted within one hundred feet of any lake, river, stream, or creek, except where permitted by the approved mining and reclamation plan;

(5) surface coal mining operations will not take place on any area of land within one thousand feet of parks or places listed in the National Register of Historic Sites, unless screening or other measures approved by the regulatory authority are used or if the mining of the area will not adversely affect or reduce the usage of the park or place; and

(6) the application on its face is complete, accurate, and contains no false information.

(e) The regulatory authority shall not issue any new surface coal mining permit or renew or revise any existing surface coal mining permit if it finds that the applicant has failed and continues to fail to comply with any of the provisions of this Act applicable to any State, Federal, or Federal lands program, or the permit includes an area as to which an administrative proceeding has commenced pursuant to section 205, or if the applicant fails to submit proof that violations described in subsection (a)(10) of section 208 have been corrected or are in the process of being corrected to the satisfaction of the regulatory authority, department, or agency which has jurisdiction over such violation.

(f) Any person having an interest which is or may be adversely affected by the proposed surface coal mining and reclamation operation or any Federal, State, or local governmental agency having responsibilities affected by the proposed operation shall have the right to file written objections to any permit application and request a public hearing thereon within thirty days after the last publication of the advertisement pursuant to section 208(a)(9). If written objections are filed and a hearing requested, the regulatory authority shall hold a public hearing in the locality of the proposed surface coal mining and reclamation operation as soon as practicable from the date of receipt of such objections and after appropriate notice and publication of the date, time, and location of such hearing. Within sixty days after the hearing the regulatory authority shall issue and furnish the parties to the hearing the written decision of the regulatory authority granting or denying the permit in whole or in part and stating the reasons therefor.

POSTING OF BOND OR DEPOSIT: INSURANCE

SEC. 210. (a) After a surface coal mining and reclamation permit application has been approved but before such a permit is issued, the applicant shall file with the regulatory authority, on a form prescribed and furnished by the regulatory authority, a bond for performance payable, as appropriate, to the United States or the State, under an approved State program, and conditioned that the applicant shall faithfully perform all the applicable requirements under this Act. The bond shall cover that area of land within the permit area upon which the applicant will initiate and conduct surface coal mining and reclamation operations within the initial year of the permit term. As succeeding increments of surface coal mining and reclamation operations are to be initiated and conducted within the permit area, the permittee shall file annually with the regulatory authority an additional bond or bonds to cover such increments in accordance with this section. The amount of the bond required for each bonded area shall depend upon the reclamation requirements of the approved permit and shall be determined by the regulatory authority. The amount of the bond shall be sufficient to assure the completion of the reclamation plan if the work had to be performed by a third party in the event of forfeiture; in no case shall the bond be less than $10,000.

(b) The bond shall be executed by the applicant and a corporate surety approved by the regulatory authority, except that the applicant may elect to deposit cash, negotiable bonds of the United States Government or such State, or negotiable certificates of deposit of any bank organized under the laws of any State or the United States. The cash deposit or market value of such securities shall be equal to or greater than the amount of the bond required for the bonded area.

(c) The amount of the bond or deposit required shall be increased or decreased by the regulatory authority from time to time as affected land acreages are changed or where the cost of future reclamation increases or decreases.

(d) After a surface coal mining and reclamation permit application has been approved but before such permit is issued, the applicant for a permit shall be required to submit to the regulatory authority a certificate issued by an insurance company authorized to do business in the United States certifying that the applicant has a public liability insurance policy in force for the surface coal mining and reclamation operation for which such permit is sought, or

evidence that the applicant has satisfied State or Federal self-insurance requirements. Such policy shall provide for both on- and off-site personal injury and property damage protection in an amount adequate to compensate any persons injured or damaged as a result of surface coal mining and reclamation operations and entitled to compensation under the applicable provisions of Federal or State law, but in any event shall not be less than $100,000, or for such higher amounts as the regulatory authority deems necessary in light of potential risk and magnitude of possible off-site damages. Such policy shall be for the term of the permit and any renewal, including the length of any and all reclamation operations required by this Act.

RELEASE OF PERFORMANCE BONDS OR DEPOSITS

SEC. 211. (a) The permittee may file a request with the regulatory authority for the release of all or part of the performance bond or deposit. Within thirty days after any application for bond or deposit release has been filed with the regulatory authority, the permittee shall submit a copy of an advertisement placed at least once a week for three consecutive weeks in a newspaper of general circulation in the locality of the surface coal mining operation. Such advertisement shall be considered part of any bond release application and shall contain a notification of the location of the land affected, the number of acres, the permit number and the date approved, the amount of the bond filed and the portion sought to be released, and the type of reclamation work performed. In addition, as part of any bond release application, the permittee shall submit copies of letters which have been sent to adjoining property owners, and local governmental bodies, planning agencies, sewage and water treatment authorities, water companies, and all other public utility companies whose facilities cross or may be sufficiently close to the concerned area to be affected thereby in the locality in which the surface coal mining and reclamation activities took place, notifying them of intent to seek release of the bond.

(b) The regulatory authority may release in whole or in part said bond or deposit if the authority is satisfied that reclamation covered by the bond or deposit or portion thereof has been accomplished as required by this Act: *Provided, however,* That—

(1) no bond shall be fully released until all reclamation requirements of this Act are fully met, and

(2) an inspection and evaluation of the affected surface coal mining and reclamation operation is made by the regulatory authority or its authorized representative prior to the release of all or any portion of the bond.

(c) If the regulatory authority disapproves the application for release of the bond or portion thereof, the authority shall notify the permittee, in writing, stating the reasons for disapproval and recommending actions necessary to secure said release. The permittee shall be afforded an opportunity for a public hearing in accordance with the procedures specified in section 209(a), unless a hearing has already been held under subsection (d) of this section.

(d) Any person having an interest which is or may be adversely affected by the proposed release of the bond or any Federal, State, or local governmental agency having responsibilities affected by the proposed release shall have the right to file written objections to the proposed release of the bond and request a public hearing thereon to the regulatory authority within thirty days after the last notice has been given in accordance with subsection (a) of this section. If written objections are filed and a hearing requested, the regulatory authority shall inform all the interested parties, of the time and place of the hearing, which shall be held in the locality of the affected surface coal mining operation as soon as practicable after receipt of the request for such hearing. The date, time, and location of such public hearing shall be advertised by the regulatory authority in a newspaper of general circulation in the locality once a week for three consecutive weeks.

REVISION AND REVIEW OF PERMITS

SEC. 212. (a) During the term of the permit the permittee may submit an application, together with a revised surface coal mining and reclamation plan, to the regulatory authority for a revision of the permit.

(b) An application for a revision of a permit shall not be approved unless the regulatory authority finds that reclamation as required by this Act and the State or Federal program can be accomplished under the revised surface coal mining and reclamation plan. The revision shall be approved or disapproved within a period of time established by the State or Federal program, but such period shall not exceed ninety days. The regulatory authority shall establish guidelines for a determination of the scale or extent of a revision request for which all permit application information requirements and procedures, including notice and hearings, shall apply: *Provided,* That any revision which proposes a substantial change in the intended future use of the land or significant alterations in the mining and reclamation plan shall, at a minimum, be subject to the notice and hearing requirements of section 209 of this Act.

(c) Any extensions to the area covered by the permit except incidental boundary revisions shall be made by application for another permit.

(d) The regulatory authority may require reasonable revision or modification of the permit provisions during the term of such permit: *Provided,* That such revision or modification shall be subject to notice and hearing requirements established by the State or Federal program.

(e) Permits issued pursuant to an approved State program shall be valid but reviewable under a Federal program. Following promulgation of a Federal program, the Secretary shall review such permits to determine if the requirements of this Act are being carried out. If the Secretary determines that any permit has been granted contrary to the requirements of this Act, he shall so advise the permittee and provide him a reasonable opportunity for submission of a new application and reasonable time to conform ongoing surface coal mining and reclamation operations to the requirements of the Federal program.

(f) If a State submits a proposed State program to the Secretary after a Federal program has been promulgated and implemented, and if the Secretary approves the State program, the Federal program shall cease to be effective thirty days after such approval. Permits issued pursuant to the Federal program shall be valid but reviewable under the approved State program. The State regulatory authority may review such permits to determine if the requirements of the approved State program are being carried out. If the State regulatory authority determines that any permit has been granted contrary to the requirements of the approved State program, it shall so advise the permittee and provide a reasonable opportunity for submission of a new application and reasonable time to conform ongoing surface coal mining and reclamation operations to the requirements of the approved State program.

SURFACE COAL MINING AND RECLAMATION PERFORMANCE STANDARDS

SEC. 213. (a) Any permit issued under any approved State or Federal program pursuant to this Act to conduct surface coal mining operations shall require that such surface coal mining operations will meet all applicable surface coal mining and reclamation performance standards of this Act.

(b) The following general surface coal mining and reclamation performance standards shall be applicable to all surface coal mining and reclamation operations and shall require the permittee to—

(1) conduct surface coal mining operations so as to maximize the utilization and conservation of the coal being mined so that reaffecting the land in the future through surface coal mining operations can be minimized;

(2) restore the land affected to a condition capable of supporting the uses which it was capable of supporting prior to any mining, or an equal or better economic or public use suitable to the locality;

(3) minimize to the extent practicable, any temporary environmental damage so that it will affect only the permit area;

(4) limit the excavation area from which coal has been removed at any one time during mining by combining the process of reclamation with the process of mining to keep reclamation operations current, and completing such reclamation in any separate distinguishable portion of the mined area as soon as feasible, but not later than the time specified in a reclamation schedule which shall be attached to the permit;

(5) remove the topsoil from the land in a separate layer, replace it simultaneously on a backfill area or if not utilized immediately segregate it in a separate pile from other spoil and if the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick growing plant or other means thereafter so that the topsoil is protected from wind and water erosion, and contamination by other acid or toxic material, and is in a usable condition for sustaining vegetation, except if the topsoil is insufficient quantity or of poor quality sustaining vegetation or if another material from the mining cycle can be shown to be more suitable for vegetation requirements, then the permittee shall so remove, segregate, and protect that material which is best able to support vegetation, unless the permittee demonstrates in the reclamation plan that another method of soil conservation would be at least equally effective for revegetation purposes;

(6) stabilize and protect all surface areas affected by the surface coal mining and reclamation operation to control as effectively as possible erosion and attendant aid and water pollution.

(7) provide that all debris, acid, highly mineralized toxic materials, or materials constituting a fire hazard are treated or disposed of in a manner designed to prevent contamination of ground or surface waters and sustained combustion;

(8) backfill, compact (where advisable to provide stability or to prevent leaching of toxic materials), and grade in order to restore the approximate original contour of the land with all highwalls, spoil piles and depressions eliminated (unless small depressions are needed in order to retain moisture to assist revegetation or as otherwise authorized pursuant to paragraph (9) of this subsection): *Provided, however,* That in surface coal mining operations where the operation transects the coal deposit and the permittee demonstrates that the overburden, giving due consideration to volumetric expansion, is insufficient or more than sufficient to restore the approximate original contour, the permittee, at a minimum, shall backfill, grade, and compact (where advisable) in order to cover all acid-forming and other toxic materials, to achieve an angle of repose based upon soil and climate characteristics of the area of land to be affected

to provide adequate drainage and to facilitate land use consistent with that approved for the post mining land use of the mine site;

(9) construct, if authorized in the approved surface coal mining and reclamation plan and permit, permanent impoundments of water on mining sites as part of reclamation activities only when it is adequately demonstrated that—

(A) the size of the impoundment is adequate for its intended purposes;

(B) the impoundment dam construction will be so designed to achieve necessary stability with an adequate margin of safety;

(C) the quality of impounded water will be suitable on a permanent basis for its intended use and that degradation of water quality in the receiving stream as a result of discharges from the impoundment will be minimized;

(D) the level of water will be reasonably stable;

(E) final grading will provide adequate safety and access for proposed water users; and

(F) diminution of the quality or quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses will be minimized;

(10) refrain from the construction of roads or other access ways up a stream bed or drainage channel or in such proximity to such bed or channel so as to result in serious adverse effects on the normal flow of water;

(1) replace the topsoil or the other more suitable material from the mining cycle which has been segregated and protected;

(12) establish on the regraded areas and all other lands affected a stable and self-regenerating vegetative cover (including agricultural crops if approved by the regulatory authority), where cover existed prior to mining, which, where advisable, shall be comprised of native vegetation;

(13) assume the responsibility for successful revegetation for a period of five full years after the completion of reclamation (as determined by the regulatory authority) in order to provide a stable and self-regenerating vegetative cover suitable to the area, except in those areas or regions of the country where the annual average precipitation is twenty-six inches or less, then the permittee's assumption of responsibility and liability will extend for a period of ten full years after the completion of reclamation: *Provided,* That unless prior thereto, the operator can demonstrate to the satisfaction of the regulatory authority that such a vegetative cover has been established for at least three full growing seasons;

(14) minimize the disturbances to the hydrologic balance at the mine site and in associated offsite areas and to the quality and quantity of water in surface and ground water systems both during and after surface coal mining and reclamation operations by—

(A) avoiding acid or other toxic mine drainage to the extent practicable by preventing, retaining, or treating drainage to reduce mineral content which adversely affects downstream water uses when it is released to water courses;

(B) casing, sealing, or otherwise managing boreholes, shafts, and wells in a manner designed to prevent acid or other toxic drainage to ground and surface waters;

(C) conducting surface coal mining operations so as to minimize to the extent practicable the adverse effects of water runoff from the permit area;

(D) if required, removing and disposing of siltation structures and retained silt from drainways in an environmentally safe manner;

(E) restoring to the maximum extent practicable recharge capacity of the aquifer at the minesite to premining conditions; and

(F) relocating surface and ground water in a manner consistent with the permittee's approved surface coal mining and reclamation plan.

(15) minimize offsite damages that may result from surface coal mining operations and institute immediate efforts to correct such conditions;

(16) with respect to the use of impoundments for disposal of mine wastes or other liquid or solid wastes, incorporate sound engineering practices for the design and construction of water retention facilities which will not endanger the health and safety of the public in the event of failure, construct such facilities to achieve necessary stability with an adequate margin of safety to protect against failure, prevent leachate from polluting surface or ground water and prohibit fines, slimes, and other unsuitable coal processing wastes from being used as the principal material in the construction of water impoundments, water retention facilities, dams, or settling ponds;

(17) with respect to surface disposal of mine wastes, coal processing wastes, and other wastes in areas other than the mine workings or excavations, stabilize all waste piles in designated areas through construction in compacted layers with incombustible and impervious materials, and provide that the final contour of the waste pile will be compatible with natural surroundings and that the site can and will be stabilized and revegetated according to the provisions of this Act;

(18) with respect to the use of explosives—

(A) provide advance written notice to local governments and advance notice to residents who might be affected by the use of such explosives by publication in a newspaper of general circulation in the locality of the proposed site at least one week in advance of the planned blasting schedules and the posting of such schedules at the entrances to the permit area, and maintain for a period of at least three years a log of the magnitudes and times of blasts;

(B) limit the type of explosives and detonating equipment, the size, the timing and frequency of blasts based upon the physical conditions of the site so as to prevent (i) injury to persons, (ii) damage to public and private property outside the permit area, and (iii) adverse impacts on any underground mine, and

(C) refrain from blasting in specific areas where the safety of the public or private property or natural formations of more than local interest are endangered;

(19) Refrain from surface coal mining within five hundred feet from underground mines in order to prevent breakthroughs and to protect health or safety of miners: *Provided,* That the regulatory authority shall permit an operator to mine closer to such a mine provided it does not create hazards to the health and safety of miners or shall permit an operator to mine near, through or partially through an abandoned underground mine working where such mining through will achieve improved resource recovery, abatement of water pollution or elimination of public hazards and such mining shall be consistent with the provisions of this Act.

(20) construct access roads, haulroads, or haulageways with appropriate limits applied to grade, width, surface materials, spacing, and size of culverts in order to control drainage and prevent erosion outside the permit area, and upon the completion of mining either reclaim such roads by regrading and revegetation or provide for their maintenance so as to control erosion and siltation of streams and adjacent lands; and

(21) fill auger holes to a depth of not less than three times the diameter with an impervious and noncombustible material.

(c) The following mining and reclamation performance standards shall be applicable to steep-slope surface coal mining and shall be in addition to those general performance standards required by this section: *Provided, however,* That the provisions of this subsection (c) shall not apply to mining operations which create a plateau with no highwalls remaining in such a manner as to otherwise meet the standards of this subsection or those situations in which an operator is mining on flat or gently rolling terrain, on which an occasional steep-slope is encountered through which the mining operation is to proceed, leaving a plain or predominantly flat area:

(1) No spoil, debris, soil, waste materials, or abandoned or disabled mine equipment may be placed on the natural or other downslope below the bench or cut created to expose the coal seam except that, where necessary, spoil from the cut necessary to obtain access to the coal seam may be placed on a limited or specified area of the downslope, provided that the spoil is shaped and graded in such a way so as to prevent slides and minimize erosion and water pollution and that the other requirements of subsection (b) can still be met.

(2) For the purposes of this subsection, the term "steepslope" is any slope above twenty degrees or such other slope as the regulatory authority may determine to be necessary based upon soil, climate, and other characteristics of a region or State.

(d)(1) In cases where an industrial, commercial, agricultural, residential, recreational or public facility development is proposed for postmining use of the affected land, the regulatory authority may grant appropriate exceptions to the requirements for regrading, backfilling, and spoil placement as set forth in subsection 213(b)(8) and in subsection 213(c)(1) of this Act, if the regulatory authority determines:

(A) after consultation with the appropriate land use planning agencies, if any, the proposed development is deemed to constitute an equal or better economic or public use of the affected land, as compared with the premining use;

(B) the equal or better economic or public use can be most effectively obtained only if one or more exceptions to the requirements for regrading, backfilling, and soil placement as set forth in subsection 213(b)(8) and subsection 213(c)(1) of this Act are granted;

(2) With respect to subsection 213(b)(12) and subsection 213(b)(13) of this Act, where postmining land use development is in compliance with all the requirements of this subsection and where the regulatory authority has found that an exception to the revegetation standards is necessary to achieve the postmining land use development, the regulatory authority may grant an appropriate exception.

(3) All exceptions granted under the provisions of this subsection shall be reviewed not more than three years from the date of issuance of the permit, unless the applicant affirmatively demonstrates that the proposed development is proceeding in accordance with terms of the approved schedule and reclamation plan.

(e) The Secretary may develop, promulgate, and revise, as may be appropriate, improved surface coal mining and reclamation performance standards for the protection of the environment and public health and safety. Such development and revision of improved surface coal mining and reclamation performance standards shall be based upon the latest available scientific data, the technical feasibility of the standards, and experience gained under this and other environmental protection statutes. The performance standards of subsections (b) and (c) of this section shall be applicable until superseded in whole or in part by improved surface coal mining and reclamation performance standards promulgated by the Secretary.

No improved surface coal mining and reclamation performance standards promulgated under this subsection shall reduce the protection afforded the environment and the health and safety of the public below that provided by the performance standards contained in subsections (b) and (c) of this section. Improved surface coal mining and reclamation performance standards shall not be promulgated by the Secretary until he has followed the procedures specified in subsections (a), (b), and (c) of section 202 of this Act.

MINING AND RECLAMATION PERFORMANCE STANDARDS FOR SURFACE OPERATIONS INCIDENT TO UNDERGROUND COAL MINING

SEC. 214. (a) In order to regulate the adverse effects of surface operations incident to underground coal mining, the Secretary shall, in accordance with the procedures established under section 202 of this Act, promulgate rules and regulations directed toward the surface affected by such underground coal mining operations embodying the requirements specified in subsection (c) of this section which shall be applicable to surface operations incident to underground coal mining.

(b) The performance standards specified in subsection (c) of this section shall be applicable to all such operations until superseded in whole or in part by improved performance standards promulgated by the Secretary in accordance with subsection (e) of section 213 of this Act.

(c) Any approved State or Federal program pursuant to this Act and relating to surface operations incident to underground coal mining shall require the underground coal mine operator to—

(1) seal all portals, entryways, drifts, shafts, or other openings between the surface and underground mineworkings when no longer needed for the conduct of the underground coal mining operation;

(2) with respect to surface disposal of mine wastes, coal processing wastes, and other wastes in areas other than mineworkings or excavations, stabilize all waste piles created by the current operations in designated areas through construction in compacted layers with incombustible and impervious materials, and provide that the final contour of the waste pile will be compatible with natural surroundings and that the site is stabilized and revegetated according to the provisions of this section;

(3) with respect to the use of impoundments for disposal of mine wastes or other liquid and solid wastes incorporate sound engineering practices for the design and construction of water retention facilities which will not endanger the health and safety of the public in the event of failure, construct such facilities to achieve necessary stability with an adequate margin of safety to protect against failure, prevent leachate from polluting surface or ground water, and prohibit fines, slimes and other unsuitable coal processing wastes from being used as the principal material in the construction of water impoundments, water retention facilities, dams, or settling ponds;

(4) establish on regraded areas and all other lands affected, a stable and self-regenerating vegetative cover, where cover existed prior to mining, which, where advisable, shall be comprised of native vegetation;

(5) adopt measures consistent with known technology to minimize off-site damages resulting from surface operations incident to underground coal mining; and

(6) prevent to the extent practicable the discharge of waterborne pollutants both during and after mining.

(7) in order to protect the stability of the land, the regulatory authority shall suspend underground coal mining under urbanized areas, cities, towns, and communities and adjacent to industrial or commercial buildings, major impoundments, or permanent streams if imminent danger to inhabitants of the urbanized areas, cities, towns, and communities is presented.

(d) All operators of underground coal mines, both during and after mining, shall have abatement and remedial programs to prevent the discharge of waterborne pollutants to the extent practical and to eliminate fire hazards and other conditions which constitute a hazard to public health and safety.

JUDICIAL REVIEW

SEC. 215. (a)(1) Any action of the Secretary to approve or disapprove a State program pursuant to section 203 of this Act or to prepare and promulgate a Federal program pursuant to section 204 of this Act shall be subject to judicial review only by the appropriate United States Court of Appeals upon the filing in such court within thirty days from the date of such action of a petition by any person who participated in the administrative proceedings related thereto and who is aggrieved by the action praying that the action be modified or set aside in whole or in part. A copy of the petition shall forthwith be sent by registered or certified mail to the other parties, the Secretary, and the Attorney General and thereupon the Secretary shall certify and the Attorney General shall file in such court the record upon which the action complained of was issued, as provided in section 2112 of title 28, United States Code.

(2) Any promulgation of regulations by the Secretary pursuant to sections 213, 214, and 221 of this Act shall be subject to judicial review only by the appropriate United States Court of Appeals in accordance with the procedures set forth in subsection (1) of this section.

(3) All other orders or decisions issued by the Secretary pursuant to this Act shall be subject to judicial review only in the United States District Court for the locality in which the surface coal mining operation is located. Such review shall be in accordance with the Federal Rules of Civil Procedure, in the case of a proceeding to review an order or decision issued by the Secretary under section 219(b) of this Act, the court shall have jurisdiction to enter an order requiring payment of any civil penalty assessment enforced by its judgment.

(b) The court shall hear such petition or complaint on the evidence presented and on the record made before the Secretary. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

(c) In the case of a proceeding to review any order or decision issued by the Secretary under this Act, the court may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceeding if—

(1) all parties to the proceeding have been notified and given an opportunity to be heard on a request for temporary relief;

(2) there is a substantial likelihood that the person requesting such relief will prevail on the merits of the final determination of the proceeding; and

(3) such relief will not present imminent danger to the public health and safety or cause significant imminent environmental harm to the land, air, or water resources which cannot reasonably be considered reclaimable within the scope of the bonded reclamation plan.

(d) The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the order or decision of the Secretary.

INSPECTIONS AND MONITORING

SEC. 216. (a) The Secretary shall cause to be made such inspections of any surface coal mining and reclamation operations as are necessary to evaluate the administration of approved State programs, or to develop or enforce any Federal program, and for such purposes authorized representatives of the Secretary shall have a right of entry to, upon, or through any surface coal mining and reclamation operations.

(b) For the purpose of developing or assisting in the development, administration, and enforcement of any approved State or Federal program under this Act or in the administration and enforcement of any permit under this Act, or determining whether any person is in violation of any requirement of any such State or Federal program or any other requirement of this Act, the regulatory authority shall—

(1) require any permittee to (A) establish and maintain appropriate records, (B) make monthly reports to the regulatory authority, (C) install, use, and maintain any necessary monitoring equipment or methods, (D) evaluate results in accordance with such methods, at such locations, intervals, and in such manner as the regulatory authority shall prescribe, and (E) provide such other information relative to surface coal mining and reclamation operations as the regulatory authority deems reasonable and necessary;

(2) for those surface coal mining and reclamation operations which remove or disturb strata that serve as aquifers which significantly insure the hydrologic balance or water use either on or off the mining site, specify those—

(A) monitoring sites to record the quantity and quality of surface drainage above and below the minesite as well as in the potential zone of influence;

(B) monitoring sites to record level, amount, and samples of ground water and aquifers potentially affected by the mining and also directly below the lowermost (deepest) coal seam to be mined;

(C) records of well logs and borehole data to be maintained; and

(D) monitoring sites to record precipitation. The monitoring, data collection, and analysis required by this section shall be conducted according to standards and procedures set forth by the regulatory authority in order to assure their reliability and validity; and

(3) the authorized representatives of the regulatory authority, without advance notice and upon presentation of appropriate credentials (A) shall have the right of entry to, upon, or through any surface coal mining and reclamation operations of any premises in which any records required to be maintained under paragraph (1) of this subsection are located; and (B) may at reasonable times, and without delay, have access to and copy any records, inspect any monitoring equipment or method of operation required under this Act.

(c) The inspections by the regulatory authority shall (1) occur on an irregular basis averaging not less than one inspection per month for the surface coal mining and reclamation operations for coal covered by each permit; (2) occur without prior notice to the permittee or his agents or employees; and (3) include the filing of inspection reports adequate to enforce the requirements of and to carry out the terms and purposes of this Act. The regulatory authority shall make copies of such inspection reports freely available to the public at a central location in the pertinent geographic area of mining. The Secretary or the regulatory authority shall establish a system of continual rotation of inspectors so that the same inspec-

tor does not consistently visit the same operations.

(d) Each permittee shall conspicuously maintain the entrance to the surface coal mining and reclamation operation a clearly visible sign which sets forth the name, business address, and phone number of the permittee and the permit number of the surface coal mining and reclamation operation.

(e) Each authorized representative of the regulatory authority, upon detection of each violation of any requirement of a State or Federal program pursuant to this Act, shall forthwith inform the permittee in writing, and shall report in writing any such violation to the regulatory authority.

FEDERAL ENFORCEMENT

SEC. 217 (a) (1) Whenever, on the basis of any information available, including receipt of information from any person, the Secretary has reason to believe that any person in violation of any requirement of this Act or any permit condition required by this Act, the Secretary shall notify the State regulatory authority, if one exists, in the State in which such violation exists. If no such State authority exists or the State regulatory authority fails within ten days after notification to take appropriate action to cause said violation to be corrected or to show good cause for such failure and transmit notification of its action to the Secretary, the Secretary shall immediately order Federal inspection of the surface coal mining operation at which the alleged violation is occurring unless the information available to the Secretary is a result of previous Federal inspection of such surface coal mining operation. When the Federal inspection results from information provided to the Secretary by any person, the Secretary shall notify such person when the Federal inspection is proposed to be carried out and such person shall be allowed to accompany the inspector during the inspection.

(2) When, on the basis of any Federal inspection, the Secretary or his authorized representative determines that any permittee is in violation of any requirement of this Act or any permit condition required by this Act, which violation also creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause significant imminent environmental harm to land, air, or water resources, which cannot reasonably be considered reclaimable within the scope of the bonded reclamation plan, the Secretary or his authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the violation. Such cessation order shall remain in effect until the Secretary or his authorized representative determines that the violation has been abated.

(3) When, on the basis of a Federal inspection which is carried out during the enforcement of a Federal program or a Federal lands program, or during Federal enforcement of a State program in accordance with subsection (b) of this section, the Secretary or his authorized representative determines that any permittee is in violation of any requirement of this Act or any permit condition required by this Act, but such violation does not create an imminent danger to the health or safety of the public, or cause or can be reasonably expected to cause significant imminent environmental harm to land, air, or water resources which cannot reasonably be considered reclaimable within the scope of the bonded reclamation plan, the Secretary or his authorized representative shall issue a notice to the permittee or his agent fixing a reasonable time for the abatement of the violation. If, upon the expiration of the period of time as originally fixed or subsequently extended, the Secretary or his authorized representative finds that the violation has not been abated, he shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the violation. Such cessation order shall remain in effect until the Secretary or his authorized representative determines that the violation has been abated.

(4) When, on the basis of a Federal inspection which is carried out during the enforcement of a Federal program, or a Federal lands program, or during Federal enforcement of a State program in accordance with subsection (b) of this section, the Secretary or his authorized representative determines that a pattern of violations of any requirements of this Act or any permit conditions required by this Act exists or has existed, and if the Secretary or his authorized representative also finds that such violations are caused by the unwarranted failure of the permittee to comply with any requirements of this Act or any permit conditions, or that such violations are willfully caused by the permittee, the Secretary or his authorized representative shall forthwith issue an order to the permittee to show cause why the permit should not be suspended or revoked.

(5) Notices and orders issued pursuant to this section shall set forth with reasonable specificity the nature of the violation and the remedial action required, the period of time established for abatement, and, where appropriate, a reasonable description of the portion of the surface coal mining and reclamation operation to which a cessation order applies. Each notice or other order issued under this section shall be given promptly to the permittee or his agent by the Secretary or his authorized representative who issues such notice or order, and all such notices and orders shall be in writing and shall be signed by such authorized representative. Any notice or order issued pursuant to this section may be modified, vacated, or terminated by the Secretary or his authorized representative. A copy of any such order or notice shall be sent to the State regulatory authority in the State in which the violation occurs.

(b) Whenever the Secretary finds that violations of an approved State program appear to result from a failure of the State to enforce such program effectively, he shall so notify the State. If the Secretary finds that such failure extends beyond thirty days after such notice, he shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Secretary that it will enforce this Act, the Secretary shall enforce any permit condition required under this Act, shall issue new or revised permits in accordance with the requirements of this Act, and may issue such notices and orders as are necessary for compliance therewith.

(c) The Secretary may request the Attorney General to institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which the surface coal mining and reclamation operation is located or in which the permittee thereof has his principal office, whenever such permittee or his agent (A) violates or fails or refuses to comply with any order or decision issued by the Secretary under this Act, or (B) interferes with, hinders, or delays the Secretary or his authorized representative in carrying out the provisions of this Act, or (C) refuses to admit such authorized representative to the mine, or (D) refuses to permit inspection of the mine by such authorized representative, or (E) refuses to furnish any information or report requested by the Secretary in furtherance of the provisions of this Act, or (F) refuses to permit access to, and copying of, such records as the Secretary determines necessary in carrying out the provisions of this Act. Such court shall have jurisdiction to provide such relief as may be appropriate. Temporary restraining orders shall be issued in accordance with Rule 65 of the Federal Rules of Civil Procedure, as amended. Except as otherwise provided herein, any relief granted by the court to enforce an order under clause (A) of this subsection shall continue in effect until the completion or final termination of all proceedings for review of such order under this title, unless, prior thereto, the district court granting such relief sets it aside or modifies it.

REVIEW BY THE SECRETARY

SEC. 218. (a) (1) A notice or order issued to a permittee pursuant to the provisions of subparagraphs (a) (2) and (3) of section 217 of this title, or to any person having an interest which is or may be adversely affected by such notice or order or by any modification, vacation, or termination of such notice or order, may apply to the Secretary for review of the notice or order within thirty days of receipt thereof or within thirty days of its modification, vacation, or termination. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing, at the request of the applicant or person having an interest which is or may be adversely affected, to enable the applicant and such person to present information relating to the issuance and continuance of such notice or order or the modification, vacation, or termination, thereof. The filing of an application for review under this subsection shall not operate as a stay of any order or notice.

(2) The permittee and other interested persons shall be given written notice of the time and place of the hearing at least five days prior thereto. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code.

(b) Upon receiving the report of such investigation, the Secretary shall make findings of fact, and shall issue a written decision, incorporating therein an order vacating, affirming, modifying, or terminating the notice or order, or the modification, vacation, or termination of such notice or order complained of and incorporate his findings therein.

(c) Pending completion of the investigation required by this section, the applicant may file with the Secretary a written request that the Secretary grant temporary relief from any notice or order issued under section 217(a) (3) of this title together with a detailed statement giving reasons for granting such relief. The Secretary may grant such relief, with or without a hearing, under such conditions as he may prescribe, if—

(1) the applicant shows that there is substantial likelihood that the findings of the Secretary will be favorable to him; and

(2) such relief will not present imminent danger to the health or safety of the public or cause significant imminent environmental harm to the land, air, or water resources within the scope of the bonded reclamation plan.

(d) Following the issuance of an order to show cause as to why a permit should not be suspended or revoked pursuant to section 217(a) (4), the Secretary shall hold a public hearing after giving written notice of the time, place, and date thereof. Any such hearing shall be of record and shall be subject to section 554 of title V of the United States Code. Within sixty days following the public hearing, the Secretary shall issue and furnish

to the permittee and all other parties to the hearing a written decision, and the reasons therefor, concerning suspension or revocation of the permit. If the Secretary revokes the permit, the permittee shall immediately cease surface coal mining operations on the permit area and shall complete reclamation within a period specified by the Secretary, or the Secretary shall declare as forfeited the performance bonds for the operation.

(e) In view of the urgent need for prompt decision of matters submitted to the Secretary under this section, action shall be taken as promptly as practicable, consistent with adequate consideration of the issues involved.

PENALTIES

SEC. 219. (a) In the enforcement of a Federal program or Federal lands program, or during Federal enforcement of a State program pursuant to section 217(b) of this Act, any permittee who violates any permit condition or who violates any other provision of this title, may be assessed a civil penalty by the Secretary, except that if such violation leads to the issuance of a cessation order under section 217 (a) (3), the civil penalty shall be assessed. Such penalty shall not exceed $10,000. Each day of a coninuing violation may be deemed a separate offense. In determining the amount of the penalty, consideration shall be given to the permittee's history of previous violations at the particular surface coal mining operation; the appropriateness of such penalty to the size of the business of the permittee charged; the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public; whether the permittee was negligent; and the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notification of the violation.

(b) A civil penalty shall be assessed by the Secretary only after the person charged with a violation described under subsection (a) of this section has been given an opportunity for a public hearing. Where such a public hearing has been held, the Secretary shall make findings of fact, and shall issue a written decision as to the occurrence of the violation and the amount of the penalty which is warranted, incorporating, when appropriate, an order therein requiring that the penalty be paid. Where appropriate, the Secretary shall consolidate such hearings with other proceedings under section 218 of this Act. Any hearing under this section shall be of record and shall be subject to section 554 of title 5 of the United States Code. Where the person charged with such a violation fails to avail himself of the opportunity for a public hearing, a civil penalty shall be assessed by the Secretary after the Secretary has determined that a violation did occur, and the amount of the penalty which is warranted, and has issued an order requiring that the penalty be paid.

(c) If no complaint, as provided in section 215 of this Act, is filed within thirty days from the date of the final order or decision issued by the Secretary under subsection (b) of this section, such order and decision shall be conclusive.

(d) Interest at the rate of 6 per centum per annum shall be charged against a person on any unpaid civil penalty assessed against him pursuant to the final order of the Secretary, said interest to be computed from the thirty-first day after issuance of such final assessment order.

(e) Civil penalties owed under this Act, either pursuant to subsection (c) of this section or pursuant to an enforcement order entered under section 215 of this Act, may be recovered in a civil action brought by the Attorney General at the request of the Secretary in any appropriate district court of the United States.

(f) Any person who willfully and knowingly violates a condition of a permit issued pursuant to a Federal program or a Federal lands program or fails or refuses to comply with any order issued under section 217(a) of this Act, or any order incorporated in a final decision issued by the Secretary under this Act, except an order incorporated in a decision issued under subsection (b) of this section or section 305 of this Act, shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than one year, or both.

(g) Whenever a corporate permittee violates a condition of a permit issued pursuant to a Federal program or a Federal lands program or fails or refuses to comply with any order issued under section 217(a) of this Act, or any order incorporated in a final decision issued by the Secretary under this Act except an order incorporated in a decision issued under subsection (b) of this section or section 305 of this Act, any director, officer, or agent of such corporation who willfully and knowingly authorized, ordered, or carried out such violation, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment that may be imposed upon a person under subsections (a) and (f) of this section.

(h) Whoever knowingly makes any false statement, representation, or certification, or knowingly fails to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to a Federal program or a Federal lands program or any order or decision issued by the Secretary under this Act shall, upon conviction be punished by a fine of not more than $10,000, or by imprisonment for not more than one year, or both.

(i) As a condition of approval of any State program submitted pursuant to section 203 of this Act, the civil and criminal penalty provisions thereof shall, at a minimum, incorporate penalties no less stringent than those set forth in this section, and shall contain the same or similar procedural requirements relating thereto.

ESTABLISHMENT OF RIGHT TO BRING CITIZENS SUITS

SEC. 220. (a) Except as provided in subsection (c) of this section any person having an interest which is or may be adversely affected by actions of the Secretary or the regulatory authority may commence a civil action on his own behalf in an appropriate United States district court—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any regulation, order, or permit issued under this Act;

(2) against the Secertary where there is alleged a failure of the Secretary or State regulatory authority to perform any act or duty under this Act which is not discretionary.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citzenship of the parties, to remedy such violation or failure and to apply any appropriate civil penalties or injunctive relief under this Act.

(b) No action may be commenced—

(1) under subsection (a) (1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the alleged violation (i) to the Secretary, (ii) to the State in which the alleged violation occurs, and (iii) to any alleged violator of the regulation, order, or permit, or provision of this Act;

(B) if the Secretary or State has commenced and is diligently prosecuting administrative or judicial action to require compliance with the regulation, permit, order, or provision of this Act, but in any such action in a court of the United States any person described in subsection (a) may intervene as a matter of right;

(2) under subsection (a) (2) of this section prior to sixty days after the plaintiff has given notice of such action to the regulatory authority. Notice under this subsection shall be given in such manner as the Secretary shall prescribe by regulation.

(c) The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, except against the United States or any Federal officer or agency, whenever the court determines such award is appropriate. The court may, if a tempoary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(d) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of this Act or to seek any other relief (including relief against the Secretary or a State agency).

(e) The Secretary, if not a party in any action under this section, may intervene as a matter of right.

FEDERAL LANDS

SEC. 221. (a) (1) After the date of enactment of this Act all new surface coal mining permits, leases, or contracts issued with respect to surface coal mining operations on Federal lands shall incorporate therein the interim surface coal mining and reclamation performance standards of subsection (c) of section 201 of this Act.

(a) (2) Within sixty days from the date of enactment of this Act, the Secretary shall review and amend all existing surface coal mining permits, leases, or contracts in order to incorporate therein the interim surface coal mining and reclamation performance standards of subsection (c) of section 201 of this Act. On or before one hundred and twenty days from the date of issuance of such amended permit, lease, or contract, all surface coal mining operations existing at the date of enactment of this Act on Federal lands shall comply with the interim surface coal mining and reclamation performance standards with respect to lands from which the overburden has not been removed.

(b) The Secretary, in consultation with the heads of other Federal land managing departments and agencies, shall promulgate and implement a Federal lands program which shall be applicable to all surface coal mining and reclamation operations taking place on any Federal land. The Federal lands program shall incorporate all surface coal mining reclamation requirements of this Act and shall take into consideration the diverse physical, climatological, and other unique characteristics of the Federal lands in question.

(c) Within eighteen months after the date of enactment of this Act, all surface coal mining reclamation requirements of this Act through the Federal lands program shall be incorporated by reference or otherwise in any Federal mineral lease, permit, or contract issued by the Secretary which may involve surface coal mining and reclamation operations or surface operations incident to underground coal mines. Incorporation of such requirements shall not, however, limit in any way the authority of the Secretary to subsequently issue new regulations, revise the Federal lands program to deal with changing conditions or changed technology, and to require the lease, permit, or contact holder to conform any surface coal mining and reclamation operations to the requirements of this Act and the regulations issued pursuant to this Act. With respect to national forest lands, the Secretary shall include in

permits, leases, and contracts those conditions and requirements deemed necessary by the Secretary of Agriculture. The Secretary of Agriculture shall administer the provisions of such surface coal mining leases, permits, or contracts relating to reclamation and surface use, and is authorized to enforce such provisions.

The Secretary, or in the case of lands within national forests the Secretary of Agriculture, may enter into agreements with a State or with a number of States to provide for a joint Federal-State program covering a permit or permits for surface coal mining and reclamation operations on land areas which contain lands within any State and Federal lands which are interspersed or checkerboarded and which should, for conservation and administrative purposes, be regulated as a single-management unit. To implement a joint Federal-State program the Secretary, or in the case of lands within national forests the Secretary of Agriculture, may enter into agreements with the States, may delegate authority to the States, or may accept a delegation of authority from the States for the purpose of avoiding duality of administration of a single permit for surface coal mining and reclamation operations. Such agreements shall incorporate all of the requirements of this Act, and shall not preclude Federal inspection or enforcement of the provisions of this Act as provided in sections 216 and 217.

(d) Except as specifically provided in subsection (c), this section shall not be construed as authorizing the Secretary or the Secretary of Agriculture to delegate to the States any authority or jurisdiction to regulate or administer surface coal mining and reclamation operations or other activities taking place on the Federal lands.

(e) This section shall not be construed as authorizing the Secretary to delegate to the States any authority or jurisdiction to regulate or administer surface coal mining and reclamation operations or other activities taking place on Indian lands or to delegate to the States trustee responsibilities toward Indians and Indian lands.

SPECIAL BITUMINOUS COAL MINES

SEC. 222. The regulatory authority is authorized to and shall issue separate regulations for the interim and permanent programs for those special bituminous coal surface mines which meet the following criteria:

(a) were in existence on the date of the Act and because of past duration of mining (at least ten years) have substantially committed to a mode of operation which warrants exceptions to some provisions of this title;

(b) involves the mining of more than one coal seam and where mining has been initiated on the deepest coal seam contemplated to be mined in the current operation;

(c) involves a mining operation that follows the coal seam on an inclination of fifteen degrees or more from the horizontal;

(d) involves an operation on the same site for the duration of the mining operation, and will under present mine plan conditions result in a pit depth in excess of nine hundred vertical feet from the original land surface. Such alternative regulations shall pertain only to the standards governing on-site handling of spoils, elimination of depressions capable of collecting water, creation of impoundments, and regarding to approximate original contour and shall specify that remaining highwalls are stable; all other performance standards in this title apply.

TITLE III—GENERAL PROVISIONS AND ADMINISTRATION

AUTHORITY OF THE SECRETARY

SEC. 301. (a) In carrying out his responsibilities under this Act the Secretary shall:

(1) administer the State grant-in-aid program for the development of State programs for surface coal mining and reclamation operations provided for in this title;

(2) maintain a continuing study of surface coal mining and reclamation operations in the United States;

(3) assist the States in the development of State programs for surface coal mining and reclamation operations which meet the requirements of this Act;

(4) publish and promulgate such rules and regulations as may be necessary to carry out the purposes and provisions of this Act; and

(5) conduct hearings, administer oaths, issue subpenas, and compel the attendance of witnesses and production of written or printed materials as necessary to carry out his duties under this Act.

(b) For the purpose of carrying out his responsibilities under this Act, including the enforcement thereof, the Secretary may by agreement utilize with or without reimbursement the services, personnel, and facilities of any Federal agency.

STUDY OF SUBSIDENCE AND UNDERGROUND WASTE DISPOSAL IN COAL MINES

SEC. 302. The Secretary shall conduct a full and complete study and investigation of the practices of backfilling all coal mine wastes and coal processing plant wastes in mine voids or other equally effective disposal methods and the control of subsidence to maximize the stability, value, and use of lands overlying underground coal mines. The Secretary shall report to the Congress the results of such study and investigation no later than the end of the two-year period beginning on the date of enactment of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 303. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

RELATION TO OTHER LAWS

SEC. 304. Nothing in this Act or in any State regulations approved pursuant to it shall be construed to conflict with any of the following Acts or with any rule or regulation promulgated thereunder:

(1) The Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 721–740).

(2) The Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 801).

(3) The Federal Water Pollution Control Act (33 U.S.C. 1151–1175), the State laws enacted pursuant thereto, or other Federal laws relating to preservation of water quality.

(4) The Clean Air Act, as amended (42 U.S.C. 1857).

(5) The Solid Waste Disposal Act (42 U.S.C. 3251).

(6) The Refuse Act of 1899 (33 U.S.C. 407).

(7) The Fish and Wildlife Coordination Act (16 U.S.C. 661–666c).

EMPLOYEE PROTECTION

SEC. 305. (a) No person shall discharge, or in any other way discriminate against, or cause to be discharged or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this Act, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act.

(b) Any employee or a representative of employees who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, apply to the Secretary for a review of such discharge or alleged discrimination. A copy of the application shall be sent to the person or operator who will be the respondent. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties to present information relating to the alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation the Secretary shall make findings of fact. If he finds that a violation did occur, he shall issue a decision incorporating therein his findings and an order requiring the party committing the violation to take such affirmative action to abate the violation as the Secretary deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no violation, he shall issue such a finding. Orders issued by the Secretary under this subparagraph shall be subject to judicial review in the same manner as other orders and decisions of the Secretary are subject to judicial review under this Act.

(c) Whenever an order is issued under this section, at the request of applicant, a sum equal to the aggregate amount of all costs and expenses (including attorneys' fees), to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the persons committing the violation.

GRANTS TO THE STATES

SEC. 306. (a) The Secretary is authorized to make annual grants to any State for the purpose of assisting such State in developing, administering, and enforcing State programs under this Act. Such grants shall not exceed 80 per centum of the program development costs incurred during the year prior to approval by the Secretary, shall not exceed 60 per centum of the total costs incurred during the first year following approval, 45 per centum during the second year following approval, 30 per centum during the third year following approval, and 15 per centum during the fourth year following approval. Not later than the end of the fourth year following approval, the State program shall be fully funded from State sources, and each application for a permit pursuant to an approved State program or a Federal program under the provision of this Act shall provide for payment of fees as determined by the regulatory authority. Such fees shall be based as nearly as possible upon the actual or anticipated costs of reviewing, administering, and enforcing such permit, and shall be payable on a phased basis over the period of the permit.

(b) The Secretary is authorized to cooperate with and provide assistance to any State for the purpose of assisting it in the development, administration, and enforcement of its State programs. Such cooperation and assistance shall include—

(1) technical assistance and training, including provision of necessary curricular and instruction materials, in the development, administration, and enforcement of the State programs; and

(2) assistance in preparing and maintaining a continuing inventory of information on surface coal mining and reclamation operations for each State for the purposes of evaluating the effectiveness of the State programs. Such assistance shall include all Federal departments and agencies making available data relevant to surface coal mining and reclamation operations and to the development, administration, and enforcement of State programs concerning such operations.

PROTECTION OF THE SURFACE OWNER

"SEC. 307. (a) Where the surface owner is not the owner of the mineral estate proposed to be mined by surface coal mining opera-

tions, the application for a permit shall include the execution of a bond or undertaking to the United States, the State, or the owner of the surface estate, whichever is applicable, for the use and benefit of the owner of the surface estate, to secure the payment of damages to the surface estate caused by the surface coal mining operations.

(b) Upon a determination by the regulatory authority that damages to the surface estate has occurred, the owner of the surface estate shall be entitled to direct payment of up to eighty percent of the value of the bond or undertaking, executed pursuant to subsection (a) of this section, based upon the average value of the surface estate as determined by at least two Federal or State qualified and licensed appraisers, and the payment of any damages in excess of eighty percent of the value of the bond or undertaking shall be determined by an action brought upon the bond or against the operator in a court of competent jurisdiction, and attorney fees and costs awarded in the discretion of the court.

PROTECTION OF GOVERNMENT EMPLOYEES

SEC. 308. Section 1114, title 18, United States Code, is, hereby amended by adding the words "or of the Department of the Interior" after the words "Department of Labor" contained in that section.

SEVERABILITY

SEC. 309. If any provision of this Act or the applicability thereof to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

DEFINITIONS

SEC. 310. For the purposes of this Act—

(1) the term "Secretary" means the Secretary of the Interior, except where otherwise described;

(2) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and Guam;

(3) The term "commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States, or between a State and any other place outside thereof, or between points in the same State which directly or indirectly affect interstate commerce;

(4) The term "surface coal mining operations" means—

(A) activities conducted on the surface of lands in connection with a surface coal mine the products of which enter commerce or the operations of which directly or indirectly affect commerce. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, mountaintop removal, box cut, and area mining (but not open pit mining), and in situ distillation or retorting, leaching, or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, or loading of coal for interstate commerce at or near the mine site: *Provided, however,* That such activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed 16⅔ per centum of the tonnage of minerals removed for purposes of commercial use or sale; and

(B) the areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include land affected by mineral exploration operations which substantially disturb the natural land surface, and any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities;

(5) the term "surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of such operations;

(6) The term "lands within any State" or "lands within such State" means all lands within a State other than Federal lands and Indian lands;

(7) The term "Federal lands" means any land or interest in land owned by the United States without regard to how the United States acquired ownership of the land and without regard to the agency having responsibility for management thereof;

(8) The term "State program" means a program established by a State pursuant to title II to regulate surface coal mining and reclamation operations on lands within a State in accordance with the requirements of this Act and regulations issued by the Secretary pursuant to this Act;

(9) The term "Federal program" means a program established by the Secretary to regulate surface coal mining and reclamation operations on lands within any State in accordance with the requirements of this Act;

(10) The term "Federal lands program" means a program established pursuant to title II to regulate surface coal mining and reclamation operations on Federal lands;

(11) The term "mining and reclamation plan" means a plan submitted by an applicant for a permit under a State program, Federal program, or Federal lands program which sets forth a plan for mining and reclamation of the proposed surface coal mining operations pursuant to section 208;

(12) The term "State regulatory authority" means the department or agency in each State which has primary responsibility in that State for administering the State program pursuant to this Act;

(13) The term "regulatory authority" means the State regulatory authority where the State is administering this Act under an approved State program or the Secretary where the Secretary is administering any or all provisions of this Act;

(14) The term "person" means an individual, partnership, association, society, joint stock company, firm, company, corporation, or other business organization;

(15) The term "permit" means a document issued by the regulatory authority for a surface coal mining site pursuant to a State program, or a Federal lands program, authorizing the permittee to conduct surface coal mining and reclamation operations.

(16) The term "permit applicant" or "applicant" means a person applying for a permit;

(17) The term "permittee" means a person holding a permit;

(18) The term "backfilling to approximate original contour" means that part of the surface coal mining and reclamation process achieved by backfilling and grading of the mined area so that it closely resembles the surface configuration of the land prior to surface coal mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls, spoil piles, and depressions eliminated except that water impoundments may be permitted where the regulatory authority determines that they are necessary or desirable for reclamation or public recreation purposes;

(19) The term "operator" means any person engaged in surface coal mining operations;

(20) The term "reclamation" or "reclaim" means the process of land, air, and water treatment that restricts and controls water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other harmful effects resulting from surface coal mining operations, so that the affected areas, including, where appropriate, areas adjacent to the mining site are restored to a stable condition capable of supporting the uses which they were capable of supporting prior to mining or an equal or better economic or public use suitable to the locality;

(21) The term "unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of any violation of his permit or any requirement of this Act due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit or the Act due to indifference, lack of diligence, or lack of reasonable care;

(22) "Open pit mining" means surface mining in which (1) the amount of material removed is large in proportion to the surface area disturbed; (2) mining continues in the same area proceeding downward with lateral expansion of the pit necessary to maintain slope stability or as necessary to accommodate the orderly expansion of the total mining operation; (3) the operations take place on the same relatively limited site for an extended period of time; (4) there is no practicable method to reclaim the land in the manner required by this Act; and (5) there is no practicable alternative method of mining the mineral or ore involved;

(23) The term "imminent danger to the health or safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirement of this Act in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause death or serious physical harm to persons outside the permit area before such condition, practice, or violation can be abated.

TITLE IV—ABANDONED MINE RECLAMATION

ABANDONED COAL MINE RECLAMATION FUND

SEC. 401. (a) There is created on the books of the Treasury of the United States a fund to be known as the Abandoned Mine Reclamation Fund (hereinafter referred to as the "fund") which shall be administered by the Secretary of the Interior.

(b) The Secretary is authorized to use the money in the fund for making grants for the purposes of Sec. 404.

OBJECTIVES OF FUND

SEC. 402. Objectives for the obligation of funds for the reclamation of previously mined areas shall be to achieve the greatest estimated benefits from the costs incurred.

ELIGIBLE LANDS

SEC. 403. Funds for reclamation may be expended under this title only for lands which (i) were mined for coal or the value of which were adversely affected by such mining, wastebanks, coal processing, or other mining processes; (ii) were abandoned prior to the enactment of this Act; (iii) are subject to no continuing responsibility for such reclamation under State or other Federal laws, and (iv) title to which is held by the State or States in which they are located at the time any grants of money are made under this title.

SEC. 404. (a) For the purpose of carrying out the provisions of this title the Secretary is authorized to make grants on a matching basis to States in such amounts as may be provided in subsection (b), but in no event shall any grant exceed 50 per centum of the total cost of the reclamation of the lands for which such grant is made. Any disposal by a State of such lands subsequent to the completion of such reclamation shall be for

fair market value as determined by a competitive sale. All moneys from such sale shall be deposited in a State fund which, together with interest thereon shall be used for the purposes of the original grants and without further Federal matching.

(b) The Secretary shall establish entitlement for the various States on the basis of the incidence of abandoned coal mined lands and best estimates of costs of reclamation.

SEC. 405. (a) There is authorized to be appropriated to the fund initially the sum of $125,000,000 and such sums as the Congress may thereafter authorize to be appropriated.

(b) The following other moneys shall be deposited in the fund;

(1) moneys derived from the sale, lease, or rental of land reclaimed pursuant to this title;

(2) moneys derived from any user charge imposed on or for land reclaimed pursuant to this title, after expenditures for maintenance have been deducted.

(3) appropriations made to the fund, or amounts credited to the fund, under subsection (c).

Such amounts shall be available for such purposes only when appropriated therefor; and such appropriations may be made without fiscal year limitation.

(c)(1) In addition to the amounts deposited in the fund from the sale, lease or rental of land reclaimed pursuant to this title, there are authorized to be appropriated annually to the fund out of any money in the Treasury not otherwise appropriated, such amounts as are necessary to make the income of the fund not less than $200,000,000 for the fiscal year ending June 30, 1975, and for each fiscal year thereafter.

(2) To the extent that any such sums so appropriated are not sufficient to make the total annual income of the fund amount to $200,000,000 for each of such fiscal years, as provided in paragraph (1), an amount sufficient to cover the remainder thereof shall be credited to the fund from revenues due and payable to the United States for deposit in the Treasury as miscellaneous receipts under the Outer Continental Shelf Lands Act. Moneys covered into the fund under this paragraph shall remain in the fund until appropriated by the Congress to carry out the purposes of this title.

TITLE V—ALASKAN SURFACE COAL MINE STUDY

SEC. 513. (a) The Secretary is directed to contract with the National Academy of Sciences-National Academy of Engineering for an in-depth study of surface coal mining conditions in the State of Alaska in order to determine the best set of surface mining regulations under which such mines could operate. The study shall—

(1) identify variations and differences between surface mining conditions in Alaska and surface mining conditions in the Lower 48 with respect to the environmental protection standards in this Act;

(2) identify suitable surface mining standards to assure that post-mining land use is compatible with the habitat, and surrounding terrain;

(3) identify impacts on the environment which could be engendered by current surface mining technology and identify how or if these impacts can be mitigated through the use of alternative mining technologies.

(b) The Secretary is to make a report to the President and Congress on the findings of the study no later than 24 months after the date of enactment of this Act;

(c) The Secretary shall include in his report a draft of Federal regulations to be promulgated to govern surface coal mining operations on Federal lands in the State of Alaska, and a draft of those regulations to use as a standard for determining the adequacy of an Alaskan State program for the regulation of surface coal mining operations;

(d) The draft regulations contained in the report are to be promulgated for comment by the public and other interested parties pursuant to this Act within 12 months of submission of the report to Congress. After considering such comments submitted and revising such regulations as appropriate, the Secretary shall promulgate such standards governing surface coal mining operations in the State of Alaska.

(e) Until the Secretary has made his report to the President and Congress and has promulgated Federal regulations on coal mining operations on Federal lands in Alaska, this Act shall not apply to the State of Alaska.

(f) There is hereby authorized to be appropriated for the purpose of this section $500,000.

Mr. HOSMER (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit with instructions be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER. Does the gentleman desire to use his time?

Mr. HOSMER. I do, Mr. Speaker.

Mr. Speaker, this motion to recommit with instructions is basically and for the most part, the thrust and philosophy of H.R. 12898, which is to "live and let live."

The bill proposed in my motion to recommit with instructions is a tough, strict, surface coal mining reclamation bill. It is a bill which will permit this country to maintain its energy dependence on the most abundant fossil fuel resource which this country has—coal. It will permit coal to remain available to meet the expanding energy needs of our Nation.

Most importantly, the bill contained in the motion to recommit with instructions is specifically drafted and amended to include the environmental concepts and safeguards as contained in the committee bill. The motion to recommit with instructions proposes a bill which has been revised to include various amendments which have been adopted by the House to the committee bill. The amendments that are included in the bill proposed in the motion to recommit include the following: In title I, the motion contains the congressional findings adopted by the House on July 18.

Title II, the motion has been revised to include time changes proposed to section 201 of the Mink amendment as adopted.

Also in title II are provisions for mountain-top removal, as approved by the House in the Slack amendment; the Dingell amendment regarding national parks, wildlife refuges and wilderness areas; the Roncalio-Ruppe-Hays amendment designating areas unsuitable for surface coal mining; the Melcher amendment on permit renewal; and the Wampler and Hosmer amendments, which were adopted in the Committee of the Whole, are also in the bill proposed in the motion to recommit.

The Hays amendment concerning the surface effects of underground mining operations, and the Young amendment, covering Alaskan problems, are contained in the bill proposed in the motion to recommit.

In order to take care of special circumstances, the motion to recommit contains a provision regarding special bituminous coal mines, as in the committee bill. The motion to recommit also contains a new provision regarding the protection of surface owners. And last, the motion to recommit provides for an abandoned mine reclamation fund for the rehabilitation of abandoned mined lands which includes the Ruppe-McDade amendment which was adopted by the House earlier today.

Mr. Speaker, the motion to recommit contains the rule of reason as against the rule of ruin and inflexibility of H.R. 11500.

The recommittal motion proposes a bill which will allow an equal respect for environmental and energy ethics in our country, and more importantly, the motion to recommit proposes a bill which will avoid the direct possibility, if H.R. 11500 in its present form should be enacted, of inducing an energy-caused depression in the United States of a permanent nature.

There is no doubt, and there is very serious contention that this bill—H.R. 11500—will preclude the production of a certain amount of coal. And, that amount is somewhere between 20 and 65 percent of all the coal that is surface mined. It is my best judgment that it will preclude approximately 50 percent.

In order to avoid that kind of consequence, Mr. Speaker, I ask that the motion to recommit with instructions be agreed to.

The SPEAKER. The gentleman from Arizona (Mr. UDALL) is recognized.

Mr. UDALL. Mr. Speaker, after 6 days of work, this House has produced a balanced surface mining bill. The motion to recommit offers a rehash, with some goodies thrown in, of a substitute that was defeated by over 100 votes when we started last week.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. HOSMER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 106, nays 267, not voting 61, as follows:

[Roll No. 409]

YEAS—106

Archer	Fountain	Parris
Armstrong	Frelinghuysen	Price, Tex.
Ashbrook	Froehlich	Quillen
Baker	Goldwater	Rhodes
Bauman	Gray	Roberts
Beard	Gross	Robinson, Va.
Bevill	Gubser	Rousselot
Blackburn	Hammer-schmidt	Ruth
Bowen	Hanrahan	Satterfield
Bray	Hastings	Scherle
Breaux	Hébert	Sebelius
Broyhill, N.C.	Henderson	Skubitz
Broyhill, Va.	Hinshaw	Slack
Buchanan	Hogan	Snyder
Burleson, Tex.	Holt	Spence
Butler	Hosmer	Steiger, Ariz.
Camp	Huber	Stephens
Chappell	Hunt	Stubblefield
Clawson, Del	Hutchinson	Symms
Cochran	Ichord	Taylor, Mo.
Collins, Tex.	Jarman	Teague
Conable	Johnson, Calif.	Towell, Nev.
Conlan	Ketchum	Treen
Crane	Landgrebe	Veysey
Daniel, Dan	Lott	Waggonner
Daniel, Robert W., Jr.	McClory	Wampler
Davis, Wis.	McCollister	White
Derwinski	Martin, Nebr.	Whitten
Devine	Milford	Wiggins
Dickinson	Miller	Wilson, Bob
Downing	Mills	Wyatt
Duncan	Mollohan	Wyman
Edwards, Ala.	Montgomery	Young, S.C.
Erlenborn	Moorhead, Calif.	Young, Tex.
Fisher	Myers	Zion
Forsythe		

NAYS—267

Abdnor	Dellums	Lent
Abzug	Denholm	Litton
Adams	Dent	Long, La.
Addabbo	Diggs	Long, Md.
Alexander	Dingell	Luken
Anderson, Calif.	Donohue	McCloskey
Anderson, Ill.	Drinan	McCormack
Andrews, N. Dak.	Dulski	McDade
Annunzio	du Pont	McEwen
Ashley	Eckhardt	McFall
Aspin	Edwards, Calif.	McKay
Badillo	Eilberg	McKinney
Bafalis	Esch	Macdonald
Barrett	Eshleman	Madden
Bell	Evans, Colo.	Madigan
Bennett	Fascell	Mahon
Bergland	Findley	Mallary
Biaggi	Fish	Mann
Biester	Flood	Maraziti
Bingham	Flowers	Martin, N.C.
Blatnik	Foley	Mathias, Calif.
Boggs	Ford	Mathis, Ga.
Boland	Fraser	Matsunaga
Bolling	Frey	Mayne
Brademas	Gaydos	Mazzoli
Breckinridge	Giaimo	Meeds
Brinkley	Gilman	Melcher
Brooks	Ginn	Metcalfe
Broomfield	Gonzalez	Mezvinsky
Brotzman	Goodling	Michel
Brown, Calif.	Grasso	Minish
Brown, Mich.	Green, Pa.	Mink
Brown, Ohio	Grover	Mitchell, Md.
Burgener	Gude	Mitchell, N.Y.
Burke, Fla.	Guyer	Mizell
Burke, Mass.	Haley	Moakley
Burlison, Mo.	Hamilton	Moorhead, Pa.
Burton, John	Hanley	Morgan
Byron	Hansen, Wash.	Mosher
Carney, Ohio	Harrington	Moss
Carter	Harsha	Murphy, Ill.
Casey, Tex.	Hays	Murtha
Cederberg	Hechler, W. Va.	Natcher
Clancy	Heckler, Mass.	Nedzi
Clark	Heinz	Nichols
Clausen, Don H.	Helstoski	Nix
Cleveland	Holtzman	Obey
Cohen	Horton	O'Brien
Collier	Howard	O'Hara
Collins, Ill.	Hungate	O'Neill
Conte	Johnson, Colo.	Owens
Conyers	Johnson, Pa.	Patman
Corman	Jones, N.C.	Patten
Cotter	Jones, Okla.	Pepper
Coughlin	Jordan	Perkins
Cronin	Karth	Peyser
Daniels, Dominick V.	Kastenmeier	Pickle
Danielson	Kazen	Pike
de la Garza	Kemp	Poage
Delaney	King	Preyer
Dellenback	Koch	Price, Ill.
	Kyros	Pritchard
	Lagomarsino	Quie
	Latta	Railsback
	Leggett	Randall
	Rangel	Shriver
	Regula	Shuster
	Reid	Sikes
	Reuss	Smith, Iowa
	Riegle	Smith, N.Y.
	Rinaldo	Staggers
	Robison, N.Y.	Stanton, J. William
	Rodino	Stanton, James V.
	Roe	Steed
	Rogers	Steelman
	Roncalio, Wyo.	Steiger, Wis.
	Roncallo, N.Y.	Stokes
	Rooney, Pa.	Stratton
	Rose	Stuckey
	Rosenthal	Studds
	Roush	Symington
	Roy	Taylor, N.C.
	Roybal	Thompson, N.J.
	Ruppe	Thomson, Wis.
	St Germain	Thone
	Sandman	Thornton
	Sarasin	Tiernan
	Sarbanes	Traxler
	Schroeder	Udall
	Seiberling	Van Deerlin
	Shipley	Vander Jagt
	Shoup	Vander Veen
		Vanik
		Vigorito
		Waldie
		Walsh
		Ware
		Whalen
		Widnall
		Williams
		Wilson, Charles H., Calif.
		Winn
		Wolff
		Wright
		Wydler
		Wylie
		Yates
		Yatron
		Young, Fla.
		Young, Ga.
		Young, Ill.
		Zablocki
		Zwach

NOT VOTING—61

Andrews, N.C.	Green, Oreg.	Passman
Arends	Griffiths	Pettis
Brasco	Gunter	Podell
Burke, Calif.	Hanna	Powell, Ohio
Burton, Phillip	Hansen, Idaho	Rarick
Carey, N.Y.	Hawkins	Rees
Chamberlain	Hicks	Rooney, N.Y.
Chisholm	Hillis	Rostenkowski
Clay	Holifield	Runnels
Culver	Hudnut	Ryan
Davis, Ga.	Jones, Ala.	Schneebeli
Davis, S.C.	Jones, Tenn.	Sisk
Dennis	Kluczynski	Stark
Dorn	Kuykendall	Steele
Evins, Tenn.	Landrum	Sullivan
Flynt	Lehman	Ullman
Frenzel	Lujan	Whitehurst
Fulton	McSpadden	Wilson, Charles, Tex.
Fuqua	Minshall, Ohio	Young, Alaska
Gettys	Murphy, N.Y.	
Gibbons	Nelsen	

So the motion to recommit was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Runnels for, with Mr. Fuqua against.

Mr. Dorn for, with Mrs. Burke of California, against.

Mr. Davis of South Carolina for, with Mr. Hicks against.

Mr. Rarick for, with Mr. Kluczynski against.

Mr. Passman for, with Mr. Stark against.

Mr. Arends for, with Mr. Pettis against.

Until further notice:

Mr. Rostenkowski with Mr. Andrews of North Carolina.

Mr. Rooney of New York with Mr. Evins of Tennessee.

Mr. Podell with Mr. Fulton.

Mr. Holifield with Mr. Flynt.

Mr. Hawkins with Mr. Gettys.

Mr. Brasco with Mr. Gibbons.

Mr. Phillip Burton with Mrs. Green of Oregon.

Mr. Rees with Mr. Chamberlain.

Mr. Sisk with Mr. Hanna.

Mrs. Sullivan with Mr. Jones of Alabama.

Mrs. Chisholm with Mr. Culver.

Mr. Davis of Georgia with Mr. Hansen of Idaho.

Mr. Gunter with Mr. Frenzel.

Mr. Jones of Tennessee with Mr. Dennis.

Mr. Lehman with Mr. Clay.

Mr. Murphy of New York with Mr. Hillis.

Mr. Ullman with Mr. Hudnut.

Mr. Carey of New York with Mrs. Griffiths.

Mr. Kuykendall with Mr. Landrum.

Mr. Ryan with Mr. Steele.

Mr. McSpadden with Mr. Lujan.

Mr. Charles Wilson of Texas with Mr. Nelsen.

Mr. Schneebeli with Mr. Minshall of Ohio.

Mr. Powell of Ohio with Mr. Whitehurst.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

Mr. HOSMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 291, nays 81, not voting 62, as follows:

[Roll No. 410]

YEAS—291

Abdnor	Fish	Moorhead, Calif.
Abzug	Flood	Moorhead, Pa.
Adams	Flowers	Morgan
Addabbo	Foley	Mosher
Anderson, Calif.	Ford	Murphy, Ill.
Anderson, Ill.	Fountain	Murtha
Andrews, N. Dak.	Frelinghuysen	Natcher
Annunzio	Frey	Nedzi
Armstrong	Gaydos	Nichols
Ashbrook	Giaimo	Nix
Ashley	Gilman	Obey
Aspin	Ginn	O'Brien
Badillo	Goldwater	O'Hara
Bafalis	Goodling	O'Neill
Barrett	Grasso	Owens
Bell	Green, Pa.	Patman
Bennett	Grover	Patten
Bergland	Gude	Pepper
Biaggi	Guyer	Perkins
Biester	Haley	Pickle
Bingham	Hamilton	Pike
Blatnik	Hanley	Preyer
Boggs	Hanrahan	Price, Ill.
Boland	Hansen, Wash.	Pritchard
Bolling	Harrington	Quie
Brademas	Harsha	Railsback
Breaux	Hastings	Randall
Breckinridge	Hays	Rangel
Brinkley	Hébert	Regula
Brooks	Heckler, Mass.	Reid
Broomfield	Heinz	Reuss
Brotzman	Helstoski	Riegle
Brown, Calif.	Henderson	Rinaldo
Brown, Mich.	Hogan	Robison, N.Y.
Brown, Ohio	Holtzman	Roe
Broyhill, N.C.	Horton	Rogers
Buchanan	Howard	Roncalio, Wyo.
Burgener	Hungate	Roncallo, N.Y.
Burke, Fla.	Ichord	Rooney, Pa.
Burke, Mass.	Johnson, Colo.	Rose
Burlison, Mo.	Johnson, Pa.	Rosenthal
Burton, John	Jones, Ala.	Roush
Byron	Jones, N.C.	Roy
Carney, Ohio	Jordan	Roybal
Carter	Karth	Ruppe
Casey, Tex.	Kastenmeier	Ruth
Cederberg	Kemp	St Germain
Chamberlain	King	Sandman
Chappell	Koch	Sarasin
Clancy	Kyros	Sarbanes
Clark	Lagomarsino	Scherle
Clausen, Don H.	Latta	Schroeder
Cleveland	Leggett	Seiberling
Cohen	Lent	Shipley
Collins, Ill.	Litton	Shoup
Conable	Long, La.	Shriver
Conte	Long, Md.	Shuster
Conyers	Luken	Sikes
Corman	McCloskey	Skubitz
Cotter	McCollister	Slack
Coughlin	McCormack	Smith, Iowa
Cronin	McDade	Smith, N.Y.
Daniels, Dominick V.	McEwen	Spence
Danielson	McFall	Staggers
Delaney	McKinney	Stanton, J. William
Dellenback	Macdonald	Stanton, James V.
Dellums	Madden	Steelman
Denholm	Madigan	Steiger, Wis.
Dent	Mallary	Stephens
Derwinski	Mann	Stokes
Devine	Maraziti	Stratton
Dickinson	Martin, N.C.	Stuckey
Diggs	Mathias, Calif.	Studds
Dingell	Mathis, Ga.	Symington
Donohue	Matsunaga	Talcott
Drinan	Mayne	Taylor, N.C.
Dulski	Mazzoli	Thompson, N.J.
du Pont	Meeds	Thomson, Wis.
Eckhardt	Melcher	Thone
Edwards, Ala.	Metcalfe	Tiernan
Edwards, Calif.	Mezvinsky	Traxler
Eilberg	Michel	Udall
Erlenborn	Miller	Van Deerlin
Esch	Minish	Vander Jagt
Eshleman	Mink	Vander Veen
Evans, Colo.	Mitchell, Md.	Vanik
Fascell	Mitchell, N.Y.	Veysey
Findley	Mizell	Vigorito
	Moakley	Waldie
	Mollohan	

Walsh	Wilson,	Yates
Ware	Charles H.,	Yatron
Whalen	Calif.	Young, Fla.
White	Winn	Young, Ga.
Widnall	Wolff	Young, Ill.
Wiggins	Wright	Young, S.C.
Williams	Wydler	Zablocki
Wilson, Bob	Wylie	Zwach

NAYS—81

Alexander	Froehlich	Parris
Archer	Gonzalez	Poage
Baker	Gray	Price, Tex.
Bauman	Gross	Quillen
Beard	Gubser	Rhodes
Bevill	Hammer-	Roberts
Blackburn	schmidt	Robinson, Va.
Bowen	Hechler, W. Va.	Rousselot
Bray	Hinshaw	Satterfield
Broyhill, Va.	Holt	Sebelius
Burleson, Tex.	Hosmer	Snyder
Butler	Huber	Steed
Camp	Hutchinson	Steiger, Ariz.
Clawson, Del	Jarman	Stubblefield
Cochran	Johnson, Calif.	Symms
Collier	Jones, Okla.	Taylor, Mo.
Collins, Tex.	Kazen	Teague
Conlan	Ketchum	Thornton
Crane	Landgrebe	Towell, Nev.
Daniel, Dan	Lott	Treen
Daniel, Robert	McKay	Waggonner
W., Jr.	Mahon	Wampler
Davis, Wis.	Martin, Nebr.	Whitten
de la Garza	Milford	Wyatt
Downing	Mills	Wyman
Duncan	Montgomery	Young, Tex.
Fisher	Moss	Zion
Forsythe	Myers	

NOT VOTING—62

Andrews, N.C.	Green, Oreg.	Pettis
Arends	Griffiths	Peyser
Brasco	Gunter	Podell
Burke, Calif.	Hanna	Powell, Ohio
Burton, Phillip	Hansen, Idaho	Rarick
Carey, N.Y.	Hawkins	Rees
Chisholm	Hicks	Rodino
Clay	Hillis	Rooney, N.Y.
Culver	Holifield	Rostenkowski
Davis, Ga.	Hudnut	Runnels
Davis, S.C.	Jones, Tenn.	Ryan
Dennis	Kluczynski	Schneebeli
Dorn	Kuykendall	Sisk
Evins, Tenn.	Landrum	Stark
Flynt	Lehman	Steele
Fraser	Lujan	Sullivan
Frenzel	McSpadden	Ullman
Fulton	Minshall, Ohio	Whitehurst
Fuqua	Murphy, N.Y.	Wilson,
Gettys	Nelsen	Charles, Tex.
Gibbons	Passman	Young, Alaska

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Murphy of New York for, with Mr. Dorn against.

Mr. Rostenkowski for, with Mr. Rarick against.

Mr. Phillip Burton for, with Mr. Davis of South Carolina against.

Mr. Fulton for, with Mr. Passman against.

Mrs. Sullivan for, with Mr. Runnels against.

Mr. Schneebeli for, with Mr. Arends against.

Until further notice:

Mr. Fuqua with Mr. Andrews of North Carolina.

Mr. Holifield with Mrs. Green of Oregon.

Mr. Hicks with Mrs. Griffiths.

Mr. Hawkins with Mr. Landrum.

Mrs. Burke of California with Mr. McSpadden.

Mr. Evins of Tennessee with Mr. Ryan.

Mr. Fraser with Mr. Hansen of Idaho.

Mr. Hanna with Mr. Frenzel.

Mr. Kluczynski with Mr. Whitehurst.

Mr. Lehman with Mr. Hillis.

Mr. Rees with Mr. Steele.

Mr. Podell with Mr. Minshall of Ohio.

Mr. Sisk with Mr. Pettis.

Mr. Stark with Mr. Hudnut.

Mr. Jones of Tennessee with Mr. Nelsen.

Mr. Gunter with Mr. Kuykendall.

Mrs. Chisholm with Mr. Culver.

Mr. Clay with Mr. Rodino.

Mr. Ullman with Mr. Lujan.

Mr. Rooney of New York with Mr. Powell of Ohio.

Mr. Gettys with Mr. Davis of Georgia.

Mr. Brasco with Mr. Flynt.

Mr. Carey of New York with Mr. Gibbons.

Mr. Dennis with Mr. Charles Wilson of Texas.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. Pursuant to the provisions of House Resolution 1230, the Committee on Interior and Insular Affairs is discharged from further consideration of the Senate bill S. 425, to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. UDALL

Mr. UDALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. UDALL moves to strike out all after the enacting clause of the bill S. 425 and insert in lieu thereof the provisions of H.R. 11500 as passed, as follows:

That this Act may be cited as the "Surface Mining Control and Reclamation Act of 1974".

TABLE OF CONTENTS

TITLE I—FINDINGS AND PURPOSES

FINDINGS

SEC. 101. The Congress finds that—

(a) the extraction of coal by underground and surface mining from the earth is a significant and essential activity which contributes to the economic, social, and material well-being of the Nation;

(b) there are surface and underground coal mining operations on public and private lands in the Nation which adversely affect the environment by destroying or diminishing the availability of land for commercial, industrial, recreational, agricultural, historic, and forestry purposes, by causing erosion and landslides; by contributing to floods and the pollution of water, land, and air; by destroying public and private property; by creating hazards to life and property; and by precluding post-mining land uses common to the area of mining;

(c) surface and underground coal mining operations presently contribute significantly to the Nation's energy requirements, and substantial quantities of the Nation's coal reserves lie close to the surface, and can only be recovered by surface mining methods, and therefore, it is essential to the national interest to insure the existence of an expanding and economically healthy coal mining industry;

(d) surface and underground coal mining operations affect interstate commerce, contribute to the economic well-being, security, and general welfare of the Nation and should be conducted in an environmentally sound manner;

(e) the initial and principal continuing responsibility for developing and enforcing environmental regulations for surface and underground coal mining operations should rest with the State; and

(f) the cooperative effort established by this Act is necessary to prevent or mitigate adverse environmental effects of present and future surface coal mining operations.

PURPOSES

SEC. 102. *It is the purpose of this Act to*—

(a) establish a nationwide program to prevent the adverse effects to society and the environment resulting from surface coal mining operations and surface impacts of underground coal mining operation;

(b) establish priorities to the extent necessary in the nationwide program among the various types and individual operations of mining activities, their impacts on the environment, and the locations of mining relative to population concentrations and impacted land uses;

(c) assure that the rights of surface landowners and other persons with a legal interest in the land or appurtenances thereto are fully protected from such operations;

(d) assure that surface coal mining operations are not conducted where reclamation as required by this Act is not feasible;

(e) assure that surface coal mining operations are so conducted as to protect the environment;

(f) assure that adequate procedures are undertaken to reclaim surface areas as contemporaneously as possible with the surface coal mining operations;

(g) assure that the coal supply essential to the Nation's energy requirements, and to its economic and social well-being is provided;

(h) assist the States in developing and implementing a program to achieve the purposes of this Act;

(i) promote the reclamation of mined areas left without adequate reclamation prior to the enactment of this Act and which continue, in their unreclaimed condition, to substantially degrade the quality of the environment, prevent or damage the beneficial use of land or water resources, or endanger the health or safety of the public; and

(j) assure that appropriate procedures are provided for the public participation in the development, revision, and enforcement of regulations, standards, reclamation plans, or programs established by the Secretary or any State under this Act.

TITLE II—CONTROL OF ENVIRONMENTAL IMPACTS OF SURFACE COAL MINING

INITIAL REGULATORY PROCEDURE

SEC. 201. (a) No person shall open or develop any new or previously mined or abandoned site for surface coal mining operations on lands on which such operations are regulated by the State unless such person has obtained a permit from the State regulatory authority.

(b) On and after the date of enactment of this Act, all new surface coal mining operations on lands on which such operations are regulated by the State shall comply, and all new permits issued for surface coal mining operations shall contain terms requiring compliance with the following environmental protection standards:

(1) With respect to coal surface mining on steep slopes, no spoil, debris, soil, waste materials, or abandoned or disabled mine equipment may be placed on the natural or other downslope below the bench or cut created to expose the coal seam except that spoil from the initial block or short linear cut necessary to obtain access to the coal seam may be placed on a limited or specified area of the downslop: *Provided*, That the spoil is shaped and graded in such a way as to prevent slides, erosion, and water pollution, and is revegetated in accordance with subsection (3) below: *Provided further however*, That limited or temporary placement of spoil on a specified area of the downslope on steep slopes in conjunction with mountaintop mining operation which will eliminate all high walls, if such placement is consistent with the approved postmining land use of the mine site and (B) the provisions of this subsection (b) (1) shall not apply to those situations in which an operator is mining on flat or gently rolling terrain, on which an occasional steep slope is encountered through which the mining operation is to proceed, leaving a plain or predominantly flat area.

(2) (A) With respect to all surface coal mining operations, the operator shall backfill, compact (where advisable to insure stability or to prevent leaching of toxic materials), and grade in order to restore the approximate original contour of the land with all highwalls, spoil piles, and depressions eliminated (unless depressions are needed in order to retain moisture in order to assists revegetation or as otherwise authorized under paragraph (2) (D) of this subsection).

(B) *Provided*, that in surface coal mining which is carried out at the same location over a substantial period of time, where the operation transects the coal deposit and the thickness of the coal deposit relative to the volume of the overburden is large and where the operator demonstrates that the overburden, giving due consideration to volumetric expansion, at a particular point on the mining site is insufficient or unavailable from other portions of the site to restore the approximate original contour, the operator, at a minimum, shall backfill, grade, and compact (where advisable) in order to cover all acid-forming and other toxic materials, to achieve not more than the angle of repose to provide adequate drainage and to facilitate an ecologically sound land use compatible with the surrounding region but not necessarily meeting the revegetation requirements of subsection (3): *And provided further*, That in surface coal mining other than described in the first proviso of this subparagraph (B), and other than operations covered by subsection (b) (1) of this section, where the volume of overburden is large relative to the thickness of the coal deposit and where the operator demonstrates that due to volumetric expansion, the amount of overburden and other spoil and waste materials removed in the course of the mining operation is more than sufficient to restore the approximate original contour, the operator shall after restoring the approximate original contour, backfill, grade and compact (where advisable) the excess overburden and other spoil and waste materials to attain the lowest practicable grade but not more than the angle of repose, and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding regions and that such overburden or spoil shall be shaped and graded in such a way as to prevent slides, erosion and water pollution and is revegetated in accordance with subsection (b) (3) of this section;

(3) With respect to all surface coal mining operations, establish on regraded and all other lands affected, a diverse vegetative cover capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation: *Provided*, That introduced species may be used in the revegetation process where desirable and necessary to achieve the approved post-mining land use plan.

(4) With respect to all surface coal mining operations, remove the topsoil in a separate layer, replace it on the backfill area, or if not utilized immediately, segregate it in a separate pile from other spoil, and when the topsoil is not replaced in a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick growing plant or by other means so that the topsoil is preserved from wind and water erosion, remains free of any contamination by other acid or toxic material from other strata or drainage, and is in a usable condition for sustaining vegetation when replaced during reclamation, except if topsoil is of insufficient quantity or of poor quality for sustaining vegetation, or if other strata can be shown to be more suitable for vegetation requirements, then the operator shall remove, segregate, preserve, and replace in a like manner such other strata which is best able to support vegetation: *Provided*, That if the appropriate State agricultural agency approves, it shall not be necessary to separate the topsoil and other strata of subsoil if it can be shown that a mix of such topsoil and subsoil and soil nutrient would be equally suitable for vegetation requirements and meet the requirements of sound reclamation practices. In such instances, the operator shall remove, segregate, and replace the mix of topsoil and such other strata in a manner prescribed by the appropriate State agricultural agency.

(5) (A) With respect to surface disposal of coal mine wastes, coal processing wastes or other wastes in areas other than the mine workings or excavations, stabilize all waste piles in designated areas through construction and compacted layers with incombustible and impervious materials assuring the leachate will not pollute surface or ground waters and the final contour of the waste pile will be compatible with natural surroundings and that the site can and will be stabilized and revegetated according to provisions of this Act; and

(B) With respect to the use of impoundments for the disposal of coal mine wastes, or coal processing wastes or other liquid or solid wastes, incorporate the latest engineering practices for the design and construction of water retention facilities and construct such facilities to insure that the construction will be so designed to achieve necessary stability with an adequate margin of safety to protect the health and safety of the public and which, at a minimum, is compatible with that of structures constructed under Public Law 83-566 (16 U.S.C. 1006); that leachate will not pollute surface or ground water, and that no mine waste such as coal fines and slimes determined as unsuitable for construction constituents by sound engineering methods and design practices are used in the construction of water impoundments, water retention facilities, dams or settling ponds.

(6) Minimize the disturbances to the hydrologic balance at the minesite and associated offsite areas and to the quantity and quality of water entering surface and ground water systems both during and after surface mining and reclamation giving particular attention throughout the mining operation to the aquifer recharge capacity of the mining area and to the protection of alluvial valley floors and stream channels.

(7) Upon petition by the permittee or other applicant for a permit and after public

notice and opportunity for hearing, the regulatory authority may grant one or more exceptions to the environmental protection standards set forth in the first clause before the first proviso in paragraph (1) and the provisions of paragraph (2) of this subsection, if the regulatory authority issues a written finding that one or more such standards cannot reasonably be met and that the permittee has shown by proper documentation that each specific item of equipment which is named in the petition as being essential to the performance of the standard in question, cannot be delivered by the manufacturer or supplier prior to the date on which the operation is required under this Act to be in compliance with said standards, and no other equipment owned by or readily available to the permittee or applicant is suitable for the performance of such standards.

The basis for any such exception shall be reviewed at least once every three months by the regulatory authority. If pursuant to such review, the regulatory authority finds that the permittee does not show, by proper current documentation, that the specific items of equipment named in the petition still cannot be delivered to the operator by the manufacturer then the exception shall be canceled.

At any time if the permittee is found to be in noncompliance with any other provision of this Act or if a State program pursuant to section 203 of this Act or a Federal program pursuant to section 204 of this Act is implemented, then any such exception shall cease to be effective immediately.

(c) On and after one hundred and eighty days from the date of enactment of this Act, all surface coal mining operations on lands on which such operations are regulated by the State existing at the date of enactment shall comply with the standards in subsection (b) above with respect to lands from which the overburden has not been removed. Within one hundred and twenty days following enactement of this Act, the regulatory authority shall review and amend permits in order to incorporate in them the standards of subsection (b) above.

(d) Upon petition by the applicant or permittee and after public notice and opportunity for a hearing, the regulatory authority may grant exceptions to provisions in the first clause before the first proviso in subsection (b)(1) and to the provisions of subsection (b)(2) of this section if the regulatory authority issues a written finding that one or more variations from these provisions will enable the affected land to have an equal or higher postmining economic or public use and such use will be achieved within a reasonable time, is consistent with surrounding land uses and with local, State, and Federal law and can be obtained only if one or more exceptions to the above provisions are granted.

(e) Not later than eighteen months from the date of enactment of this Act, all operators of surface coal mines in expectation of operating such mines after the date of approval of a State program, pursuant to section 203 of this Act, shall file an application for a permit with the regulatory authority, such application to cover those lands to be mined after the date of approval of the State program. The regulatory authority shall process these applications and grant or deny a permit within six months from the date of approval of the State program, but in no case later than thirty-six months from the date of enactment of this Act. The application filed pursuant to this provision and the permit thereby obtained shall be in full compliance with this Act.

(f) No later than one hundred and eighty days from the date of enactment of this Act, and after issuing regulations in accordance with the procedures of section 202, the Secretary shall implement a Federal enforcement program which shall remain in effect in each State in which there is surface coal mining until the State program has been accepted pursuant to section 203 of this Act or until a Federal program has been implemented pursuant to section 204 of this Act. The enforcement program shall:

(1) include inspections of surface coal mine sites which shall be made on a random basis (but at least one inspection for every site every three months), without advance notice to the mine operator and for the purpose of ascertaining compliance with the standards of subsection (b) above. The Secretary shall order any necessary enforcement action to be implemented pursuant to the Federal enforcement provisions of this title to correct violations identified at the inspections;

(2) provide that upon receipt of inspection reports indicating that any coal surface mining operation has been found in violation of subsection (b) above, during not less than two consecutive State inspections or upon receipt by the Secretary of information which would give rise to reasonable belief that such standards are being violated by any surface coal mining operation, the Secretary shall order the immediate inspection of such operation by Federal inspectors and the necessary enforcement actions, if any, to be implemented pursuant to the Federal enforcement provisions of this title. When the Federal inspection results from information provided to the Secretary by any person, the Secretary shall notify such person when the Federal inspection is proposed to be carried out and such person shall be allowed to accompany the inspector during the inspection;

(3) for purposes of this section, the term "Federal inspector" means personnel of the Office of Surface Mining Reclamation and Enforcement and such additional personnel of the United States Geological Survey, Bureau of Land Management, or of the Mining Enforcement and Safety Administration so designated by the Secretary, or such other personnel of the Forest Service, Soil Conservation Service, or the Agricultural Stabilization and Conservation Service as arranged by appropriate agreement with the Secretary on a reimbursable or other basis;

(4) provide that the State regulatory agency file with the Secretary and with a designated Federal office centrally located in the county or area in which the inspected surface coal mine is located copies of inspection reports made;

(5) provide that moneys authorized by section 701(a) shall be available to the Secretary prior to the approval of a State program pursuant to section 203 of this Act to reimburse the States for conducting those inspections in which the standards in subsection (b) above, are enforced and for the administration of this section.

(g) A coal surface mine operator operating pursuant to a valid permit and awaiting administrative action on his application for a permit from the appropriate regulatory authority may during the period prior to approval or disapproval of a State program pursuant to section 203 of this Act and for six months thereafter continue to operate his surface mine beyond the date of expiration of his permit subject to the terms and conditions of his permit or application in the event the appropriate regulatory authority has not acted on his application by the time his permit expires.

(h) During the period prior to approval of a Federal or Indian program pursuant to this Act, including judicial review of the approval of a Federal or Indian program, new or existing coal surface mining operations on Federal land and Indian land may commence or continue mining operations: *Provided*, That such operations shall be subject to and bound by the provisions of section 201(b) hereof. The enforcement procedures of section 220 shall apply to such coal surface mining operations and the Secretary shall order the random inspections of such opertaions in the same manner provided by section 201(f) hereof. For purposes of this section existing coal surface mining operations means those in existence on the date of enactment of this Act and those for which substantial legal and financial commitments were in existence prior to September 1, 1973.

(i) On and after the date of enactment of this Act, no person shall open, develop, or extend any new or previously mined or abandoned site for surface coal mining operations within any area of the National Park System, The National Wildlife Refuge System, or the National Wilderness Preservation System. Nothing in this Act shall be construed as authorizing surface coal mining operations within Federal lands where such mining is prohibited on the date of enactment of this Act by law, regulation, order, deed, or other instrument.

PERMANENT ENVIRONMENTAL PROTECTION STANDARDS

SEC. 202. Not later than the end of the one-hundred-and-eighty-day period immediately following the date of enactment of this Act, the Secretary shall promulgate and publish in the Federal Register regulations covering a permanent regulatory procedure for surface coal mining and reclamation operations setting mining and reclamation performance standards based on and incorporating the provisions of title II and establishing procedures and requirements for preparation, submission, and approval of State programs and development and implementation of Federal programs under this title. Such regulations shall not be promulgated and published by the Secretary until he has—

(A) published proposed regulations in the Federal Register and afforded interested persons and State and local governments a period of not less than forty-five days after such publication to submit written comments thereon;

(B) obtain the written concurrence of the Administrator of the Environmental Protection Agency with respect to those regulations promulgated under this section which relate to air or water quality standards promulgated under the authority of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151–1175), and the Clean Air Act, as amended (42 U.S.C. 1857); and

(C) held at least one public hearing on the proposed regulations.

The date, time, and place of any hearing held on the proposed regulations shall be set out in the publication of the proposed regulations. The Secretary shall consider all comments and relevant data presented at such hearing before final promulgation and publication of the regulations.

STATE PROGRAMS

SEC. 203. (a) Each State in which there is or may be conducted surface coal mining operations, and which wishes to assume State regulatory authority under this Act, shall submit to the Secretary, by the end of the twenty-four-month period beginning on the date of enactment of this Act, a State program which demonstrates that such State has the capability of carrying out the provisions of this Act and meeting its purposes through—

(1) a State law which provides for the regulation of surface mining and reclamation operations in accordance with the requirements of this Act and the regulations issued by the Secretary pursuant to this Act;

(2) a State law which provides sanctions for violations of State laws, regulations, or conditions of permits concerning surface mining and reclamation operations, which sanctions shall meet the minimum requirements of this Act, including civil and criminal actions, forfeiture of bonds, suspension, revocation, and withholding of permits, and the issuance of cease and desist orders by the State regulatory authority or its inspectors;

(3) a State regulatory authority with sufficient administrative and technical personnel, and sufficient funding to enable the State to regulate surface coal mining and reclamation operations in accordance with the requirements of this Act;

(4) a State law which provides for the effective implementation, maintenance, and enforcement of a permit system, meeting the requirements of this title for the regulation of surface mining and reclamation operations for coal on lands within the State;

(5) establishment of a process for the designation of lands unsuitable for surface coal mining in compliance with section 206; and

(6) establishment, for the purpose of avoiding duplication, of a process for coordinating the review and issuance of permits for surface mining and reclamation operations with any other Federal or State permit process applicable to the proposed operations.

(b) The Secretary shall not approve any State program submitted under this section until he has—

(1) solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise pertinent to the proposed State program;

(2) obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of a State program which relate to air or water quality standards promulgated under the authority of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151–1175), and the Clean Air Act, as amended (42 U.S.C. 1857);

(3) held at least one public hearing on the State program within the State; and

(4) found that the State has the legal authority and qualified personnel necessary for the enforcement of the environmental protection standards.

The Secretary shall approve or disapprove a State program, in whole or in part, within six full calendar months after the date such State program was submitted to him.

(c) If the Secretary disapproves any proposed State program in whole or in part, he shall notify the State in writing of his decision and set forth in detail the reasons therefor. The State shall have sixty days in which to resubmit a revised State program, or portion thereof: *Provided, however,* That no State program shall be resubmitted pursuant to this subsection after thirty months from the date of enactment of this Act: *Provided further,* That the Secretary shall approve or disapprove the resubmitted State program or portion thereof within sixty days from the date of resubmission.

FEDERAL PROGRAM

SEC. 204. (a) The Secretary shall prepare and implement a Federal program for the regulation of surface coal mining in any State which fails to—

(1) submit and obtain approval of a State program as required under section 203; or

(2) adequately implement, enforce, or maintain a State program once approved pursuant to section 204.

(b) In the event that a State has a regulatory program for surface coal mining, and is not enforcing any part of such program, the Secretary may provide for the Federal enforcement, under the provisions of section 220, of that part of the State program not being enforced by such State.

(c) If State compliance with section 203 requires an act of the State legislature, the Secretary may extend the period for submission of a State program up to an additional six months in those States which have a constitutional convention in 1974 and whose legislatures do not meet in regular session until 1975.

RESUBMITTAL OF STATE PROGRAM

SEC. 205. A State which has failed to obtain the approval of a State program prior to implementation of a Federal program may submit a State program at any time after such implementation. Upon the submission of such a program, the Secretary shall follow the procedures set forth in section 203(b) and shall approve or disapprove the State program within six months after its submittal. Approval of a State program shall be based on the determination that the State has the capability of carrying out the provisions of this Act and meeting its purposes through the criteria set forth in section 203 (a) (1) through (6). Until a State program is approved as provided under this section, the Federal program shall remain in effect and all actions taken by the Secretary pursuant to such Federal program, including the terms and conditions of any permit issued thereunder, shall remain in effect.

DESIGNATING AREAS UNSUITABLE FOR SURFACE COAL MINING

SEC. 206. (a) (1) To be eligible to assume primary regulatory authority pursuant to section 203, each State shall establish a planning process enabling objective decisions based upon competent and scientifically sound data and information as to which, if any, land areas of a State are unsuitable for all or certain types of surface coal mining operations pursuant to the standards set forth in paragraphs (2) and (3) of this section but such designation shall not prevent the mineral exploration pursuant to the Act of any area so designated.

(2) The State regulatory authority shall designate an area as unsuitable for all or certain types of surface coal mining operations if the State regulatory authority determines that reclamation pursuant to the requirements of this Act is not physically feasible.

(3) A surface area may be designated unsuitable for certain types of surface coal mining operations if such operations will—

(A) be incompatible with Federal, State, or local plans to achieve essential governmental objectives; or

(B) affect fragile or historic lands in which such operations could result in significant damage to important historic, cultural, scientific, and esthetic values and natural systems; or

(C) affect renewable resource lands in which such operations could result in a substantial loss or reduction of long-range productivity of water supply or of food or fiber products and such lands to include aquifers and aquifer recharge areas; or

(D) affect natural hazard lands in which such operations could substantially endanger life and property, such lands to include areas subject to frequent flooding and areas of unstable geology.

(4) To comply with this section, a State must demonstrate it has developed or is developing a process which includes—

(A) a State agency responsible for mining lands review;

(B) a data base and an inventory system which will permit proper evaluation of the capacity of different land areas of the State to support and permit reclamation of surface coal mining operations;

(C) a method or methods for implementing land use planning decisions concerning surface coal mining operations; and

(D) proper notice, opportunities for public participation, including a public hearing prior to making any designation or redesignation, pursuant to this section, and measures to protect the legal interests of affected individuals in all aspects of the State planning process.

(5) Determinations of the unsuitability of land for surface coal mining, as provided for in this section, shall be integrated as closely as possible with present and future land use planning and regulation processes at the Federal, State, and local levels.

(6) In no event is land to be designated unsuitable for surface coal mining operations on which surface coal mining operations are being conducted on the date of enactment of this Act or under a permit issued pursuant to this Act, or where substantial legal and financial commitments in such operations are in existence prior to September 1, 1973.

(b) The Secretary shall conduct a review of the Federal lands and to determine, pursuant to the standards set forth in paragraphs (2) and (3) of subsection (a) of this section, whether there are areas on Federal lands which are unsuitable for all or certain types of surface coal mining operations. When the Secretary determines an area on Federal lands to be unsuitable for all or certain types of surface coal mining operations, he shall withdraw such area or condition any mineral leasing or mineral entries in a manner so as to limit surface coal mining operations on such area. Where a Federal program has been implemented in a State pursuant to section 204, the Secretary shall implement a process for designation of areas unsuitable for surface coal mining for non-Federal lands within such State and such process shall incorporate the standards and procedures of this section.

(c) Any person having an interest which is or may be adversely affected shall have the right to petition the regulatory authority to have an area designated as unsuitable for surface coal mining operations, or to have such a designation terminated. Such a petition shall contain allegations of facts with supporting evidence which would tend to establish the allegations. As soon as practicable after receipt of the petition the regulatory authority shall hold a public hearing in the locality of the affected area, after appropriate notice and publication of the date, time, and location of such hearing. After a person having an interest which is or may be adversely affected has filed a petition and before the hearing, as required by this subsection, any person may intervene by filing allegations of facts with supporting evidence which would tend to establish the allegations. Within sixty days after such hearing, the regulatory authority shall issue and furnish to the petitioner and any other party to the hearing, a written decision regarding the petition, and the reasons therefor. In the event that all the petitioners stipulate agreement prior to the requested hearing, and withdraw their request, such hearing need not be held.

(d) Prior to designating any land areas as unsuitable for surface coal mining operations, the regulatory authority shall prepare a detailed statement on (i) the potential coal resources of the area, (ii) the demand for coal resources, and (iii) the impact of such designation on the environment, the economy, and the supply of coal.

EFFECT ON STATE LAW

SEC. 207. Where any provision of any State law or regulation in effect upon the date of enactment of this Act or which may become effective thereafter, provides more stringent environmental controls and regulations of surface mining and reclamation op-

erations than do the provisions of this Act or any regulation issued pursuant thereto, such provision of State law or regulation shall not be construed to be inconsistent with this Act.

PERMITS

SEC. 208. (a) After six months from the date on which a State program is approved by the Secretary, pursuant to section 203 of this Act, or the Secretary has promulgated a Federal program for a State not having a State program, pursuant to section 203, no person shall engage in surface coal mining operations unless such person has obtained a permit in full compliance with this Act from the appropriate regulatory authority.

(b) All permits issued pursuant to the requirements of this Act shall be issued for a term not to exceed five years and shall be nontransferable: *Provided*, That a successor in interest to a permittee who applies for a new permit within thirty days of succeeding to such interest and who is able to obtain the bond coverage of the original permittee may continue surface coal mining and reclamation operations according to the approved mining and reclamation plan of the original permittee until such successor's application is granted or denied.

PERMIT APPROVAL OR DENIAL

SEC. 209. (a) Upon the basis of a complete mining application and reclamation plan or a revision or renewal thereof, as required by this Act and pursuant to an approved State program or Federal program under the provisions of this Act, including public notification and an opportunity for a public hearing as required by section 214, the regulatory authority shall grant or deny the application for a permit and notify the applicant in writing. Within ten days after the granting of a permit, the regulatory authority shall notify the State and the local official who has the duty of collecting real estate taxes in the local political subdivision in which the area of land to be affected is located that a permit has been issued and shall describe the location of the land.

(b) No permit, revision or renewal application shall be approved unless the regulatory authority finds in writing on the basis of the information set forth in the application or from information otherwise available which will be documented in the approval, and made available to the applicant, that (1) the requirements of this Act, and the rules and regulations adopted thereunder will be met, (2) there is objective assurance that the reclamation of the area of affected land can be achieved, and (3) the proposed post-mining land use is (A) compatible with surrounding land uses, exclusive of surface mining, (B) practical with respect to need or the surrounding land uses, and (C) reasonable with respect to the likelihood of availability of both public and private resources and support which may be needed to achieve such objectives.

(c) Prior to the issuance of a permit, the regulatory authority shall review and alter a proposed mining and reclamation plan with respect to the methods, sequence, timing of specific operations in the plan, or the deletion of specific operations or areas from part or all of the plan in order to assure that the environmental protection objectives of this Act are met.

(d) No permit shall be issued by the regulatory authority unless the permit application affirmatively demonstrates that, and the regulatory authority makes specific written findings to the effect that—

(1) there is probable cause to believe that the proposed surface coal mining operation will result in reclamation of the land area affected pursuant to the performance standards set forth in section 211 of this Act and regulations promulgated pursuant to this Act;

(2) the post-mining land use as proposed in the reclamation plan is practical, is likely to be achieved, and is not inconsistent with surrounding land uses;

(3) the area proposed to be mined is not included within an area designated unsuitable for surface coal mining pursuant to section 206 of this Act or is not within an area under study for such designation (unless in such an area as to which an administrative proceeding has commenced pursuant to section 206(a)(4)(D) of this Act, the operator making the permit application demonstrates that, prior to September 1, 1973, he has made substantial legal and financial commitments in relation to the operation for which he is applying for a permit);

(4) the land to be affected does not lie within three hundred feet from any occupied dwelling, unless waived by the owner thereof, nor within three hundred feet of any public building, school, church, community, or institutional building, public park, or cemetery; nor shall the land to be affected lie within one hundred feet of the outside right-of-way line of any public road, except that the regulatory authority may permit such roads to be relocated, if the interests of the public and the landowners affected thereby will be protected;

(5) the impacts of the mining operations on the hydrologic balance on and off the permit area are minimized; the specific provisions of section 211(b)(14) are met; the assessment of the probable cumulative impact of all anticipated mining in the area on the hydrologic balance specified in section 210(b)(14) has been made and the proposed operation thereof has been designed to prevent irreparable offsite impacts to hydrologic balance;

(6) the operator is not presently ineligible to obtain a permit to conduct any coal mining operation under the law of any Federal or State program authorized by this Act;

(7) the operator has not had a permit revoked by any regulatory authority under this Act within five years preceding the filing of the application;

(8) mining operations would not adversely affect nearby lands and waters to which the public enjoys use and access, or the mining of any area of land within one mile of publicly owned lands or parks or places located in the National Register of Historic Sites unless screening and other measures approved by the regulatory authority are used and the permit so provides, or if the mining of the area will not adversely affect or reduce the usage of the publicly owned land;

(9) the mining operations are not located within any area of the National Park System, the National Forest System, the National Wildlife Refuge System, the National Wilderness Preservation System, or the Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act: *Provided, however*, That this paragraph shall not prohibit surface mining operations in existence on the date of enactment of this Act, within any area of the National Forest System or the Wild and Scenic Rivers System or on lands within either system where the deeds conveying the surface lands to the United States reserve the coal and provide for the mining thereof; but, in no event shall such surface mining operations be exempt from the requirements of this Act;

(10) the permit application does not include areas of lands affected that are noncontiguous;

(11) the operator has not forfeited a bond or partial bond under this Act within the past five years;

(12) the surface coal mine operations are not located within, and would not adversely affect, an alluvial valley floor in semi-arid and arid regions; and

(13) the application on its face is complete, accurate, and contains no false information.

(e) The applicant shall file with his permit application a schedule listing any and all violations of this Act and any law, rule, or regulation of the United States or of any department or agency in the United States pertaining to air, or water environmental protection incurred by the applicant in connection with any coal surface mining operation during the one-year period prior to the date of application. The schedule shall also indicate the final resolution of any such notice of violation. Where the schedule or other information available to the regulatory authority indicates that any coal surface mining operation owned or controlled by the applicant is currently in violation of this Act or such other laws referred to in this subsection, the permit shall not be issued until the applicant submits proof that such violation has been corrected or is in the process of being corrected to the satisfaction of the regulatory authority, department, or agency which has jurisdiction over such violation.

APPLICATION REQUIREMENTS

SEC. 210. (a) Each application for a mining and reclamation permit pursuant to an approved State program or a Federal program under the provisions of this Act shall be accompanied by a fee as determined by the regulatory authority. Such fee shall be based as nearly as possible upon the actual or anticipated cost of reviewing, administering, and enforcing such permit issued pursuant to a State or Federal program, and shall be in addition to the fee required for the Abandoned Mine Reclamation Fund.

(b) The permit application shall be submitted in a manner satisfactory to the regulatory authority and shall contain, among other things—

(1) the names and addresses of the permit applicant (if the applicant is a subsidiary corporation, the name and address of the parent corporation must be included); every legal owner of the property (surface and mineral) to be mined; the holders of any leasehold or other equitable interest in the property of record; any purchase of the property under a real estate contract; the operator if he is a person different from the applicant; and, if any of these are business entities other than a single proprietor, the names, addresses of the principal, officers, and resident agent;

(2) the names and addresses of every officer, partner, director, or person performing a function similar to a director, of the applicant, together with the name and address of any person owning, of record or beneficially, either alone or with associates, 10 per centum or more of any class of stock of the applicant and a list of all names under which the applicant, partner, or principal shareholder previously operated a surface mining operation within the United States or its territories and possessions;

(3) a description of the type and method of coal mining operation that exists or is proposed, the engineering techniques proposed or used, and the equipment used or proposed to be used;

(4) the anticipated or actual starting and termination dates of each phase of the mining operation and number of acres of land to be affected;

(5) evidence of compliance with section 709;

(6) the names and addresses of the owners of all surface and subsurface areas abutting on the permit area;

(7) a statement of any current or previous surface coal mining permits in the United States held by the applicant and the permit identification;

(8) a statement of whether the applicant,

any subsidiary, affiliate, or persons controlled by or under common control with the applicant, has ever held a Federal or State mining permit which has been suspended or revoked or has ever had a mining bond or similar security deposited in lieu of bond forfeited and a brief explanation of the facts involved in each case;

(9) an accurate map or plan to an appropriate scale clearly showing the land to be affected and contour lines of the surface at sufficient intervals of elevation to accurately depict the topography of the terrain, prepared by or under the direction of and certified by a registered professional engineer, or registered land surveyor and a professional geologist when specific subsurface information is deemed essential and requested by the regulatory authority. Such a map or plan shall among other things specified by the regulatory authority show all the boundaries of the land to be affected, its surrounding drainage area, the location and name, where known, of all roads, railroads, rights-of-way, utility lines, oil wells, gas wells, water wells, lakes, creeks, streams, rivers, springs, and other surface water courses, the name and boundary lines of the present owners of all surface areas abutting on the permit area and the location of all buildings on such abutting surface areas and within one thousand feet of the permit area; and the purpose for which each building is used;

(10) typical cross-section maps or plans of the land to be affected including the actual area to be mined showing pertinent elevation and locations of test borings or core samplings required under subparagraph (16) including the nature and thickness of any coal or rider seam above the coal seam to be mined, the nature of the stratum immediately beneath the coal seam to be mined, all mineral crop lines, strike and dip of the coal to be mined within the area of land to be affected, existing or previous surface mining limits, the location and extent of known working of any underground mines, including mine openings to the surface, the location of aquifers; underground waters, and the estimated elevation of the water table, the location of spoil, waste or refuse areas, the topsoil preservation areas, the location of all impoundments for waste or erosion control, any settling or water treatment facilities; constructed or natural drainways and the location of any discharges to any surface body of water on the area of land to be affected or adjacent thereto; and profiles at appropriate cross-sections of the anticipated final surface configuration that will be achieved pursuant to the operator's approved reclamation plan. The information pertaining to the coal seam required by this paragraph shall be kept confidential and not made a matter of public record, except that if such information becomes relevant to the parties to a hearing on the grant or denial of a permit or the forfeiture or release of part or all of the bond, such information may be disclosed to such interested parties under appropriate protective provisions.

(11) a copy of the applicant's advertisement to be published pursuant to section 214(a), which includes the ownership, a description of the exact location and boundaries of the proposed site sufficient so that the proposed operation is readily locatable by local residents, and the location of where the application is available for public inspection;

(12) the name of the watershed and location of all known surface and underground waterways into which surface waters may or will be discharged;

(13) a determination of the hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and ground water systems including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding area so that an assessment can be made of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability;

(14) a complete and verifiable list of all deeds, leases, options, or other instruments granting to the applicant or his agents rights to or in the land or minerals to be affected by the proposed permit;

(15) when requested by the regulatory authority, a statement of all lands, interests in lands, or options on such lands held by the applicant or pending bids on interests in lands by the applicant, which lands are contiguous to the land to be affected, and any information required by this subsection which is not on public file pursuant to appropriate laws shall be held in confidence by the regulatory authority;

(16) a statement of the results of test borings or core samplings from the land to be affected, including where appropriate, the surface elevation and logs of the drill holes so that the strike and dip of the coal seams may be determined, the nature and depth of the various strata of overburden, the location of subsurface water, if encountered, and its quality, the thickness of the coal seam found, an analysis of the chemical properties of such coal; the sulfur content of any coal seam and a chemical analysis of potentially acid or toxic forming sections of the overburden, and a chemical analysis of the stratum lying immediately underneath the coal to be mined; and

(17) such other information as the regulatory authority may require.

The collection and analyses of all information required under paragraph (16) of this subsection shall be conducted by a laboratory which is approved by the regulatory authority. The regulatory authority shall establish rules to preserve the integrity of the sampling. Information from test borings and core samplings required by this paragraph shall be made available to interested parties and that which pertains only to the quantitative and qualitative analysis of the coal seams (except the information regarding such mineral or elemental contest which is potentially toxic in the environment), shall be kept confidential and not made a matter of public record. If such coal seam information becomes relevant to the parties to a hearing on the grant or denial of a permit or the forfeiture or release of part or all of a bond, such information shall be disclosed to such interested parties under protective provisions defined by the regulatory authority.

(c) The mining and reclamation plan which each applicant for a permit shall be required to submit with a permit application, consistent with the performance criteria provided for in this Act, shall include, at least—

(1) the identification of the entire area to be mined and affected over the estimated life of the mining operation and the size, sequence, and timing of the subareas for which it is anticipated that individual permits for mining will be sought;

(2) a statement describing the full range of uses to which the land was put and the predominant uses of the area immediately surrounding the area of land to be affected prior to the commencement of any mining, and a description of the use or uses proposed to be made of the area of land to be affected following reclamation;

(3) a detailed description of the manner in which mining operations will be conducted and of the actions taken or planned to prevent adverse environmental effects during the life of the mining and reclamation operation;

(4) a detailed description of the measures to be taken during the mining and reclamation process to assure the protection of the quantity and quality of surface and ground water systems, both onsite and offsite from adverse effects of the mining and reclamation process, and the rights of present users to such water;

(5) a detailed description of the reclamation activities that will be taken to return the mined area to a condition consistent with the applicant's proposed postmining land use and in accordance with provisions of this Act (including, but not limited to preventing polluting discharges, seepages, mine and refuse bank fires, and other conditions that present an imminent hazard to the health or safety of the public on the permitted site that resulted from previous mining operations);

(6) a detailed description of how the proposed postmining land use is to be achieved and the necessary public or private support activities which may be needed to achieve the proposed land use;

(7) a detailed time schedule, including interim completion dates, for key stages of the surface coal mining and reclamation plan;

(8) a description of the actions planned to insure compliance with the environmental performance standards set forth in this Act and supplemented by regulation by the regulatory authority; and

(9) such other requirements as the regulatory authority shall prescribe by regulation.

(d) each applicant for a surface mining and reclamation permit shall file a copy of his application for public inspection with the Recorder at the courthouse of the county or an appropriate official approved by the regulatory authority where the mining is proposed to occur, except for that information pertaining to the coal seam itself.

(e) Each applicant for a permit shall be required to submit to the regulatory authority as part of the permit application a certificate issued by an insurance company authorized to do business in the United States certifying that the applicant has a public liability insurance policy in force for the mining and reclamation operations for which such permit is sought, or evidence that the applicant has satisfied other State or Federal self-insurance requirements. Such policy shall cover the mined area and provide for both on- and off-site personal injury and property damage protection as a result of mining and reclamation operations and entitled to compensation under the applicable provisions of Federal or State law but in any event shall not be less than $100,000, or for such higher amount as the regulatory authority deems necessary in light of potential risk and magnitude of possible off-site damages. Such policy shall be for the term of the permit and any renewal, including the length of any and all reclamation operations required by this Act.

(f)(1) Any valid permit issued pursuant to this Act shall carry with it the right of successive renewal upon expiration with respect to areas within the boundaries of the existing permit. The holder of the permit may apply for renewal and such renewal shall be issued, subsequent to public hearing upon the following requirements and written findings by the regulatory authority that—

(A) the terms and conditions of the existing permit are being satisfactorily met;

(B) the present surface mining and reclamation operation is in full compliance with the environmental protection standards of this Act and the approved State plan pursuant to this Act;

(C) the renewal requested does not jeopardize the operator's continuing responsibility on existing permit areas;

(D) the operator has provided evidence that the performance bond in effect for said operation will continue in full force and effect for any renewal requested in such application as well as any additional bond the regulatory authority might require pursuant to section 216(d), and

(E) any additional revised or updated information required by the regulatory authority has been provided. Prior to the approval of any extension of permit the regulatory authority shal provide notice to the appropriate public authorities.

(2) If an application for renewal on a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit the portion of the application for revision of a valid permit shall be treated as a new application which addresses any new land areas or any application and subject to the full standards applicable to new applications under this Act.

(3) Any permit renewal shall be for a term not to exceed the periods of the original permit established by this Act. Application for permit renewal shall be made at least one hundred twenty days prior to the expiration of the valid permit.

ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS

SEC. 211. (a) Any permit issued under any approved State or Federal program pursuant to this Act to conduct surface coal mining operations shall require that such surface coal mining operations will meet all applicable performance standards of this Act, and such other requirements as the regulatory authority shall promulgate.

(b) General performance standards shall be applicable to all surface coal mining and reclamation operations and shall require the operator as a minimum to—

(1) conduct surface coal mining operations so as to maximize the utilization and conservation of the solid fuel resource being recovered so that reflecting the land in the future through surface coal mining can be minimized;

(2) restore the land affected to a condition at least fully capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses of which there is a reasonable likelihood, so long as such use or uses do not present any actual or probable hazard to public health or safety or pose any actual or probable threat of water diminution or pollution, and the permit applicants' declared proposed land use following reclamation is not deemed to be impractical or unreasonable, inconsistent with applicable land use policies and plans, involves unreasonable delay in implementation, or is violative of Federal, State, or local law;

(3) assure that any temporary environmental damage will be contained in the permit area;

(4) reduce the land disturbed incident to surface mining by limiting the amount of surface excavated at any one time during mining and combining the process of reclamation with the process of mining to keep reclamation operations current, and to complete such reclamation in any separate distinguishable portion of the mined area, as promptly as possible, but not later than the time specified in a reclamation schedule which shall be attached to the permit;

(5) remove the topsoil from the land in a separate layer, replace it on the backfill area, or if not utilized immediately, segregate it in a separate pile from other spoil and when the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick growing plant or other means thereafter so that the topsoil is preserved from wind and water erosion, remains free of any contamination by other acid or toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation, except if topsoil is of insufficient quantity or of poor quality for sustaining vegetation, or if other strata can be shown to be more suitable for vegetation requirements, then the operator shall remove, segregate, and preserve in a like manner such other strata which is best able to support vegetation;

(6) stabilize and protect all surface areas including spoil piles affected by the mining and reclamation operation to control as effectively as possible erosion and attendant air and water pollution;

(7) insure that all debris, acid, or highly mineralized toxic materials, or materials constituting a fire hazard are treated or disposed of in a manner designed to prevent contamination of ground or surface waters and sustained combustion;

(8) with respect to all surface coal mining operations backfill, compact (where advisable to insure stability or to prevent leaching of toxic materials), and grade in order to restore the approximate original contour of the land with all highwalls, spoil piles and depressions eliminated (unless small depressions are needed in order to retain moisture to assist revegetation or as otherwise authorized pursuant to paragraph (9) of this subsection): *Provided, however,* That in surface coal mining which is carried out at the same location over a substantial period of time where the operation transects the coal deposit and the thickness of the coal deposit relative to the volume of the overburden is large and where the operator demonstrates that the overburden and other spoil and waste materials at a particular point in the permit area or otherwise available from the entire permit area is insufficient, giving due consideration to volumetric expansion, to restore the approximate original contour, the operator, at a minimum, shall backfill, grade, and compact (where advisable) using all available overburden and other spoil and waste materials to attain the lowest practicable grade but not more than the angle of repose, to provide adequate drainage and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region: *And provided further,* That in surface coal mining other than as described in the first proviso to this paragraph (8), and other than operations covered by subsection (c) of this section, where the volume of overburden is large relative to the thickness of the coal deposit and where the operator demonstrates that due to volumetric expansion the amount of overburden and other spoil and waste materials removed in the course of the mining operation is more than sufficient to restore the approximate original contour, the operator shall after restoring the approximate original contour, backfill, grade, and compact (where advisable) the excess overburden and other spoil and waste materials to attain the lowest practicable grade but not more than the angle of repose, and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region and that such overburden or spoil shall be shaped and graded in such a way as to prevent slides, erosion and water pollution and is revegetated in accordance with subsection (b)(13) of this section;

(9) create, if authorized in the approved mining and reclamation plan and permit, permanent impoundments of water on mining sites as part of reclamation activities only when it is adequately demonstrated that—

(A) the size of the impoundment is adequate for its intended purposes;

(B) the impoundment dam construction will be so designed to achieve necessary stability with an adequate margin of safety compatible with that of structures constructed under Public Law 83-566;

(C) the quality of impounded water will be suitable on a permanent basis for its intended use and that discharges from the impoundment will not degrade the water quality in the receiving stream:

(D) the level of water will be reasonably stable;

(E) final grading will provide adequate safety and access for proposed water users; and

(F) such water impoundments will not result in the diminution of the quality or quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational or domestic uses;

(10) refrain from the construction of roads or other access ways up a stream bed or drainage channel or in such proximity to such channel so as to seriously alter the normal flow of water;

(11) restore the topsoil or the best available subsoil which has been segregated and preserved;

(12) establish on the regraded areas, and all other lands affected, a diverse vegetative cover native to the area of land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area; except, that introduced species may be used in the revegetation process where desirable and necessary to achieve the approved post mining land use plan;

(13) assume the responsibility for successful revegetation for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure a permanent, self-regenerative, effective, and diverse vegetative cover suitable to the area, except in those areas or regions of the country where the annual average precipitation is twenty-six inches or less, then the operator's assumption of responsibility and liability will extend for a period of ten full years after the last year of augmented seeding, fertilizing, irrigation, or other work: *Provided,* That when the regulatory authority approves a long-term intensive agricultural postmining land use, the applicable five- or ten-year period for responsibility for revegetation shall commence at the date of initial planting for such long-term intensive agricultural postmining land use: *Provided further,* That when the regulatory authority issues a written finding approving a long-term, intensive, agricultural postmining land use as part of the mining and reclamation plan, the authority may grant exceptions to the provisions in this subsection (b) which require a diverse, self-regenerative, or permanent vegetative cover;

(14) minimize the disturbances to the prevailing hydrologic balance at the minesite and in associated off-site areas and to the quality and quantity of water in surface and ground water systems both during and after surface coal mining operations and during reclamation by—

(A) avoiding acid or other toxic mine drainage by such measures as, but not limited to—

(i) preventing or removing water from contact with toxic producing deposits;

(ii) treating drainage to reduce toxic content which adversely affects downstream water upon being released to water courses;

(iii) casing, sealing, or otherwise managing bore holes, shafts, and wells to keep acid or other toxic drainage from entering ground and surface waters;

(B) conducting surface mining operations so as to prevent additional contributions of suspended solids to stream flow or run-off outside the permit area above natural levels under seasonal flow conditions as measured prior to any mining, and avoiding channel deepening or enlargement in operations re-

quiring the discharge of water from mines;

(C) removing temporary or large situation structures from drainways after disturbed areas are revegetated and stabilized;

(D) restoring recharge capacity of the minesites to approximate premining conditions;

(E) preserving throughout the mining and reclamation process the hydrologic integrity of alluvial valley floors in the arid and semi-arid areas of the country; and

(F) such other actions as the regulatory authority may prescribe;

(15) prevent any offsite damages that may result from such mining operations and institute immediate efforts to correct such conditions;

(16) with respect to the use of impoundments for the disposal of coal mine wastes, coal processing wastes, or other liquid or solid wastes, incorporate the latest engineering practices for the design and construction of water retention facilities and construct such facilities to insure that the construction will be so designed to achieve necessary stability with an adequate margin of safety to protect the health and safety of the public and which, at a minimum, is compatible with that of structures constructed under Public Law 83-566 (16 U.S.C. 1006); that leachate will not pollute surface or ground water, and that no mine waste such as coal fines and slimes determined as unsuitable for construction constituents by sound engineering methods and design practices are used in the construction of water impoundments, water retention facilities, dams, or settling ponds;

(17) with respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine working or excavations, stabilize all waste piles in designated areas through construction and compacted layers with incombustible and impervious materials, and assure the final contour of the waste pile will be compatible with natural surroundings and that the site can and will be stabilized and revegetated according to the provisions of this Act;

(18) with respect to the use of explosives—

(A) provide advance written notice of the planned blasting schedule to local governments and advance notice to residents who might be affected by the use of such explosives by publication in a newspaper of general circulation in the locality of the proposed site one week in advance of the planned blasting and post such schedules at the entrances to the permit area and maintain for a period of at least three years a log of the magnitudes and times of blasts;

(B) limit the type of explosives and detonating equipment, the size, the timing and frequency of blasts based upon the physical conditions of the site so as to prevent (i) injury to persons, (ii) damage to public and private property outside the permit area, (iii) adverse impacts on any underground mine, and (iv) change in the course, channel, or availability of ground or surface water outside the permit area;

(C) refrain from blasting in specific areas where the safety of the public or private property or natural formations of more than local interest are endangered;

(19) refrain from surface coal mining within five hundred feet from underground mines in order to prevent breakthroughs and to protect health or safety of miners: *Provided*, That the regulatory authority shall permit an operator to mine closer to such a mine: *Provided*, it does not create hazards to the health and safety of miners, or shall permit an operator to mine near, through, or partially through an abandoned underground mine working where such mining through will achieve improved resource recovery, abatement of water pollution or elimination of public hazards and such mining shall be consistent with the provisions of this Act.

(20) fill all auger holes to a depth of a minimum of three times the diameter with an impervious and noncombustible material; and

(21) construct access roads, haulroads, or haulageways with appropriate limits applied to grade, width, surface materials, spacing, and size of culverts in order to control drainage and prevent erosion outside permit area, and upon the completion of mining either reclaim such roads by regrading and revegetation or assure their maintenance so as to prevent erosion and siltation of streams and adjacent lands.

(c) The following performance standards shall be applicable to steep-slope surface coal mining and to mining operations which create a plateau with no highwalls remaining in such a manner as to otherwise meet the standards of this subsection and shall be in addition to those general performance standards required by this section: *Provided, however*, That the provisions of this subsection (c) shall not apply to those situations in which an operator is mining on flat or gently rolling terrain, on which an occasional steep slope is encountered through which the mining operation is to proceed, leaving a plain or predominantly flat area:

(1) No spoil, debris, soil, waste materials, or abandoned or disabled mine equipment may be placed on the natural or other downslope below the bench or cut created to expose the coal seam except that where necessary spoil from the initial block or short linear cut necessary to obtain access to the coal seam may be placed on a limited specified area of the downslope: *Provided*, That the spoil is shaped and graded in such a way to prevent slides, erosion and water pollution and that the other requirements of subsection (b) can still be met.

(2) Complete backfilling with spoil material shall be required to a contour necessary to cover completely the highwall and return the site to the approximate original contour, which material will maintain stability following mining and reclamation.

(3) The operator may not disturb land above the top of the highwall unless the regulatory authority finds that such disturbance will facilitate compliance with the environmental protection standards of this section: *Provided, however*, That the land disturbed above the highwall shall be limited to that amount necessary to facilitate said compliance.

(4) For the purposes of this subsection, the term "steep-slope" is any slope above 20 degrees or such lesser slope as may be defined by the regulatory authority after consideration of soil, climate, and other characteristics of a region or State.

(5) With regard to postmining uses of land to which the performance standards of this subsection apply, any industrial, commercial, residential, or public facility development proposed for the affected land shall be shown by proper documentation to be:

(A) compatible with adjacent land uses;

(B) obtainable according to data regarding expected need and market;

(C) assured of investment in necessary public facilities;

(D) supported by commitments from public agencies where appropriate;

(E) practicable with respect to private financial capability for completion of the proposed development;

(F) planned pursuant to a schedule attached to the reclamation plan so as to integrate the mining operation and reclamation with the postmining land use; and

(G) designed by a registered engineer in conformance with professional standards established to assure the stability, drainage and configuration necessary for the intended use of the site;

(d)(1) In cases where an industrial, commercial, residential, agricultural, recreational, or public facility development is proposed for postmining use of the affected land, the regulatory authority may grant appropriate exceptions to the requirements for regrading, backfilling and spoil placement as set forth in subsection 211(b)(8) and in subsections 211(c) (1) and (2) of this Act, if the regulatory authority issues a written finding following public notice and public hearing pursuant to the provisions of section 214 that—

(A) after consultation with the appropriate land use planning agencies, if any, the proposed development is deemed to constitute a higher or better economic or public use of affected land, compared with the premining use;

(B) the equal or better economic or public use can be obtained only if one or more exceptions to the requirements for regrading, backfilling, and spoil placement as set forth in subsection 211(b)(8) and subsections 211 (c) (1) and (2) of this Act are granted.

(2) With respect to subsection 211(b) (12) and subsection (211)(b)(13) of this Act, where postmining land use development is in compliance with all the requirements of this subsection and where the regulatory authority has found that an exception to the revegetation standards is necessary to achieve the postmining land use development, the regulatory authority may grant an appropriate exception allowing maintenance of the vegetative cover to be terminated in advance of the expiration of the five-year or ten-year periods of responsibility for establishment of a permanent vegetative cover at particular locations and times as specified in the approved schedule and reclamation plan.

(3) All exceptions granted under the provisions of this subsection shall be reviewed not more than three years from the date of issuance of the permit, unless the applicant affirmatively demonstrates that the proposed development is proceeding in accordance with terms of the approved schedule and reclamation plan.

(e) The regulatory authority may impose such additional requirements as he determines to be necessary.

SURFACE EFFECTS OF UNDERGROUND MINING OPERATIONS

SEC. 212. (a) In order to regulate underground coal mining operations, the Secretary shall promulgate rules and regulations directed toward the surface affected by such underground coal mining operations embodying the following requirements and in accordance with procedures established under section 202 of this Act.

(b) Each permit issued under any approved State or Federal program pursuant to this Act and relating to underground coal mining shall require the operator to—

(1) Adopt measures consistent with known technology in order to prevent subsidence to the extent technologically and economically feasible, maximize mine stability, and the value and use of such surface lands, except in those instances where the mining technology used requires planned subsidence in a predictable and controlled manner: *Provided*, That nothing in this subsection shall be construed to prohibit the standard method of room and pillar continuous mining;

(2) seal all portals, entryways, drifts, shafts, or other openings between the surface and underground mine workings when no longer needed for the conduct of the mining operations;

(3) with respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine

workings or excavations, stabilize all waste piles created by the permittee from current operations through construction in compacted layers with incombustible and impervious materials and assure that the final contour of the waste accumulation will be compatible with natural surroundings and that the site is stabilized and revegetated according to the provisions of this section;

(4) with respect to the use of impoundments for the disposal of coal mine wastes, coal processing wastes or other liquid or solid wastes, incorporate the latest engineering practices for the design and construction of water retention facilities and construct such facilities to insure that the construction will be so designed to achieve necessary stability with an adequate margin of safety to protect the health and safety of the public and which, at a minimum, is compatible with that of structures constructed under Public Law 83-566 (16 U.S.C. 1006); that leachate will not pollute surface or ground water, and that no mine waste such as coal fines and slimes determined as unsuitable for construction constituents by sound engineering methods and design practices are used in the construction of water impoundments, water retention facilities, dams or settling ponds;

(5) establish on regraded areas and all other lands affected, a diverse and permanent vegetative cover capable of self-regeneration and plant succession and at least equal in extent of cover to the natural vegetation of the area;

(6) prevent off-site damages which may result from such mining operations;

(7) prevent the discharge of water-borne pollutants both during and after mining.

(c) In order to protect the stability of the land, the regulatory authority shall suspend underground coal mining under urbanized areas, cities, towns, and communities and adjacent to industrial or commercial buildings, major impoundments, or permanent streams if he finds imminent danger to inhabitants of the urbanized areas, cities, towns, and communities.

(d) All operators of underground coal mines, both during and after mining, shall have abatement and remedial programs to eliminate any polluting discharge into our Nation's waters and to eliminate fire hazards and otherwise eliminate conditions which constitute a hazard to health and safety of the public.

(e) The provisions of title II of this Act relating to State and Federal programs, permits, bonds, inspection and enforcement, public review, and administrative and judicial review shall be applicable to surface coal mining and reclamation operations incident to underground coal mininfi with such modifications to the permit application requirements, permit approval or denial procedures, and bond requirements as are deemed necessary by the Secretary due to the differences between surface and underground coal mining. The Secretary shall promulgate such modifications in accordance with the rulemaking procedure established in section 202 of this Act.

REVISION AND REVIEW OF PERMITS

SEC. 213. (a) During the term of the permit the permittee may submit an application, together with a revised mining and reclamation plan, to the regulatory authority for a revision of the permit.

(b) An application for a revision of a permit shall not be approved unless the regulatory authority finds that reclamation as required by this Act and the State or Federal program can be accomplish under the revised mining and reclamation plan. The revision shall be approved or disapproved within a period of time established by the State or Federal program. The regulatory authority shall establish guidelines for a determination of the scale or extent of a revision request for which all permit application information requirements and procedures, including notice and hearings, shall apply: *Provided,* That such revision or modification shall be subject to notice and hearing requirement established by the State or Federal program.

(c) Any extensions to the area covered by the permit except incidental boundary revisions must be made by application for another permit.

(d) The regulatory authority may require reasonable revision or modification of the permit provisions during the term of such permit: *Provided,* That such revision or modification shall be subject to notice and hearing requirements established by the State or Federal program.

(e) Permits issued pursuant to an approved State program shall be valid but reviewable under a Federal program. Following promulgation of a Federal program, the Secretary shall review such permits to determine if the requirements of this Act are being violated. If the Secretary determines that any permit has been granted contrary to the requirements of this Act, he shall so advise the permittee and provide ninety days for submission of a new application and reasonable time to conform ongoing surface mining and reclamation operations to the requirements of the Federal program.

(f) Permits issued pursuant to the Federal program shall be valid but reviewable under the approved State program. The State regulatory authority may review such permits to determine if the requirements of the approved State program are being violated. If the State regulatory authority determines that any permit has been granted contrary to the requirements of the approved State program, it shall so advise the permittee and provide ninety days for submission of a new application and reasonable time to conform ongoing surface mining and reclamation operations to the requirements of the approved State program.

PUBLIC NOTICE AND PUBLIC HEARINGS

SEC. 214. (a) At the time of submission of an application for a surface mining and reclamation permit, or revision of an existing permit, pursuant to the provisions of this Act or an approved State program, the applicant shall submit to the regulatory authority a copy of his advertisement of the ownership, precise location, and boundaries of the land to be affected. At the time of submission such advertisement shall be placed in a local newspaper of general circulation in the locality of the proposed surface mine at least once a week for four consecutive weeks. The regulatory authority shall notify various local governmental bodies, planning agencies, and sewage and water treatment authorities, or water companies in the locality in which the proposed surface mining will take place, notifying them of the operator's intention to surface mine a particularly described tract of land and indicating the application's permit number and where a copy of the proposed mining and reclamation plan may be inspected. These local bodies, agencies, authorities, or companies have obligation to submit written comments within thirty days on the mining applications with respect to the effect of the proposed operation on the environment which are within their area of responsibility. Such comments shall be made available to the public at the same locations as are the mining applications.

(b) Any person with a valid legal interest or the officer or head of any Federal, State, or local governmental agency or authority shall have the right to file written application for a permit for surface mining and reclamation operation with the regulatory authority within thirty days after the last publication of the above notice. If written objections are filed and a hearing requested, the regulatory authority shall then hold a public hearing in the locality of the proposed mining within a reasonable time of the receipt of such objections. The date, time, and location of such public hearing shall be advertised by the regulatory authority in a newspaper of general circulation in the locality at least once a week for three consecutive weeks prior to the scheduled hearing date. The regulatory authority may arrange with the applicant upon request by any party to the administrative proceeding access to the proposed mining area for the purpose of gathering information relevant to the proceeding. At this public hearing, the applicant for a permit shall have the burden of establishing that his application is in compliance with the applicable State and Federal laws. Not less than ten days prior to any proposed hearing, the regulatory authority shall respond to the written objections in writing. Such response shall include the regulatory authority's preliminary proposals as to the terms and conditions, and amount of bond of a possible permit for the area in question and answers to material factual questions presented in the written objections. The regulatory authority's responsibility under this subsection shall in any event be to make publicly available its estimate as to any other conditions of mining or reclamation which may be required or contained in the preliminary proposal. In the event all parties requesting the hearing stipulate agreement prior to the requested hearings, and withdraw their request, such hearings need not be held.

(c) For the purpose of such hearing, the regulatory authority may administer oaths, subpena witnesses or written or printed materials, compel attendance of the witnesses, or production of the materials, and take evidence including but not limited to site inspections of the land to be affected and other surface mining operations carried on by the applicant in the general vicinity of the proposed operation. A verbatim transcript and complete record of each public hearing shall be ordered by the regulatory authority.

DECISIONS OF REGULATORY AUTHORITY AND APPEALS

SEC. 215. (a) If a public hearing has been held pursuant to section 214(b) of this Act, the regulatory authority shall issue and furnish the applicant for a permit and persons who are parties to the administrative proceedings with the written finding of the regulatory authority, granting or denying the permit in whole or in part and stating the reasons therefor, within thirty days of said hearings.

(b) If there has been no public hearing held pursuant to section 214(b) of this Act, the regulatory authority shall notify the applicant for a permit within a reasonable time, taking into account the time needed for proper invesigation of the site, the complexity of the permit application and whether or not written objection to the application has been filed, whether the application has been approved or disapproved. If the application is approved, the permit shall be issued. If the application is disapproved, specific reasons therefor must be set forth in the notification. Within thirty days after the applicant is notified that the permit or any portion thereof has been denied, the applicant may request a hearing on the reasons for the said disapproval. The regulatory authority shall hold a hearing within thirty days to such request and provide notification to all interested parties at the time that the applicant is so notified. Within thirty days after the hearing the regulatory authority shall issue and furnish the appli-

cant, and all persons who participated in the hearing, with the written decision of the regulatory authority granting or denying the permit in whole or in part and stating the reasons therefor.

(c) Any applicant or any person who has participated in the administrative proceedings as an objector, and who is aggrieved by the decision of the regulatory authority, or if the regulatory authority fails to act within a reasonable period of time, shall have the right of appeal for review by a court of competent jurisdiction in accordance with State or Federal law.

POSTING OF BOND

SEC. 216. (a) After a surface mining and reclamation permit application has been approved but before such a permit is issued, the applicant shall file with the regulatory authority, on a form prescribed and furnished by the regulatory authority, a bond for performance payable, as appropriate, to the United States or to the State, under an approved State program, and conditioned that the operator shall faithfully perform all the applicable requirements under this Act. The bond shall cover that area of land within the permit area upon which the operator will initiate and conduct surface mining and reclamation operations. As succeeding increments of surface mining and reclamation operations are to be initiated and conducted within the permit area, the permittee shall file with the regulatory authority an additional bond or bonds to cover such increments in accordance with this section. The amount of the bond required for each bonded area shall depend upon the reclamation requirements of the approved permit and shall be determined by the regulatory authority. The amount of the bond shall be sufficient to assure the completion of the reclamation plan if the work had to be performed by a third party in the event of forfeiture; in no case shall the bond be less than $10,000. Libility under the bond shall be for the duration of the surface mining and reclamation operation and for a period coincident with operator's responsibility for vegetation requirements in section 211(b)(13). The bond shall be executed by the operator and a corporate surety licensed to do business in the State where such operation is located, except that the operator may elect to deposit cash, negotiable bonds of the United States Government or such State, or negotiable certificates of deposit of any bank organized or transacting business in the United States. The cash deposit or market value of such securities shall be equal to or greater than the amount of the bond required for the bonded area.

(b) Cash or securities so deposited shall be deposited upon the same terms as the terms upon which surety bonds may be deposited. Such securities shall be security for the repayment of such negotiable certificate of deposit.

(c) Upon the receipt of the deposit of cash or securities, the regultory authority shall immediately place the deposit with, as appropriate, the Secretary of the Treasury or a similar State authority under an approved State program, who shall receive and hold the deposit in safekeeping in the name of the United States, or the appropriate State under an approved State program, in trust for the purpose for which the deposit was made. The operator making the deposit may from time to time demand and receive from the Secretary of the Treasury or the aforesaid State regulatory authority, on written order of the regulatory authority, the whole or any portion of the deposit if other acceptable securities of at least the same value are deposited in lieu thereof. The operator may demand of the Secretary of the Treasury, or the aforesaid State authority, and receive the interest and income from the securities as they become due and payable. When deposited securities mature or are called, the operator may request that the Secretary of the Treasury or the aforesaid State authority convert the securities into other securities acceptable to the operator, and the Secretary of the Treasury or the aforesaid State authority shall so do.

(d) The amount of the bond or deposit required shall be increased or decreased by the regulatory authority from time to time as affected land acreages are changed or where the cost of future reclamation increases or decreases.

BOND RELEASE PROCEDURES

SEC. 217. (a) When the operator completes the backfilling, regrading and drainage control of a bonded area in accordance with his approved reclamation plan, he may report the completion to the regulatory authority, and request the release of 60 per centum of the bond or collateral for the applicable permit area. The request shall specifically include—

(1) the location of the land affected, the number of acres backfilled and regraded, and the approximate dates of the reclamation work;

(2) the permit number;

(3) the amount of the bond;

(4) a detailed description of the type of reclamation activities performed; and

(5) a detailed description of the results achieved as they relate to the operator's approved reclamation plan.

(b) Upon receipt of the notification and request, the regulatory authority shall, within one hundred days thereafter, make an inspection and evaluation of the reclamation work involved. Such evaluation shall consider, among other things, the degree of difficulty to complete any remaining reclamation, whether pollution of surface and subsurface water is occurring, the probability of continuance or future occurrence of such pollution, and the estimated cost of abating such pollution. If the regulatory authority finds that the reclamation meets the requirements of this Act, he shall so notify the operator and the Secretary of the Treasury or the appropriate State authority and release that portion of the bond requested. The Secretary of the Treasury or the appropriate State authority shall then return to the operator the amount of cash or securities constituting that portion of the bond so released. If the regulatory authority does not approve of the reclamation performed by the operator, he shall so notify the operator by registered mail within a reasonable time after the inspection and evaluation have been made. The notice shall state the reasons for unacceptability and shall recommend actions to remedy the failure.

(c) After revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan, the operator may request the release of additional bond or collateral for the applicable permit area. This request shall specifically include—

(1) location of the land, number of acres, and approximate dates of revegetation work;

(2) the permit number;

(3) the amount of bond sought for release; and

(4) a description of the revegetation work accomplished including seed bed and soil conditioning, the amount and timing of fertilizer application, the types of revegetation established and planting or seeding schedules and an estimate of vegetation survival and plant density.

Upon receipt of the notification and request, the regulatory authority shall within sixty days conduct an inspection and make such determinations as required in subsection (b) above. When determining the amount of bond to be released, the regulatory authority shall retain that amount of bond for the revegetated area which would be sufficient for a third party to cover the cost of re-establishing revegetation for the period of responsibility as specified in section 211(b)(13) should failure occur.

(d) When the operator has completed successfully all surface mining and reclamation activities, but not before the expiration of the period specified for operator responsibility in section 211(b)(13), he may file a request as hereinbefore provided for release of any remaining portion of the bond. Upon receipt of the notification and request and within six months, the regulatory authority shall make an inspection and evaluation of the reclamation work. If the regulatory authority finds that the reclamation meets the requirements under this Act, he shall so notify the surety company, the operator, and the Secretary of the Treasury or the appropriate State authority and release that portion of the bond requested. The Secretary of the Treasury or the appropriate State authority shall then return to the operator the amount of the cash or securities constituting that portion of the bond so released. If the regulatory authority does not approve of the reclamation performed by the operator, he shall so notify the operator by registered mail within a reasonable time after the request. The notice shall state the reasons for unacceptability and shall recommend actions to correct the failure.

(e) With any application for total or partial bond release filed with the regulatory authority, the operator shall submit a copy of the first advertisement placed at least once a week for three consecutive weeks in a newspaper of general circulation in the locality of the surface mining operation. Such advertisement shall be considered part of any bond release application and shall contain a notification of the precise location of the land affected, the number of acres, the permit number and the date approved, the amount of the bond filed and the portion sought to be released, and the type of reclamation work performed.

(f) With any application for total or partial bond release filed with the regulatory authority, the regulatory authority shall notify the municipality in which a surface mining operation is located by certified mail at least thirty days prior to the release of all or a portion of the bond.

(g) Any person with a valid legal interest or the officer or head of any Federal, State, or local governmental agency shall have the right to file written objections to the proposed release from bond to the regulatory authority within thirty days after the last publication of the above notice. If written objections are filed, and a hearing requested, the regulatory authority shall inform all the interested parties, of the time and place of the hearing, and hold a public hearing in the locality of the surface mining operation proposed for bond release within forty-five days of the request for such hearing. The date, time, and location of such public hearings shall be advertised by the regulatory authority in a newspaper of general circulation in the locality once a week for three consecutive weeks.

(h) For the purpose of such hearing the regulatory authority shall have the authority and is hereby empowered to administer oaths, subpena witnesses, or written or printed materials, compel the attendance of witnesses, or production of the materials, and take evidence including but not limited to inspections of the land affected and other surface mining operations carried on by the applicant in the general vicinity. A verbatim transcript and a complete record of each public hearing shall be ordered by the regulatory authority.

(i) The regulatory authority shall make its decision on the bond release request not more than sixty days after the record of the hearing is transcribed.

(j) Any applicant or person who has participated in the administrative proceedings as an objector and who is aggrieved by the decision of the regulatory authority or if the regulatory authority fails to act within a reasonable period of time, shall have the right of appeal to an appropriate United States district court.

SUSPENSION AND REVOCATION OF PERMITS

SEC. 218. (a) Once granted, a permit may not be suspended or revoked unless the regulatory authority gives the permittee prior notice of violation of the provisions of the permit or of the State or Federal program pursuant to this Act and affords a reasonable period of time of not more than ninety days within which to take corrective action, and the regulatory authority determines after a public hearing, if requested by the permittee, that the permitee remains in violation: *Provided, however,* That the continuation of any mining operation endangers the public health or safety, threatens significant damage to public and private property, endangers the quality and quantity of a public or private water supply, or poses other significant harm to land, air, or water resources, the permit, or such portion of the permit related to the offending activity, shall be suspended subject to subsequent determination, after a public hearing, if requested by the permittee, whether the permittee has violated the provisions of the permit, State or Federal programs.

(b) Following the hearing or any corrective action on the part of the permittee, the regulatory authority must issue and furnish the permittee a written decision, independently verified by the regulatory authority, either affirming or rescinding the suspension and stating the reasons therefor. The permittee shall have the right to appeal such decision of the regulatory authority to an appropriate United States district court.

(c) If the regulatory authority revokes the permit of the operator, the operator shall immediately cease any and all surface coal mining operations on the permit areas and the regulatory authority shall declare as forfeited the performance surety bonds for the operation. The Secretary shall be notified immediately upon a revocation of any permit by any State regulatory authority.

INSPECTIONS AND MONITORING

SEC. 219. (a) The Secretary shall cause to be made such inspections of any surface mining and reclamation operations as are necessary to evaluate the administration of approved State programs, or to develop or enforce any Federal program, and for such purposes authorized representatives of the Secretary shall have a right of entry to, upon, or through any surface mining and reclamation operations.

(b) For the purpose of developing or assisting in the development, administration, and enforcement of any approved State or Federal program under this Act or in the administration and enforcement of any permit under this Act, or of determining whether any person is in violation of any requirement of any such State or Federal program or any other requirement of this Act—

(1) the regulatory authority shall require any permittee to (A) establish and maintain appropriate records, (B) make monthly reports to the regulatory authority, (C) install, use, and maintain any necessary monitoring equipment or methods, (D) evaluate results in accordance with such methods, at such locations, intervals, and in such manner as a regulatory authority shall prescribe, and (E) provide such other information relative to surface mining and reclamation operations as the regulatory authority deems reasonable and necessary.

(2) for those mining and reclamation operations which remove or disturb strata that serve as aquifers which significantly insure the hydrogolic balance or water use either on or off the mining site, the regulatory authority shall specify those—

(A) monitoring sites to record the quantity and quality of surface drainage above and below the minesite as well as in the potential zone of influence;

(B) monitoring sites to record level, amount, and samples of ground water and aquifers potentially affected by the mining and also directly below the lower most (deepest) coal seam to be mined;

(C) records of well logs and borehole data to be maintained; and

(D) monitoring sites to record precipitation.

The monitoring, data collection, and analysis required by this section shall be conducted according to standards and procedures set forth by the regulatory authority in order to assure their reliability and validity; and

(3) the authorized representatives of the regulatory authority, without advance notice and upon presentation of appropriate credentials (A) shall have the right of entry to, upon, or through any surface mining and reclamation operations or any premises in which any records required to be maintained under paragraph (1) of this subsection are located; and (B) may at reasonable times, and without delay, have access to and copy any records, inspect any monitoring equipment or method of operation required under this Act.

(c) The inspections by the regulatory authority shall (1) occur on an irregular basis averaging not less than one inspection per month for the surface mining and reclamation operations for coal covered by each permit; (2) occur without prior notice to the permittee or his agents or employees; and (3) include the filing of inspection reports adequate to enforce the requirements of and to carry out the terms and purposes of this Act and the regulatory authority shall make copies of such inspection reports immediately and freely available to the public at a central location in the pertinent geographic area of mining. The Secretary or regulatory authority shall establish a system of continual rotation of inspectors so that the same inspector does not consistently visit the same operations.

(d) Each permittee shall conspicuously maintain at the entrances to the surface mining and reclamation operations a clearly visible sign which sets forth the name, business address, and phone number of the permittee and the permit number of the surface mining and reclamation operations.

(e) Each inspector, upon detection of each violation of any requirement of any State or Federal program or of this Act, shall forthwith inform the operator in writing, and shall report in writing any such violation to the regulatory authority.

(f) Copies of any records, reports, inspection materials, or information obtained under this title by the regulatory authority shall be made immediately and freely available to the public at central and sufficient locations in the county, multicounty, and State area of mining so that they are conveniently available to residents in the areas of mining as well as in Washington, District of Columbia.

FEDERAL ENFORCEMENT

SEC. 220. (a)(1) Whenever, on the basis of any information available to him, including receipt of information from any person, the Secretary has reason to believe that any person is in violation of any requirement of this Act or any permit condition required by this Act, the Secretary shall notify the State regulatory authority, if one exists, in the State in which such violation exists. If no such State authority exists or the State regulatory authority fails within ten days after notification to take appropriate action to cause said violation to be corrected or to show good cause for such failure and transmit notification of its action to the Secretary, the Secretary shall immediately order Federal inspection of the surface coal mining operation at which the alleged violation is occurring unless the information available to the Secretary is a result of a previous Federal inspection of such surface coal mining operation. When the Federal inspection results from information provided to the Secretary by any person, the Secretary shall notify such person when the Federal inspection is proposed to be carried out and such person shall be allowed to accompany the inspector during the inspection.

(2) When, on the basis of any Federal inspection, the Secretary or his authorized representative determines that any condition or practices exist, or that any permittee is in violation of any requirement of this Act or any permit condition required by this Act, which condition, practice, or violation also creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources, the Secretary or his authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the condition, practice, or violation. Such cessation order shall remain in effect until the Secretary or his authorized representative determines that the condition, practice, or violation has been abated, or until modified, vacated, or terminated by the Secretary or his authorized representative pursuant to subparagraph (a)(5) of this section.

(3) When, on the basis of a Federal inspection which is carried out during the enforcement of a Federal program or a Federal lands program, Federal inspection pursuant to section 201 or during Federal enforcement of a State program in accordance with subsection (b) of this section, the Secretary or his authorized representative determines that any permittee is in violation of any requirement of this Act or any permit condition required by this Act, but such violation does not create an imminent danger to the health or safety of the public, or cause or can be reasonably expected to cause significant, imminent environmental harm to land, air, or water resources, the Secretary or his authorized representative shall issue a notice to the permittee or his agent fixing a reasonable time for the abatement of the violation. The Secretary, or his authorized representative, may extend the period of time as originally fixed, but in no event shall the original period or original period and extension exceed ninety days. If, upon expiration of the period of time as originally fixed or subsequently extended, the Secretary or his authorized representative finds that the violation has not been abated, he shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the violation. Such cessation order shall remain in effect until the Secretary or his authorized representative determines that the violation has been abated, or until modified, vacated, or terminated by the Secretary or his authorized representative pursuant to subparagraph (a)(5) of this section.

(4) When, on the basis of a Federal inspection which is carried out during the enforcement of a Federal program or a Federal lands program, Federal inspection pursuant to section 201, or during Federal enforcement of a State program in accordance with subsection (b) of this section, the Secretary or his authorized representative determines that a pattern of violations of any requirements of this Act or any permit conditions required by this Act exists or has existed, and if the Secretary or his authorized representative also finds that such violations are caused by the unwarranted failure of the permittee to comply with any requirements of this Act

or any permit conditions, or that such violations are willfully caused by the permittee, the Secretary or his authorized representative shall forthwith issue an order to the permittee to show cause as to why the permit should not be suspended or revoked.

(5) Notices and orders issued pursuant to this section shall set forth with reasonable specificity the nature of the violation and the remedial action required, the period of time established for abatement, and a reasonable description of the portion of the surface coal mining and reclamation operation to which the notice or order applies. Each notice or order issued under this section shall be given promptly to the permittee or his agent by the Secretary or his authorized representative who issues such notice or order, and all such notices and orders shall be in writing and shall be signed by such authorized representative. Any notice or order issued pursuant to this section may be modified, vacated, or terminated by the Secretary or his authorized representative. A copy of any such order or notice shall be sent to the State regulatory authority in the State in which the violation occurs.

(b) Whenever the Secretary finds that violations of an approved State program appear to result from a failure of the State to enforce such State program effectively, he shall so notify the State. If the Secretary finds that such failure extends beyond thirty days ater such notice, he shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Secretary that it will enforce this Act, the Secretary shall enforce any permit condition required under this Act, shall issue new or revised permits in accordance with requirements of this Act, and may issue such notices and orders as are necessary for compliance therewith.

(c) The Secretary may request the Attorney General to institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which the surface coal mining and reclamattion operation is located or in which the permittee thereof has his principal office, whenever such permittee or his agent (A) violates or fails or refuses to comply with any order or decision issued by the Secretary under this Act, or (B) interferes with, hinders, or delays the Secretary or his authorized representative in carrying out the provisions of this Act, or (C) refuses to admit such authorized repreesntative to the mine, or (D) refuses to permit inspection of the mine by such authorized representative, or (E) refuses to furnish any information or report requested by the Secretary in furtherance of the provisions of this Act, or (F) refuses to permit access to, and copying of, such records as the Secretary determines necessary in carrying out the provisions of this Act. Such court shall have jurisdiction to provide such relief as may be appropriate. Temporary restraining orders shall be issued in accordance with Rule 65 of the Federal Rules of Civil Procedure, as amended. Any relief granted by the court to enforce an order under clause (A) of this section shall continue in effect until the completion or final termination of all proceedings for review of such order under this title, unless, prior thereto, the district court granting such relief sets it aside or modifies it.

JUDICIAL REVIEW

SEC. 221. (a) (1) Any action of the Secretary to approve or disapprove a State program pursuant to section 203 of this Act or to prepare and promulgate a Federal program pursuant to section 204 of this Act shall be subject to judicial review only by the appropriate United States Court of Appeals upon the filing in such court within sixty days from the date of such action of a petition by any person who participated in the administrative proceedings related thereto and who is aggrieved by the action praying that the action be modified or set aside in whole or in part. A copy of the petition shall forthwith be sent by registered or certified mail to the Secretary, and the Attorney General and thereupon the Secretary shall certify, and the Attorney General shall file in such court the record upon which the action complained of was issued, as provided in section 2112 of title 28, United States Code:

(2) All other orders or decisions issued by the Secretary pursuant to this Act shall be subject to judicial review only in United States District Court for the locality in which the surface coal mining operation is located. Such review shall be in accordance with the Federal Rules of Civil Procedures. In the case of a proceeding to review an order or decision issued by the Secretary under section 224(b) of this Act, the court shall have jurisdiction to enter an order requiring payment of any civil penalty assessment enforced by its judgment. The availability of review established in this subsection shall not be construed to limit the operation of the rights established in section 223.

(b) The court shall hear such petition or complaint solely on the record made before the Secretary. The findings of the Secretary if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

(c) In the case of a proceeding to review any order or decision issued by the Secretary under this Act, except an order or decision pertaining to any order issued under section 220(a)(2) of this title, the court may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceedings if—

(1) all parties to the proceedings have been notified and given an opportunity to be heard on a request for temporary relief;

(2) the person requesting such relief shows that there is a substantial likelihood that he will prevail on the merits of the final determination of the proceeding; and

(3) such relief will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air or water resources.

(d) The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the action, order or decision of the Secretary.

(e) Action of the State regulatory authority pursuant to an approved State program shall be subject to judicial review by the court of competent jurisdiction in accordance with State law, but the availability of such review shall not be construed to limit the operation of the rights established in section 223.

REVIEW BY SECRETARY

SEC. 222. (a) (1) A permittee issued a notice or order pursuant to the provisions of subparagraphs (a) (2) and (3) of section 220 of this title, or any person having an interest which is or may be adversely affected by such notice or order or by any modification, vacation, or termination of such notice or order, may apply to the Secretary for review of the notice or order within thirty days of receipt thereof or within thirty days of its modification, vacation, or termination. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing, at the request of the applicant or the person having an interest which is or may be adversely affected, to enable the applicant or such person to present information relating to the issuance and continuance of such notice or order or the modification, vacation or termination thereof. The filing of an application for review under this subsection shall not operate as a stay of any order or notice.

(2) The permittee and other interested persons shall be given written notice of the time and place of the hearing at least five days prior thereto. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code.

(b) Upon receiving the report of such investigation, the Secretary shall make findings of fact, and shall issue a written decision, incorporating therein an order vacating, affirming, modifying, or terminating the notice or order, or the modification, vacation, or termination of such notice or order complained of and incorporate his findings therein.

(c) Pending completion of the investigation required by this section, the applicant may file with the Secretary a written request that the Secretary grant temporary relief from any notice or order issued under section 220(a)(3) of this title together with a detailed statement giving reasons for granting such relief. The Secretary may grant such relief, under such conditions as he may prescribe, if—

(1) a hearing has been held in the locality of the permit area on the request for temporary relief in which all parties were given an opportunity to be heard;

(2) the applicant shows that there is substantial likelihood that the findings of the Secretary will be favorable to him; and

(3) such relief will not adversely affect the health or safety of the public or cause significant, imminent environmental harm to land, air, or water resources.

(d) Following the issuance of an order to show cause as to why a permit should not be suspended or revoked pursuant to section 220(a)(4), the Secretary shall hold a public hearing after giving written notice of the time, place, and date thereof. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Within sixty days following the public hearing, the Secretary shall issue and furnish to the permittee and all other parties to the hearing a written decision, and the reasons therefor, concerning suspension or revocation of the permit. If the Secretary revokes the permit, the permittee shall immediately cease surface coal mining operations on the permit area and shall complete reclamation within a period specified by the Secretary, or the Secretary shall declare as forfeited the performance bonds for the operation.

ESTABLISHMENT OF RIGHT TO BRING CITIZENS' SUITS

SEC. 223. (a) Except as provided in subsection (c) of this section, any person having an interest which is or may be adversely affected by actions of the Secretary or the regulatory authority may commence a civil action on his own behalf in an appropriate United States district court—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any regulation, order, or permit issued under this Act or of any provision of this Act.

(2) against the regulatory authority where there is alleged a failure of the regulatory authority to perform any act or duty under this Act which is not discretionary with the regulatory authority.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to order such violation or failure to be corrected, and to apply any appropriate civil penalties under this Act.

(b) Any resident of the United States who

is injured in any manner through the failure of any operator to comply with the provisions of this Act, or of any regulation, order, permit, or plan of reclamation issued by the Secretary, may bring an action for damages (including attorney fees) in an appropirate United States district court.

(c) No action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the alleged violation (i) to the Secretary, (ii) to the State in which the alleged violation occurs, and (iii) to any alleged violator of the regulation, order, or permit, or provision of this Act;

(B) if the Secretary or State has commenced and is diligently prosecuting a civil or criminal action in a court of the United States, or a State to require compliance with the regulation, permit, or order, or provision, but in any such action in a court of the United States any person may intervene as a matter of right;

(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the regulatory authority. Notice under this subsection shall be given in such manner as the Secretary shall prescribe by regulation.

(d) The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party (including any permittee defending an action brought pursuant to this section), whenever the court determines such award is appropirate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules or Civil Procedure.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of this Act or to seek any other relief (including relief against the Secretary or a State agency).

(f) The Secretary, if not a party in any action under this section, may intervene as a matter of right.

PENALTIES

SEC. 224. (a) In the enforcement of a Federal program or Federal lands program, or during Federal enforcement pursuant to section 201(f) or during Federal enforcement of a State program pursuant to section 220 (b) of this Act, any permittee who violates any permit condition or who violates any other provision of this title, may be assessed a civil penalty by the Secretary, except that if such violation leads to the issuance of a cessation order under section 220, the civil penalty shall be assessed. Such penalty shall not exceed $10,000 for each violation. Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessments. In determining the amount of the penalty, consideration shall be given to the permittee's history of previous violations at the particular surface coal mining operation; the appropirateness of such penalty to the size of the business of the permittee charged; the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public; whether the permittee was negligent; and the demonstrated good faith of the permittee charged in attempting to achieve rapid compilance after notification of the violation.

(b) A civil penalty shall be assessed by the Secretary only after the person charged with a violation described under subsection (a) of this section has been given an opportunity for a public hearing. Where such a public hearing has been held, the Secretary shall make findings of fact, and he shall issue a written decision as to the occurence of the violation and the amount of the penalty which is warranted, incorporating, when appropriate, an order therein requiring that the penalty be paid. Where appropriate, the Secretary shall consolidate such hearings with other proceedings under section 220 of this Act. Any hearing under this section shall be of record and shall be subject to section 554 of title 5 of the United States Code. Where the person charged with such a violation fails to avail himself of the opportunity for a public hearing, a civil penalty shall be assessed by the Secretary after the Secretary has determined that a violation did occur, and the amount of the penalty which is warranted, and has issued an order requiring that the penalty be paid.

(c) If no complaint, as provided in section 224 of this Act, is filed within thirty days from the date of the final order or decision issued by the Secretary under subsection (b) of this section, such order and decision shall bo conclusive.

(d) Interest at the rate of six percent per annum shall be charged against a person on any unpaid civil penalty assessed against him pursuant to the final order of the Secretary, said interest to be computed from the thirty-first day after issuance of such final assessment order.

(e) Civil penalties owed under this Act, either pursuant to subsection (c) of this section or pursuant to an enforcement order entered under section 221 of this Act, may be recovered in a civil action brought by the Attorney General at the request of the Secretary in any appropriate district court of the United States.

(f) Any person who willfully and knowingly violates a condition of a permit issued pursuant to a Federal program, a Federal lands program or Federal enforcement pursuant to section 201(f) or during Federal enforcement of a State program pursuant to section 222(b) of this Act or fails or refuses to comply with any order issued under section 222(a) or section 222(b) of this Act, or any order incorporated in a final decision issued by the Secretary under this Act, except an order incorporated in a decision issued under subsection (b) of this section or section 703 of this Act, shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than one year or both.

(g) Whenever a corporate permittee violates a condition of a permit issued pursuant to a Federal program, a Federal lands program or Federal enforcement pursuant to section 201(f) or Federal enforcement of a State program pursuant to section 220(b) of this Act or fails or refuses to comply with any order issued under section 220(a) or section 220(b) of this Act, or any order incorporated in a final decision issued by the Secretary under this Act except an order incorporated in a decision issued under subsection (b) of this section or section 703 of this Act, any director, officer, or agent of such corporation who willfully and knowingly authorized, ordered, or carried out such violation, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment that may be imposed upon a person under subsection (a) and (f) of this section.

(h) Whoever knowingly makes any false statement, representation, or certification, or knowingly fails to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to a Federal program or a Federal lands program or any order or decision issued by the Secretary under this Act, shall, upon conviction be punished by a fine of not more than $10,000 or by imprisonment for not more than one year or both.

(i) As a condition of approval of any State program submitted pursuant to section 203 of this Act, the civil and criminal penalty provisions thereof shall, at a minimum, incorporate penalties no less stringent than those set forth in this section, and shall contain the same or similar procedural requirements relating thereto.

FEDERAL LANDS

SEC. 225. (a) The Secretary shall promulgate and implement a Federal lands program which shall be applicable to all surface mining and reclamation operations taking place pursuant to any Federal law on any Federal land. The Federal lands program shall, at a minimum, incorporate all of the requirements to this Act and shall take into consideration the diverse physical, climatological, and other unique characteristics of the Federal lands in question.

(b) Within ninety days after the date of enactment of this Act, the interim environmental protection standards are to be made part of every existing surface coal mining operation on Federal lands within any State.

(c) Within eighteen months after the date of enactment of this Act all requirements of this Act through the Federal lands program shall be incorporated by reference or otherwise in any Federal mineral lease, permit, or contract issued by the Secretary which may involve surface coal mining and reclamation operations or surface impacts of underground coal mines. Incorporation of such requirements shall not, however, limit in any way the authority of the Secretary to subsequently issue new regulations, revise the Federal lands program to deal with changing conditions or changed technology, and to require the lease, permit, or contract holder to conform any surface mining and reclamation operations to the requirements of this Act and the regulations issued pursuant to this Act. The Secretary shall require as one of the terms and conditions of any permit, lease, or contract to surface mine coal owned by the United States that the lessee, permittee, or contractor give satisfactory assurances that the antitrust laws of the United States will be complied with and that no class of purchasers of the mined coal shall be unreasonably denied purchase thereof.

(d) The Secretary may enter into agreements with a State or with a number of States to provide for a joint Federal-State program covering a permit or permits for surface mining and reclamation operations on land areas which contain lands within any State and Federal lands which are interspersed or checkerboarded and which should, for conservation and administrative purposes, be regulated as a single-management unit. To implement a joint Federal-State program the Secretary may enter into agreements with the States, may delegate authority to the States, or may accept a delegation of authority from the States for the purpose of avoiding quality of administration of a single permit for surface mining and reclamation operation. Such agreements shall, as a minimum, incorporate all of the requirements of this Act, and shall not preclude Federal inspection or enforcement of the provisions of this Act as provided in sections 219 and 220.

(e) Except as specifically provided in subsection (d), this section shall not be construed as authorizing the Secretary to delegate to the States any authority or jurisdiction to regulate or administer surface mining and reclamation operations or other activities taking place on the Federal lands.

(f) This section shall not be construed as authorizing the Secretary to delegate to the States any authority or jurisdiction to regulate or administer surface mining and reclamation operations or other activities taking place on Indian lands or to delegate to the States trustee responsibilities toward Indians and Indian lands.

(g) During the period prior to approval of

a Federal program pursuant to this Act, including judicial review of the approval of a Federal program, existing coal surface mining operations on Federal land and Indian land may continue surface mining operations as provided in section 201(h).

SPECIAL BITUMINOUS COAL MINES

SEC. 226. The regulatory authority is authorized to and shall issue separate regulations for the interim and permanent programs for those special bituminous coal surface mines which meet, the following criteria:

(a) were in existence on the date of the Act and because of past duration of mining (at least ten years) have substantially committed to a mode of operation which warrants exceptions to some provisions of this title;

(b) involves the mining of more than one coal seam and where mining has been initiated on the deepest coal seam contemplated to be mined in the current operation;

(c) involves a mining operation that follows the coal seam on an inclination of fifteen degrees or more from the horizontal;

(d) involves an operation on the same site for the duration of the mining operation, and will under present mine plan conditions result in a pit depth in excess of nine hundred vertical feet from the original land surface.

Such alternative regulations shall pertain only to the standards governing on-side handling of spoils, elimination of depressions capable of collecting water creation of impoundments, and regarding to approximate original contour and shall specify that remaining highwalls are stable; all other performance standards in this title apply.

ANTHRACITE COAL MINES

SEC. 227. (a) The Secretary is hereby authorized to and shall issue separate regulations according to time schedules established in the Act for the interim and permanent programs for anthracite coal surface mines, if such mines are regulated by environmental protection standards of the State in which they are located. Such alternative regulations shall adopt, in each instance, the environmental protection provisions of the State regulatory program in existence at the date of enactment of this Act in lieu of: sections 201(b) and (c), 202, 209 (except subsection 209(d)(3), 210, and 211 of this Act. Provisions of sections 216 and 217 are applicable except for specified bond limits and period of re-vegetation responsibility. All other provisions of this Act apply and the regulations issued by the Secretary of Interior for each State anthracite regulatory program shall so reflect; *Provided, however,* That upon amendment of a State's regulatory program for anthracite mining or regulations thereunder in force in lieu of the above cited sections of this Act, the Secretary shall issue such additional regulations as necessary to meet the purposes of this Act.

(b) The Secretary of Interior shall report to Congress biennially, commencing on December 31, 1975, as to the effectiveness of such State anthracite regulatory programs operating in conjunction with this Act with respect to protecting the environment and such reports shall include those recommendations the Secretary deems necessary for program changes in order to better meet the environmental protection objectives of this Act.

TITLE III—INDIAN LANDS PROGRAM

GRANTS TO TRIBES

SEC. 301. (a) The Secretary is authorized to make annual grants directly to any Indian tribe in developing and administering an Indian lands program for the purpose of enabling the tribe to realize benefits from the development of its coal resources while at the same time protecting the cultural values of the tribe and the physical environment of the reservation, including land, timber, surface and ground waters, and air, by the establishment of exploration, mine operating, and reclamation regulations.

(b) The distribution of funds under this Act shall achieve the purposes of the Act, recognize special jurisdictional status of Indian lands and allotted lands of such tribes and preserve the power of Indian tribes to approve or disapprove surface mining and reclamation operations.

(c) Indian lands programs developed by any Indian tribe shall meet all provisions of this Act and where any provisions of any tribal code, ordinance, or regulation in effect upon the date of enactment of this Act or which may become effective thereafter, provides for environmental controls and regulations of surface mining and reclamation operations which are more stringent than the provisions of this Act or any regulation issued pursuant hereto, such tribal code, ordinance, or regulation shall not be construed to be inconsistent with this Act.

COAL LEASING

SEC. 302. The Secretary is directed to obtain written prior approval of the tribe before leasing coal under the ownership of the tribe.

APPROVAL OF PROGRAM

SEC. 303. (a) The Secretary is directed to promulgate and publish in the Federal Register regulations for Indian lands programs pursuant to this title which adequately protect Indian lands. Such regulations shall be promulgated and published under the guidelines of section 202 of this Act.

(b) If within twenty-four months after the receipt of funding under section 301(a) a tribe shall have submitted a tribal program, the Secretary shall approve the program within sixty days of its submission if said program is consistent with standards set out in this Act. In the event that the Secretary finds that the program is inconsistent with the standards of this Act, the tribe will be allowed ninety days after written notification of the Secretary's rejection of the tribe's program to resubmit an acceptable program. In the event that a tribe's resubmitted program is rejected by the Secretary as inconsistent with standards of this Act, the Secretary shall establish a Federal program for the tribe's reservation in accordance with section 306. Upon request by a tribe, the Secretary may grant an extension of six months to the tribe for submission of an Indian lands program.

(c) Any tribe submitting an Indian lands program under the provisions of this Act shall be required (i) to hold a public hearing for the enrolled members of the tribe on its reservation before submission of the program, and (ii) to waive or cause the waiver of the defense of sovereign immunity for such tribe in connection with any suit, claim or legal proceeding brought pursuant to or arising out of this Act.

ADMINISTRATION BY THE SECRETARY

SEC. 304. (a) At any time, a tribe may select to have its program administered by the Secretary. Upon such a request by a tribe, the Secretary shall assume the responsibility of administering the tribe's program for that reservation.

(b) Permits issued pursuant to an approved Indian lands program shall be valid but reviewable under a Federal program. Immediately following promulgation of a Federal program, the Secretary shall undertake to review such permits to determine that the requirements of this Act are not violated. If the Secretary determines that any permit has been granted contrary to the requirements of this Act, he shall so advise the permittee and provide him a reasonable time to conform ongoing surface mining and reclamation operations to the requirements of the Federal program.

EXISTING OPERATION

SEC. 305. Any coal surface mining operation on Indian lands existing on the date of enactment or which shall commence before the approval of an Indian lands program under this Act shall be subject to the provisions of section 201(g) and section 225 of this Act until such time as there is an approved Indian lands program or Federal program for such Indian lands.

FEDERAL PROGRAM

SEC. 306. (a) In the event that a tribe shall decline to submit to the Secretary a proposal for funding as authorized by section 301(a) to develop a program within six months after the enactment of this Act, the Secretary shall, if it be necessary to protect the rights and interests of a tribe, develop and implement a Federal program which will insure the protection of the tribal culture and the physical environment of the reservation.

(b) Prior to promulgation and implementation of any proposed Federal program, the Secretary shall give adequate public notice and hold a public hearing for the enrolled members of the tribe in a location convenient to the tribe.

(c) In no event shall the Secretary approve a permit under a Federal program without the written prior approval of the Indian tribe having jurisdiction over the lands in question.

(d) If an Indian tribe submits a proposed Indian lands program to the Secretary after a Federal program has been promulgated and implemented pursuant to this section, and upon approval by the Secretary of the Indian lands program, the Federal program shall cease to be effective within thirty days after such approval. Immediately following promulgation of an Indian lands program, the tribe shall undertake to review all permit to determine that the requirements of the Indian lands program approved under this Act are not violated. If the tribe determi that any permit is not in conformity wi the requirements of its program, it shall so advise the permittee and provide him a reasonable time to conform ongoing surf mining and reclamation operations to the requirements of the Indian lands program.

PERSONNEL

SEC. 307. (a) Indian tribes are authorized to use the funds authorized pursuant to section 301(a) of this title for the training and hiring of professional and technical personnel and, where appropriate, to allocate funds to legitimately recognized organizations of the tribe that are pursuing the objectives of this title, as well as hire special consultants, groups, or firms from the public and private sector, for the purpose of developing, establishing, or implementing an Indian lands program.

(b) Any Federal agency is authorized to assist any Indian tribe upon request from such tribe by providing the services of technical and professional staff on a reimbursable or nonreimbursable basis to assist in the development or management of an Indian lands program.

AUTHORIZATION PRIORITY

SEC. 308. Of the funds made available under section 701(a) of this Act, first priority on $2,000,000 for each of the fiscal years shall be for the purposes of this title.

REPORTS TO THE SECRETARY

SEC. 309. Any Indian tribe which is receiving or has received a grant pursuant to this title shall report at the end of each fiscal year to the Secretary, in a manner prescribed by him, on activities undertaken by the tribe pursuant to or under this title.

REPORTS TO CONGRESS

SEC. 310. The Secretary shall report annually to the President and the Congress on

all actions taken in furtherance of this title and on the impacts of all other programs or services to or on behalf of Indians on the ability of Indian tribes to fulfill the requirements of this title.

ENFORCEMENT

SEC. 311. For the purpose of administering an Indian lands program under this Act, a tribe shall have jurisdictional authority including the ability to require compliance with said regulations over all persons whether Indian or non-Indian engaged in surface coal mining operations and that all disputes will be adjudicated in the appropriate tribal court forum until that remedy is exhausted and then the aggrieved party has the right to a trial de novo in Federal district court in the appropriate district.

TITLE IV—ABANDONED MINE RECLAMATION

ABANDONED COAL MINE RECLAMATION FUND

SEC. 401. (a) There is created on the books of the Treasury of the United States a trust fund to be known as the Abandoned Mine Reclamation Fund (hereinafter referred to as the "fund") which shall be administered by the Secretary of the Interior.

(b) The fund shall consist of amounts deposited in the fund, from time to time, derived from—

(1) the sale, lease, or rental of land reclaimed pursuant to this title;

(2) any user charge imposed on or for land reclaimed pursuant to this title, after expenditures for maintenance have been deducted; and

(3) appropriations made to the fund, or amounts credited to the fund, under subsection (d).

(c) Amounts covered into the fund shall be available for the acquisition and reclamation of land under section 405, administration of the fund, acquisition and filling of voids and sealing of tunnels, shafts, and entryways under section 406, and for use under section 404, by the Secretary of Agriculture, of up to one-fifth of the money deposited in the fund annually and transferred by the Secretary of the Interior to the Department of Agriculture for such purposes. Such amounts shall be available for such purposes only when appropriated therefor; and such appropriations may be made without fiscal year limitation.

(d)(1) In addition to the amounts deposited in the fund as specified in paragraphs (1) and (2) of subsection (b) there are authorized to be appropriated annually to the fund out of any money in the Treasury not otherwise appropriated, such amounts as are necessary to make the income of the fund not less than $200,000,000 for the fiscal year ending June 30, 1975, and for each fiscal year thereafter.

(2) To the extent that any such sums so appropriated are not sufficient to make the total annual income of the fund amount to $200,000,000 for each of such fiscal years, as provided in paragraph (1), an amount sufficient to cover the remainder thereof shall be credited to the fund from revenues due and payable to the United States for deposit in the Treasury as miscellaneous receipts under the Outer Continental Shelf Lands Act. Moneys covered into the fund under this paragraph shall remain in the fund until appropriated by the Congress to carry out the purposes of this title.

OBJECTIVES OF FUND

SEC. 402. Objectives for the obligation of funds for the reclamation of previously mined areas shall reflect the following priorities in the order stated, and in carrying out the purposes of this Act, the Secretary shall give priority to the county in which the minerals were mined:

(a) the protection of health or safety of the public;

(b) protection of the environment from continued degradation and the conservation of land and water resources;

(c) the protection, construction, or enhancement of public facilities such as utilities, roads, recreation, and conservation facilities and their use;

(d) the improvement of lands and waters to a suitable condition useful in the economic and social development of the area affected; and

(e) research and demonstration projects relating to the development of surface mining reclamation and water quality control program methods and techniques in all areas of the United States.

ELIGIBLE LANDS

SEC. 403. The only land eligible for reclamation expenditures under this title are those which were mined for coal or which were affected by such mining, wastebanks, coal processing, or other mining processes, and abandoned or left in an inadequate reclamation status prior to the date of enactment of this Act, and for which there is no continuing reclamation responsibility under State or other Federal laws.

RECLAMATION OF RURAL LANDS

SEC. 404. (a) In order to provide for the control and prevention of erosion and sediment damages from unreclaimed mined lands, and to promote the conservation and development of soil and water resources of unreclaimed mined lands and lands affected by mining, the Secretary of Agriculture is authorized to enter into agreements, of not more than ten years with landowners (including owners of water rights) residents and tenants, and individually or collectively, determined by him to have control for the period of the agreement of lands in question therein, providing for land stabilization, erosion, and sediment control, and reclamation through conservation treatment, including measures for the conservation and development of soil, water (excluding stream channelization), woodland, wildlife, and recreation resources, of such lands. Such agreements shall be made by the Secretary with the owners, including owners of water rights, residents, or tenants (collectively or individually) of the lands in question.

(b) The landowner, including the owner of water rights, resident, or tenant shall furnish to the Secretary of Agriculture a conservation and development plan setting forth the proposed land uses and conservation treatment which shall be mutually agreed by the Secretary of Agriculture and the landowner, including owner of water rights, resident, or tenant to be needed on the lands for which the plan was prepared. In those instances where it is determined that the water rights or water supply of a tenant, landowner, including owner of water rights, residents, or tenant have been adversely affected by a surface or underground coal mine operation which has removed or disturbed a stratum so as to significantly affect the hydrologic balance, such plan may include proposed measures to enhance water quality or quantity by means of joint action with other affected landowners, including owner of water rights, residents, or tenants in consultation with appropriate State and Federal agencies.

(c) Such plan shall be incorporated in an agreement under which the landowner, including owner of water rights, resident, or tenant shall agree with the Secretary of Agriculture to effect the land uses and conservation treatment provided for in such plan on the lands described in the agreement in accordance with the terms and conditions thereof.

(d) In return for such agreement by the landowner, including owner of water rights, resident or tenant the Secretary of Agriculture is authorized to furnish financial and other assistance to such landowner, including owner of water rights, resident, or tenant in such amounts and subject to such conditions as the Secretary of Agriculture determines are appropriate and in the public interest for carrying out the land uses and conservation treatment set forth in the agreement. Grants made under this section shall not exceed 80 per centum of the cost of carrying out such land uses and conservation treatment on not more than thirty acres of land occupied by such owner including water rights owners, resident, or tenant, or on not more than thirty acres of land which has been purchased jointly by such land owners including water rights owners, residents, or tenant under an agreement for the enhancement of water quality or quantity or on land which has been acquired by an appropriate State or local agency for the purpose of implementing such agreement.

(e) The Secretary of Agriculture may terminate any agreement with a landowner including water rights owners, operator, or occupier by mutual agreement if the Secretary of Agriculture determines that such termination would be in the public interest, and may agree to such modification of agreements previously entered into hereunder as he deems desirable to carry out the purposes of this section or to facilitate the practical administration of the program authorized herein.

(f) Notwithstanding any other provision of law, the Secretary of Agriculture, to the extent he deems it desirable to carry out the purposes of this section, may provide in any agreement hereunder for (1) preservation for a period not to exceed the period covered by the agreement and an equal period thereafter of the cropland, crop acreage, and allotment history applicable to land covered by the agreement for the purpose of any Federal program under which such history is used as a basis for an allotment or other limitation on the production of such crop; or (2) surrender of any such history and allotments.

(g) The Secretary of Agriculture shall be authorized to issue such rules and regulations as he determines are necessary to carry out the provisions of this section.

(h) In carrying out the provisions of this section, the Secretary of Agriculture shall utilize the services of the Soil Conservation Service, and the State and local committees provided for in section 8(b) of the Soil Conservation and Domestic Allotment Act, and is authorized to utilize the facilities, services, and authorities of the Commodity Credit Corporation.

(i) Funds shall be made available to the Secretary of Agriculture for the purposes of this section, as provided in section 401(c).

ACQUISITION AND RECLAMATION OF ABANDONED AND UNRECLAIMED MINED LANDS

SEC. 405. (a)(1). The Congress hereby declares that the acquisition of any interest in land or mineral rights in order to eliminate hazards to the environment or to the health or safety of the public from mined lands, or to construct, operate, or manage reclamation facilities and projects constitutes acquisition for a public use or purpose, notwithstanding that the Secretary plans to hold the interest in land or mineral rights so acquired as an open space or for recreation, or to resell the land following completion of the reclamation facility or project.

(2) The Secretary may acquire by purchase, donation, or otherwise, land or any interest therein which has been affected by surface mining and has not been reclaimed to its approximate original condition. Prior to making any acquisition of land under this section, the Secretary shall make a thorough study with respect to those tracts of land which are available for acquisition under this section and based upon those findings he shall select lands for purchase according to

the priorities established in section 402. Title to all lands or interests therein acquired shall be taken in the name of the United States. The price paid for land under this section shall take into account the unrestored condition of the land. Prior to any individual acquisition under this section, the Secretary shall specifically determine the cost of such acquisition and reclamation and the benefits to the public to be gained therefrom.

(c) For the purposes of this section, when the Secretary seeks to acquire an interest in land or mineral rights, and cannot negotiate an agreement with the owner of such interest or right he shall request the Attorney General to file a condemnation suit and take interest or right, following a tender of just compensation as awarded by a jury to such person. When the Secretary determines that time is of the essence because of the likelihood of continuing or increasingly harmful effects upon the environment which would substantially increase the cost or magnitude of reclamation or of continuing or increasingly serious threats to life, safety, or health or to property, the Secretary may take such interest or rights immediately upon payment by the United States either to such person or into a court of competent jurisdiction of such amount as the Secretary shall estimate to be the fair market value of such interest or rights; except that the Secretary shall also pay to such person any further amount that may be subsequently awarded by a jury, with interest from the date of the taking.

(4) For the purposes of this section, when the Secretary takes action to acquire an interest in land and cannot determine which person or persons hold title to such interest or rights, the Secretary shall request the Attorney General to file a condemnation suit, and give notice, and may take such interest or rights immediately upon payment into court of such amount as the Secretary shall estimate to be the fair market value of such interest or rights. If a person or persons establishes title to such interest or rights within six years from the time of their taking, the court shall transfer the payment to such person or persons and the Secretary shall pay any further amount that may be agreed to pursuant to negotiations or awarded by a jury subsequent to the time of taking. If no person or persons establish title to the interest or rights within six years from the time of such taking, the payment shall revert to the Secretary and be deposited in the fund.

(5) States are encouraged to acquire abandoned and unreclaimed mined lands within their boundaries and to transfer such lands to the Secretary to be reclaimed under appropriate Federal regulations. The Secretary is authorized to make grants on a matching basis to States in such amounts as he deems appropriate for the purpose of carrying out the provisions of this title but in no event shall any grant exceed 90 per centum of the cost of acquisition of the lands for which the grant is made. When a State has made any such land available to the Federal Government under this title, such State shall have a preference right to purchase such lands after reclamation at fair market value less the State portion of the original acquisition price. Notwithstanding the provisions of paragraph (1) of this subsection, reclaimed land may be sold to the State or local government in which it is located at a price less than fair market value, which in no case shall be less than the cost to the United States of the purchase and reclamation of the land, as negotiated by the Secretary, to be used for a valid public purpose. If any land sold to a State or local government under this paragraph is not used for a valid public purpose as specified by the Secretary in the terms of the sales agreement then all right, title, and interest in such land shall revert to the United States. Money received from such sale shall be deposited in the fund.

(6) The Secretary shall prepare specifications for the reclamation of lands acquired under this section. In preparing these specifications, the Secretary shall utilize the specialized knowledge or experience of any Federal department or agency which can assist him in the development or implementation of the reclamation program required under this title and following the standards for reclamation set forth in this Act. The Secretary may, with the approval of the Administrator of the department or agency involved, call to his assistance temporarily any engineer or other personnel of any Federal department or agency. The engineers and employees shall not receive any additional compensation other than that which they receive from the department or agency by which they are employed, but they shall be reimbursed for their actual and necessary expenses incurred while working under the direction of the Secretary. The Secretary shall follow the consultation and notification procedures specified in section 214(a) of this Act prior to the final approval of a reclamation plan.

(7) Any proposed reclamation contract shall be approved by the Secretary. Except as otherwise required by paragraph (8), the Secretary shall award each contract to the lowest qualified bidder after sealed bids are received, opened, and published at the time and place fixed by the Secretary and notice of the time and place at which the bids will be received, opened, and published, has been advertised at least once at least ten days before the opening of the bids, in a newspaper of general circulation in each county in which the area of land to be reclaimed under such contract is located. If no bids for the advertised contract are received at the time and place fixed for receiving them, the Secretary may advertise again, but he may, if he deems the public interest will be best served thereby, enter into a contract without further advertisement for bids. The Secretary may reject any or all bids received and may fix and publish again notice of the time and place at which new bids for the contract will be received, opened, and published.

(8) In selecting lands to be acquired pursuant to this section and in formulating regulations for the making of grants to the States to acquire lands pursuant to this title, the Secretary shall give priority to lands in this unreclaimed state which will meet the objectives as stated in section 402 above when reclaimed. For those lands which are reclaimed for public recreational use, the revenue derived from such lands shall be used first to assure proper maintenance of such funds and facilities thereon and any remaining moneys shall be deposited in the fund.

(9) Where land reclaimed pursuant to this section is deemed to be suitable for industrial, commercial, residential, or private recreational development, the Secretary may sell such land by public sale under a system of competitive bidding, at not less than fair market value and under other such regulations as he may promulgate to insure that such lands are put to a proper use, as determined by the Secretary. If any such land sold is not put to the use specified by the Secretary in the terms of the sales agreement, then all right, title, and interest in such land shall revert to the United States. Money received from such sale shall be deposited in the fund.

(10) The Secretary shall hold a public hearing, with the appropriate notice, in the county or counties or the appropriate subdivisions of the State in which lands acquired to be reclaimed pursuant to this title are located. The hearing shall be held at a time which shall afford local citizens and governments the maximum opportunity to participate in the decision concerning the use of the lands once reclaimed.

(b) (1) The Secretary is authorized to use money in the fund to acquire, reclaim, develop, and transfer land to any State, or any department, agency, or instrumentality of a State or of a political subdivision thereof, or to any person, firm, association, or corporation if he determines that such is an integral and necessary element of an economically feasible plan for a project to construct or rehabilitate housing for persons employed in mines or work incidental thereto, persons disabled as the result of such employment, persons displaced by governmental action, or persons, dislocated as the result of natural disasters or catastrophic failure from any cause. Such activities shall be accomplished under such terms and conditions as the Secretary shall require, which may include transfers of land with or without monetary consideration: *Provided*, That, to the extent that the consideration is below the fair market value of the land transferred, no portion of the difference between the fair market value and the consideration shall accrue as a profit to such person, firm, association, or corporation. Land development may include the construction of public facilities or other improvements including reasonable site work and offsite improvements such as sewer and water extensions which the Secretary determines necessary or appropriate to the economic feasibility of a project. No part of the funds provided under this title may be used to pay the actual construction costs of housing.

(2) The Secretary may carry out the purposes of this subsection directly or he may make grants and commitments for grants, and may advance money under such terms and conditions as he may require to any State, or any department, agency, or instrumentality of a State, or any public body or nonprofit organization designated by a State.

(3) The Secretary may provide, or contract with public and private organizations to provide information, advice, and technical assistance, including demonstrations, in furtherance of this subsection.

(4) The Secretary may make expenditures to carry out the purposes of this subsection, without regard to the provisions of section 403, in any area experiencing a rapid development of its coal resources which the Secretary has determined does not have adequate housing facilities.

FILLING VOIDS AND SEALING TUNNELS

SEC. 406. (a) The Congress declares that voids and open and abandoned tunnels, shafts, and entryways resulting from mining constitute a hazard to the public health or safety. The Secretary, at the request of the Governor of any State, is authorized to fill such voids and seal such abandoned tunnels, shafts, and entryways which the Secretary determines could endanger life and property or constitute a hazard to the public health or safety.

(b) In those instances where mine waste piles are being reworked for coal conservation purposes, the incremental costs of disposing of the wastes from such operations by filling voids and sealing tunnels may be eligible for funding providing that the disposal of these wastes meets the purposes of this section.

(c) The Secretary may acquire by purchase, donation, or otherwise such interest in land as he determines necessary to carry out the provisions of this section.

FUND REPORT

SEC. 407. Not later than January 1, 1976, and annually thereafter, the Secretary shall report to the Congress on operations under

the fund together with his recommendations as to future uses of the fund.

TITLE V—OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

CREATION OF THE OFFICE

SEC. 501. (a) There is established in the Department of the Interior, the Office of Surface Mining Reclamation and Enforcement (hereinafter referred to as the "Office").

(b) The Office shall have a Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5 of the United States Code, and such other employees as may be required. The Director shall have the responsibilities provided under this Act and those duties and responsibilities relating to the functions of the office which the Secretary may assign, consistent with this Act. Employees of the Office shall be recruited on the basis of their professional competence and capacity to administer objectively the provisions of this Act. No legal authority, program or function in any Federal agency which has as its purpose promoting the development or use of coal or other mineral resources, shall be transferred to the Office.

(c) The Secretary, acting through the Office, shall—

(1) administer the programs for controlling surface coal mining operations which are required by this Act; review and approve or disapprove State programs for controlling surface coal mining operations; make those investigations and inspections necessary to insure compliance with this Act; conduct hearings, administer oaths, issue subpenas, and compel the attendance of witnesses and production of written or printed material as provided for in this Act; issue cease-and-desist orders; review and vacate or modify or approve orders and decisions; and order the suspension, revocation, or withholding of any permit for failure to comply with any of the provisions of this Act or any rules and regulations adopted pursuant thereto;

(2) administer all responsibilities in Federal land use planning programs and associated functions which are now or hereafter assigned to the Secretary;

(3) publish and promulgate such rules and regulations as may be necessary to carry out the purposes and provisions of this Act;

(4) provide assistance to States for the development and implementation of State programs for assuring the control of surface coal mining operations and meeting the other requirements of this Act;

(5) develop and maintain an Information and Data Center on Surface Mining, Reclamation, and Surface Impacts of Underground Mining, which will make such data available to the public and to Federal, regional, State, and local agencies conducting or concerned with land use planning and agencies concerned with surface and underground mining and reclamation operations;

(6) assist the State in developing objective scientific standards and appropriate procedures and institutions for determining those areas of a State to be designated unsuitable for all or certain types of mining and for development of the State land use planning process pursuant to that process;

(7) monitor Federal and State research programs concerning mining and reclamation; maintain a continuing study of land use and environmental impacts of surface mining and surface effects of underground mining; and recommend to Congress the research and demonstration projects and necessary changes in public policy which are designated to (A) improve feasibility of underground coal mining, and (B) improve surface mining and reclamation techniques directed at eliminating environmental and social impacts; and

(8) perform such other duties as may be provided by law and relate to the purposes of this Act.

TITLE VI—A PROGRAM FOR NON-COAL-MINE ENVIRONMENTAL IMPACT CONTROL

DESIGNATION OF LANDS UNSUITABLE FOR MINING OF MINERALS OTHER THAN COAL

SEC. 601. (a) With respect to Federal lands within any State, the Secretary of Interior may, and if so requested by the Governor of such State, shall review any area within such lands to assess whether it may be unsuitable for mining operations for minerals or materials other than coal, pursuant to the criteria and procedures of this section.

(b) An area of Federal lands may be designated under this section as unsuitable for mining operations if such area consists of:

(i) land of a predominantly urban or suburban character, used primarily for residential or related purposes, the mineral estate of which remains in the public domain; or

(ii) lands where such mining operations could result in irreversible damage to important historic, cultural, scientific, or aesthetic values or natural systems, of more than local significance, or could unreasonably endanger human life and property.

(c) Any person having an interest which is or may be adversely affected shall have the right to petition the Secretary to seek exclusion of an area from mining operations pursuant to this section or the redesignation of an area or part thereof as suitable for such operations. Such petition shall contain allegations of fact with supporting evidence which would tend to substantiate the allegations. The petitioner shall be granted a hearing within a reasonable time and a finding with reasons therefor upon the matter of their petition. In any instance where a governor requests the Secretary to review an area, or where the Secretary finds the national interest so requires, the Secretary may temporarily withdraw the area to be reviewed from mineral entry or leasing pending such review: *Provided, however,* That such temporary withdrawal be ended as promptly as practicable and in no event shall exceed two years.

(d) In no event is a land area to be designated unsuitable for mining operations under this section on which mining operations are being conducted prior to the holding of a hearing on such petition in accordance with subsection (c) hereof. Valid existing rights shall be preserved and not affected by such designation. Designation of an area as unsuitable for mining operations under this section shall not prevent subsequent mineral exploration of such area, except that (i) with respect to lands designated under subsection 601(b)(i), such exploration shall require the prior written consent of the holder of the surface estate, which consent shall be filed with the Secretary, and (ii) the Secretary may promulgate, with respect to any designated area, regulations to minimize any adverse effects of such exploration.

(e) Prior to any designation pursuant to this section, the Secretary shall prepare a detailed statement on (i) the potential mineral resources of the area, (ii) the demand for such mineral resources, and (iii) the impact of such designation or the absence of such designation on the environment, economy, and the supply of such mineral resources.

(f) When the Secretary determines that an area on Federal lands is unsuitable for all or certain types of mining operations for minerals and materials other than coal, by reason of the criteria referred to in subsection 601(b), he may withdraw such area from mineral entry or leasing, or condition such entry or leasing so as to limit such mining operations in accordance with his determination, if the Secretary also determines, based on his analysis pursuant to subsection 601(e), that the benefits resulting for such designation would be greater than the benefits to the regional or national economy which could result from mineral development of such area.

(g) Any party with a valid legal interest who has appeared in the proceedings in connection with the Secretary's determination pursuant to this section and who is aggrieved by the Secretary's decision (or by his failure to act within a reasonable time) shall have the right of appeal for review by the United States District Court for the district in which the pertinent area is located.

TITLE VII—APPROPRIATIONS AUTHORIZATION; DEFINITIONS; AND GENERAL PROVISIONS

AUTHORIZATION OF APPROPRIATIONS

SEC. 701. There is authorized to be appropriated to the Secretary for the purposes of this Act the following sums, and all such funds appropriated shall remain available until expended:

(a) For the implementation and funding of sections 201 and 206 and title III contract authority is granted to the Secretary of the Interior for the sum of $10,000,000 to become available immediately upon enactment of this Act and $10,000,000 for each of the two succeeding fiscal years.

(b) For administrative and other purposes of this Act, except as otherwise provided for in this section, authorization is provided for the sum of $10,000,000 for the fiscal year ending June 30, 1975, for each of the two succeeding fiscal years the sum of $20,000,000, and $30,000,000 for each fiscal year thereafter.

(c) For research and demonstration projects authorized under section 707, including the study directed under section 704, there is authorized to be appropriated to the Secretary $5,000,000 for the fiscal year ending June 30, 1975, and $5,000,000 for each fiscal year thereafter.

RELATION TO OTHER LAWS

SEC. 702. Nothing in this Act or in any State regulations approved pursuant to it shall be construed to conflict with any of the following Acts or with any rule or regulation promulgated thereunder:

(1) The Federal Metal and Nonmettalic Mine Safety Act (30 U.S.C. 721–740).

(2) The Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742).

(3) The Federal Water Pollution Control Act (33 U.S.C. 1151–1175), the State laws enacted pursuant thereto, or other Federal laws relating to preservation of water quality.

(4) The Clean Air Act, as amended (42 U.S.C. 1857).

(5) The Solid Waste Disposal Act (42 U.S.C. 3251).

(6) The Refuse Act of 1899 (33 U.S.C. 407).

(7) The Fish and Wildlife Coordination Act (16 U.S.C. 661–666c).

EMPLOYEE PROTECTION

SEC. 703. (a) No person shall fire, or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted or caused to be filed or instituted any proceeding under this Act, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act.

(b) Any employee or a representative of employees who believes that he has been fired or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after

such alleged violation occurs, apply to the Secretary for a review of such firing or alleged discrimination. A copy of the application shall be sent to the person or operator who will be the respondent. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties to present information relating to the alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation the Secretary shall make findings of fact. If he finds that a violation did occur, he shall issue a decision incorporating therein and his findings in an order requiring the party committing the violation to take such affirmative action to abate the violation as the Secretary deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no violation, he shall issue a finding. Orders issued by the Secretary under this subparagraph shall be subject to judicial review in the same manner as orders and decisions of the Secretary are subject to judicial review under this Act.

(c) Whenever an order is issued under this section to abate any violation, at the request of applicant, a sum equal to the aggregate amount of all costs and expenses (including attorney's fees), to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the persons committing the violation.

(d) The Secretary shall conduct continuing evaluations of potential losses or shifts of employment which may result from the enforcement of this Act or any requirement of this Act including, where appropriate, investigating threatened mine closures or reductions in employment allegedly resulting from such enforcement or requirement. Any employee who is discharged or laid off, threatened with discharge or layoff, or otherwise discriminated against by any person because of the alleged results of the enforcement or requirement of this Act, or any representative of such employee, may request the Secretary to conduct a full investigation of the matter. The Secretary shall thereupon investigate the matter, and, at the request of any interested party, shall hold public hearings on not less than five days' notice, and shall at such hearings require the parties, including the employer involved, to present information relating to the actual or potential effect of such limitation or order on employment and on any alleged discharge, layoff, or other discrimination and the detailed reasons or justification therefor. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary shall promptly make findings of fact as to the effect of such enforcement or requirement on employment and on the alleged discharge, layoff, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public. Nothing in this subsection shall be construed to require or authorize the Secretary or a State to modify or withdraw any enforcement action or requirement.

STUDY OF SUBSIDENCE AND UNDERGROUND WASTE DISPOSAL IN COAL MINES

SEC. 704. The Secretary shall conduct, for the purpose of developing mining and reclamation performance standards a full and complete study and investigation of the practices of backfilling all coal mine wastes and coal processing plant wastes in mine voids or other equally effective methods and the control of subsidence to maximize the stability, value, and use of lands overlying underground coal mines. The Secretary shall report to the Congress the results of such study and investigation no later than the end of the two-year period beginning on the date of enactment of this Act.

DEFINITIONS

SEC. 705. For the purpose of this Act—

(1) The term "Secretary" means the Secretary of the Interior, except where otherwise described.

(2) The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and Guam.

(3) The term "commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States, or between a State and any other place outside thereof, or between points in the same State which directly or indirectly affect interstate commerce.

(4) The term "surface coal mining operations" means—

(A) activities conducted on the surface of lands in connection with a surface coal mine or surface operations and impacts incident to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly affect interstate commerce. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, loading of coal for interstate commerce at or near the mine site: *Provided, however*, That such activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed 16⅔ per centum of the tonnage of minerals removed for purposes of commercial use or sale; and

(B) the areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include land affected by such ancillary mining operations which disturb the natural land surface, and any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities.

(5) The term "surface mining and reclamation operations" means surface mining operations and all activities necessary and incident to the reclamation of such operations.

(6) The term "lands within any State" or "lands within such State" means all lands within a State other than Federal lands and Indian lands.

(7) The term "Federal lands" means any land owned by the United States without regard to how the United States acquired ownership of the land and without regard to the agency having responsibility for management thereof, except Indian lands.

(8) The term "Indian lands" means all lands within the exterior boundaries of any Indian reservation, notwithstanding the issuance of any patent, and including rights-of-way, and all lands held in trust for or supervised by any Indian tribe.

(9) The term "Indian tribe" means any Indian tribe, band, group, or community having a governing body recognized by the Secretary.

(10) The term "Indian lands program" means a program established by an Indian tribe pursuant to title III to regulate surface mining and reclamation operations for coal, whichever is relevant, on Indian lands under its jurisdiction in accordance with the requirements of this Act and the regulations issued by the Secretary pursuant to this Act.

(11) The term "State program" means a program established by a State pursuant to title II to regulate surface coal mining and reclamation operations on lands within a State in accordance with the requirements of this Act and regulations issued by the Secretary pursuant to this Act.

(12) The term "Federal program" means a program established by the Secretary to regulate surface coal mining and reclamation operations on all lands in accordance with the requirements of this Act.

(13) The term "Federal lands program" means a program established by the Secretary pursuant to title II to regulate surface coal mining and reclamation operations on Federal lands and Indian lands.

(14) The term "reclamation plan" means a plan submitted by an applicant for a permit under a State program or Federal program which sets forth a plan for reclamation of the proposed surface mining operations pursuant to section 210.

(15) The term "State regulatory authority" means the department or agency in each State which has primary responsibility in that State for administering the State program pursuant to this Act.

(16) The term "regulatory authority" means the State regulatory authority where the State is administering this Act under an approved State program or the Secretary where the Secretary is administering any or all provisions of this Act.

(17) The term "person" means an individual, partnership, association, society, joint stock company, firm, company, corporation, or other business organization.

(18) The term "permit" means a permit to conduct surface mining and reclamation operations issued by the State regulatory authority pursuant to a State program or by the Secretary pursuant to a Federal program.

(19) The term "permit applicant" or "applicant" means a person applying for a permit.

(20) The term "permittee" means a person holding a permit.

(21) The term "fund" means the Abandoned Mine Reclamation Fund established pursuant to title IV.

(22) The term "appropriate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that it closely resembles the surface configuration of the land prior to mining and blends into and is in accordance with the drainage pattern of the surrounding terrain, with all highwalls, spoil piles, and depressions eliminated except that water impoundments may be permitted where the regulatory authority determines that they are in compliance with the requirements of this Act.

(23) The term "written consent" means such written consent as is executed by the owner of the surface estate after the date of enactment of this Act, upon a form approved by the Secretary, and shall demonstrate that such owner consents to entry of an operator for the purpose of conducting surface coal mining operations and that such consent is given only to such surface coal mining and reclamation operations which fully comply with the terms and requirements of this Act.

(24) The term "waiver" means any docu-

ment which demonstrates the clear intention to convey rights in the mineral estate for the purpose of extracting such minerals by current surface mining methods.

(25) The term "operator" means any person, partnership, or corporation engaged in coal mining who removes or intends to remove more than two hundred and fifty tons of coal from the earth by coal mining within twelve consecutive calendar months in any one location.

(26) The term "reclamation" or "reclaim" means the combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, other harmful effects or after-effects from surface mining operations, or surface effects from underground mines, so that affected lands are restored to a stable condition and create no danger to public safety, barriers, to assess or reduce the value of surrounding lands. The process may extend to affected lands surrounding the lands on which the original mining occurred and may require backfilling to approximate original contouring, grading, resoiling, revegetation, soil compaction, and stabilization, in order to minimize water or soil pollution, erosion, flooding resulting from surface mining, water degradation or pollution from unfilled cracks and fissures or any other activity to accomplish reclamation of land to a stable condition at least fully capable of supporting the use or higher or better uses which they were capable of supporting prior to any mining.

(27) The term "permit area" means the area of land indicated on the approved map submitted by the operator with his application, which area of land shall be covered by the operator's bond as required by section 214(a) of this Act and shall be readily identifiable by appropriate markers on the site.

(28) The term "silt" means soil, soil or rock particles, wood, debris, or other materials that are transported by suspension or floating in streams flowing from or through mining areas.

(29) The term "aquifer" means a zone, stratum, or group of strata, that can store and transmit water in sufficiently recoverable quantities to be of economic or ecologic value as a source of water.

(30) The term "imminent danger to the health or safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirement of this Act in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonbly be expected to cause substantial physical harm to persons outside the permit area before such condition, practice, or violation can be abated.

(31) The term "unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of any violation of his permit or any requirement of this Act due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit or the Act due to indifference, lack of diligence, or lack of reasonable care.

GRANTS TO THE STATES

SEC. 706. (a) The Secretary is authorized to make annual grants to any State for the purpose of assisting such State in developing, administering, and enforcing State programs under this Act. Such grants shall not exceed 80 per centum of the total costs incurred during the first year, 60 per centum of total costs incurred during the second year, and 40 per centum of the total costs incurred during the third and fourth years.

(b) The Secretary is authorized to cooperate with and provide assistance to any State for the purpose of assisting it in the development, administration, and enforcement of its State programs. Such cooperation and assistance shall include—

(1) technical assistance and training including provision of necessary curricular and instruction materials, in the development, administration, and enforcement of the State programs; and

(2) assistance in preparing and maintaining a continuing inventory of information on surface mining and reclamation operations for each State for the purposes of evaluating the effectiveness of the State programs. Such assistance shall include all Federal departments and agencies making available data relevant to surface mining and reclamation operations and to the development, administration, and enforcement of State programs concerning such operations.

RESEARCH AND DEMONSTRATION PROJECTS

SEC. 707. (a) The Secretary is authorized to conduct and promote the coordination and acceleration of research, studies, surveys, experiments, and training in carrying out the provisions of this Act. In conducting the activities authorized by this section, the Secretary may enter into contracts with, and make grants to qualified institutions, agencies, organizations, and persons.

(b) The Secretary is authorized to enter into contracts with, and make grants to, the States and their political subdivisions, and other public institutions, agencies, organizations, and persons to carry out demonstration projects involving the reclamation of lands which have been disturbed by surface mining operations.

RESEARCH AND DEMONSTRATION PROJECTS ON ALTERNATIVE COAL MINING TECHNOLOGIES

SEC. 708. (a) The Secretary is authorized to conduct, and promote the coordination and acceleration of, research, studies, surveys, experiments, demonstration projects, and training relating to—

(1) the development and application of coal mining technologies which provide alternatives to surface disturbance and which maximize the recovery of available coal resources, including the improvement of present underground mining methods, methods for the return of underground mining wastes to the mine void, methods for the underground mining of thick coal seams and very deep coal seams, and such other means of mining as may be recommended in the studies authorized under section 704; and

(2) safety and health in the application of such technologies, methods, and means.

(b) In conducting the activities authorized by this section, the Secretary may enter into contracts with and make grants to qualified institutions, agencies, organizations, and persons.

(c) There are authorized to be appropriated to the Secretary, to carry out the purposes of this section, $50,000,000 for each fiscal year beginning with the fiscal year 1976, and for each year thereafter for the next four years.

ANNUAL REPORT

SEC. 709. The Secretary shall submit annually to the President and the Congress a report concerning activities conducted by him, the Federal Government, and the State pursuant to this Act. Among other matters, the Secretary shall include in such report recommendations for additional administrative or legislative action as he deems necessary and desirable to accomplish the purposes of this Act, including recommendations for increasing the production from underground coal mines.

PROTECTION OF THE SURFACE OWNER AND OWNERS OF WATER RIGHTS

SEC. 710. (a) In those instances in which the surface owner is not the owner of the mineral estate proposed to be mined by surface coal mining operations, the application for a permit shall include the written consent, or a waiver by, the owner or owners of the surface lands involved to enter and commence surface mining operations on such land.

(b) In those instances where the mineral estate proposed to be mined by surface coal mining operations is owned by the Federal Government, and the surface rights are held pursuant to patent, the application for a permit shall include the written consent of the owner or owners of the surface lands involved to enter and commence surface mining operations on such land or a document which demonstrates the acquiescence of the owner of the surface rights to the extraction of minerals within the boundaries of his property by current surface mining methods.

(c) In those instances where the mineral estate proposed to be mined by surface coal mining operations is owned by the Federal Government and the interest in the surface is in the nature of a lease or a permit, the application for a permit shall include either—

(1) the written consent of the permittee or lessee of the surface lands involved to enter and commence surface coal mining operation on such land; or

(2) the execution of a bond or undertaking to the United States or the State, whichever is applicable, for the use and benefit of the permittee or lessee of the surface lands involved, the secure payment of any damages to the surface estate, to the corps, or to the tangible improvements of the permittee or lessee of the surface lands as may be determined by the patent involved, or as determined and fixed in an action brought against the operator or upon the bond in a court of competent jurisdiction. This bond is in addition to the performance bond required for reclamation under section 216.

(d) In those instances in which it is determined that a proposed coal surface mining operation is likely to adversely affect the hydrologic balance of water on or off site, or diminish the supply or quality of such water, the application for a permit shall include either—

(1) the written consent of all owners of water rights reasonably anticipated to be affected; or

(2) evidence of the capability and willingness to provide substitute water supply, at least equal in quality, quantity, and duration to the affected water rights of such owners.

(e)(1) An owner of water rights adversely affected may file a complaint detailing the loss in quality and quantity of his water with the regulatory authority.

(2) Upon receipt of such complaint the regulatory authority shall—

(A) investigate such complaint using all available information including the monitoring data gathered persuant to section 219(b)(2);

(B) within 30 days issue a specific written finding as to the cause of the water loss in quantity or quality, if any;

(C) order the mining operator to replace the water, in like quality, quantity, and duration, within 30 days if the loss of such water was found to be due to the surface coal mining operations; and

(D) order the suspension of the operator's permit for failure to replace such water until such time as the operator has provided the substitute water supply.

(f) Nothing in this section shall be construed as affecting in any way the right of any person to enforce or protect, under applicable State law, his interest in water resources affected by a surface coal mining operation.

(g) For the purposes of this section, the term, "surface coal mining operation" does not include underground mining for coal.

SEVERABILITY

SEC. 711. If any provision of this Act or the applicability thereof to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

PROTECTION OF GOVERNMENT EMPLOYEES

SEC. 712. Section 114, title 18, United States Code, is hereby amended by adding the words "or of the Department of the Interior" after the words "Department of Labor" contained in that section.

EXPERIMENTAL PRACTICES

SEC. 713. In order to encourage advances in mining and reclamation practices, the regulatory authority may authorize departures in individual cases on an experimental basis from the environmental protection performance standards promulgated under sections 211 and 212 of this Act. Such departures may be authorized if (i) the experimental practices are potentially more or at least as environmentally protective, during and after mining operations, as those required by promulgated standards; (ii) the mining operation is no larger than necessary to determine the effectiveness and economic fasibility of the experimental practices; and (iii) the experimental practices do not reduce the protection afforded public health and safety below that provided by promulgated standards.

ALASKAN SURFACE COAL MINE STUDY

SEC. 714. (a) The Secretary is directed to contract with the National Academy of Sciences-National Academy of Engineering for an indepth- study of surface coal mining conditions in the State of Alaska in order to determine the best set of surface mining regulations under which such mines should operate. The study shall—

(1) identify variations and differences between surface mining conditions in Alaska and surface mining conditions in the Lower 48 with respect to the environmental protection standards in this Act;

(2) identify suitable surface mining standards to assure that post-mining land use is compatible with the habitat, and surrounding terrain;

(3) identify impacts on the environment which could be engendered by current surface mining technology and identify how or if these impacts can be mitigated through the use of alternative mining technologies.

(b) The Secretary is to make a report to the President and Congress on the findings of the study no later than 24 months after the date of enactment of this Act;

(c) The Secretary shall include in his report a draft of Federal regulations to be promulgated to govern surface coal mining operations on Federal lands in the State of Alaska, and a draft of those regulations to use as a standard for determining the adequacy of an Alaskan State program for the regulation of surface coal mining operations;

(d) The draft regulations contained in the report are to be promulgated for comment by the public and other interested parties pursuant to this Act within 12 months of submission of the report to Congress. After considering such comments submitted and revising such regulations as appropriate, the Secretary shall promulgate such standards governing surface coal mining operations in the State of Alaska.

(e) Until the Secretary has made his report to the President and Congress and has promulgated Federal regulations on coal mining operations on Federal lands in Alaska, this Act shall not apply to the State of Alaska.

(f) There is hereby authorized to be appropriated for the purpose of this section $500,000.

PREFERENCE FOR PERSONS ADVERSELY AFFECTED BY THE ACT

SEC. 715. (a) In the award of contracts for the reclamation of abandoned and unreclaimed mined areas pursuant to title IV and for research and demonstration projects pursuant to section 707 of this Act the Secretary shall develop regulations which will accord a preference to surface mining operators who can demonstrate that their surface mining operations, despite good-faith efforts to comply with the requirements of this Act, have been adversely affected by the regulation of surface mining and reclamation operations pursuant to this Act.

(b) Contracts awarded pursuant to this section shall require the contractor to afford an employment preference to individuals whose employment has been adversely affected by this Act.

ASSISTANCE TO PERSONS UNEMPLOYED AS A RESULT OF THIS ACT

SEC. 716. (a) The President is authorized and directed to make grants to States to provide to any individual unemployed, if such unemployment resulted from the administration and enforcement of this Act and was in no way due to the fault of such individual, such assistance as the President deems appropriate while such individual is unemployed. Such assistance as a State shall provide under such a grant shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as unemployment in the area caused by such administration and enforcement continues (but not less than six months) or until the individual is reemployed in a suitable position, but not longer than two years after the individual becomes eligible for such assistance. Such assistance shall not exceed the maximum weekly amount under the unemployment compensation program of the State in which the employment loss occurred and shall be reduced by an amount of private income protection insurance compensation available to such individual for such period of unemployment.

(b) The President is authorized and directed to make grants to States to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of individuals and families who, as a result of financial hardship caused by any such unemployment, have received written notice of dispossession or eviction from a residence by reason of foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, entered into prior to the employment loss. Such assistance shall be provided for a period of not to exceed one year or for the duration of the period of financial hardship, whichever is the lesser.

(c) (1) Whenever the President determines that, as a result of any such employment loss, low-income households are unable to purchase adequate amounts of nutritious food the President is authorized, under such terms and conditions as it may prescribe, to distribute through the Secretary of Agriculture coupon allotments to such households pursuant to the provisions of the Food Stamp Act of 1964, as amended, and to make surplus commodities available.

(2) The President, through the Secretary of Agriculture, is authorized to continue to make such coupon allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including the consequences of the employment loss on the earning power of the households to which assistance is made available under this section.

(3) Nothing in this subsection shall be constructed as amending or otherwise changing the provisions of the Food Stamp Act of 1964, as amended, except as they relate to the availability of food stamps in such an employment loss.

(d) The Secretary of Labor is authorized and directed to provide reemployment assistance services under other laws of the United States to any such individual so unemployed. As one element of such reemployment assistance services, such Secretary shall provide to any such unemployed individual who is unable to find reemployment in a suitable position within a reasonable distance from home, assistance to relocate in another area where such employment is available. Such assistance may include reasonable costs of seeking such employment and the cost of moving his family and household to the location of his new employment.

(e) (1) The President acting through the Small Business Administration, is authorized and directed to make loans (which for purposes of this subsection shall include participations in loans) to aid in financing any project in the United States for the conduct of activities or the acquisition, construction, or alteration of facilities (including machinery and equipment) required by the administration or enforcement) of this Act, for applicants both private and public (including Indian tribes), which have been approved for such assistance by an agency or instrumentality of the State or political subdivision in which the project to be financed is located, and which agency or instrumentality (including units of general purpose local government) is directly concerned with problems of economic development in such State or subdivision, and which have been certified by such agency or instrumentality as requiring the loan successfully to remain in operation or at previous levels of employment.

(2) Financial assistance under this section shall be on such terms and conditions as the President determines, except that—

(A) no loan shall be made unless it is determined that there is reasonable assurance of repayment;

(B) no loan, including renewals or extension thereof, may be made hereunder for a period exceeding thirty years;

(C) loans made shall bear interest at a rate determined by the Secretary of the Treasury but not more than 3 per centum per annum;

(D) loans shall not exceed the aggregate cost to the applicant of acquiring, constructing, or altering the facility or project;

(E) the total of all loans to any single applicant shall not exceed $1,000,000; and

(F) the facility or project has been certified by the regulatory authority as necessary to comply with the requirements of this Act.

(f) Where the loss, curtailment, removal, or closing of any industrial or commercial facility resulting from the administration and enforcement of this Act causes an unusual and abrupt rise in unemployment in any area, community, or neighborhood, the Small Business Administration in the case of a nonagricultural enterprise and the Farmers Home Administration in the case of an agricultural enterprise, are authorized to provide any industrial, commercial, agricultural, or other enterprise, which has the potential to be a major source of employment for a substantial period of time in such area, a loan in such amount as may be necessary to enable such enterprise to assist in restoring the economic viability of such area, community, or neighborhood. Loans authorized by this section shall be made without regard to limitations on the size of loans which may otherwise be imposed by any other provision of law or regulation promulgated pursuant thereto.

(g) The President is authorized to make grants to any local government which, as a

result of the administration and enforcement of this Act, has suffered a substantial loss of total revenue (including both real and personal property tax revenue). Grants made under this section may be made for the tax year in which the loss occurred and for each of the following two tax years. The grant for any tax year shall not exceed the difference between the annual average of all revenues received by the local government during the three-tax-year period immediately preceding the tax year in which such loss occurred and the actual revenue received by the local government for the tax year in which the loss occurred and for each of the two tax years following such loss but only if there has been no reduction in the tax rates and the tax assessment valuation factors of the local government. If there has been a reduction in the tax rates or the tax assessment valuation factors then, for the purpose of determining the amount of a grant under this section for the year or years when such reduction is in effect, the President shall use the tax rates and tax assessment valuation factors of the local government in effect at the time of such loss without reduction, in order to determine the revenues which would have been received by the local government but for such reduction.

(h) Any owner or operator of a surface coal mine, or employee (or former employee) of a surface coal mine, who would otherwise be eligible for assistance under this section, in lieu of such assistance may utilize the preference accorded in section 715 of this Act in receiving contracts or employment in the conduct of reclamation activities authorized by section 405 of this Act.

(i) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(j) The Secretary shall report to the Congress on the implementation of this section not later than thirty months after the enactment of this Act, and annually thereafter. The report required by this subsection shall include an estimate of the funds which would be necessary to implement this section in each of the succeeding three years.

(k) The Secretary shall report to the Congress not later than July 1, 1976, on the impact of the administration and enforcement of this Act on employees and owners or operators of firms with gross capital values of less than $500,000, together with a recommendation on a program granting relief to such employees and owners or operators for losses in capital value sustained as a consequence of the administration and enforcement of this Act.

TITLE VIII—STATE MINING AND MINERAL RESOURCES RESEARCH INSTITUTE

AUTHORIZATION OF STATE ALLOTMENTS TO INSTITUTES

SEC. 801. (a) There are authorized to be appropriated to the Secretary of the Interior sums adequate to provide for each participating State $200,000 for fiscal year 1975, $300,000 for fiscal year 1976, and $400,000 for each fiscal year thereafter for five years, to assist the States in carrying on the work of a competent and qualified mining and mineral resources research institute, center, or equivalent agency (hereinafter referred to as "institute") at one public college or university at the State, which has in existence at the time of enactment of this title a school, division, or department conducting a program of substantial instruction and research in mining or minerals extraction or beneficiation engineering or which establishes such a school, division, or department subsequent to the enactment of this title and which school, division, or department shall have been in existence for at least two years. The Advisory Committee on Mining and Minerals Resources Research as created by this title shall determine a college or university to have an eligible school, division, or department conducting a program of substantial instruction and research in mining or minerals extraction or beneficiation engineering wherein education and research in the minerals engineering fields are being carried out and wherein at least five full-time permanent faculty members are employed: *Provided*, That—

(1) such moneys when appropriated shall be made available to match, on a dollar-for-dollar basis, non-Federal funds which shall be at least equal to the Federal share to support the institute;

(2) if there is more than one such eligible college or university in a State, funds under this title shall, in the absence of a designation to the contrary by act of the legislature of the State, be paid to one such college or university designated by the Govects by two or more institutes. No portion of ernor of the State; and

(3) where a State does not have a public college or university with an eligible school, division, or department conducting a program of substantial instruction and research in mining or minerals extraction or beneficiation engineering, said advisory committee may allocate the States' allotment to one private college or university which it determines to have an eligible school, division, or department as provided herein.

(b) It shall be the duty of each such institute to plan and conduct and/or arrange for a component or components of the college or university with which it is affiliated to conduct competent research, investigations, demonstrations, and experiments of either a basic or practical nature, or both, in relation to mining and mineral resources and to provide for the training of mineral engineers and scientists through such research, investigations, demonstrations, and experiments. Such research, investigations, demonstrations, experiments, and training may include, without being limited to exploration; extraction; processing; development; production of mineral resources; mining and mineral technology; supply and demand for minerals; conservation and best use of available supplies of minerals; the economic, legal, social engineering, recreational, biological, geographic, ecological, and other aspects of mining, mineral resources, and mineral reclamation, having due regard to the interrelation on the natural environment, the varying conditions and needs of the respective States, to mining and mineral resources research projects being conducted by agencies of he Federal and State governments, and other, and to avoid any undue displacement of mineral engineers and scientists elsewhere engaged in mining and mineral resources research.

RESEARCH FUNDS TO INSTITUTES

SEC. 802. (a) There is further authorized to be appropriated to the Secretary of the Interior for fiscal year 1975, and six succeeding fiscal years thereafter the sum of $5,000,000 annually, which shall remain available until expended. Such moneys when appropriated shall be made available to institutes to meet the necessary expenses of specific mineral research and demonstration projects of industrywide application, which could not otherwise be undertaken, including the expenses of planning and coordinating regional mining and mineral resources research projects by two or more institutes. No portion of any grant under this section shall be applied to the acquisition by purchase or lease of any land or interests therein or the rental, purchase, construction, preservation, or repair of any building.

(b) Each application for a grant pursuant to subsection (a) of this section shall, among other things, state the nature of the project to be undertaken, the period during which it will be pursued, the qualifications of the personnel who will direct and conduct it, the estimated costs, the importance of the project to the Nation, region, or State concerned, and its relation to other known research projects theretofore pursued or being pursued, and the extent to which it will provide opportunity for the training of mining and mineral engineers and scientists, and the extent of participation by nongovernmental sources in the project. No grant shall be made under said subsection (a) except for a project approved by the Secretary of the Interior and all grants shall be made upon the basis of merit of the project, the need for the knowledge which it is expected to produce when completed, and the opportunity it provides for the training of individuals as mineral engineers and scientists.

FUNDING CRITERIA

SEC. 803. (a) Sums available to institutes under the terms of sections 801 and 802 of this title shall be paid at such times and in such amounts during each fiscal year as determined by the Secretary, and upon vouchers approved by him. Each institute shall set forth its plan to provide for the training of individuals as mineral engineers and scientists under a curriculum appropriate to the field of mineral resources and mineral engineering and related fields; set forth policies and procedures which assure that Federal funds made available under this title for any fiscal year will supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available for purposes of this title, and in no case supplant such funds; have an officer appointed by its governing authority who shall receive and account for all funds paid under the provisions of this title and shall make an annual report to the Secretary on or before the first day of September of each year, on work accomplished and the status of projects underway, together with a detailed statement of the amounts received under any provisions of this title during the preceding fiscal year, and of its disbursements on schedules prescribed by the Secretary. If any of the moneys received by the authorized receiving officer of any institute under the provisions of this title shall by any action or contingency be found by the Secretary to have been improperly diminished, lost, or misapplied, it shall be replaced by the State concerned and until so replaced no subsequent appropriation shall be allotted or paid to any institute of such State.

(b) Moneys appropriated pursuant to this title, in addition to being available for expenses for research, investigations, experiments, and training conducted under authority of this title, shall also be available for printing and publishing the results thereof and for administrative planning and direction. The institutes are hereby authorized and encouraged to plan and conduct programs under this title in cooperation with each other and with such other agencies and individuals as may contribute to the solution of the mining and mineral resources problems involved, and moneys appropriated pursuant to this title shall be available for paying the necessary expenses of planning, coordinating, and conducting such cooperative research.

DUTIES OF THE SECRETARY

SEC. 804. The Secretary of the Interior is hereby charged with the responsibility for the proper administration of this title and, after full consultation with other interested Federal agencies, shall prescribe such rules and regulations as may be necessary to carry out its provisions. The Secretary shall furnish such advice and assistance as will best promote the purposes of this title, participate in coordinating research initiated under this title by the institutes, indicate to them such lines of inquiry as to him seem most

important, and encourage and assist in the establishment and maintenance of cooperation by and between the institutes and between them and other research organizations, the United States Department of the Interior, and other Federal establishments.

On or before the 1st day of July in each year after the passage of this title, the Secretary shall ascertain whether the requirements of section 807(a) have been met as to each State.

The Secretary shall make an annual report to the Congress of the receipts, expenditures, and work of the institutes in all States under the provisions of this title. The Secretary's report shall indicate whether any portion of an appropriation available for allotment to any State has been withheld and, if so, the reasons therefor.

AUTONOMY

SEC. 805. Nothing in this title shall be construed to impair or modify the legal relationship existing between any of the colleges or universities under whose direction an institute is established and the government of the State in which it is located, and nothing in this title shall in any way be construed to authorize Federal control or direction of education at any college or university.

AUTHORIZATION FOR OTHER RESEARCH PROGRAMS

SEC. 806. There is authorized to be appropriated annually for seven years to the Secretary of the Interior the sum of $10,000,000 in fiscal year 1975, said sum increased by $2,000,000 each fiscal year thereafter for six years, from which the Secretary shall make grants, contracts, matching, or other arrangements with education institutions, private foundations, or other institutions; with private firms and individuals; and with local, State, and Federal Government agencies, to undertake research into any aspects of mining and mineral resources problems related to the mission to the Department of the Interior, which may be deemed desirable and are not otherwise being studied. The Secretary shall insofar as it is practicable, utilize the facilities of institutes designated in section 801 of this title to perform such special research, authorized by this section, and shall select the institutes for the performance of such special research on the basis of the qualifications without regard to race or sex of the personnel who will conduct and direct it, the nature of the facilities available in relation to the particular needs of the research project, special geographic, geologic, or climatic conditions within the immediate vicinity of the institute in relation to any special requirements of the research project, and the extent to which it will provide opportunity for training individuals as mineral engineers and scientists. The Secretary may designate and utilitze such portions of the funds authorized to be appropriated by this section as he deems appropriate for the purpose of providing scholarships, graduate fellowships, and postdoctoral fellowships.

MISCELLANEOUS PROVISIONS

SEC. 807. (a) The Secretary of the Interior shall obtain the continuing advice and cooperation of all agencies of the Federal Government concerned with mining and mineral resources of State and local governments, and of private institutions and individuals to assure that the programs authorized in this title will supplement and not duplicate established mining and minerals research programs, to stimulate research in otherwise neglected areas, and to contribute to a comprehensive, nationwide program of mining and minerals research, having due regard for the protection and conservation of the environment. The Secretary shall make generally available information and reports on projects completed, in progress, or planned under the provisions of this title, in addition to any direct publication of information by the institutes themselves.

(b) Nothing in this title is intended to give or shall be construed as giving the Secretary of the Interior any authority or surveillance over mining and mineral resources research conducted by any other agency of the Federal Government, or as repealing, superseding, or diminishing existing authorities or responsibilities of any agency of the Federal Government to plan and conduct, contract for, or assist in research in its area of responsibility and concern with mining and mineral resources.

(c) Contracts or other arrangements for mining and mineral resources research work authorized under this title with an institute, educational institution, or nonprofit organization may be undertaken without regard to the provisions of section 3684 of the Revised Statutes (31 U.S.C. 529) when, in the judgment of the Secretary of the Interior, advance payments of initial expense are necessary to facilitate such work.

(d) No part of any appropriated funds may be expended pursuant to authorization given by this title for any scientific or technological research or development activity unless such expenditure is conditioned upon provisions determined by the Secretary of the Interior, with the approval of the Attorney General, to be effective to insure that all information, uses, products, processes, patents, and other developments resulting from that activity will (with such exception and limitation as the Secretary may determine, after consultation with the Secretary of Defense, to be necessary in the interest of the national defense) be made freely and fully available to the general public. Nothing contained in this section shall deprive the owner of any background patent relating to any such activities of any rights which that owner may have under that patent.

CENTER FOR CATALOGING

SEC. 809. The Secretary shall establish a center for cataloging current and projected scientific research in all fields of mining and mineral resources. Each Federal agency doing mining and mineral resources research shall cooperate by providing the cataloging center with information on work underway or scheduled by it. The cataloging center shall classify and maintain for public use a catalog of mining and mineral resources research and investigation projects in progress or scheduled by all Federal agencies and by such non-Federal agencies of government, colleges, universities, private institutions, firms and individuals as may make such information available.

INTERAGENCY COOPERATION

SEC. 809. The President shall, by such means as he deems appropriate, clarify agency responsibility for Federal mining and mineral resources research and provide for interagency coordination of such research, including the research authorized by this title. Such coordination shall include—

(a) continuing review of the adequacy of the Government-wide program in mining and mineral resources research.

(b) identification and elimination of duplication and overlap between two or more agency programs.

(c) identification of technical needs in various mining and mineral resources research categories.

(d) recommendations with respect to allocation of technical effort among the Federal agencies.

(e) review of technical manpower needs and findings concerning management policies to improve the quality of the Government-wide research effort, and

(f) actions to facilitate interagency communication at management levels.

ADVISORY COMMITTEE

SEC. 810. (a) The Secretary of the Interior shall appoint an Advisory Committee on Mining and Mineral Research composed of—

(1) the Director, Bureau of Mines, or his delegate, with his consent;

(2) the Director of the National Science Foundation, or his delegate, with his consent;

(3) the President, National Academy of Sciences, or his delegate, with his consent;

(4) the President, National Academy of Engineering, or his delegate, with his consent;

(5) the Director, United States Geological Survey, or his delegate, with his consent; and

(6) not more than four other persons who are knowledgeable in the fields of mining and mineral resources research, at least one of whom shall be a representative of working coal miners.

(b) The Secretary shall designate the Chairman of the Advisory Committee. The Advisory Committee shall consult with, and make recommendations to, the Secretary of the Interior on all matters involving or relating to mining and mineral resources research and such determinations as provided in this title The Secretary of the Interior shall consult with, and consider recommendations of, such Committee in the conduct of mining and mineral resources research and the making of any grant under this title.

(c) Advisory Committee members, other than officers or employees of Federal, State, or local governments, shall be, for each day (including traveltime) during which they are performing committee business, entitled to receive compensation at a rate fixed by the Secretary, but not in excess of the maximum rate of pay for grade GS-18 as provided in the General Schedule under section 5332 of title 5 of the United States Code, and shall, notwithstanding the limitations of sections 5703 and 5704 of title 5 of the United States Code, be fully reimbursed for travel subsistence and related expenses.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To provide for the regulation of surface coal mining operations in the United States, to authorize the Secretary of Interior to make grants to States to encourage the State regulation of surface mining, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 11500) was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN THE ENGROSSMENT OF AMENDMENT ADOPTED TO S. 425

Mr. UDALL. Mr. Speaker, I ask unanimous consent that in the engrossment of the amendments to the bill S. 425 the Clerk be authorized to correct section numbers and headings, punctuation, cross references, and appropriate conforming changes in the table of contents.

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

Mr. HOSMER. Mr. Speaker, reserving the right to object, and I shall not object, I do want to congratulate the

gentleman from Arizona and the committee on the fine performance, on their victory, and to state that this is probably one of the longest performances we have had here for quite a long time.

We have engaged in a lot of parliamentary maneuvering. I hope that some of the younger Members have had opportunity to learn from that.

I want to express, Mr. Speaker, to the gentleman from Arizona and the gentlewoman from Hawaii my admiration for the way they skillfully conducted the battle.

I withdraw my reservation of objection.

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

Mr. GROSS. Mr. Speaker, further reserving the right to object, and I shall not object, I wonder if there is a single soul in the House who really knows what is in this bill?

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill just passed.

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

There was no objection.

CONFERENCE REPORT ON H.R. 15074, DISTRICT OF COLUMBIA CAMPAIGN FINANCE REFORM AND CONFLICT OF INTEREST ACT

Mr. DIGGS submitted the following conference report and statement on the bill (H.R. 15074), to regulate certain political campaign finance practices in the District of Columbia, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 93-1225)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15074) to regulate certain political campaign finance practices in the District of Columbia, 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 House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—SHORT TITLE, DEFINITIONS

SHORT TITLE

SEC. 101. This Act may be cited as the "District of Columbia Campaign Finance Reform and Conflict of Interest Act."

DEFINITIONS

SEC. 102. When used in this Act, unless otherwise provided—

(a) The term "election" means a primary, runoff, general, or special election held in the District of Columbia for the purpose of nominating an individual to be a candidate for election to office or for the purpose of electing a candidate to office, and includes a convention or caucus of a political party held for the purpose of nominating such a candidate.

(b) The term "candidate" means an individual who seeks nomination for election, or election, to office, whether or not such individual is nominated or elected, and for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, if he has (1) obtained or authorized any other person to obtain nominating petitions to qualify himself for nomination for election, or election, to office, (2) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to office, or (3) reason to know, or knows, that any other person has received contributions or made expenditures for that purpose, and has not notified that person in writing to cease receiving contributions or making expenditures for that purpose. A person who is deemed to be a candidate for the purposes of this Act shall not be deemed, solely by reason of that status, to be a candidate for the purposes of any other Federal Law.

(c) The term "office" means the office of Mayor of the District of Columbia, Chairman or member of the Council of the District of Columbia, member of the Board of Education of the District of Columbia, or an official of a political party.

(d) The term "official of a political party" means—

(1) national committeemen and national committeewomen;

(2) delegates to conventions of political parties nominating candidates for the Presidency and Vice Presidency of the United States;

(3) alternates to the officials referred to in clauses (1) and (2) above, where permitted by political party rules; and

(4) such members and officials of local committees of political parties as may be designated by the duly authorized local committees of such parties for election, by public ballot, at large or by ward in the District of Columbia.

(e) The term "political committee" means any committee (including a principal campaign committee), club, association, organization, or other group of individuals organized for the purpose of, or engaged in, promoting or opposing a political party or the nomination or election of an individual to office.

(f) The term "contribution" means—

(1) a gift, subscription (including any assessment, fee, or membership dues), loan, advance, or deposit of money or anything of value, made for the purpose of financing, directly or indirectly, the election campaign of a candidate or any operations of a political committee;

(2) a contract, promise, or agreement, whether or not legally enforceable, to make a contribution for any such purpose;

(3) a transfer of funds between political committees; or

(4) the payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to such candidate or committee without charge, or for less than reasonable value, for any such purpose or the furnishing of goods, advertising, or services to a candidate's campaign without charge, or at a rate which is less than the rate normally charged for such services.

Notwithstanding the foregoing, such term shall not be construed to include (A) services provided without compensation, by individuals volunteering a portion or all of their time on behalf of a candidate or political committee, (B) personal services provided without compensation by individuals volunteering a portion or all of their time to a candidate or political committee, (C) communications by an organization, other than a political party, solely to its members and their families on any subject, (D) communications (including advertisements) to

any person on any subject by any organization which is organized solely as an issue-oriented organization, which communications neither endorse nor oppose any candidate for office, or (E) normal billing credit for a period not exceeding thirty days.

(g) The term "expenditure" means—

(1) a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of financing, directly or indirectly, the election campaign of a candidate or any operations of a political committee;

(2) a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure;

(3) a transfer of funds between political committees; and

(4) notwithstanding the foregoing provisions of this paragraph, such term shall not be construed to include the incidental expenses (as defined by the Board) made by or on behalf of individuals in the course of volunteering their time on behalf of a candidate or political committee.

(h) The term "person" means an individual, partnership, committee, association, corporation, labor organization, and any other organization or group of persons.

(i) The term "Director" means the Director of Campaign Finance of the District of Columbia Board of Elections and Ethics created by title III.

(j) The term "political party" means an association, committee, or organization which nominates a candidate for election to any office and qualifies under the District of Columbia Election Act (D.C. Code, sec. 1–1101 et seq.), to have the names of its nominees appear on the election ballot as the candidate of that association, committee, or organization.

(k) The term "Board" means the District of Columbia Board of Elections and Ethics established under the District of Columbia Election Act (D.C. Code, sec. 1–1101 et seq.), and redesignated by section 306.

TITLE II—FINANCIAL DISCLOSURES

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 201. (a) Every political committee shall have a chairman and a treasurer. No contribution and no expenditure shall be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of treasurer thereof and no other person has been designated and has agreed to perform the functions of treasurer. No expenditure shall be made for or on behalf of a political committee without the authorization of its chairman or treasurer, or their designated agents.

(b) Every person who receives a contribution of $10 or more for or on behalf of a political committee shall, on demand of the treasurer, and in any event within five days after receipt of such contribution, submit to the treasurer of such committee a detailed account thereof, including the amount, the name and address (including the occupation and the principal place of business, if any) of the person making such contribution, and the date on which such contribution was received. All funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of such committee.

(c) Except for accounts of expenditures made out of the petty cash fund provided for under section 201(b), the treasurer of a political committee, and each candidate, shall keep a detailed and exact account of—

(1) all contributions made to or for such political committee or candidate;

(2) the full name and mailing address (including the occupation and the principal place of business, if any) of every person making a contribution of $10 or more, and the date and amount thereof;

(3) all expenditures made by or on behalf of such committee or candidate; and

(4) the full name and mailing address (including the occupation and the principal place of business, if any) of every person to whom any expenditure is made, the date and amount thereof and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made.

(d) the treasurer or candidate shall obtain and preserve such receipted bills and records as may be required by the Board.

(e) Each political committee and candidate shall include on the face or front page of all literature and advertisements soliciting funds the following notice: "A copy of our report is filed with the Director of Campaign Finance of the District of Columbia Board of Elections and Ethics.".

PRINCIPAL CAMPAIGN COMMITTEE

SEC. 202. (a) Each candidate for office shall designate in writing one political committee as his principal campaign committee. The principal campaign committee shall receive all reports made by any other political committee accepting contributions or making expenditures for the purpose of influencing the nomination for election, or election, of the candidate who designated it as his principal campaign committee. The principal committee may require additional reports to be made to it by any such political committee and may designate the time and number of all reports. No political committee may be designated as the principal campaign committee of more than one candidate, except a principal campaign committee supporting the nomination or election of a candidate as an official of a political party may support the nomination or election of more than one such candidate, but may not support the nomination or election of a candidate for any public office.

(b) Each statement (including the statement of organization required under section 204) or report that a political committee is required to file with or furnish to the Director under the provisions of this Act shall also be furnished, if that political committee is not a principal campaign committee, to the campaign committee for the candidate on whose behalf that political committee is accepting or making, or intends to accept or make, contributions or expenditures.

(c) The treasurer of each political committee which is a principal campaign committee, and each candidate, shall receive all reports and statements filed with or furnished to it or him by other political committees, consolidate, and furnish the reports and statements to the Director, together with the reports and statements of the principal campaign committee of which he is treasurer or which was designated by him, in accordance with the provisions of this title and regulations prescribed by the Board.

DESIGNATION OF CAMPAIGN DEPOSITORY

SEC. 203. (a) Each political committee, and each candidate accepting contributions or making expenditures, shall designate, in the registration statement required under section 204 or 205, one national bank located in the District of Columbia as the campaign depository of that political committee or candidate. Each such committee or candidate shall maintain a checking account at such depository and shall deposit any contributions received by the committee or candidate into that account. No expenditures may be made by such committee or candidate except by check drawn payable to the person to whom the expenditure is being made on that account, other than petty cash expenditures as provided in subsection (b).

(b) A political committee or candidate may maintain a petty cash fund out of which may be made expenditures not in excess of $50 to any person in connection with a single purchase or transaction. A record of petty cash receipts and disbursements shall be kept in accordance with requirements established by the Board and such statements and reports thereof shall be furnished to the Director as it may require. Payments may be made into the petty cash fund only by check drawn on the checking account maintained at the campaign depository of such political committee or candidate.

REGISTRATION OF POLITICAL COMMITTEES; STATEMENTS

SEC. 204. (a) Each political committee shall file with the Director a statement of organization within ten days after its organization. Each such committee in existence at the date of enactment of this Act shall file a statement of organization with the Director at such time as the Director may prescribe—

(b) The statement of organization shall include—

(1) the name and address of the political committee;

(2) the names, addresses, and relationships of affiliated or connected organizations;

(3) the area, scope, or jurisdiction of the political committee;

(4) the name, address, and position of the custodian of books and accounts;

(5) the name, address, and position of other principal officers, including officers and members of the finance committee, if any;

(6) the name, address, office sought, and party affiliation of (A) each candidate whom the committee is supporting, and (B) any other individual, if any, whom the committee is supporting for nomination for election or election, to any public office whatever; or, if the committee is supporting the entire ticket of any party, the name of the party;

(7) a statement whether the political committee is a continuing one;

(8) the disposition of residual funds which will be made in the event of dissolution;

(9) the name and address of the bank designated by the committee as the campaign depository, together with the title and number of each account and safety deposit box used by that committee at the depository, and the identification of each individual authorized to make withdrawals or payments out of each such account or box; and

(10) such other information as shall be required by the Director.

(c) Any change in information previously submitted in a statement of organization shall be reported to the Director within the ten-day period following the change.

(d) Any political committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year shall so notify the Director.

REGISTRATION OF CANDIDATES

SEC. 205. (a) Each individual shall, within five days of becoming a candidate, or within five days of the day on which he, or any person authorized by him (pursuant to section 401(d) to do so, has received a contribution or made an expenditure in connection with his campaign or for the purposes of preparing to undertake his campaign, file with the Director a registration statement in such form as the Director may prescribe.

(b) In addition, candidates shall provide the Director the name and address of the campaign depository designated by that candidate, together with the title and number of each account and safety deposit box used by that candidate at the depository, and the identification of each individual authorized to make withdrawals or payments out of each account or box, and such other information as shall be required by the Director.

REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

SEC. 206. (a) The treasurer of each political committee supporting a candidate, and each candidate, required to register under this Act, shall file with the Director, and with the applicable principal campaign committee, reports of receipts and expenditures on forms to be prescribed or approved by the Director. Except for the first such report which shall be filed on the twenty-first day after the date of enactment of this Act, such reports shall be filed on the 10th day of March, June, August, October, and December in each year during which there is held an election for the office such candidate is seeking, and on the fifteenth and fifth days next preceding the date on which such election is held, and also by the 31st day of January of each year. In addition such reports shall be filed on the 31st day of July of each year in which there is no such election. Such reports shall be complete as of such date as the Director may prescribe, which shall not be more than five days before the date of filing, except that any contribution of $200 or more received after the closing date prescribed by the Director for the last report required to be filed prior to the election shall be reported within twenty-four hours after its receipt.

(b) Each report under this section shall disclose—

(1) the amount of cash on hand at the beginning of the reporting period;

(2) the full name and mailing address (including the occupation and the principal place of business, if any) of each person who has made one or more contributions to or for such committee or candidate (including the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events) within the calendar year in an aggregate amount or value in excess of $50 or more, together with the amount and date of such contributions;

(3) the total sum of individual contributions made to or for such committee or candidate during the reporting period and not reported under paragraph (2);

(4) the name and address of each political committee or candidate from which the reporting committee or the candidate received, or to which that committee or candidate made, any transfer of funds, together with the amounts and dates of all transfers;

(5) each loan to or from any person within the calendar year in an aggregate amount or values of $50 or more, together with the full names and mailing addresses (including the occupation and the principal place of business, if any) of the lender and endorsers, if any, and the date and amount of such loans;

(6) the net amount of proceeds from (A) the sale of tickets to each dinner, luncheon, rally, and other fundraising events organized by such committee; (B) mass collections made at such events; and (C) sales by such committee of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;

(7) each contribution, rebate, refund, or other receipt of $50 or more not otherwise listed under paragraphs (2) through (6);

(8) the total sum of all receipts by or for such committee or candidate during the reporting period;

(9) the full name and mailing address (including the occupation and the principal place of business, if any) of each person to whom expenditures have been made by such committee or on behalf of such committee or candidate within the calendar year in an aggregate amount or value of $10 or more, the amount, date, and purpose of each such expenditure and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made;

(10) the total sum of expenditures made by such committee or candidate during the calendar year;

(11) the amount and nature of debts and obligations owed by or to the committee, in such form as the Director may prescribe and a continuous reporting of its debts and obligations after the election at such periods as the Director may require until such debts and obligations are extinguished; and

(12) such other information as may be required by the Director.

(c) The reports to be filed under subsection (a) shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the unchanged amount need be carried forward. If no contributions or expenditures have been accepted or expended during a calendar year, the treasurer of the political committee or candidate shall file a statement to that effect.

(d) Each treasurer of a political committee, each candidate for election to office, and each treasurer appointed by a candidate, shall file with the Director weekly reports of cash contributions on forms to be prescribed or approved by the Director.

REPORTS BY OTHERS THAN POLITICAL COMMITTEES

SEC. 207. Every person (other than a political committee or candidate) who makes contributions or expenditures, other than by contribution to a political committee or candidate, in an aggregate amount of $50 or more within a calendar year shall file with the Director a statement containing the information required by section 206. Statements required by this section shall be filed on the dates on which reports by political committees are filed, but need not be cumulative.

FORMAL REQUIREMENTS RESPECTING REPORTS AND STATEMENTS

SEC. 208. (a) A report or statement required by this title to be filed by a treasurer of a political committee, a candidate, or by any other person, shall be verified by the oath or affirmation of the person filing such report or statement, taken before any officer authorized to administer oaths.

(b) A copy of a report or statement shall be preserved by the person filing it for a period to be designated by the Board in a published regulation.

(c) The Board shall, by published regulations of general applicability, prescribe the manner in which contributions and expenditures in the nature of debts and other contracts, agreements, and promises to make contributions or expenditures shall be reported. Such regulations shall provide that they be reported in separate schedules. In determining aggregate amounts of contributions and expenditures, amounts reported as provided in such regulations shall not be considered until actual payment is made.

EXEMPTION FOR CANDIDATES WHO ANTICIPATE SPENDING LESS THAN $250

SEC. 209. Except for the provisions of subsections (c) and (d) of section 201, and subsection (a) of section 205, the provisions of this title shall not apply to any candidate who anticipates spending or spends less than $250 in any one election and who has not designated a principal campaign committee. On the fifteenth day prior to the date of the election in which such candidate is entered, and on the thirtieth day after the date of such election, such candidate shall certify to the Director that he has not spent more than $250 in such election.

IDENTIFICATION OF CAMPAIGN LITERATURE

SEC. 210. All newspaper or magazine advertising, posters, circulars, billboards, handbills, bumper stickers, sample ballots, and other printed matter with reference to or intended for the support or defeat of a candidate or group of candidates for nomination or election to any public office shall be identified by the words "paid for by" followed by the name and address of the payer or the committee or other person and its treasurer on whose behalf the material appears.

EFFECT ON LIABILITY

SEC. 211. Nothing in this title shall be construed as creating or limiting in any way the liability of any person under existing law for any financial obligation incurred by a political committee or candidate.

TITLE III—DIRECTOR OF CAMPAIGN FINANCE

ESTABLISHMENT OF THE OFFICE OF DIRECTOR

SEC. 301. (a) There is established within the District of Columbia Board of Elections and Ethics the office of Director of Campaign Finance (hereinafter in this Act referred to as the "Director"). The Commissioner of the District of Columbia shall appoint, by and with the advice and consent of the Senate, the Director, except that on and after January 2, 1975, any vacancy in the office of Director shall be filled by appointment by the Mayor, with the advice and consent of the Council. Such appointments shall be made without regard to the provisions of title 5 of the United States Code, governing appointments in the competitive service. The Director shall be entitled to receive compensation at the maximum rate as may be established from time to time for grade 16 of the General Schedule in section 5332 of title 5 of the United States Code, and shall be responsible for the administrative operations of the Board pertaining to this Act and shall perform such other duties as may be delegated or assigned to him from time to time by regulations or orders of the Board. However, the Board shall not delegate to the Director the making of regulations regarding elections.

(b) The Board may appoint a General Counsel without regard to the provisions of title 5 of the United States Code, governing appointments in the competitive service, to serve at the pleasure of the Board. The General Counsel shall be entitled to receive compensation at the same rate as the Director of the Board and shall be responsible solely to the Board. The General Counsel shall perform such duties as may be delegated or assigned to him from time to time by regulation or order of the Board.

(c) In any appropriate case where the Board upon its own motion or upon recommendation of the Director makes a finding of an apparent violation of this Act, it shall refer such case to the United States Attorney for the District of Columbia for prosecution, and shall make public the fact of such referral and the basis for such finding. In addition, the Board, through its General Counsel, shall initiate, maintain, defend, or appeal any civil action (in the name of the Board) relating to the enforcement of the provisions of this Act. The Board may, through its General Counsel, petition the courts of the District of Columbia for declaratory or injunctive relief concerning any action covered by the provisions of this Act.

POWERS OF THE DIRECTOR

SEC. 302. (a) The Director, under regulations of general applicability approved by the Board, shall have the power—

(1) to require any person to submit in writing such reports and answers to questions as the Director may prescribe relating to the administration and enforcement of this Act; and such submission shall be made within such reasonable period and under oath or otherwise as the Director may determine;

(2) to administer oaths;

(3) to require by subpena the attendance and testimony of witnesses and the produc-

tion of all documentary evidence relating to the execution of its duties;

(4) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Director and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection;

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the Superior Court of the District of Columbia; and

(6) to accept gifts and voluntary and uncompensated services.

Subpenas issued under this section shall be issued by the Director upon the approval of the Board.

(b) The Superior Court of the District of Columbia may, upon petition by the Board, in case of refusal to obey a subpena or order of the Board issued under subsection (a) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

DUTIES OF THE DIRECTOR

SEC. 303. The Director shall—

(1) develop and furnish (upon request) prescribed forms for the making of the reports and statements required to be filed with him under this Act;

(2) develop a filing, coding, and cross-indexing system consonant with the purposes of this Act;

(3) make the reports and statements filed with him available for public inspection and copying, commencing as soon as practicable but not later than the end of the second day following the day during which it was received, and to permit and facilitate copying of any such report or statement by hand and by duplicating machine, as requested by any person, at reasonable cost to such person, except any information copied from such reports and statements shall not be sold or utilized by any person for the purpose of soliciting contributions or for any commercial purpose;

(4) preserve such reports and statements for a period of ten years from date of receipt;

(5) compile and maintain a current list of all statements or parts of statements on file pertaining to each candidate;

(6) prepare and publish such other reports as he may deem appropriate;

(7) assure dissemination of statistics, summaries, and reports prepared under this title;

(8) make from time to time audits and field investigations with respect to reports and statements filed under the provisions of this title, and with respect to alleged failures to file any report or statement required under the provisions of this title; and

(9) perform such other duties as the Board may require.

GENERAL ACCOUNTING OFFICE TO ASSIST BOARD AND DIRECTOR

SEC. 304. The Board and Director may, in the performance of its functions under this Act, request the assistance of the Comptroller General of the United States, including such investigations and audits as the Board and Director may determine necessary, and the Comptroller General shall provide such assistance with or without reimbursement, as the Board and Director and the Comptroller General shall agree.

NOMINATING COMMITTEE

SEC. 305. (a) Effective January 2, 1975, there is established within the Government of the District of Columbia a committee to be known as the "District of Columbia Board of Elections and Ethics Nominating Committee" (hereinafter in this Act referred to as the "Committee"). The Committee shall have the function of nominating individuals for appointment as members of the District of Columbia Board of Elections and Ethics for any and all vacancies occurring on such Board on or after the date on which a majority of the members first appointed pursuant to this section hold their first meeting as members of the Committee. Such nominations shall be made by the Committee in accordance with the provisions of this section. The Committee shall consist of five members. Within ten days following the date on which a majority of the members are first appointed pursuant to this section, such members so appointed shall hold their first meeting as members of the Committee.

(b)(1) Two members of the Committee shall be appointed by the Mayor, at least one of whom shall be a lawyer.

(2) Three members of the Committee shall be appointed by the Chairman of the Council of the District of Columbia, with the approval of the Council.

(c) Members of the Committee shall serve for terms of five years, except that of the members first appointed pursuant to subsection (b)(1), one shall serve for one year and one for five years, as designated at the time of appointment, and members appointed pursuant to subsection (b)(2), one shall serve for two years, one for three years, and one for four years, as designated at the time of appointment.

(d)(1) No individual may be appointed as a member of the Committee unless he or she—

(A) is a citizen of the United States, and

(B) is a resident of the District of Columbia and has maintained his or her domicile within the District for at least one year immediately preceding the date of his or her appointment, and

(C) is not a member of the Council of the District of Columbia or an officer or employee of the Government of the District of Columbia (including the judicial branch).

(2) Any vacancy in the membership of the Committee shall be filled in the same manner in which the original appointment was made. Any individual appointed to fill a vacancy, occurring other than upon the expiration of a term, shall serve only for the remainder of the term of such individual's predecessor.

(e) Members of the Committee shall be paid for each day spent performing their duties as members of the Committee at a rate which is equal to the daily equivalent of the rate provided by step 1 of grade 17 of the General Schedule under section 5332 of title 5, United States Code.

(f)(1) Except as otherwise provided in subsection (a) of this section, the Committee shall act only at meetings called by the Chairman or a majority of the members thereof and only after notice has been given of such meeting to all members of the Committee.

(2) The Committee shall choose annually from among its members a Chairman and such other officers as it deems necessary. The Committee may adopt such rules of procedure as may be necessary to govern the business of the Committee.

(3) Each agency of the government of the District of Columbia shall furnish to the Committee, upon request, such records, information, services, and such other assistance and facilities as may be necessary to enable the Committee to perform its function properly. Any information furnished to the Committee designated "confidential" by the person furnishing it to the Committee shall be treated by the Committee as privileged and confidential.

(g)(1) In the event of any such vacancy in the District of Columbia Board of Elections and Ethics, the Committee shall, within thirty days after such vacancy occurs, submit a list of three persons as nominees for appointment by the Mayor to fill the vacancy. If more than one such vacancy exists at the same time, the Committee shall submit a separate list of nominees for appointment to fill each such vacancy, and no individual's name shall appear on more than one such list. In filling such vacancy, the Mayor may appoint more than one individual from any list currently before the Mayor. In any case in which, after the expiration of the thirty-day period following the date on which a majority of the members of the Committee first meet as provided in subsection (a), a vacancy is scheduled to occur, by reason of the expiration of a term of office, the Committee's list of nominees for appointment to fill that vacancy shall be submitted to the Mayor not less than thirty days prior to the expiration of that term.

(2) If the Mayor fails to submit for Council approval the name of one of the individuals on a list submitted to the Mayor under this section within thirty days after receiving such list, the Committee shall appoint, with the approval of the Council, an individual named on the list to fill the vacancy for which such list of nominees was prepared.

(3) Any individual whose name is submitted by the Committee as a nominee for appointment to the District of Columbia Board of Elections and Ethics may request that the nomination of such individual be withdrawn. If any such individual requests that his or her nomination be withdrawn, dies, or becomes disqualified to serve as a member of the Board, the Committee shall promptly nominate an individual to replace the individual originally nominated on the list submitted to the Mayor.

(h) Members of the Committee shall be appointed as soon as practicable, but in no event later than June 30, 1975.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS

SEC. 306. (a) On and after the date of the enactment of this Act, the Board of Elections of the District of Columbia established under the District of Columbia Election Act (D.C. Code, sec. 1–1101 et seq.), shall be known as the "District of Columbia Board of Elections and Ethics" and shall have the powers, duties, and functions as provided in such Act, in any other law in effect on the date immediately preceding the date of the enactment of this Act, and in this Act. Any reference in any law or regulation to the Board of Elections for the District of Columbia or the District of Columbia Board of Elections shall, on and after the date of the enactment of this Act, be held and considered to refer to the District of Columbia Board of Elections and Ethics.

(b)(1) Any person who violates any provision of this Act or of the District of Columbia Election Act may be assessed a civil penalty by the District of Columbia Board of Elections and Ethics under paragraph (2) of this subsection of not more than $50 for each such violation. Each occurrence of a violation of this Act and each day of noncompliance with a disclosure requirement of this Act or an order of the Board shall constitute a separate offense.

(2) A civil penalty shall be assessed by the Board by order only after the person charged with a violation has been given an opportunity for a hearing, and the Board has determined, by decision incorporating its findings of facts therein, that a violation did occur, and the amount of the penalty. Any hearing under this section shall be of record and shall be held in accordance with chapter 5 of title 5, United States Code.

(3) If the person against whom a civil penalty is assessed fails to pay the penalty, the Board shall file a petition for enforcement of its order assessing the penalty in the Superior Court of the District of Co-

lumbia. The petition shall designate the person against whom the order is sought to be enforced as the respondent. A copy of the petition shall be forthwith sent by registered or certified mail to the respondent and his attorney of record, and if the respondent is a political committee, to the Chairman thereof, and thereupon the Board shall certify and file in such court the record upon which such order sought to be enforced was issued. The court shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order and the decision of the Board or it may remand the proceedings to the Board for such further action as it may direct. The court may determine de novo all issues of law but the Board's findings of fact, if supported by substantial evidence, shall be conclusive.

(c) Upon application made by any individual holding public office, any candidate, or any political committee, the Board, through its General Counsel, shall provide within a reasonable period of time an advisory opinion, with respect to any specific transaction or activity inquired of, as to whether such transaction or activity would constitute a violation of any provision of this Act or of any provision of the District of Columbia Election Act over which the Board has primary jurisdiction.

TITLE IV—FINANCE LIMITATIONS

GENERAL LIMITATIONS

SEC. 401. (a) No individual shall make any contribution which, and no person shall receive any contribution from any individual which when aggregated with all other contributions received from that individual, relating to a campaign for nomination as a candidate or election to public office, including both the primary and general or special elections, exceeds—

(1) in the case of a contribution in support of a candidate for Mayor, $1,000;

(2) in the case of a contribution in support of a candidate for Chairman of the Council, $750;

(3) in the case of a contribution in support of a candidate for member of the Council elected at large, $500;

(4) in the case of a contribution in support of a candidate for member of the Board of Education elected at large or for member of the Council elected from a ward, $200, and in the case of a runoff election, an additional $200;

(5) in the case of a contribution in support of a candidate for member of the Board of Education elected from a ward or for official of a political party, $100, and in case of a runoff election, an additional $100; and

(6) in the case of a contribution in support of a candidate for a member of an Advisory Neighborhood Council, $25.

(b) No person (other than an individual with respect to whom subsection (a) applies) shall make any contribution which, and no person shall receive any contribution from any person (other than such an individual) which when aggregated with all other contributions received from that person, relating to a campaign for nomination as a candidate or election to public office, including both the primary and general or special elections, exceeds—

(1) in the case of a contribution in support of a candidate for Mayor, $2,000;

(2) in the case of a contribution in support of a candidate for Chairman of the Council, $1,500;

(3) in the case of a contribution in support of a candidate for member of the Council elected at large, $1,000;

(4) in the case of a contribution in support of a candidate for member of the Board of Education elected at large or for member of the Council elected from a ward $400, and in the case of a runoff election, an additional $400;

(5) in the case of a contribution in support of a candidate for member of the Board of Education elected from a ward or for official of a political party, $200, and in the case of a runoff election, and additional $200; and

(6) in the case of a contribution in support of a candidate for a member of an Advisory Neighborhood Council, $25.

For the purposes of this subsection, the term "person" shall include a candidate making contributions relating to his candidacy for nomination for election, or election, to office. Notwithstanding the preceding provisions of this subsection, a candidate for member of the Council elected from a ward may contribute $1,000 to his own campaign. The provisions of this subsection to the extent that such provisions are applicable to corporations and unions shall, to that extent, expire as of July 1, 1975, unless the Council of the District of Columbia on or before such date enacts legislation repealing or modifying such provisions or extending such provisions as to corporations and unions on and after that date. In the event that the Council fails to so repeal, modify, or extend such provisions as to corporations and labor unions, the Council shall report its reasons therefor to the Committees on the District of Columbia of the Senate and the House of Representatives prior to August 1, 1975.

(c) No individual shall make any contribution in any one election which when aggregated with all other contributions made by that individual in that election exceeds $2,000.

(d) (1) Any expenditure made by any person advocating the election or defeat of any candidate for office which is not made at the request or suggestion of the candidate, any agent of the candidate, or any political committee authorized by the candidate to make expenditures or to receive contributions for the candidate is not considered a contribution to or an expenditure by or on behalf of the candidate for the purposes of the limitations specified in this Act.

(2) No person may make any unauthorized expenditure advocating the election or defeat of a clearly identified candidate during a calendar year which, when added to all other unauthorized expenditures made by that person during the year advocating the election or defeat of that candidate, exceeds $1,000.

(3) For purposes of paragraph (2)—

(A) "clearly identified" means—

(i) the candidate's name appears,

(ii) a photograph or drawing of the candidate appears, or

(iii) the identity of the candidate is apparent by unambiguous reference,

(B) "person" does not include the central committee of a political party, and

(C) "expenditure" does not include any payment made or incurred by a corporation or labor organization which, under the provisions of section 610 of title 18 of the United States Code would not constitute an expenditure by that corporation or labor organization.

(4) Every candidate shall file a statement with the Board, in such manner and form and at such times as the Board may prescribe, authorizing any person or any political committee organized primarily to support the candidacy of such candidate to either directly or indirectly, receive contributions, or make expenditures in behalf of, such candidate. No person and no committee organized primarily to support a single candidate may, either directly or indirectly, receive contributions or make expenditures in behalf of, such candidate without the written authorization of such candidate as required by this paragraph.

(e) In no case shall any person receive or make any contribution in legal tender in an amount of $50 or more.

(f) No person shall make a contribution in the name of another person, and no person shall knowingly accept a contribution made by one person in the name of another person.

(g) For purposes of the limitations contained in this section all contributions made by any person directly or indirectly to or for the benefit of a particular candidate, including contributions which are in any way earmarked, encumbered, or otherwise directed through an intermediary or conduit to that candidate, shall be treated as contributions from that person to that candidate.

(h) (1) No candidate or member of the immediate family of a candidate may make a loan or advance from his personal funds for use in connection with a campaign of that candidate for nomination for election, or for election, to public office unless that loan or advance is evidenced by a written instrument fully disclosing the terms, conditions, and parts to the loan or advance. The amount of any such loan or advance shall be included in computing and applying the limitations contained in this section only to extent of the balance of the loan or advance which is unpaid at the time of determination.

(2) For purposes of this subsection, the term "immediate family" means the candidate's spouse and any parent, brother, or sister, or child of the candidate, and the spouse of any such parent, brother, sister, or child.

LIMITATION OF EXPENDITURES

SEC. 402. (a) (1) No principal campaign committee shall expand any funds which when aggregated with funds expended by it, all other communities required to report to it, and by a candidate supported by such committee shall exceed (1) in the case of a candidate for Mayor, $200,000 in the aggregate for any primary and general election in connection therewith, but in no event in excess of $120,000 for one of such elections and $80,000 for the other of such elections; (2) in the case of a candidate for Chairman of the Council, $150,000 in the aggregate for any primary and general election in connection therewith, but in no event in excess of $90,000 for one of such elections and $60,000 for the other of such elections; (3) in the case of a candidate for member of the Council elected at large, $100,000 in the aggregate for any primary and general election in connection therewith, but in no event in excess of $60,000 for one of such elections and $40,000 for the other of such elections; (4) in the case of a candidate for member of the Board of Education elected at large or member of the Council elected from a ward, $20,000 in the aggregate for any primary and general election in connection therewith, but in no event in excess of $12,000 for one of such elections and $8,000 for the other of such elections; (5) in the case of a candidate for member of the Board of Education elected from a ward, or in support of any candidate for office of a political party, $10,000 in the aggregate for any primary and general election in connection therewith, but in no event in excess of $6,000 for one of such elections and $4,000 for the other of such elections; and (6) in the case of a candidate for member of an Advisory Neighborhood Council, $500.

(2) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Board and the Board shall publish in the District of Columbia Register the per centum difference between the price index for the twelve months preceding the beginning of such calendar year and the price index for 1974. Each amount determined under paragraph (1) shall be changed by such per centum differ-

ence. Each amount so changed shall be the amount in effect for such calendar year.

(b) No political committee or candidate shall knowingly expend any funds at a time when the principal campaign committee to which it shall report, or which has been designated by him, is precluded by subsection (a) from expending funds or which would cause such principal committee to be precluded from further expenditures. Any principal campaign committee of a candidate having reasonable knowledge to believe that further expenditures by a political committee registered in support of such candidate, or by the candidate it supports, will exceed the expenditure limitations specified in subsection (a) shall immediately notify, in writing, such political committee or candidate of that fact.

(c) Any expenditure made in connection with a campaign in a calendar year other than the calendar year in which the election is held to which that campaign relates is, for the purposes of this section, considered to be made during the calendar year in which that election is held.

TITLE V—LOBBYING

DEFINITIONS

SEC. 501. When used in this title—

(a) The term "contribution" includes a gift, subscription, loan, advance, or deposit of money or anything of value and includes a contract, promise, or agreement, whether or not legally enforceable, to make a contribution.

(b) The term "expenditure" includes a payment, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure.

(c) The term "legislation" means bills, resolutions, amendments, nominations, rules, and other matters pending or proposed in the Council of the District of Columbia, and includes any other matter which may be the subject of action by the Council of the District of Columbia.

DETAILED ACCOUNTS OF CONTRIBUTIONS; RETENTION OF RECEIPTED BILLS OF EXPENDITURES

SEC. 502. (a) It shall be the duty of every person who shall in any manner solicit or receive a contribution to any organization or fund for the purposes hereinafter designated to keep a detailed and exact account of—

(1) all contributions of any amount or of any value whatsoever;

(2) the name and address of every person making any such contribution of $200 or more and the date thereof;

(3) all expenditures made by or on behalf of such organization or fund; and

(4) the name and address of every person to whom any such expenditure is made and the date thereof.

(b) It shall be the duty of such person to obtain and keep a receipted bill, stating the particulars, for every expenditure of such funds exceeding $10 in amount, and to preserve all receipted bills and accounts required to be kept by this section for a period of at least two years from the date of the filing of the statement containing such items.

RECEIPTS FOR CONTRIBUTORS

SEC. 503. Every individual who receives a contribution of $200 or more for any of the purposes hereinafter designated shall within five days after receipt thereof render to the person or organization for which such contribution was received a detailed account thereof, including the name and address of the person making such contribution and the date on which received.

STATEMENTS OF ACCOUNTS FILED WITH DIRECTOR

SEC. 504. (a) Every person receiving any contributions or expending any money for the purposes designated in subparagraph (a) or (b) of section 506 of this title shall file with the Director between the first and tenth day of each calendar quarter, a statement containing complete as of the day next preceding the date of filing—

(1) the name and address of each person who has made a contribution of $200 or more not mentioned in the preceding report; except that the first report filed pursuant to this title shall contain the name and address of each person who has made any contribution of $200 or more to such person since January 2, 1975;

(2) the total sum of the contributions made to or for such person during the calendar year and not stated under paragraph (1) of this subsection;

(3) the total sum of all contributions made to or for such person during the calendar year;

(4) the name and address of each person to whom an expenditure in one or more items of the aggregate amount or value, within the calendar year, of $10 or more has been made by or on behalf of such person, and the amount, date, and purpose of such expenditure;

(5) the total sum of all expenditures made by or on behalf of such person during the calendar year and not stated under paragraph (4) of this subsection;

(6) the total sum of expenditures made by or on behalf of such person during the calendar year.

(b) The statements required to be filed by subsection (a) of this section shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous statement only the amount need be carried forward.

PRESERVATION OF STATEMENTS

SEC. 505. A statement required by this title to be filed with the Director—

(a) shall be deemed properly filed when deposited in an established post office within the prescribed time, duly stamped, registered, and directed to the Director, Washington, District of Columbia, but in the event it is not received, a duplicate of such statement shall be promptly filed upon notice by the Director of its nonreceipt;

(b) shall be preserved by the Director for a period of two years from the date of filing, shall constitute part of the public records of his office, and shall be open to public inspection.

PERSONS TO WHOM TITLE IS APPLICABLE

SEC. 506. The provisions of this title shall apply to any person (except a political committee) who, by himself, or through any agent or employee or other persons in any manner whatsoever, directly or indirectly, solicits, collects, or receives money or any other thing of value to be used principally to aid, or the principal purpose of which person is to aid, in the accomplishment of any of the following purposes:

(a) The passage or defeat of any legislation by the Council of the District of Columbia.

(b) To influence, directly or indirectly, the passage or defeat of any legislation by the Council of the District of Columbia.

REGISTRATION OF LOBBYISTS WITH DIRECTOR; COMPILATION OF INFORMATION

SEC. 507. (a) Any person who shall engage himself for pay or for any consideration for the purpose of attempting to influence the passage or defeat of any legislation by the Council of the District of Columbia shall, before doing anything in furtherance of such object, register with the Director and shall give to him in writing and under oath, his name and business address, the name and address of the person by whom he is employed, and in whose interest he appears or works, the duration of such employment, how much he is paid and is to receive, by whom he is paid or is to be paid, how much he is to be paid for expenses, and what expenses are to be included. Each such person so registering shall, between the first and tenth day of each calendar quarter, so long as his activity continues, file with the Director a detailed report under oath of all money received and extended by him during the preceding calendar quarter in carrying on his work: to whom paid; for what purposes; and the names of any papers, periodicals, magazines, or other publications in which he has caused to be published any articles or editorials: and the proposed legislation he is employed to support or oppose. The provisions of this section shall not apply to any person who merely appears before the Council of the District of Columbia, or a committee thereof, in support of or opposition to legislation: nor to any public official acting in his official capacity; nor in the case of any newspaper or other regularly published periodical (including any individual who owns, publishes, or is employed by any such newspaper or periodical) which in the ordinary course of business publishes news items, editorials, or other comments, or paid advertisements, which directly or indirectly urge the passage or defeat of legislation, if such newspaper, periodical, or individual, engages in no further or other activities in connection with the passage or defeat of such legislation, other than to appear before a committee of the Council of the District of Columbia in support of or in opposition to such legislation.

(b) All information required to be filed under the provisions of this section with the Director shall be compiled by the Director as soon as practicable after the close of the calendar quarter with respect to which such information is filed and shall be printed in the District of Columbia Register.

REPORTS AND STATEMENTS UNDER OATH

SEC. 508. All reports and statements required under this title shall be made under oath, before an officer authorized by law to administer oaths.

PENALTIES AND PROHIBITIONS

SEC. 509. (a) Any person who violates any of the provisions of this title, shall be guilty of a misdemeanor, and shall be punished by a fine of not more than $5,000 or imprisonment for not more than twelve months, or both.

(b) In addition to the penalties provided for in subsection (a) of this section, any person convicted of the misdemeanor specified therein is prohibited, for a period of three years from the date of such conviction, from attempting to influence, directly or indirectly, the passage or defeat of any proposed legislation or from appearing before a committee of the Council of the District of Columbia in support of or opposition to proposed legislation; and any person who violates any provision of this subsection shall be guilty of a felony, and shall be punished by a fine of not more than $10,000, or imprisonment for not more than five years, or both.

EXEMPTION

SEC. 510. The provisions of this title shall not apply to—

(1) any Member of the United States House of Representatives or any Senator;

(2) any member of a staff of any person specified in paragraph (1) while operating within the scope of his employment;

(3) any member of an Advisory Neighborhood Council;

(4) any person who receives less than $500 during the calendar year as compensation for performing services relating to the influencing of legislation; or

(5) any entity specified in section 1(d) of title II of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code,

sec. 47-1554(d)), no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation.

TITLE VI—CONFLICT OF INTEREST AND DISCLOSURE

CONFLICT OF INTEREST

SEC. 601. (a) The Congress declares that elective and public office is a public trust, and any effort to realize personal gain through official conduct is a violation of that trust.

(b) No public official shall use his official position or office to obtain financial gain for himself, any member of his household, or any business with which he or a member of his household is associated, other than that compensation provided by law for said public official.

(c) No person shall offer or give to a public official or a member of a public official's household, and no public official shall solicit or receive anything of value, including a gift, favor, service, loan gratuity, discount, hospitality, political contribution, or promise of future employment, based on any understanding that such public official's official actions or judgment or vote would be influenced thereby, or where it could reasonably be inferred that the thing of value would influence the public official in the discharge of his duties, or as a reward, or which would cause the total value of such things received from the same person not a member of such public official's household to exceed $100 during any single calendar year.

(d) No person shall offer or pay to a public official, and no public official shall solicit or receive any money, in addition to that lawfully received by the public official in his official capacity, for advice or assistance given in the course of the public official's employment or relating to his employment.

(e) No public official shall use or disclose confidential information given in the course of or by reason of his official position or activities in any way that could result in financial gain for himself or for any other person.

(f) No member or employee of the Council of the District of Columbia or Board of Education of the District of Columbia shall accept assignment to serve on a committee the jurisdiction of which consists of matters (other than of a de minimis nature) in which he or a member of his family or a business with which he is associated, has financial interest.

(g) Any public official who, in the discharge of his official duties, would be required to take an action or make a decision that would affect directly or indirectly his financial interests or those of a member of his household, or a business with which he is associated, or must take an official action on a matter as to which he has a conflict situation created by a personal, family, or client interest, shall—

(1) prepare a written statement describing the matter requiring action or decision, and the nature of his potential conflict of interest with respect to such action or decision;

(2) cause copies of such statement to be delivered to the District of Columbia Board of Elections and Ethics (referred to in this title as the "Board"), and to his immediate superior, if any;

(3) if he is a member of the Council of the District of Columbia or member of the Board of Education of the District of Columbia, or employee of either, deliver a copy of such statement to the Chairman thereof, who shall cause such statement to be printed in the record of proceedings, and, upon request of said member or employee, shall excuse the member from votes, deliberations, and other action on the matter on which a potential conflict exists;

(4) if he is not a member of the Council of the District of Columbia, his superior, if any, shall assign the matter to another employee who does not have a potential conflict of interest, or, if he has no immediate superior, he shall take such steps as the Board prescribes through rules and regulations to remove himself from influence over actions and decisions on the matter on which potential conflict exists; and

(5) during a period when a charge of conflict of interest is under investigation by the Board, if he is not a member of the Council of the District of Columbia or a member of the Board of Education, his superior, if any, shall have the arbitrary power to assign the matter to another employee who does not have a potential conflict of interest, or if he has no immediate superior, he shall take such steps as the Board shall prescribe through rules and regulations to remove himself from influence over actions and decisions on the matter on which there is a conflict of interest.

(h) Neither the Mayor nor any member of the Council of the District of Columbia may represent another person before any regulatory agency or court of the District of Columbia while serving in such office. The preceding sentence does not apply to an appearance by such an official before any such agency or court in his official capacity.

(i) As used in this section, the term—

(1) "public official" means the office of the Mayor of the District of Columbia, Chairman of the Council of the District of Columbia, or member of the Council of the District of Columbia, or Chairman or member of the Board of Education of the District of Columbia, or each officer or employee of the District of Columbia government who performs duties of the type generally performed by an individual occupying grade GS-15 of the General Schedule or any higher grade or position (as determined by the Board regardless of the rate of compensation of such individual);

(2) "business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock, trust, and any legal entity through which business is conducted for profit;

(3) "business with which he is associated" means any business of which the person or member of his household is a director, officer, owner, employee, or holder of stock worth $1,000 or more at fair market value, and any business which is a client of that person;

(4) "household" means the public official and his immediate family; and

(5) "immediate family" means the public official's spouse and any parent, brother, or sister, or child of the public official, and the spouse of any such parent, brother, sister, or child.

DISCLOSURE OF FINANCIAL INTEREST

SEC. 602. Any candidate for nomination for election, or election, to public office who at the time he becomes a candidate, does not occupy any such office, shall file within one month after he becomes a candidate for such office, and the Mayor, and the Chairman and each member of the Council of the District of Columbia holding office under the District of Columbia Self-Government and Governmental Reorganization Act, and the Chairman and each member of the Board of Education, shall file annually, with the Board a report containing a full and complete statement of—

(1) the amount and source of each item of income, each item of reimbursement for any expenditure, and each gift or aggregate of gifts from one source (other than gifts received by him or by him and his spouse jointly during the preceding calendar year) which exceeds $100 in amount or value, including any fee or other honorarium received by him for or in connection with the preparation or delivery of any speech or address, attendance at any convention or other assembly of individuals, or the preparation of any article or other composition for publication, and the monetary value of subsistence, entertainment, travel, and other facilities received by him in kind;

(2) the identity of each asset held by him, or by him and his spouse jointly which has a value in excess of $1,000, and the identity and amount of each liability owned by him, or by him and his spouse jointly, which is in excess of $1,000 as of the close of the preceding calendar year;

(3) any transactions in securities of any business entity by him, or by him and his spouse jointly, or by any person acting on his behalf or pursuant to his direction during the preceding calendar year if the aggregate amount involved in transactions in the securities of such business entity exceeds $5,000 during such year;

(4) all transactions in commodities by him, or by him and his spouse jointly, or by any person acting on his behalf, or pursuant to his direction during the preceding calendar year if the aggregate amount involved in such transactions exceeds $5,000;

(5) any purchase or sale, other than the purchase or sale of his personal residence, or real property or any interest therein by him, or by him and his spouse jointly, or by any person acting on his behalf or pursuant to his direction, during the preceding calendar year if the value of property involved in such purchase or sale exceeds $5,000; and

(6) the amount of each tax paid by the individual, or by the individual and the individual's spouse filing jointly, for the preceding calendar year, except in the case of candidates filing reports during calendar year 1974, who shall file reports for the preceding three calendar years.

(b) Any candidate for nomination for, or election to, office who at the time he becomes a candidate, does not occupy any such office, shall file within one month after he becomes a candidate for such office, and the Chairman and each member of the Council and the Mayor holding mental Reorganization Act, and the Chairman and each member of the Board of Education, and each officer and employee of the District of Columbia government who performs duties of the type generally performed by an individual occupying grade GS-15 of the General Schedule under section 5332 of title 5, United States Code, or any higher grade or position (as determined by the Board regardless of the rate of compensation of such individual), shall file with the Board in a sealed envelope marked "Confidential Personal Financial Disclosure of (name)", before the fifteenth day of May in each year, the following reports of his personal financial interests:

(1) a copy of the returns of taxes, declarations, statements, or other documents which he, or he and his spouse jointly, made for the preceding year in compliance with the income tax provisions of the Internal Revenue Code of 1954;

(2) the name and address of each business or professional corporation, firm, or enterprise in which he was an officer, director, partner, proprietor, or employee who received compensation during the preceding year and the amount of such compensation;

(3) the identity of each trust or other fiduciary relation in which he held a beneficial interest having a value of $10,000 or more, and the identity, if known, of each interest of the other fiduciary relation in real or personal property in which the candidate, officer, or employee held a beneficial interest having a value of $10,000 or more, at any time during the preceding year. If he cannot obtain the identity of the fiduciary interests, the candidate, officer, or employee shall re-

quest the fiduciary to report that information to the Board in the same manner that reports are filed under this rule.

(c) Except as otherwise provided by this section, all papers filed under this section shall be kept by the Board in the custody of the Director for not less than seven years, and while so kept shall remain sealed. Upon receipt of a request by any member of the Board adopted by a recorded majority vote of the full Board requesting the examination and audit of any of the reports filed by any individual under section (b) of this title, the Director shall transmit to the Board the envelopes containing such reports. Within a reasonable time after such recorded vote has been taken, the individual concerned shall be informed of the vote to examine and audit, and shall be advised of the nature and scope of such examination. When any sealed envelope containing any such report is received by the Director, such envelope may be opened and the contents thereof may be examined only by members of the Board in executive session. If, upon such examination, the Board determines that further consideration by the Board is warranted and within the jurisdiction of the Board, it may make the contents of any such envelope available for any use by any member of the Board, or the Director or General Counsel of the Board which is required for the discharge of his official duties. The Board may receive the papers as evidence, after giving to the individual concerned due notice and opportunity for hearing in a closed session. The Board shall publicly disclose not later than the first day of June each year the names of the candidates, officers, and employees who have filed a report. Any paper which has been filed with the Board for longer than seven years, in accordance with the provisions of this section, shall be returned to the individual concerned or his legal representative. In the event of the death or termination of the service of the Mayor or Chairman or member of the Council of the District of Columbia or Chairman or member of the Board of Education, or officer or employee of the District of Columbia, such papers shall be returned unopened to such individual, or to the surviving spouse or legal representative of such individual within one year of such date or termination of service.

(d) Reports required by this section (other than reports so required by candidates) shall be filed not later than sixty days following the enactment of this Act, and not later than May 15 of each succeeding year. In the case of any person who ceases, prior to such date in any year, to occupy the office or position the occupancy of which imposes upon him the reporting requirements contained in subsection (a) shall file such report on the last day he occupies such office or position, or on such later date, not more than three months after such last day, as the Board may prescribe.

(e) Reports required by this section shall be in such form and detail as the Board may prescribe. The Board may provide for the grouping of items of income, sources of income, assets, liabilities, dealings in securities or commodities, and purchases and sales of real property when separate itemization is not feasible or is not necessary for an accurate disclosure of the income, net worth, dealing in securities and commodities or purchases, and sales of rental property of any individual.

(f) All public reports filed under this section shall be maintained by the Board as public records which, under such reasonable regulations as it shall prescribe, shall be available for inspection by members of the public.

(g) For the purposes of any report required by this section, any individual shall be considered to have been Mayor, Chairman, or member of the Council of the District of Columbia, or Chairman or member of the Board of Education, or officer or employee of the District of Columbia during any calendar year if such individual served in any such position for more than six months during such calendar year.

(h) For purposes of this section, the term—

(1) "income" means gross income as defined in section 61 of the Internal Revenue Code of 1954;

(2) "security" means security as defined in section 2 of the Securities Act of 1933, as amended (15 U.S.C. 77b);

(3) "commodity" means commodity as defined in section 2 of the Commodities Exchange Act, as amended (7 U.S.C. 2);

(4) "transactions in securities or commodities" means any acquisition, holding, withholding, use, transfer, or other disposition involving any security or commodity;

(5) "immediate family" means the child, parent, grandparent, brother, or sister of an individual, and the spouse of such person; and

(6) "tax" means the taxes imposed under chapter 1 of the Internal Revenue Code of 1954, under the District of Columbia Revenue Act of 1947, and under the District of Columbia Public Works Act of 1954 and any other provision of law relating to the taxation of property within the District of Columbia.

TITLE VII—PENALTIES AND ENFORCEMENT TAX CREDITS, USE OF SURPLUS CAMPAIGN FUNDS, VOTERS' INFORMATION PAMPHLETS, STUDY OF 1974 ELECTION AND REPORT BY COUNCIL, EFFECTIVE DATES, AMENDMENTS TO DISTRICT OF COLUMBIA ELECTION ACT, AND AUTHORIZATION

PENALTIES AND ENFORCEMENT

SEC. 701. (a) Except as provided in subsection (b), any person or political committee who violates any of the provisions of this Act shall be fined not more than $5,000, or shall be imprisoned for not longer than six months, or both.

(b) Any person who knowingly files any false or misleading statement, report, voucher, or other paper, or makes any false or misleading statement to the Board, shall be fined not more than $10,000, or shall be imprisoned for not longer than five years, or both.

(c) The penalties provided in this section shall not apply to any person or political committee who, before the date of enactment of this Act during calendar year 1974, makes political contributions or receives political contributions or makes any political campaign expenditures, in excess of any limitation placed on such contributions or expenditures by this Act, except such person or political committee shall not make any further such contributions or expenditures during the remainder of calendar year 1974.

(d) Prosecutions of violations of this Act shall be brought by the United States Attorney for the District of Columbia in the name of the United States.

TAX CREDIT FOR CAMPAIGN CONTRIBUTIONS

SEC. 702. (a) Title VI of article I of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code, secs. 47–1565—47–1567e) is amended by adding at the end of that title the following:

"SEC. 7. (a) Credit for Campaign Contributions.—For the purpose of encouraging residents of the District to participate in the election process in the District, there shall be allowed to an individual a credit against the tax (if any) imposed by this article in an amount equal to 50 per centum of any campaign contribution made to any candidate for election to any office referred to in the first section of the District of Columbia Election Act, but in no event shall such credit exceed the amount of $12.50, or $25 in the case of married persons filing a joint return.

"(b) (1) A husband and wife filing separate returns for a taxable year for which a joint return could have been made by them may claim between them only the total credit (or refund) to which they would have been entitled under this section had a joint return been filed.

"(2) No individual for whom a personal exemption was allowed on another individual's return shall be entitled to a credit (or refund) under this section.".

"Sec. 7. Credit for campaign contributions.".

USE OF SURPLUS CAMPAIGN FUNDS

SEC. 703. Within the limitations specified in this Act, any surplus, residual, or unexpended campaign funds received by or on behalf of an individual who seeks nomination for election, or election to office shall be contributed to a political party for political purposes, used to retire the proper debts of his political committee which received such funds, or returned to the donors as follows:

(1) in the case of an individual defeated in an election, within six months following such election;

(2) in the case of an individual elected to office, within six months following such election; and

(3) in the case of an individual ceasing to be a candidate, within six months thereafter.

A STUDY OF 1974 ELECTION AND REPORT BY COUNCIL

SEC. 704. (a) The Council of the District of Columbia shall, during calendar year 1975, conduct public hearings and other appropriate investigations on (1) the operation and effect of the District of Columbia Campaign Finance Reform Act and the District of Columbia Election Act on the elections held in the District of Columbia during 1974; and (2) the necessity and desirability of modifying either or both of those Acts so as to improve electoral machinery and to insure open, fair, and effective election campaigns in the District of Columbia.

(b) Upon the conclusion of its hearings and investigations the Council shall issue a public report on its findings and recommendations. Nothing in this section shall be construed as limiting the legislative authority over elections in the District of Columbia vested in the Council by the District of Columbia Self-Government and Governmental Reorganization Act.

EFFECTIVE DATES

SEC. 705. (a) Titles II and IV of this Act shall take effect on the date of enactment of this Act, except the first report or statement required to be filed by any individual or political committee under the provisions of such titles shall include that information required under section 13(e) of the District of Columbia Election Act (D.C. Code, sec. 1–1113(e)) with respect to contributions and expenditures made before the date of enactment of this Act, but after January 1, 1974.

(b) Titles I, III, VI and VII of this Act shall take effect on the date of enactment of this Act.

(c) Title V of this Act shall take effect January 2, 1975.

AMENDMENTS TO DISTRICT OF COLUMBIA ELECTION ACT

SEC. 706. (a) Section 13 of the District of Columbia Election Act (D.C. Code, sec. 1–1113) is amended to read as follows:

"AUTHORIZATION

"SEC. 13. There are hereby authorized to be appropriated, out of any money in the Treasury to the credit of the District of Columbia not otherwise appropriated, such sums as are

necessary to carry out the purposes of this Act.".

(b) The first sentence of subsection (b) of section 4 of such Act (D.C. Code, sec. 1–1104) is amended to read as follows:

"(b) Each member of the Board shall be paid compensation at the rate of $100 for each eight hour period with a limit of $12,500 per annum, while performing duties under this Act, except during 1974 such compensation shall be paid without regard to such annual limitation.".

(c) The amendment made by subsection (a) shall not affect the liability of any person arising out of any violation of section 13 of the District of Columbia Election Act committed before the date of enactment of this title, and any action commenced with respect to such a violation shall not abate.

AUTHORITY OF COUNCIL

SEC. 707. Notwithstanding any other provision of law, or any rule of law, nothing in this Act shall be construed as limiting the authority of the District of Columbia Council to enact any act or resolution, after January 2, 1975, pursuant to the District of Columbia Self-Government and Governmental Reorganization Act with respect to any matter covered by this Act.

AUTHORIZATION OF APPROPRIATION

SEC. 708. Amounts authorized under section 722 of the District of Columbia Self-Government and Governmental Reorganization Act may be used to carry out the purposes of this Act.

And the Senate agrees to the same.

CHARLES C. DIGGS,
BROCK ADAMS,
D. FRASER,
W. S. (BILL) STUCKEY,
THOMAS REES,
ANCHER NELSEN,
GILBERT GUDE,
Managers on the part of House.

THOMAS F. EAGLETON
DANIEL INOUYE,
K. MCC. MATHIAS,
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 Senate to the bill (H.R. 15074) to regulate certain political campaign finance practices in the District of Columbia, 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 Senate amendment struck out all the House bill after the enacting clause, inserted a substitute text and provided a new title for the House bill.

The Committee of Conference has agreed to a substitute for both the House bill and the Senate amendment to the text of the bill. Except for clarifying, clerical, and conforming changes, the major differences are noted below:

AGENCY TO ADMINISTER THE ACT

The House bill continued the existing Board of Elections to administer this act.

The Senate amendment replaced the present Board of Elections with the Board of Elections and Ethics to assume the duties of the previous Board. The new Board was given compliance authority, including civil penalties and general procedures for conduct of the Board's business.

The Conference substitute conforms to the Senate amendment.

APPOINTMENT OF DIRECTOR OF CAMPAIGN FINANCE

The House bill provided for appointment of the Director by the Board of Elections at a salary of GS–10 level.

The Senate amendment provided for appointment of the Director by the Mayor with Senate confirmation until January 2, 1975, and Council confirmation thereafter. The salary of the Director was set at GS–16 ($36,000).

The Conference substitute conforms to the Senate amendment.

CHAIRMAN OF THE BOARD OF ELECTIONS

The House bill made the position of Board Chairman full-time and retained the present $75 per day reimbursement for Board members, not to exceed $11,250 per annum.

The Senate amendment left the Board Chairman as a part-time position and raised the compensation of Board members to $150 per day without annual limitation.

The Conference substitute leaves the Chairman as a part-time position and raises the pay of each member of the Board to $100 for each 8-hour period worked, with an annual limitation of $12,500.

CONTRIBUTION LIMITATIONS—INDIVIDUALS

The House bill set maximum contributions as follows: to a candidate for Mayor, $1,000; to a candidate for Chairman of the City Council, $750; to a candidate for Council-at-Large, $500; to a candidate for official of a political party, $100, with an additional $100 contribution permitted in case of a run-off.

The Senate amendment lowered the ceiling for contributions to Mayoral candidates to $500; candidates for Chairman to $400, and candidates for Council-at-Large to $400. The Senate amendment had no provision for contributions to candidates for official of a political party or in case of a run-off. The Senate amendment limited contributions to candidates for Advisory Neighborhood Councils to $25.

The Conference substitute conforms to the House bill but accepts the Senate limitation for Advisory Neighborhood Councils.

CONTRIBUTION LIMITATIONS—PERSONS OTHER THAN INDIVIDUALS

The House bill limited contributions by persons other than individuals to a single candidate as follows: the Mayor, $2,000; the Chairman, $1,500; the Council Member-at-Large, $1,000; and Council Member from a ward, $400; for Board of Education from a ward, $200; for official of a political party, $200; and provided an additional $200 in case of a run-off.

The Senate amendment had no such provision.

The Conference substitute conforms to the House provision with the addition that these limitations as they apply to corporations and labor unions expire on July 1, 1975, unless reenacted or modified by the City Council. If the Council fails to act, it shall by August 1, 1975 report the reasons for its failure to act to the Senate and House Committees on the District of Columbia.

AGGREGATE CONTRIBUTIONS BY AN INDIVIDUAL

The House bill limited an individual to contributions to all candidates totaling $2,000.

The Senate amendment provided a limitation of $1,000.

The Conference substitute conforms to the House bill.

CONTRIBUTIONS BY A CANDIDATE AND HIS FAMILY TO HIS CAMPAIGN

The House bill contained individual limitations that may be spent by a candidate and his family in different amounts for each office, starting with $2,000 for the Mayor and ranging down.

The Senate amendment permitted contributions by a candidate and his immediate family to aggregate 25% of the total expenditures permitted in his campaign.

The Conference substitute conforms to the House provision.

MAXIMUM EXPENDITURES IN A CANDIDATE'S CAMPAIGN

The House bill limited total expenditures in any candidate's campaign for both primary and general elections and limited the expenditure to 50% in the primary and 50% in the general election: the Mayor, $200,000; the Chairman, $150,000; Council at-large, $100,000; Board of Education at-large, $40,000; Member of the Council from a ward, $40,000; Board of Education from a ward, $20,000; official of political party, $20,000.

The Senate amendment lowered those figures and permitted 60% to be spent in the general or primary election at the candidate's discretion in the races for Mayor, $150,000; Chairman, $115,000; Council at-large, $90,000; Board of Education at-large, $20,000; Member of the Council from a ward, $20,000; Board of Education from a ward, $10,000.

The Conference substitute adopts the total dollar expenditure limitations contained in the House bill, with the Senate provision which permits 60% of the funds to be expended in either the general or primary election at the candidate's discretion, with the other 40% to be the limitation on expenditures for the other election.

USE OF UNEXPENDED CAMPAIGN FUNDS

The House bill permits use of surplus campaign funds for political purposes of a political party; retiring proper debts of a political committee; contribution to educational organizations; contribution to charitable organizations; and use in future campaigns of same candidate.

The Senate amendment provided that surplus funds shall be used for political purposes of a political party; retiring proper debts of a political committee; or be returned to donors on a pro rata basis.

The Conference substitute provides that surplus funds shall be used for political purposes of a political party, for retiring proper debts of the candidate's political committee which received the funds, or be returned to donors within six months after the election.

LOBBYING

The House bill provided for registration and reporting by persons engaging for pay in lobbying for passage or defeat of legislation by the Council of the District of Columbia. The Director of Campaign Finance administered this provision.

The Senate amendment had no such provision.

The Conference substitute conforms with the House bill but makes certain exceptions and limits its operation to lobbyists being paid over $500 per year for this purpose.

CONFLICT OF INTEREST

The Senate amendment prohibited a public official of the District, from using his office to obtain financial gain, accepting gifts for taking official action, disclosing confidential information resulting in financial gain. No official could accept membership on a committee or an assignment of responsibility which created a conflict of interest.

The House bill contained no such provision.

The Conference substitute conforms to the Senate amendment.

DISCLOSURE OF PERSONAL FINANCES

The Senate amendment required the candidates and District office holders to file a report with the Board of Elections and Ethics containing the income, business transactions, property purchases or sales and taxes paid by him each year.

The House bill contained no such provisions.

The Conference substitute conforms to the Senate amendment.

TITLE

The Senate amended the title of the bill.

The Conference substitute adopts the title as contained in the Senate amendment.

CHARLES C. DIGGS,
BROCK ADAMS,
D. FRASER,
W. S. (BILL) STUCKEY,
THOMAS REES,
ANCHER NELSEN,
GILBERT GUDE,
Managers on the Part of the House.

THOMAS F. EAGLETON,
DANIEL K. INOUYE,
CHARLES McC. MATHIAS,
Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 2296, FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING ACT OF 1974

Mr. VIGORITO on behalf of Mr. POAGE filed the following conference report and statement on the bill (S. 2296), to provide for the Forest Service, Department of Agriculture, to protect, develop, and enhance the environment of certain of the Nation's lands and resources, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 93-1226)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2296) to provide for the Forest Service, Department of Agriculture, to protect, develop, and enhance the environment of certain of the Nation's lands and resources, 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 to the text of the bill 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:

That this Act may be cited as the "Forest and Rangeland Renewable Resources Planning Act of 1974".

SEC. 2. RENEWABLE RESOURCE ASSESSMENT.—(a) In recognition of the vital importance of America's renewable resources of the forest, range, and other associated lands to the Nation's social and economic well-being, and of the necessity for a long term perspective in planning and undertaking related national renewable resource programs administered by the Forest Service, the Secretary of Agriculture shall prepare a Renewable Resource Assessment (hereinafter called the "Assessment"). The Assessment shall be prepared not later than December 31, 1975, and shall be updated during 1979 and each tenth year thereafter, and shall include but not be limited to—

(1) an analysis of present and anticipated uses, demand for, and supply of the renewable resources, with consideration of the international resource situation, and an emphasis of pertinent supply and demand and price relationship trends;

(2) an inventory, based on information developed by the Forest Service and other Federal agencies, of present and potential renewable resources, and an evaluation of opportunities for improving their yield of tangible and intangible goods and services, together with estimates of investment costs and direct and indirect returns to the Federal Government;

(3) a description of Forest Service programs and responsibilities in research, cooperative programs, and management of the National Forest System, their interrelationships, and the relationship of these programs and responsibilities to public and private activities; and

(4) a discussion of important policy considerations, laws, regulations, and other factors expected to influence and affect significantly the use, ownership, and management of forest, range, and other associated lands.

(b) To assure the availability of adequate data and scientific information needed for development of the Assessment, section 9 of the McSweeney-McNary Act of May 22, 1928 (45 Stat. 702, as amended, 16 U.S.C. 581h), is hereby amended to read as follows:

"The Secretary of Agriculture is hereby authorized and directed to make and keep current a comprehensive survey and analysis of the present and prospective conditions of and requirements for the renewable resources of the forest and range lands of the United States, its territories and possessions, and of the supplies of such renewable resources, including a determination of the present and potential productivity of the land, and of such other facts as may be necessary and useful in the determination of ways and means needed to balance the demand for and supply of these renewable resources, benefits and uses in meeting the needs of the people of the United States. The Secretary shall carry out the survey and analysis under such plans as he may determine to be fair and equitable, and cooperate with appropriate officials of each State, territory, or possession of the United States, and either through them or directly with private or other agencies. There is authorized to be appropriated not to exceed $20,000,000 in any fiscal year to carry out the purposes of this section."

SEC. 3. RENEWABLE RESOURCE PROGRAM.—In order to provide for periodic review of programs for management and administration of the National Forest System, for research, for cooperative State and private Forest Service programs, and for conduct of other Forest Service activities in relation to the findings of the Assessment, the Secretary of Agriculture, utilizing information available to the Forest Service and other agencies within the Department of Agriculture, including data prepared pursuant to section 302 of the Rural Development Act of 1972, shall prepare and transmit to the President a recommended Renewable Resource Program (hereinafter called the "Program"). The Program transmitted to the President may include alternatives, and shall provide in appropriate detail for protection, management, and development of the National Forest System, including forest development roads and trails; for cooperative Forest Service programs; and for research. The Program shall be developed in accordance with principles set forth in the Multiple-Use Sustained-Yield Act of June 12, 1960 (74 Stat. 215; 16 U.S.C. 528-531), and the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4321-4347). The Program shall be prepared not later than December 31, 1975, to cover the four-year period beginning October 1, 1976, and at least each of the four fiscal decades next following such period, and shall be updated no later than during the first half of the fiscal year ending September 30, 1980, and the first half of each fifth fiscal year thereafter to cover at least each of the four fiscal decades beginning next after such updating. The Program shall include, but not be limited to—

(1) an inventory of specific needs and opportunities for both public and private program investments. The inventory shall differentiate between activities which are of a capital nature and those which are of an operational nature;

(2) specific identification of Program outputs, results anticipated, and benefits associated with investments in such a manner that the anticipated costs can be directly compared with the total related benefits and direct and indirect returns to the Federal Government;

(3) a discussion of priorities for accomplishment of inventoried Program opportunities, with specified costs, outputs, results, and benefits; and

(4) a detailed study of personnel requirements as needed to satisfy existing and ongoing programs.

SEC. 4. NATIONAL FOREST SYSTEM RESOURCE INVENTORIES.—As a part of the Assessment, the Secretary of Agriculture shall develop and maintain on a continuing basis a comprehensive and appropriately detailed inventory of all National Forest System lands and renewable resources. This inventory shall be kept current so as to reflect changes in conditions and identify new and emerging resources and values.

SEC. 5. NATIONAL FOREST SYSTEM RESOURCE PLANNING.—(a) As a part of the Program provided for by section 3 of this Act, the Secretary of Agriculture shall develop, maintain, and, as appropriate, revise land and resource management plans for units of the National Forest System, coordinated with the land and resource management planning processes of State and local governments and other Federal agencies.

(b) In the development and maintenance of land management plans for use on units of the National Forest System, the Secretary shall use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences.

SEC. 6. COOPERATION IN RESOURCE PLANNING.—The Secretary of Agriculture may utilize the Assessment, resource surveys, and Program prepared pursuant to this Act to assist States and other organizations in proposing the planning for the protection, use, and management of renewable resources on non-Federal land.

SEC. 7. NATIONAL PARTICIPATION.—(a) On the date Congress first convenes in 1976 and thereafter following each updating of the Assessment and the Program, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate, when Congress convenes, the Assessment as set forth in section 2 of this Act and the Program as set forth in section 3 of this Act, together with a detailed Statement of Policy intended to be used in framing budget requests by that Administration for Forest Service activities for the five- or ten-year program period beginning during the term of such Congress for such further action deemed appropriate by the Congress. Following the transmission of such Assessment, Program, and Statement of Policy, the President shall, subject to other actions of the Congress, carry out programs already established by law in accordance with such Statement of Policy or any subsequent amendment or modification thereof approved by the Congress, unless, before the end of the first period of sixty calendar days of continuous session of Congress after the date on which the President of the Senate and the Speaker of the House are recipients of the transmission of such Assessment, Program, and Statement of Policy, either House adopts a resolution reported by the appropriate committee of jurisdiction disapproving the Statement of Policy. For the purpose of this subsection, the continuity of a session shall be deemed to be broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the sixty-day period. Notwithstanding any other provision of this Act, Congress may revise or modify the Statement of Policy transmitted by the President, and the revised or modified Statement of Policy shall be used in framing budget requests.

(b) Commencing with the fiscal budget for the year ending September 30, 1977, requests presented by the President to the Congress

governing Forest Service activities shall express in qualitative and quantitative terms the extent to which the programs and policies projected under the budget meet the policies approved by the Congress in accordance with subsection (a) of this section. In any case in which such budget so presented recommends a course which fails to meet the policies so established, the President shall specifically set forth the reason or reasons for requesting the Congress to approve the lesser programs or policies presented. Amounts appropriated to carry out the policies approved in accordance with subsection (a) of this section shall be expended in accordance with the Congressional Budget and Impoundment Control Act of 1974, Public Law 93-344.

(c) For the purpose of providing information that will aid Congress in its oversight responsibilities and improve the accountability of agency expenditures and activities, the Secretary of Agriculture shall prepare an annual report which evaluates the component elements of the Program required to be prepared by section 3 of this Act which shall be furnished to the Congress at the time of submission of the annual fiscal budget commencing with the third fiscal year after the enactment of this Act.

(d) These annual evaluation reports shall set forth progress in implementing the Program required to be prepared by section 3 of this Act, together with accomplishments of the Program as they relate to the objectives of the Assessment. Objectives should be set forth in qualitative and quantitative terms and accomplishments should be reported accordingly. The report shall contain appropriate measurements of pertinent costs and benefits. The evaluation shall assess the balance between economic factors and environmental quality factors. Program benefits shall include, but not be limited to, environmental quality factors such as esthetics, public access, wildlife habitat, recreational and wilderness use, and economic factors such as the excess of cost savings over the value of foregone benefits and the rate of return on renewable resources.

(e) The reports shall indicate plans for implementing corrective action and recommendations for new legislation where warranted.

(f) The reports shall be structured for Congress in concise summary form with necessary detailed data in appendices.

SEC. 8. NATIONAL FOREST SYSTEM PROGRAM ELEMENTS.—The Secretary of Agriculture shall take such action as will assure that the development and administration of the renewable resources of the National Forest System are in full accord with the concepts for multiple use and sustained yield of products and services as set forth in the Multiple-Use Sustained-Yield Act of 1960. To further these concepts, the Congress hereby sets the year 2000 as the target year when the renewable resources of the National Forest System shall be in an operating posture whereby all backlogs of needed treatment for their restoration shall be reduced to a current basis and the major portion of planned intensive multiple-use sustained-yield management procedures shall be installed and operating on an environmentally-sound basis. The annual budget shall contain requests for funds for an orderly program to eliminate such backlogs: *Provided*, That when the Secretary finds that (1) the backlog of areas that will benefit by such treatment has been eliminated, (2) the cost of treating the remainder of such area exceeds the economic and environmental benefits to be secured from their treatment, or (3) the total supplies of the renewable resources of the United States are adequate to meet the future needs of the American people, the budget request for these elements of restoration may be adjusted accordingly.

SEC. 9. TRANSPORTATION SYSTEM.—The Congress declares that the installation of a proper system of transportation to service the National Forest System, as is provided for in Public Law 88-657, the Act of October 13, 1964 (16 U.S.C. 532-538), shall be carried forward in time to meet anticipated needs on an economical and environmentally sound basis, and the method chosen for financing the construction and maintenance of the transportation system should be such as to enhance local, regional, and national benefits, except that the financing of forest development roads as authorized by clause (2) of section 4 of the Act of October 13, 1964, shall be deemed "budget authority" and "budget outlays" as those terms are defined in section 3(a) of the Congressional Budget and Impoundment Control Act of 1974 and shall be effective for any fiscal year only in the manner required for new spending authority as specified by section 401(a) of that Act.

SEC. 10. (a) NATIONAL FOREST SYSTEM DEFINED.—Congress declares that the National Forest System consists of units of federally owned forest, range, and related lands throughout the United States and its territories, united into a nationally significant system dedicated to the long-term benefit for present and future generations, and that it is the purpose of this section to include all such areas into one integral system. The "National Forest System" shall include all national forest lands reserved or withdrawn from the public domain of the United States, all national forest lands acquired through purchase, exchange, donation, or other means, the national grasslands and land utilization projects administered under title III of the Bankhead-Jones Farm Tenant Act (50 Stat. 525, 7 U.S.C. 1010-1012), and other lands, waters, or interests therein which are administered by the Forest Service or are designated for administration through the Forest Service as a part of the system.

(b) The on-the-ground field offices, field supervisory offices, and regional offices of the Forest Service shall be so situated as to provide the optimum level of convenient, useful services to the public, giving priority to the maintenance and location of facilities in rural areas and towns near the national forest and Forest Service program locations in accordance with the standards in section 901(b) of the Act of November 30, 1970 (84 Stat. 1383), as amended.

SEC. 11. RENEWABLE RESOURCES.—In carrying out this Act, the Secretary of Agriculture shall utilize information and data available from other Federal, State, and private organizations and shall avoid duplication and overlap of resource assessment and program planning efforts of other Federal agencies. The term "renewable resources" shall be construed to involve those matters within the scope of responsibilities and authorities of the Forest Service on the date of this Act.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the amendment of the House, amend the title to read as follows: "An Act to provide for the Forest Service, Department of Agriculture, to protect, develop, and enhance the productivity and other values of certain of the Nation's lands and resources, and for other purposes."

And the House agree to the same.

W. R. POAGE,
JOSEPH P. VIGORITO,
JOHN R. RARICK,
GEO. A. GOODLING,
LAMAR BAKER,
Managers on the Part of the House.

HERMAN E. TALMADGE,
JAMES O. EASTLAND,
JAMES B. ALLEN,
HUBERT H. HUMPHREY,
GEORGE D. AIKEN,
HENRY BELLMON,
JESSE HELMS,
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 amendments of the House to the bill (S. 2296) to provide for the Forest Service, Department of Agriculture, to protect, develop, and enhance the environment of certain of the Nation's lands and resources, 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 differences between the Senate bill and the House amendments and the substitute agreed to in conference are noted in the following outline, except for conforming, clarifying, and technical changes:

(1) The Senate bill provides that the short title is the "Forest and Rangeland Environmental Management Act of 1974". The House amendment provides that the short title is the "Forest and Related Resources Planning Act of 1974".

The conference substitute provides that the Act may be cited as the "Forest and Rangeland Renewable Resources Planning Act of 1974".

(2) The Senate bill contains a statement of findings declaring the importance of renewable resources, their conservation, and their wise management to the Nation's ecological and economic well-being. The House amendment contains no comparable provision.

The conference substitute deletes the Senate provision.

(3) The Senate bill refers throughout to the "renewable resources" of the forest, range, and associated lands. The House amendment refers instead to the "forest and related resources" and defines such phrase as matters within the jurisdiction of the Forest Service on the date of enactment of the bill.

The conference substitute adopts the terminology of the Senate bill but defines "renewable resources" as matters within the jurisdiction of the Forest Service on the date of enactment of the bill.

(4) The Senate bill requires the Secretary of Agriculture to prepare a National Renewable Resource Assessment. The House amendment requires the Secretary to prepare a Forest and Related Resources Assessment, but limits the Assessment to programs administered by the Forest Service.

The conference substitute adopts the limitation of the House amendment in requiring the preparation of a Renewable Resource Assessment.

(5) The Senate bill requires the preparation of the Assessment not later than December 31, 1974. The House amendment changes the date to December 31, 1975.

The conference substitute adopts the House provision.

(6) Both the Senate bill and the House amendment require that the Assessment include an inventory of present and potential resources. The House amendment provides that the inventory is to be based on information available to the Forest Service and other Federal agencies.

The conference substitute provides that the inventory is to be based on information developed by the Forest Service and other Federal agencies.

(7) The House amendment requires that the Assessment include a detailed study of personnel requirements needed to meet existing and ongoing Forest Service programs. There is no comparable Senate provision.

The conference substitute includes the House provision as part of the Renewable Resource Program that the Secretary of Agriculture is required to prepare.

(8) Both the Senate bill and the House

amendment amend section 9 of the McSweeney-McNary Act of 1928 to require comprehensive surveys of the resources of the forest and range lands of the United States. The Senate bill authorizes the appropriation of such sums as may be necessary to carry out the surveys. The House amendment authorizes appropriations not to exceed $20 million in any fiscal year.

The conference substitute adopts the House provision.

(9) The Senate bill requires the Secretary of Agriculture to prepare and transmit to the President a Renewable Resource Program which shall provide for the protection, management, and development of the National Forest System, including forest development roads and trails, for cooperative programs on non-Federal lands, and for research. The House amendment requires the Secretary to prepare and transmit to the President a Forest and Related Resource Program "displaying alternative objectives and associated programs". The House amendment also refers to "cooperative forestry programs" rather than to cooperative programs on non-Federal land.

The conference substitute requires that the Secretary prepare and transmit to the President a recommended Renewable Resource Program. The conference substitute provides that the Program may include alternatives and refers to "cooperative Forest Service Programs".

(10) The House amendment requires that the Secretary of Agriculture, in preparing the Program, use information available to the Forest Service and other agencies of the Department of Agriculture, including data prepared pursuant to section 302 of the Rural Development Act. The Senate bill contains no comparable provision.

The conference substitute adopts the House provision.

(11) The Senate bill requires the preparation of the Program not later than December 31, 1974, to cover the five-year period 1975–1980. The House amendment changes the date to December 31, 1975, to cover the four-year period 1976–1980.

The conference substitute adopts the House provision.

(12) The Senate bill requires that the Program include a discussion of priorities for accomplishment of "inventoried program needs". The House amendment refers instead to "inventoried program opportunities, with specified costs, outputs, results, and benefits".

The conference substitute adopts the House provision.

(13) The Senate bill requires that the Secretary of Agriculture develop land and resource use plans for the National Forest System coordinated with the land use planning processes of State and local governments and other Federal agencies. The House amendment requires land and resource "management" plans. The Secretary would be required to consult with State and local officials in devising and implementing such plans.

The conference substitute requires land and resource management plans coordinated with the land and resource management planning processes of State and local governments and other Federal agencies.

(14) The Senate bill requires that the Secretary of Agriculture make available to States and other planning organizations the Assessment, resource survey, and Program prepared pursuant to the bill. The House amendment provides that the Secretary may utilize the Assessment, resource surveys, and Program to assist States and other planning organizations.

The conference substitute adopts the House provision.

(15) The Senate bill requires the Secretary of Agriculture to utilize such public participation as he deems appropriate—including public hearings, meetings, and advisory groups—in the development of the Assessment, resource inventories, and Program. There is no comparable House provision.

The conference substitute contains no express public participation provision. The conferees note that, under existing law, the Secretary has authority to provide for needed public participation in the development of the Assessment, resource inventories, and Program.

(16) The Senate bill requires the Congress to hold public hearings on the Assessment and Program and by resolution establish a Statement of Policy to guide the President in framing budget requests. The House amendment requires that the President submit the Statement of Policy, such statement to go into effect unless either the House of Representatives or the Senate adopts a resolution disapproving the statement within 60 days.

The conference substitute adopts the House provision with an amendment providing that Congress may revise or modify the Statement of Policy, and the revised or modified Statement of Policy shall be used in framing budget requests.

Too, in the absence of approval or formulation of Statements of Policy as provided in the bill, the President shall continue to submit budget requests in accordance with policies previously approved.

Although the conference substitute contains no provisions for public hearings, the conferees anticipate that the legislative committees will—as part of the Congressional review process evaluating the Assessment, Program, and Statement of Policy—hold such public hearings as are appropriate.

(17) The Senate bill provides that the President can impound funds appropriated for the purposes of the Statement of Policy adopted by Congress only when (a) the appropriation Act provides specifically for discretion as to such expenditures, or (b) the President finds that because of events occurring subsequent to the enactment of the appropriation Act, such expenditure would fail to accomplish its purpose. The House amendment contains no comparable provision.

The conference substitute deletes the Senate provision, but provides specifically that amounts appropriated to carry out the policies approved under the bill shall be expended in accordance with the Congressional Budget and Impoundment Control Act of 1974.

(18) The Senate bill sets the year 2000 as the target year when (a) all backlogs of needed treatment for renewable resources are reduced to a current basis and (b) the major portion of planned intensive management procedures are installed and operating on an environmentally sound basis. The House amendment contains no comparable provision.

The conference substitute adopts the Senate provision.

(19) The Senate bill contains an anti-impoundment provision to encourage the Administration's use of appropriated funds for forest development roads and trails rather than relying on construction financed by forest product purchasers. The House amendment contains no comparable provision, but requires that the Secretary of Agriculture prepare and transmit to the Congress an analysis of the various methods of financing the construction of forest development roads, together with his recommendations for financing such roads in the future.

The conference substitute retains the purpose of the Senate provision by providing that the financing of forest development roads by forest product purchasers shall be deemed "budget authority" and "budget outlays" as those terms are defined in the Congressional Budget and Impoundment Control Act of 1974 and effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(20) The Senate bill provides that, in applying the authority for financing the construction of forest roads and trails by forest product purchasers, the Secretary of Agriculture is to give due consideration to avoiding actions which may unduly impair revenues received and affect adversely payments to particular counties within the National Forest System. The House amendment contains no comparable provision.

The conference substitute deletes the Senate provision.

(21) The definition of the National Forest System is identical in the Senate bill and the House amendment, except that the House amendment inserts the phrase "federally owned" to make it clear that the System consists of federally owned units of forest range, and related lands.

The conference substitute adopts the House provision.

(22) The House amendment requires the Secretary of Agriculture, in carrying out the bill, to (a) use data available from other Federal, State, and private organizations and (b) avoid duplication and overlap of resource assessment and program planning efforts of other Federal agencies. The Senate bill contains no comparable provision.

The conference substitute adopts the House provision.

W. R. POAGE,
JOSEPH P. VIGORITO,
JOHN R. RARICK,
GEO. A. GOODLING,
LAMAR BAKER,
Managers on the Part of the House.

HERMAN E. TALMADGE,
JAMES O. EASTLAND,
JAMES B. ALLEN,
HUBERT H. HUMPHREY,
GEORGE D. AIKEN,
HENRY BELLMON,
JESSE HELMS,
Managers on the Part of the Senate.

PERSONAL EXPLANATION

Mr. RODINO. Mr. Speaker, on the vote on H.R. 11500 today, I did not vote. I was in the area, but in the confusion I realized that I was not recorded.

Had I been recorded, I would have voted "aye."

PERSONAL EXPLANATION

Mr. PEYSER. Mr. Speaker, I was inadvertently off the floor at the time of the last vote, on H.R. 11500. I would like to indicate that if I had voted, I would have voted in support of the bill which was just passed.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON THE JUDICIARY

The SPEAKER laid before the House the following communication from the chairman of the Committee on the Judiciary:

WASHINGTON, *D.C., July 25, 1974.*

Hon. CARL ALBERT,
Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: On February 6, 1974, the House of Representatives adopted H. Res. 803, which authorized and directed the Committee on the Judiciary to investigate fully and completely whether sufficient grounds exists for the House of Representatives to exercise under Article I, Section 2 of the Constitution, its power to impeach President Richard M. Nixon.

In carrying out its responsibility under

H. Res. 803, the Judiciary Committee investigated allegations regarding President Nixon's income tax returns. The Committee requested access to the President's returns and reports on those returns in the files of the Internal Revenue Service. This access was granted by the President in Executive Order 11786, dated June 7, 1974, and information from the returns and IRS documents was subsequently presented to the Committee in executive session.

The Committee is now publicly debating whether to report various articles of impeachment to the House. In the course of this debate reference will surely be made to income tax information regarding the President. Under the Constitution and H. Res. 803, it is appropriate, indeed necessary, to refer to this information in a debate which is of the highest Constitutional significance.

Commissioner Donald Alexander of the Internal Revenue Service has requested that before information from IRS files is released publicly it be submitted to the House, thus complying with Treasury Department regulations. While this procedure is undoubtedly unnecessary in view of this Committee's Constitutional responsibility and the authority granted it by H. Res. 803, in consideration of the Commissioner's position, I am herewith submitting the enclosed Statement of Information, Book X. This Book will be part of the Committee's record when it makes its recommendation to the House.

Sincerely,

PETER W. RODINO, Jr.,
Chairman.

LEGISLATIVE PROGRAM FOR THE WEEK OF JULY 29, 1974

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

Mr. RHODES. Mr. Speaker, I take this time in order to inquire of the distinguished acting majority leader if he is in a position to inform the Members of the House as to the program for the rest of the week and next week.

Mr. McFALL. Mr. Speaker, if the distinguished minority leader will yield, I will be happy to respond to his inquiry.

There is no further legislative business for consideration today.

Mr. Speaker, the program for the House next week is as follows:

On Monday we will consider House Concurrent Resolution 566, revised resolution authorizing additional copies of the hearings and report of the Committee on the Judiciary concerning the impeachment inquiry: and

Conference report on H.R. 14592, military procurement authorization.

Monday is also District day, and there are five bills scheduled as follows:

H.R. 15791, District of Columbia Self-Government Act amendment;

H.R. 15643, District of Columbia Public Higher Education Reorganization Act;

H.R. 15888, District of Columbia Community Development and Finance Corporation Act;

H.R. 15842, revenue for District of Columbia policemen, firemen, teachers and real property tax; and

H.R. 11108, District of Columbia Medical and Dental Manpower Act extension.

On Tuesday, we will consider the following legislation:

Conference report on S. 386, Urban Mass Transportation Act;

Conference report on H.R. 8217, unemployment compensation; and

Senate Concurrent Resolution 93, inflation policy study.

For Wednesday and the balance of the week, the program is as follows:

Conference report on H.R. 69, elementary and secondary education amendments;

H.R. 15532, Atomic Energy Act amendments, to enable Congress to concur or disapprove certain international agreements for peaceful cooperation, under an open rule, with 1 hour of debate;

H.R. 15264, Export Administration Act, under an open rule, with 1 hour of debate;

H.R. 15416, AEC omnibus legislation, under an open rule, with 1 hour of debate;

H.R. 15578, Small Business Act amendments, under an open rule, with 1 hour of debate;

H.R. 13044, Defense Production Act extension, under an open rule, with 1 hour of debate;

H.R. 9989, real estate settlement procedures, under an open rule, with 1 hour of debate;

H.R. 15736, Federal reclamation projects and programs, under an open rule, with 2 hours of debate;

H.R. 14780, International Broadcasting Board amendment, under an open rule, with 1 hour of debate; and

H.R. 15046, U.S. Information Agency authorization, subject to a rule being granted.

Conference reports may be brought up at any time. Any further program will be announced later.

Mr. Speaker, I would like to comment at this time that the Members can expect a Friday session. With this kind of a long program scheduled, I think we can expect certainly to be working here on next Friday.

Mr. RHODES. Mr. Speaker, could the gentleman from California, the distinguished acting majority leader, give the House any benefit of his thinking concerning future Fridays in this month? Does the gentleman from California believe that Friday sessions will become the rule rather than the exception?

Mr. McFALL. If the gentleman will yield further, I can only make comment, I think, on next Friday. There is no announcement at this time concerning whether we will work on the following Friday because I think much depends upon how quickly we are able to get through our business next week, and whether or not we begin the impeachment, if any, on the 12th of August. If it begins on that day, and if we do not get all of our business done next week, it would be possible that we would have so much business to do that we might have to work on that Friday. But I do not believe we should make that judgment at this time concerning whether or not we will work on that Friday.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would say to the gentleman from California that this seems to be an unusually ambitious program for next week. Does the gentleman think we can handle all of these bills from Wednesday on, some 12 or 13 bills, most of them with rules, on Friday? Does not the gentleman think we might have to go into Saturday, and then perhaps have to put the Chaplain on notice to be here on Sunday so as to convene the House on Sunday?

Mr. McFALL. If the gentleman will yield, I would think we probably would not work on Sunday—although I would be glad to come down with the gentleman from Iowa to do whatever we could to clean up the program.

However, as the gentleman from Iowa knows, this week we had the long problem of the strip mining bill, and that we were unable to complete much of the legislation we had planned for this week.

Much of this legislation is renewal of acts that are expiring, and I think they probably will not be too controversial. I think if the Members will put their shoulders to the wheel and get through this legislation expeditiously, that we can accomplish all of this work by this time next Friday.

Mr. GROSS. Mr. Speaker, I wonder if the distinguished acting majority leader could tell me why there are only two conference reports and small bills on Tuesday? Is there some reason for early departure on Tuesday?

Mr. McFALL. I am unaware that there is any kind of social function that needs to to be accommodated on Tuesday.

Mr. THOMPSON of New Jersey. Mr. Speaker, will the gentleman yield to me, since the gentleman has been so generous in yielding to our beloved friend, the gentleman from Iowa (Mr. GROSS)?

Mr. RHODES. I certainly would like to be as generous to my friend, the gentleman from New Jersey, and I yield to the gentleman.

Mr. THOMPSON of New Jersey. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would say that this is in a sense the time between today and the time we adjourn sine die sort of the valedictory days of our energetic, distinguished, acerbic and lovable friend, the gentleman from Iowa (Mr. GROSS).

I just cannot understand, even in light of the fact that his personal physician, Doctor Hall, is no longer here, why the gentleman is willing to exhibit publicly such a degree of fatigue and such a degree of unwillingness to work 48 hours, and especially keeping all of his adversaries doing the same thing.

I think it is, if I might say so respectfully to my friend, the gentleman from Iowa, rather in bad taste. I think perhaps that the gentleman might need a long and restful trip on counterpart. I think we ought to wait until we adjourn sine die and if necessary we could introduce and pass, I am certain, a special resolution just to send the gentleman anywhere in the world, as far away from Washington, D.C., as possible, at the public expense, and I believe it would pass on the Consent Calendar.

I know it would pass on suspension, and then we could suspend this harassment. I am sorry he is so fatigued. I bleed

for him. I shall ask for an injection of one sort or another.

Mr. RHODES. My friend, the gentleman from New Jersey, I am sure does not want the gentleman from Iowa to leave until after the evening which I hear about.

Mr. THOMPSON of New Jersey. I do not know anything about what the distinguished minority leader speaks about. The world is replete with counterfeiters and fakers, and I do not know what the gentleman is talking about. I certainly do not want to discuss it.

Mr. RHODES. Mr. Speaker, I yield to the acting majority leader.

ADJOURNMENT OVER TO MONDAY, JULY 29, 1974

Mr. McFALL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. McFALL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday of next week.

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

There was no objection.

AMERICAN CITIZENS DETAINED FOR POSSIBLE INDUCTION IN GREEK ARMED FORCES

(Mr. BIAGGI asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BIAGGI. Mr. Speaker, a matter of utmost urgency has come to my attention. The Greek immigration authorities are detaining American citizens of Greek nationality who are in Greece for possible induction in that nation's armed forces.

I quote from a State Department cable from Greece:

On July 23 the Greek General Staff issued an order to the Greek immigration authorities in conjunction with general mobilization that all male Greek subjects born during the years 1925 and 1956 were to be prevented from departing from Greece. The order covers all males of Greek origin regardless of place of birth, other citizenship or previous military service.

There are numerous American males stuck in Greece because all flights were canceled once the fighting erupted on Cyprus. Flights have resumed today, but—and again I quote from the State Department cable—

Airlines are now refusing to allow any individual covered by the order, including Greek-Americans born in the United States and American citizens with Greek-sounding names, to board their aircraft.

I contacted the airlines and the Greek Embassy here in Washington and have been unable to find out what effect this is having on American citizens and how many are actually being detained. The State Department similarly has little information beyond the fact that it is occurring. They have entered a feeble protest with the Greek Government.

The area in Queens, N.Y., that I represent is the largest Greek community outside of Greece itself. Many of those under this edict from the Greek junta may well be my constituents. I am angered that the State Department is not doing more for these Americans.

I have sent a telegram to Secretary of State Henry Kissinger asking him to order all American officials in Greece to provide asylum for Americans who might fall under the edict and to provide military flights if necessary to evacuate these Americans—whether the Greek Government likes it or not.

It is about time the State Department did something to protect its own citizens. Diplomatic demagogery means nothing to the American boy who is stranded in a foreign land and liable to be picked up by foreign authorities and pressed into military service.

SUPREME COURT DECISION ON DETROIT BUSING CASE—A VICTORY FOR COMMONSENSE

(Mr. HUBER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. HUBER. Mr. Speaker, I know that I speak for a majority of the House and 95 percent of the American people when I say that we all rejoiced to hear of the decision of the Supreme Court today in turning back the decision of the late Judge Roth in the Detroit busing case, which if the Court had ruled otherwise would have resulted in massive cross district busing. I recall talking with Bill Saxton, the attorney who argued before the Supreme Court that the case should be overturned. He urged my continued action believing that the Congress could have an effect on the case by any actions it took. Some Members may have felt that we have been carrying out futile actions in constantly adding antibusing amendments to various bills only to have them deleted in the Senate or watered down. However, the evidence is today that our actions have had an effect. The Court has listened to the will of the people. It has specifically affirmed that local control of schools is a deeply rooted American tradition.

Therefore, I am now hopeful that the other body will hear the message. They should have by our most recent reaffirmation of instruction to our House conferees on the Esch amendment to the Elementary and Secondary Education Act. In my view we have won a battle, but not the war. Until this matter is nailed down by a constitutional amendment, there will always be some who will want to tinker with our local schools in this regard, not in the name of education, but for purposes of social engineering. The battle is not over, but a victory has been won.

HELLENIC AGREEMENT WITHDRAWN

(Mr. PRICE of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, on July 15, I notified this House that the Joint Committee on Atomic Energy had received, in accordance with section 123c of the Atomic Energy Act, a proposed amendment to our bilateral agreement with the Hellenic Republic for peaceful cooperation in nuclear energy. I had, in fact, scheduled a hearing on this amendment for August 1 and was about to announce it when I received word that the administration has recalled the amendment for further review and consideration. I will, of course, keep the Members informed of future developments in this matter.

A FIGHTING FRESHMAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CRANE) is recognized for 5 minutes.

Mr. CRANE. Mr. Speaker, at a time when Congress is criticized as a do-nothing body by so many American citizens, it is a pleasure to call attention to the unusually persistent and effective efforts of one of our freshmen colleagues, ROBERT J. "BOB" HUBER of Michigan's 18th District, in fighting for legislation that would return control of our public schools to local authorities and stop forced busing to achieve an arbitrary racial balance. Today's Supreme Court decision against cross-district busing in the Detroit area supports my assertion.

BOB was a leader in this antibusing fight in Michigan for several years before he came to Congress, and since becoming a Member of this body he has worked hard behind the scenes on a nonpartisan basis with Representatives of differing philosophical persuasion to stop the busing that repeated surveys indicate is opposed by as many as 95 percent of all Americans.

Colleagues of the antibusing persuasion have come to count on his steadfast stand and determination and those who oppose his views have come to admire his logical and conscientious efforts on this issue.

DOMESTIC SUMMIT MEETING ON ECONOMY NEEDED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. YOUNG) is recognized for 5 minutes.

Mr. YOUNG of Florida. Mr. Speaker, inflation is the chief problem facing this Nation today. No Americans can escape its cruel squeeze. Many young couples just beginning married life are prevented from acquiring their own homes by the sky-high price of real estate and mort-

gage money. Many middle-income families find themselves unable to send their children to college. The elderly see the value of their life savings slip away, while the purchasing power of their pensions diminishes month by month. Believe it or not, in this prosperous Nation, we find thousands of older Americans forced to eat pet food because they cannot afford to buy food for human consumption—prices have doubled or tripled on the basic staples of life.

Our current inflation rate is the highest since World War II. Interest rates are the highest in the history of the Nation; at any other period, 12 percent would be termed usury—and now it is "cooling off the money market." Shortages of various critical materials plague our construction and manufacturing industries and prices continue to rise.

Clearly, something must be done.

It is time for the President, the leadership of Congress, leaders of labor and business and other elements of American society to put aside their domestic and political differences and to work together for the good of this Nation.

It is time to bring the era of negotiation and spirit of détente home. It is time for us to confront our economic problems with the same energy, dedication, and selflessness which we have shown in meeting foreign crises.

Mr. Speaker, yesterday I introduced a House resolution which proposed a framework for action to deal with inflation and its associated economic problems. The resolution, which has already passed the Senate by an overwhelming vote, calls for the President, the top leaders of both parties in both Houses of Congress, and the Chairman of the Federal Reserve Board to meet together urgently in a domestic summit with appropriate leaders of business and labor, and anyone else they feel should participate. It calls on them to keep on meeting until some program of action can be agreed to which will show the American people that our Nation's leaders are prepared to act in unison to fight inflation and cope with our economic difficulties.

In short, a domestic summit meeting on the economy.

The idea of a domestic summit is predicated on several grounds. First, I feel that our exceptional problem of inflation demands an exceptional response. But this response cannot be scattershot—it requires unity and unanimity across the broad spectrum of American leadership. Such unity of purpose can best be achieved by all parties sitting down together at a domestic summit to work through our problems and needs. Furthermore, a domestic summit will provide a highly visible group of people to develop a leadership plan of action for the Nation as a whole.

Such a plan of action cannot be based on a single policy, program, or piece of advice. It must be a unified, coherent, systematic set of recommendations which have the backing of the summit participants, and their commitment to carry them through. We all know that such a plan of action will not be easy to devise, let alone carry out. Our problems are serious, and the remedies will have to be stringent.

In recent weeks I have spoken out on the two major recommendations which I personally feel should be an integral part of any program to fight inflation: a reduction in Federal spending, and a reduction in the Federal debt. These ideas, and others, have been expressed by many Members, and have substantial, if general, support among Americans of all walks of life.

But the time has come for us to stop speaking in generalities and to get down to basic fundamentals. My beliefs, suggestions, and recommendations must be compared with those of others, must be subjected to hard scrutiny and careful development. Agreement on a focused plan of action must be reached, and the determination generated nationwide to carry out such a plan. A domestic summit on the economy is one of the best vehicles I can suggest at this time, and I urge my colleagues in the House to lend their support to my resolution.

The text of House Resolution 1260 follows:

H. RES. 1260

Resolution calling for a domestic summit to develop a unified plan of action to restore stability and prosperity to the American economy

Whereas the American economy has in recent months reached an alarming state of instability and uncertainty combining reduced economic growth, corrosive inflation, high unemployment, unprecedented high rates of interest, the decline of available loan and venture capital, serious changes in energy supply and pricing, unanticipated and destabilizing commodity shortages, and growing international economic and financial uncertainties; and

Whereas the complexity, magnitude and persistence of these difficulties has occasioned substantial disagreement as to their causes and remedies; and

Whereas no agreed program for effective action has been developed; the Congress, the administration, and the Federal Reserve Board, acting independently, have not yet been able to overcome these problems; and specific Government programs, levels of Federal spending and activities in all economic sectors continue to contribute to these difficulties; and

Whereas the American people in the face of this persistent economic deterioration are growing more dismayed and uncertain as evidenced by the widespread labor unrest and the declining financial markets of recent weeks; and

Whereas this deepening lack of confidence could magnify an already serious economic situation into a national crisis should these difficulties continue unabated: Now, therefore, be it

Resolved, That it is the sense of the House that the leadership of the Nation responsible for our economic well being meet together immediately in a spirit of unity to design a set of policy actions to achieve the common goal of restoring stability and growth to the American economy and confidence and prosperity to the American people.

It is imperative as in previous moments of great national need, that the two political parties, the Congress and the President, labor and management, put aside their domestic and political differences and work together in a spirit of discipline, compromise, and sacrifice for the common good.

SEC. 2. It is further the sense of the House that this domestic summit be convened forthwith comprised of the President, the majority and minority leadership of both Houses of the Congress, the chairmen and ranking minority members of the Appropriations Committees of both Houses, the Chairmen and ranking minority members of the Senate Finance Committee and the House Ways and Means Committee, and the Chairman of the Federal Reserve Board, together with leaders of labor and business, and such other participants as they may agree upon. They shall meet and devote such time as necessary until a plan of action is decided upon which, by its demonstration of renewed unity, direction, and purpose will gain the public support and confidence necessary to be effective in overcoming these difficulties.

SEC. 3. It is further resolved by the House that it stands ready to cooperate fully in the spirit of commitment and unity which the solution of this truly national problem will require of all elements of American society.

JOHN W. McCORMACK SENIOR INTERN PROGRAM RESOLUTION INTRODUCED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. BIESTER) is recognized for 5 minutes.

Mr. BIESTER. Mr. Speaker, I am pleased to join with Mr. BINGHAM, Mr. HILLIS, Mr. PODELL, Mr. REGULA, and Mr. WYDLER in introducing with an additional 91 cosponsors a resolution establishing a senior intern program in honor of our distinguished former Speaker, John W. McCormack. I am particularly pleased and honored that our present Speaker, Mr. ALBERT, the majority leader, Mr. O'NEILL, and the minority leader, Mr. RHODES, are also joining in cosponsoring this resolution.

This resolution is a modification of one I first introduced in 1972 and resolutions cosponsored by over 40 colleagues in the first session which would enable each Member of the House to hire one or two elderly district residents for service in his or her Washington office for a 1 or 2 week period during May of each year.

As many colleagues may recall, several of us—including two Members of the other body—have experimented with ad hoc senior intern programs over the past few years. The programs have afforded senior citizens in our respective districts with the opportunity to observe firsthand the operation of a congressional office, gain a better understanding of the legislative process and develop a greater knowledge of Federal programs involving older Americans. Briefings and discussions were held with specialists in the field of aging and policy and programs involving the elderly.

We all are searching for constructive and meaningful ways to develop dialog with important groups in our congressional districts. The intern program provides a vehicle for selected representatives of senior citizens back home to learn what is happening in their area of special concern and to share this with others upon their return. The communication link which is established between the Representative and the elderly in the district is one which can be maintained and further improved upon.

I believe I am speaking for my colleagues who have taken the initiative to conduct such a program in their offices that the experience has been a most successful and rewarding one for both

Members and interns. Up until now the program has been undertaken on a small scale with less than a dozen Members participating. I feel, however, that it has proven its potential for expansion into the sort of program we currently offer for college students during the summer.

Mr. Speaker, at this point I would like to include the text of the resolution we have introduced and the names of those Members who are cosponsoring.

RESOLUTION

Resolved, That (a) each Member of the House of Representatives, the Resident Commissioner from Puerto Rico and the Delegates from the District of Columbia, Guam, and the Virgin Islands may hire not more than two additional employees who shall be known as "John W. McCormack Senior Interns" in honor of the former Speaker of the House of Representatives. Such interns may be hired for not more than two weeks during the period May 1 through May 31 of each year and shall serve within the District of Columbia. For this purpose each such Member, Resident Commissioner, or Delegate shall have available annually for payment of compensation to to such interns a total allowance of $500, to be payable to such interns at a rate not to exceed $125 per week, out of the contingent fund of the House. Such interns and such allowance shall be in addition to all personnel and allowances made available to such Member, Resident Commissioner, or Delegate under any other provision of law or other authority.

(b) No person shall be paid compensation as a John W. McCormack Senior Intern who does not have on file with the Clerk of the House of Representatives, at all times during the period of employment as such intern, an appropriate certificate that such intern is sixty years of age or older and a resident of the district which the employing Member, Commissioner, or Delegate represents.

(c) The Committee on House Administration shall prescribe such regulations as may be necessary to carry out this resolution.

SPONSORS OF "JOHN W. MCCORMACK SENIOR INTERN PROGRAM" RESOLUTION

Abzug, Addabbo, Albert, Badillo, Bergland, Biester, Bingham, Boggs, Brinkley, Buchanan, Burke (Cal.), Burke (Mass.), Carey, Chisholm, Collins (Ill.) Conte;

Corman, Coughlin, Daniels, Danielson, Davis (S.C.), Dellenback, Denholm, Dent, Diggs, Derwinski, Evins (Tenn.), Eilberg, Flood, Forsythe, Fraser;

Frenzel, Fulton, Grasso, Gunter, Hanrahan, Hansen (Idaho), Hechler (W.Va.), Heckler (Mass.), Heinz, Helstoski, Hillis, Holt, Holtzman, Horton, Johnson (Pa.);

Jordan, Ketchum, Luken, McDade, McKinney, Madden, Mazzoli, Meeds, Melcher, Metcalfe, Mitchell (Md.), Mitchell (N.Y.), Moakley, Moorhead (Pa.), Moss;

Murphy (Ill.), Murtha, Nix, O'Neill, Patten, Pepper, Perkins, Pickle, Podell, Preyer, Pritchard, Rangel, Regula, Rhodes, Riegle;

Rodino, Roy, Sarasin, Sarbanes, Schroeder, Seiberling, Steelman, Stokes, Stubblefield, Thone, Vanik, Waggonner, Waldie, Whitehurst, Wolff; and

Won Pat, Wydler, Young (Ill.).

ELECTION BILL NEEDS IMPROVEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is recognized for 15 minutes.

Mr. FRENZEL. Mr. Speaker, my supplemental views in the committee report contain a much more detailed, elaborate analysis of the committee bill, H.R. 16090. This summary reduces my views to a simpler form. Since these dissenting views parallel my supplemental views, members can refer to them for a more detailed explanation.

For more than a year the American people have waited in vain for a positive response from the House on election reform. Subcommittee hearings were not begun until September 1973. Finally, last March the House Administration Committee began to work seriously on this matter. Since March 26, the committee has met more than 20 times in careful consideration of its election bill and over 95 amendments.

The committee has made a sincere, honest effort to reform the present system. Nevertheless, its bill is flawed by several major deficiencies. Its proposal elements are these:

CONGRESSIONAL DOMINATION

There is public consensus that administration and enforcement of election laws be stronger and more independent, but the committee bill has three major provisions that will make administration and enforcement less effective and independent.

First. It establishes a Board of Supervisory Officers which would place four congressional appointees and three employees of Congress in charge of the administration and enforcement of election law. The present conflict of interest situation whereby employees of Congress administer and report violations of laws that directly affect their employers is not eliminated. Members of Congress will still be policing their own selections. The full-time Board Members, two of whom are patronage employees of the Congress and one of whom works for a legislative agency, will surely dominate the Board.

There are no built-in safeguards to assure that violations by Members of Congress will actually be reported to the Justice Department. Moreover, the committee bill requires the Board to operate in secrecy.

Even with the most conscientious, diligent Board, public skepticism is certain to run high, and there will be widespread doubt about the zeal and fairness of the Board's administration and enforcement efforts. The creation of this Supervisory Board does little to reduce the crisis of confidence in Congress.

Second. It grants these seven people the power to interpret the law and grant presumed immunity from prosecution by issuing advisory opinions.

Third. It gives two committees of Congress veto power over the rules and regulations promulgated to administer and implement campaign finance legislation, thereby giving these two committees the power to control all regulations drawn under this law.

Under this bill, clearly, the Congress has tigthened its strangelehold on enforcement and supervision of its own elections. Not only is the fox in charge of the chicken coop, he is living in the farm house and managing the farm. If Congress response to Watergate is to increase its control over Federal elections, then it will be hard to blame the public for becoming even more cynical and alienated.

ADMINISTRATION AND ENFORCEMENT

First. Any candidate who fails to file will be disqualified from running for the office in the next election. This provision is clearly unconstitutional, because of the Supreme Court decision in the Powell against McCormack case.

Second. By abolishing the elections clearinghouse in the General Accounting Office, the bill eliminates the only good thing the Federal Government does to help the State and local governments run their election administration systems.

Third. The committee did wisely decide to increase the monetary penalties for violation of election law.

Fourth. Instead of weakening the present administration and enforcement provisions, the committee could have strengthened them by establishing an independent Federal Elections Commission.

Because of its independence, the Commission would be able to restore public confidence, eliminate the present conflicts of interest and reverse the long history of nonenforcement of election law. It should also reduce the amount of bureaucracy needed to administer the present law, increase coordination between administrators and enforcers of the law, and assure the expeditious enforcement of campaign finance law.

With Representative DANTE FASCELL, I intend to offer an amendment that will establish an independent Federal Elections Commission. Our Commission is designed to protect the rights of Members of Congress and other candidates, as well as the rights of the general public. Safeguards are provided which do not exist under the present law to prevent the filing of false complaints and unfair prosecutions of candidates.

Fifth. The committee did pass a good provision that would strengthen enforcement: a requirement that the supervisory officers publish lists of those who do not file reports.

C. DISCLOSURE: LOOPHOLES

The bill renders ineffective the full and complete disclosure requirements by making certain exceptions to the definition of contribution and expenditure in the 1971 disclosure provisions and contribution and expenditure limitation sections:

First. Real and personal property, including food and beverages used on an individual's premises of up to $500;

Second. Unreimbursed travel expenses of up to $500, and

Third. Slatecards, sample ballots and newspaper advertisements involving three or more candidates.

These provisions will have several negative, potentially disastrous effects:

Presently defined contributions and expenditures will be exempted from those definitions. Full and complete disclosure of contributions and expenditures will no longer be required;

Enforcement of both disclosure provisions and of contribution and expenditure limitations may be much more difficult;

These exemptions may be used as loopholes by special interests and wealthy individuals to circumvent limitations and to channel funds, goods and services

into Federal campaigns from hidden sources; and

These loopholes make ambiguous the prohibitions on contributions by corporations, labor unions and foreign nationals.

In reality, there is no need for these loopholes. The present law, and the bill, provide remedies for the concerns that produced these loopholes.

The bill improves disclosure by requiring all candidates to establish a central or principal campaign committee. This provision will centralize both accountability and responsibility and make it easier to monitor a candidate's campaign.

CONTRIBUTION LIMITATIONS

Contribution limitations are the best way to limit the power that wealthy individuals and special interests gain through campaign contributions.

First. The committee bill sets low limits—$1,000 per person per election and $5,000 per political committee per election. But, due to the loopholes, a skillful contributor can give more than this amount, and so can a special interest committee. The loopholes should be closed so that the effective limitation is closer to $2,000 or $3,000.

Second. The bill wisely limits the aggregate amount an individual can contribute in 1 year to all candidates and committees up to $25,000.

Third. Special interest groups have $17 million available for the 1974 congressional elections, almost twice as much as they spent in all of 1972. Given the potential for abuse, the committee did not go far enough in limiting the role of special interest committees. The limit on how much a political committee can give should be reduced to $3,000, $2,500 or even $1,000. Special interest groups should be prohibited from proliferating their committees to circumvent the limitations, and should be required to identify each contribution as to the original donor and intended recipient.

EXPENDITURE LIMITATIONS

The committee bill sets expenditure limitations at $75,000 for a House race, $20 million for the President—$10 million for the nomination—and $75,000 or 5 cents times the population of the State, whichever is greater, for the Senate.

While the committee's limits are really somewhat higher due to the loopholes in the definition of expenditure, they are still far too low and have a proincumbent bias. The adoption of expenditure loopholes was the committee's tacit agreement that the expense limit of $75,000 is too low.

A recent study at Harvard recommended that expenditure limitations be 50 cents per voter—approximately $150,000 for a House race. The study argues that the purpose of a political campaign is not just to elect the candidate, but also to inform the candidates, educate the electorate and encourage wider political participation. A survey of 1972 campaign managers found that they felt they had not adequately carried out the broad goals of education and involvement, even though most of them had spent more than 25 cents per voter. The Harvard study contends:

> If campaigns are to fulfill any of the functions listed above . . . the present level of spending is much too low, if anything.

Tight spending limits also substantially favor incumbents. Present proposals, the Harvard study continues:

> Are far too low to achieve any conceivable purpose other than to maintain incumbents in office.

In 1972, incumbents won well over 95 percent of the time, and the 12 challengers who did beat incumbents averaged $125,000 apiece in their campaigns. The year 1974 is supposed to be of the challenger. So far this year incumbents have won 80 of 82 races in the House.

PUBLIC FINANCING

The bill provides for public financing for Presidential nominating conventions and for Presidential elections. That is a negative feature, except in the sense that it provides no congressional public financing. The many sound and persuasive arguments against using taxpayer's money to bankroll elections need not be repeated here.

MISCELLANEOUS

First. The committee bill prohibits contributions by foreign nationals, contributions in the name of another and cash contributions in excess of $100. The bill also prohibits honorariums in excess of $1,000 per speech or appearance or $10,000 in the aggregate per calendar year. All of these are good provisions.

Second. The bill also preempts State laws, a welcome change that will insure that election laws are uniform, and that candidates for Federal office do not bear the burden of complying with different sets of laws.

Third. The committee bill would greatly weaken the role of the political parties in the electoral process. Political parties are the most broadly based groups in the political process and have a great potential for revitalizing our society. Strengthening the role of the parties in the political process may be as important a reform as changing the present system of campaign financing. Instead of reducing the parties' role, reform of our private system of campaign financing should increase their role by exempting parties from contribution limitations. If this is not an acceptable alternative, then parties should be able to make extra expenditures on behalf of candidates.

SUMMARY

After a late start, the committee has worked diligently to produce a workable elections bill. Despite its shortcomings, particularly its lack of an independent Federal Elections Commission, and its disclosure loopholes, it should be promptly brought to the floor where I hope it can be improved. Members have many amendments to offer to the committee bill. Open, fully democratic proceedings on the floor are the way to obtain the best bill possible.

The people have waited long enough for a straight-forward response to Watergate. The sooner this bill is passed, put into conference and enacted, the better off everyone will be.

THE SPEAKER'S RECENT SPECIAL ORDER ON THE ECONOMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. BURKE) is recognized for 10 minutes.

Mr. BURKE of Florida. Mr. Speaker, on July 18, the Speaker of the House took a special order to voice his views on the problems of the American economy. Everyone knows that inflation is rampant, but no fair person can honestly charge this to the Nixon administration alone. The truth of the matter is that past Congresses over the years have obligated funds so that almost three-quarters of the budget will be virtually uncontrollable in fiscal year 1975 due to existing law and prior year commitments.

Our Constitution states in article I, section 7, clause 1, that:

> All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

Therefore, if you look at the history of both the Congress of the United States and its spending record for the last 44 years, you can see that the only time the Democrats have not had control of America's pursestrings was during the 71st Congress from 1929 to 1930 and the 80th Congress from 1947 to 1949. Thus the onus of blame for fiscal irresponsibility must be placed squarely on the Democratic Party and its big spending policies.

The Speaker of the House cast the tie-breaking vote in favor of passage of H.R. 14832, which provided for another temporary increase in the Federal debt ceiling. This move only helps promote inflation, not reduce it.

If one looks at the proposed budget for fiscal year 1975, he will see several shocking examples of the so-called uncontrollables and how they have risen to almost three-quarters of the total budget, a rise of 59 percent from 1967. The portion of the budget subject to discretionary control has shrunk in recent years mainly because:

First, the relative decline in controllable defense spending,

Second, the growth in human resources programs, which largely take the form of benefit payments, set by law, to individuals and families, and

Third, the growth in mandatory grants to State and local governments.

Defense outlays have remained virtually constant from 1969 to 1974, despite substantial price increases and pay raises which have accompanied the transition to an All-Volunteer Armed Forces. These added costs have been offset by large savings resulting from reduction in men and materiel. As a result, defense costs have been a decreasing share of our national budget, falling from 44 percent of Federal spending in 1969 to an estimated 29 percent in 1975. Conversely, Federal spending on human resources has increased from 34 percent of the budget in 1969 to almost 50 percent of the 1975 budget.

Under current law, the costs of existing social programs will rise in response to growth in the number of eligible bene-

ficiaries and to price increases. The rise in outlays for existing programs and those now proposed, however, will be less rapid than the rise in tax receipts. Thus, by 1979, receipts are projected to reach about $428 billion on a full-employment basis, while outlays for existing and proposed programs will be $391 billion. Thus the uncontrollable governmental expenses will continue to grow and any administration in the White House can only control an ever diminishing fraction of the budget.

Since coming to the Congress in 1957, I have continually voted to keep Federal spending down to reasonable levels in order to help curb inflation. I have voted against foreign aid, for a decrease in agricultural subsidies, against a guaranteed annual income, and against the raising of the public debt ceiling each time except in 1969.

If inflation is to be curbed, the Democratic leadership in Congress must stop blaming the administration's policies, the Arab oil boycott, or actions by others until their own policies of deficit spending are curbed. They have continually been the big spenders. They are the ones that have objected when the President impounded funds and asked to limit spending. The truth of the matter is that the Democratic leadership which controls both Houses of the Congress, should tell the public what they want to do to stop the inflationary spiral.

ARTHRITIS BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. MURPHY) is recognized for 5 minutes.

Mr. MURPHY of Illinois. Mr. Speaker, arthritis is often called "everybody's disease" since it affects every one of us in some way, either directly or indirectly, physically or economically.

Most people have only vague and often incorrect ideas of what arthritis is about. As a result many people become crippled unnecessarily and fail to get the treatment they need to prevent or reduce their disability. Arthritis is not hopeless and treatment can be given to prevent disability or substantially reduce it.

It is estimated that an annual cost of $3.6 billion is lost in wages and medical care bills but the cost in human suffering, in pain and disability is beyond measure.

Arthritis can occur at any age. Studies show that 97 percent of all individuals over age 60 have arthritis severe enough to be seen in X-ray films. At least 50 million Americans, both young and old, have some form of arthritis and at least 17 million persons require medical care. Each year arthritis claims 250,000 new victims.

Rheumatoid arthritis which is arthritis in its worst form actually destroys the joints. People who suffer from this become crippled. Normal activities of work and play are always accompanied by pain and often become completely impossible. The cause of this form of arthritis is not yet known. Successful treatment involves a strict program of medication carried out over a long period of time, and because of the chronic nature of the disease, treatment becomes an ongoing process.

All aspects of treatment have been improved. The most dramatic progress has been in surgery to insert artificial joints. This has helped thousands from pain and crippling handicaps. But there is a need for physicians trained in arthritis. There are only 2,000 trained specialists in the country and 40 of the country's 115 medical schools offer no training in rheumatology. There are obviously not enough qualified physicians in this field to take care of 20 million patients.

When the Arthritis Foundation was formed in 1948, it and various private foundations were the only source of funds for arthritis research and treatment programs. Gradually the Federal Government became the primary source of funds for such programs though the amount of money available is small in comparison to the arthritis problem. With the lack of general recognition of the extent and seriousness of arthritis, the problem has been relegated to a minor position in the national health picture. With inflation the result has been less arthritis research and less training of researchers.

The Arthritis Prevention, Treatment and Rehabilitation Act of 1974 which I am introducing today with several members of the Illinois delegation and others who are concerned over the present situation makes a contribution to the further study of arthritis. The bill was originally introduced by Congressman PAUL ROGERS, Democrat of Florida, and Congressman TIM LEE CARTER, Republican of Kentucky.

The bill would channel funds to a selected number of national arthritis training and demonstration centers. These centers would develop stronger research programs, training opportunities for physicians and allied health personnel and would standardize arthritis patient data in order to facilitate collaborative clinical research programs aimed at improving arthritis patient care. The bill also provides assistance to the one-third of the Nation's medical schools which have no arthritis teaching program for medical students. It would enable each of these schools to acquire a rheumatologist as a member of its faculty.

I feel as do others who have cosponsored this bill that this legislation is vital to progress in arthritis research and patient care.

AMERICANS ARE SUFFERING ECONOMICALLY AND POLITICALLY AND THERE SEEMS TO BE NO END IN SIGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. TIERNAN) is recognized for 10 minutes.

Mr. TIERNAN. Mr. Speaker, one of the most laudable qualities of Americans is their resilience, their ability to flow with the tide, to respond to the needs of their Nation and the world without faltering or breaking. That quality has been sorely tested during the past 2 years. From Watergate to food prices, Americans have been bombarded with a stream of potentially catastrophic events the likes of which have toppled governments around the world.

Even though the United States has been spared governmental upheaval, we should not be lulled into thinking that Americans are not suffering in the wake of these events. We are suffering economically and politically, and there seems to be no end in sight. When we consider the implications of just one of these events on a major segment of the American population it becomes immediately obvious that something must be done to provide relief and assistance from increasing economic burdens.

I refer to the escalating cost of fuel and its effect upon the budgets of older Americans. Consider for a moment the position of an elderly person living on a fixed income trying to keep up with increasing cost of utilities for a house or apartment. In addition to all the other inflationary products and services this person cannot live without, the cost of fuel and electricity, which was once considered a relatively minor expense, has now become a major financial headache.

From May of 1973 to May of 1974 the Consumer Price Index for home heating fuel and utilities rose an astonishing 18.5 percent. As just one factor of the total Consumer Price Index, and a small one at that—fuels and utilities represent under 5 percent of the total index, and increases in these products comprised only 1 percent of the total 10.7 percent inflation in 1973–74—this increase represents an alarming rise in the cost of owning a home or renting an apartment. In New England, the cost of home heating fuel and electricity has increased 50 percent in the past year. In April of 1973, a thousand kilowatts of electricity cost $30.82, whereas the same quanttiy of electricity a year later cost $45.22. Likewise, home heating fuel, No. 2 heating oil. In April of 1973 100 gallons of heating fuel cost $22.13, whereas a year later 100 gallons cost $34.34.

The Federal Government has provided financial assistance to older Americans in other areas of increased costs through programs such as medicare and food stamps. Financial assistance for the elderly Americans to help lessen the burden of increased fuel and utility costs is long overdue. I am therefore introducing legislation today to establish a fuel stamp program for low-income elderly to provide some relief from these burgeoning costs.

Under my fuel stamp program any household which has an annual income of under $6,500 and at least one member of age 60 is eligible for $25 in fuel coupons per month. These fuel coupons could be used as direct payment for fuel and utility bills, or as a portion of rent payments. The bill contains a prohibition against rent increases which might result from the issuance of these fuel stamps.

The Federal Government has recognized its responsibility to assist elderly Americans in other high cost areas, such as food and health. The Congress must acknowledge and accept the Federal Government's responsibility to provide financial assistance to the elderly in the area of fuel and electricity costs.

CONGRESS LETTING OIL COMPANIES WINDFALL PROFITS CONTINUE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 10 minutes.

Mr. VANIK. Mr. Speaker, on April 30, the House Ways and Means Committee reported the Oil and Gas Energy Tax Act of 1974. This bill was intended to encourage necessary energy explorations while bringing into the Treasury excess and windfall oil profits. I join those in the Congress who do not believe that the bill is nearly strong enough. My colleague from Pennsylvania (Mr. GREEN) expected to offer a floor amendment to the bill to terminate the percentage depletion allowance immediately. This amendment would increase calendar year 1974 Federal revenues by about $2 billion. I planned to offer an amendment which would repeal the overseas use of the intangible drilling expense and change the foreign tax credit for oil and gas production to a straight business deduction. This amendment would also raise an additional $2 billion per year and encourage increased capital investment here in the United States.

Some members of the Ways and Means Committee wanted the bill brought to the floor under a closed or "gag" rule. The caucus of the majority party instructed that the bill be brought under a rule which would permit our two amendments.

Since then the bill has been withheld from debate or consideration.

In the meanwhile oil windfall profits flow on. The second quarter profit reports are now coming in. According to newspaper accounts, they are as follows:

Increase in profits between second quarter 1973 and second quarter 1974

[In percent]

Company:	
Standard Oil of Indiana	130
Shell Oil	45
Cities Service	76
Marathon	90
Mobil Oil Corp	99
Occidental Petroleum Co	292
Continental Oil Co	94
Phillips Petroleum Co	166
Ashland Oil Inc	40
Standard Oil of California	18

Mr. Speaker, unless we pass a windfall profits bill, these oil companies will be getting away with the most gigantic ripoff in American economic history. This Congress should not suppress those who want a stronger bill—or those who want the simple democratic right to offer an amendment—or those whose position has been supported by the majority caucus.

The bill should be simply brought to the floor and the House should work its will, either through a modified rule, a closed rule or an open rule. The House must have a chance to vote. The House can determine the rule. The House can determine the fate of the bill.

If we fail to pass a bill, we will have failed the American people—and the oil companies will be buying up the country with their windfall profits.

Unless there is some movement on this bill, I intend to offer a reform amendment to the Bolling-Hansen bills which would permit any member of a committee to bring a bill which his committee has reported to the floor or the Rules Committee if the chairman of the committee fails to act within 30 days of the reporting of the bill.

FACTS AND FIGURES ON MARIHUANA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 5 minutes.

Mr. KOCH. Mr. Speaker, the FBI just issued a report on marihuana arrests, and the statistics in this report should give the country's legislatures cause for great concern. The FBI Uniform Crime Report for 1973 states that 66.9 percent of all drug arrests last year involved marihuana. Marihuana arrests in 1973 increased 43 percent over the prior year. The State of California led the country with 95,110 marihuana arrests in 1973, accounting for one out of every four felony arrests made in that State.

Mr. Speaker, according to statistics now available, 26 million Americans, or 16 percent of the adult population, have tried marihuana at least once. Thirteen million Americans smoke marihuana on a regular basis. If in one fell swoop we were to place just the 13 million regular users in jail for 1 year, the cost to the American public, at $6,100 per prisoner per year, would be over $79 billion. Does anyone suggest that this is practicable? Yet equal application of the law would demand such action. In consideration of such widespread use of marihuana, I urge the House to support H.R. 669, the Javits-Koch bill to decriminalize the personal use and possession of marihuana. This decriminalization does not legalize the sale of marihuana, but it does basically implement the recommendations of the National Commission on Marihuana and Drug Abuse, which support the decriminalization of the personal use and possession of marihuana.

In conclusion, I would like to bring to the attention of my colleagues some of the information provided by NORML, the National Organization for the Reform of Marihuana Laws, and also some of their recommendations:

1. Removal of all criminal penalties for the private possession and use of marijuana has been endorsed or recommended by, among others:

National Commission on Marihuana & Drug Abuse (Shafer Commission);

American Bar Association;

Consumers Union, publishers of *Consumer Reports*;

National Conference of Commissioners on Uniform State Laws;

American Public Health Association;

National Advisory Commission on Criminal Justice Standards and Goals;

National Council of Churches;

The Governing Board of the American Medical Association;

National Education Association;

B'nai B'rith;

Canadian Commission of Inquiry into the Non-Medical Use of Drugs (Le Dain Commission);

San Francisco Committee on Crime;

Mayor's Advisory Committee on Narcotics Addiction (Washington, D.C.);

John Finlator, retired Deputy Director, Bureau of Narcotics and Dangerous Drugs, U.S. Department of Justice; and

William F. Buckley, Jr., syndicated columnist, author, TV host and editor of *National Review*.

2. Criminal laws punishing marijuana users:

are ineffective as a deterrent to use;

are unreasonably harsh and disparate among differing jurisdictions;

are selectively enforced;

engender disrespect for all laws, and distrust of both the agents and institutions of the government;

stifle the already overburdened criminal justice system with the processing of thousands of minor arrests;

encourage the invasion of privacy, and violation of individual rights and civil liberties by overzealous law enforcement personnel;

divert costly law enforcement resources away from the control of serious crime; and

destroy the credibility of drug education programs which seek to inform youth of the very real dangers of hard drug use.

3. Public health and safety:

Unless otherwise noted, the following quotations and other data, along with appropriate page references, are from the report issued in March, 1972 by the National Commission on Marihuana and Drug Abuse, *Marihuana: A Signal of Misunderstanding*. The thirteen member bi-partisan Commission, created by the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Section 601, Public Law 91-513), consisted of 9 persons appointed by President Nixon, 2 United States Senators and 2 members of the House of Representatives. They were unanimous in their recommendations. A second report, *Drug Use in America: Problem in Perspective*, issued in March, 1973, reiterated the Commission's earlier recommendations. The continuing medical and scientific research of the National Institute of Mental Health, Department of Health, Education, and Welfare has confirmed the Commission's findings. HEW is required by law (title V of PL 91-296) to issue reports each year detailing all current research and findings. The third annual report, *Marihuana and Health*, has recently been issued.

A. Medical and Health Data:

"the most notable statement that can be made about the vast majority of marihuana users—experimenters and intermittent users is that they are essentially indistinguishable from their non-marijuana using peers by any fundamental criterion other than their marijuana use." (p. 41)

"from what is now known about the effects of marijuana, its use at the present level does not constitute a major threat to public health." (p. 90)

"no conclusive evidence exists of any physical damage, disturbances of bodily processes or proven human fatalities attributable solely to even very high doses of marijuana." (pp. 56-57)

"although a number of studies have been performed, at present no reliable evidence exists indicating that marijuana causes genetic defects in man." (p. 84)

"no objective evidence of specific pathology of brain tissue has been documented. This fact contrasts sharply with the well-established brain damage of chronic alcoholism." (p. 85)

"in a word, cannabis does not lead to physical dependence." (p. 87)

"research has not yet proven that marijuana use significantly impairs driving ability or performance." (79)

B. Public Safety:

"neither the marijuana user nor the drug itself can be said to constitute a danger to public safety." (p. 78)

"in sum, the weight of the evidence is that marijuana does not cause violent or aggressive behavior." (p. 73)

C. Marijuana and Hard Drugs:

"marijuana use per se does not dictate whether other drugs will be used; nor does it determine the rate of progression, if and when it occurs, or which drug might be used." (pp. 88-89)

"the fact should be emphasized that the overwhelming majority of users do not progress to other drugs." (p. 87)

D. Extent of Marijuana Use:

26 million Americans, or 16% of the adult population, have tried marijuana at least once. This represents an increase of 2 million people over 1971. (Marihuana Commission, News Release, February 13, 1973)

13 million Americans smoke marijuana on a regular basis. This figure was 8.34 million in 1971. (Ibid.)

approximately 67% of all college students have tried marijuana, as have 39% of all people between the ages of 18 and 25. (Ibid.)

E. Availability of Marijuana:

"it is now much too late to debate the issue: marijuana versus no marijuana. Marijuana is here to stay. No conceivable law enforcement policy can curb its availability." (Licit and Illicit Drugs, by Edward M. Brecher and the Editors of Consumer Reports.)

F. Arrest Statistics:

more than 706,000 persons were arrested for marijuana-related offenses during the period 1970-72. Arrests have increased steadily from a low of 18,815 in 1965. (p. 106)

in 1972 there were 292,200 marijuana arrests, an increase of 29% over 1971. (Uniform Crime Reports, 1972, Federal Bureau of Investigation, p. 119)

93% of all arrests are for possession, with only 7% for sale. 67% of those arrested possessed less than one ounce of marijuana. (p. 110)

88% of those arrested are under the age of 26. (p. 111)

62% of those arrested are under the age of 21. (Uniform Crime Reports, 1972, Federal Bureau of Investigation, p. 34)

53% of all young people 16 and 17 years old know someone who has been arrested for possession of marijuana (p. 121).

UNITED NATIONS RELIEF AND WORKS AGENCY REFUGEE SHELTERS BECOME TERRORIST BASES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. PODELL) is recognized for 10 minutes.

Mr. PODELL. Mr. Speaker, in recent weeks, there has been an attempt to picture some of the Arab terrorists as "moderate," in order to justify proposals for the establishment of a new Palestinian Arab State. Several weeks ago, the so-called moderate Fatah command claimed credit for the Nahariyah murders. This brazen claim, all part of a determined effort by Yassir Arafat to shoot his way into the Geneva peace talks; reflects the greatest tragedy of the latest rash of terrorist murders: The realization by these guerrillas that their murdering and maiming of innocent people may be done with impunity.

Not only have they seen Great Britain, Italy, West Germany, Cyprus, Greece, and Sudan acquiesce to their demands for release of fellow killers; they have also received the unabashed sanction and outright support of the Arab nations and the Soviet Union. Lebanon has been particularly receptive to these murderers and their arsenal. It has allowed the terrorists to establish their headquarters, including military bases, on its soil. In light of the attitude of the world, it is hardly surprising that the Lebanese permit terrorists to dominate the camps to train fedayeen, store arms, dictate camp policy, and mount attacks against Israel.

The United Nations Relief and Works Agency, a world-supported United Nations agency, is allowing these terrorists to dominate its wards. Its officials have permitted the transformation of refugee shelters into military bases. This civilian agency is making absolutely no effort to resist the terrorist invasion. Neither has Lebanon.

Providing 60 percent of the UNWRA budget, the United States has a right to demand that actions be taken to guard the camps and preserve UNWRA's humanitarian purpose. Since 1966, U.S. law has prohibited the use of American contributions to support training of individuals for military purposes. However, it has remained passive and permissive as the U.N. agency has been manipulated by terrorists leaders.

The United States must make a concerted effort to prohibit these actions by demanding that the Government of Lebanon prohibit any Palestinian Arab refugee camp in Lebanon from being used by Arab terrorists. Failing this, the United States should request a U.N. police force in Palestinian camps in Lebanon be established to deny the use of these camps by any terrorists.

Today, therefore, I am introducing a House resolution embodying these demands.

RESOLUTION ADOPTED AT THE ANNUAL CONGRESS OF THE NATIONAL SOCIETY OF THE SONS OF THE AMERICAN REVOLUTION

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the Sons of the American Revolution, a patriotic and highly respected organization made up of descendants of those who served in the cause of liberty in the American Revolution, held its 1974 national convention in Baltimore, Md., on June 23-27. It was the 84th Annual Congress of this outstanding organization. This organization is dedicated to the cause of a strong and free America and I feel that the resolutions adopted at the national convention should be printed in the CONGRESSIONAL RECORD for the information of the Congress. I submit the resolutions for this purpose:

THE NATIONAL SOCIETY OF THE SONS OF THE AMERICAN REVOLUTION

RESOLUTION NO. 1

Whereas, under the 1903 Treaty with Panama, the United States obtained the grant in perpetuity of the use, occupation and control of the Canal Zone territory with all sovereign rights, power and authority to the entire exclusion of the exercise by Panama of any such sovereign rights, power, or authority as well as the ownership of all privately held land and property in the Zone by purchase from individual owners; and

Whereas, the United States has an overriding national security interest in maintaining undiluted control over the Canal Zone and Panama Canal and solemn obligations under its treaties with Great Britain and Colombia for the efficient operation of the Canal; and

Whereas, the United States Government is currently engaged in negotiations with the Government of Panama to surrender United States sovereign rights to Panama both in the Canal Zone and with respect to the Canal itself without authorization of the Congress, which will diminish, if not absolutely abrogate, the present U.S. treaty-based sovereignty and ownership of the Zone; and

Whereas, these negotiations are being utilized by the United States Government in an effort to get Panama to grant an option for the construction of a "sea-level" canal eventually to replace the present canal, and to authorize the major modernization of the existing canal, which project is already authorized under existing treaty provisions; and by the Panamanian government in an attempt to gain sovereign control and jurisdiction over the Canal Zone and effective control over the operation of the Canal itself; and

Whereas, similar concessional negotiations by the United States in 1967 resulted in three draft treaties that were frustrated by the will of the Congress of the United States because they would have gravely weakened United States control over the Canal and the Canal Zone; and by the people of Panama because that country did not obtain full control; and

Whereas, the American people have consistently opposed further concessions to any Panamanian government that would further weaken United States control over either the Canal Zone or Canal; and

Whereas, many scientists have demonstrated the probability that the removal of natural ecological barriers between the Pacific and Atlantic oceans entailed in the opening of a sea-level canal could lead to ecological hazards which the advocates of the sea-level canal have ignored in their plans; and

Whereas, the Sons of the American Revolution believes that treaties are solemn obligations binding on the parties and has consistently opposed the abrogation, modification or weakening of the Treaty of 1903;

Now, therefore, be it resolved that the National Society, Sons of the American Revolution in its 84th Annual Congress assembled, opposes the construction of a new sea-level canal and approves Senate Resolution 301 introduced by Senator Strom Thurmond and 34 additional Senators, to maintain and preserve the sovereign control of the United States over the Canal Zone.

RESOLUTION NO. 2

Whereas, the strength and stability of the economic and monetary system of the United States is vital to the defense of the country, and

Whereas, the fiscal and monetary policies of the Congress and Administration, present and past, have led to the devaluation of the dollar, double digit inflation, and the current economic crisis in the United States, and

Whereas, double digit inflation with in is as great a threat, if not greater threat, to the liberty and freedom and well-being of this country as the threat from our enemies without, and

Whereas, the basic cause of the rampant inflation is the deficit spending of the United States Congress, and

Whereas, under the Constitution of the United States, Congress is charged with the responsibility for all federal appropriations, and

Whereas, it is the urgent duty of the United States Congress to limit federal spending to the revenues of the Federal Government,

Now, therefore, be it resolved that the National Society, Sons of the American Revolution in its 84th Annual Congress assembled, urges the Congress to balance the federal budget.

RESOLUTION NO. 3

Whereas, it was the national policy of the United States of America to intervene in Vietnam and prevent a Communist takeover of that country, and

Whereas, it is the duty of every American citizen to bear arms in support of the national policies of the United States, and

Whereas, a citizen of the United States is called upon to share the burdens of citizenship in order to insure its benefits for all citizens, and

Whereas, 40,000 young Americans fled to foreign countries to evade the military obligations of United States citizenship,

Now, therefore, be it resolved that the National Society, Sons of the American Revolution at its 84th Annual Congress assembled, is opposed to any granting of amnesty to those who refused to bear arms for their country and instead, fled to foreign countries to evade their military obligations.

RESOLUTION NO. 4

Whereas, this country was founded by God-fearing men and women and conceived in liberty, and

Whereas, men of all countries have been moved by the eloquence and high spiritual qualities of the Declaration of Independence, and

Whereas, the Bicentennial will be a focal point for a nationwide review, and reaffirmation of the values upon which this Nation was founded, and

Whereas, all businesses and private citizens should display the United States Flag daily during daylight hours except during inclement weather, and

Whereas, it is fitting for patriots to celebrate each Fourth of July with prayer, music, fireworks and other expressions of joy and cheer, and

Whereas, it is the duty of every citizen and local community to take the initiative in planning a suitable commemoration of the Bicentennial,

Now, therefore, be it resolved that the National Society, Sons of the American Revolution at its 84th Annual Congress assembled, urges its members and all citizens to fly flags daily, to ring bells and blow automobile horns on the Fourth of July at a time to be set by each community as a suitable prelude to the Bicentennial.

RESOLUTION NO. 5

Whereas, we believe the Federal Government has entered upon a movement to eliminate basic rights and powers guaranteed to the states by the 10th Amendment to the Constitution, in particular the control of education and public schools, the control of land, the extension of jurisdiction of the federal judiciary, the weakening of state criminal law enforcement by the imposition of untenable federal standards that result in interminable trials and sheer technicalities that often show more concern for the criminal than for the innocent victim and the long-suffering public, to name a few.

Now, therefore, be it resolved that the National Society, Sons of the American Revolution at its 84th Annual Congress assembled, recommends that our state governors and legislators resist these federal encroachments upon state sovereignty and oppose the extension of federal grants and Supreme Court decisions.

RESOLUTION NO. 6

Whereas, hostile foreign nations desire to obtain advanced American technology during a period of our history entitled "detente," and

Whereas, the sharing of our technology with unfriendly foreign powers will weaken this country's power and protection of the free world, and

Whereas, the joint exploration of space with any foreign nation will result in the release of technical information vital to the defense of this nation, and

Whereas, no foreign power has been successful in its man-in-space program.

Now, therefore, be it resolved that the National Society, Sons of the American Revolution, in its 84th Annual Congress assembled, opposes in general the sharing of any of our technology with unfriendly foreign nations and in particular the sharing of our man-in-space capability with any foreign power, and recommends that all federal agencies should intensify efforts to prevent the dissemination of critical technology to any foreign power.

RESOLUTION NO. 7

Whereas, the National Society, Sons of the American Revolution supports proper commemoration and celebration of the American War for Independence which gained the 13 Original Colonies their freedom; and

Whereas, the Battle of Cowpens, fought in South Carolina near the present village of Cowpens was a major victory for loyal Americans in their fight for liberty; and

Whereas, the Federal Government has appropriated certain funds for the improvement and enhancement of the Cowpens Battleground site; and

Whereas, the effect of monies spent will be much more effective and widespread, and of longer duration, if a permanent annual celebration is held at the Battleground:

Now, therefore, be it resolved that the National Society, Sons of the American Revolution in its 84th Annual Congress assembled, favors allocation of an adequate portion of available funds for the construction of a suitable amphitheater which will be made available for the production of an annual outdoor drama based upon the Battle of Cowpens and surrounding events, so that the people of America will have a better opportunity to become more conversant with the great deeds of our illustrious ancestors.

RESOLUTION NO. 8

Whereas, Professional Standards Review Organization (PSRO) was established as a rider attached to the Social Security Law of 1972 without public hearings or proper consideration; and

Whereas, confidential medical records of every patient under any of the numerous government-sponsored health care programs will be open to PSRO inspectors; and

Whereas, "norms" set by the Department of Health, Education and Welfare, after examination of all patient records, will change the concept of health care, nullifying doctor-patient privacy preventing full use of the doctor's knowledge, experience and training; and

Whereas, PSRO can overrule a doctor's decision in prescribing, hospitalization, or operating under penalty of fine and suspension from medical practice;

Now, therefore, be it resolved that the National Society, Sons of the American Revolution at its 84th Annual Congress assembled, supports the adoption of H.R. 9375, or similar resolutions, which would repeal the provisions of the Social Security Act which violate the confidentiality of the doctor-patient relationship which would be contrary to numerous state statutes, contrary to professional ethics, and which would lead to federal control of medicine.

RESOLUTION NO. 9

Whereas, there is pending in the United States Congress a resolution sponsored by Senator Harry Flood Byrd, Jr. of Virginia in which Senator William Scott of Virginia has also joined as a co-sponsor, to restore the citizenship of General Robert E. Lee.

Now, therefore, be it resolved that the National Society, Sons of the American Revolution at its 84th Annual Congress assembled, joins in with the purpose and spirit of this pending Congressional resolution.

RESOLUTION NO. 10

Now, therefore, be it resolved that the National Society, Sons of the American Revolution at its 84th Annual Congress assembled, reiterates and reaffirms that all previous resolutions adopted at prior Congresses be reaffirmed.

RESOLUTION FOR A DOMESTIC SUMMIT

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, I have introduced a resolution calling for a domestic summit to develop a unified plan of action to restore stability and prosperity to the American economy. In this I am joined by my distinguished colleagues from Florida, Mr. GIBBONS and Mr. BAFALIS.

I think it obvious that the American economy is suffering more and more from the ill-effects of inflation. High prices and high interest rates are hurting everyone. Individuals, businesses, and industries all are feeling the pinch. A genuine effort to find a solution is needed now. The country needs renewed confidence and this effort requires the cooperation of both the administration and Congress and it must involve a unified effort on the part of both national parties along with leadership from labor and business as well as consultation from the Federal Reserve System.

The resolution states that it is the sense of the Congress that the leadership of the Nation meet together immediately in a spirit of unity to design a set of policy actions to achieve the common goal of restoring stability and growth to the American economy and confidence and prosperity to the American people.

We are accustomed to summit conferences to deal with international affairs. The American people are convinced that the domestic affairs are the matters of greatest importance to our country now. They want action. It has not been forthcoming. Now the situation is such that a piecemeal approach will not resolve the crisis. The best brains of the Nation should be working together for solutions to our economic problems.

The Senate has adopted a similar resolution by a vote of 88 to 5. Early action by the House is very important. The text of the resolution follows. Other Members are invited to join in introducing this resolution.

H. CON. RES. 568

Concurrent resolution calling for a domestic summit to develop a unified plan of action to restore stability and prosperity to the American economy

Whereas the American economy has in recent months reached an alarming state of instability and uncertainty combining re-

duced economic growth, corrosive inflation, high unemployment, unprecedented high rates of interest, the decline of available loan and venture capital, serious changes in energy supply and pricing, unanticipated and desalting commodity shortages, and growing international economic and financial uncertainties; and

Whereas the complexity, magnitude and persistence of these difficulties has occasioned substantial disagreement as to their causes and remedies; and

Whereas no agreed program for effective action has been developed; the Congress, the Administration, and the Federal Reserve Board, acting independently, have not yet been able to overcome these problems; and specific government programs, levels of federal spending and activities in all economic sectors continue to contribute to these difficulties; and

Whereas the American people in the face of this persistent economic deterioration are growing more dismayed and uncertain as evidenced by the widespread labor unrest and the declining financial markets of recent weeks; and

Whereas this deepening lack of confidence could magnify an already serious economic situation into a national crisis should these difficulties continue unabated; Now therefore be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the leadership of the Nation responsible for our economic well being meet together immediately in a spirit of unity to design a set of policy actions to achieve the common goal of restoring stability and growth to the American economy and confidence and prosperity to the American people.

It is imperative as in previous moments of great national need, that the two political parties, the Congress and the President, labor and management, put aside their domestic and political differences and work together in a spirit of discipline, compromise, and sacrifice for the common good.

SEC. 2. It is further the sense of the Congress that this domestic summit be convened forthwith comprised of the President, the majority and minority leadership of both Houses of the Congress, the Chairmen and ranking minority members of the Appropriations Committees of both Houses, the Chairmen and ranking minority members of the Senate Finance Committee and the House Ways and Means Committee, and the Chairman of the Federal Reserve Board, together with leaders of labor and business, and such other participants as they may agree upon. They shall meet and devote such time as necessary until a plan of action is decided upon which, by its demonstration of renewed unity, direction, and purpose will gain the public support and confidence necessary to be effective in overcoming these difficulties.

SEC. 3. It is further resolved by the Congress that it stands ready to cooperate fully in the spirit of commitment and unity which the solution of this truly national problem will require of all elements of American society.

DECISION OF THE U.S. SUPREME COURT IN UNITED STATES VERSUS NIXON

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, the Supreme Court of the United States yesterday announced its unanimous decision in the case of United States versus Nixon.

The Court held that while the conversations of a President and his closest aides enjoy a limited privilege from the compulsory process of a court, "the generalized assertion of privilege must yield to the demonstrated, specific need for evidence in a pending criminal trial."

In short, Mr. Speaker, the President must surrender to the U.S. District Court for the District of Columbia the material subpenaed by the Special Prosecutor in the pending criminal prosecution against the President's former aides.

Mr. Speaker, it cannot be denied that this is a decision of momentous consequence for both the President and the Nation.

In order that all Members may have the opportunity to read the opinion of the Court—and judge for themselves its import—I include at this point in the RECORD the complete text of the Court's opinion rendered yesterday in United States versus Nixon.

[Supreme Court of the United States, Nos. 73-1766 and 73-1834]

United States, Petitioner, 73-1766 *v.* Richard M. Nixon, President of the United States, et al.

Richard M. Nixon, President of the United States, Petitioner, 73-1834 *v.* United States. On Writ of Certiorari to the United States Court of Appeals for the District of Columbus Circuit before judgment.

[July 24, 1974]

MR. CHIEF JUSTICE BURGER delivered the opinion of the Court.

These cases present for review the denial of a motion, filed on behalf of the President of the United States, in the case of *United States* v. *Mitchell et al.* (D.C. Crim. No. 74-110), to quash a third-party subpena *duces tecum* issued by the United States District Court for the District of Columbia, pursuant to Fed. Rule Crim. Proc. 17(c). The subpena directed the President to produce certain tape recordings and documents relating to his conversations with aides and advisers. The court rejected the President's claims of absolute executive privilege, of lack of jurisdiction, and of failure to satisfy the requirements of Rule 17(c). The President appealed to the Court of Appeals. We granted the United States' petition for certiorari before judgment,[1] and also the President's responsive cross-petition for certiorari before judgment,[2] because of the public importance of the issues presented and the need for their prompt resolution. —— U.S. ——, —— (1974).

On March 1, 1974, a grand jury of the United States District Court for the District of Columbia returned an indictment charging seven named individuals[3] with various offenses, including conspiracy to defraud the United States and to obstruct justice. Although he was not designated as such in the indictment, the grand jury named the President, among others, as an unindicted coconspirator.[4] On April 18, 1974, upon motion of the Special Prosecutor, see n. 8, *infra*, a subpoena *duces tecum* was issued pursuant to Rule 17 (c) to the President by the United States District Court and make returnable on May 2, 1974. This subpoena required the production, in advance of the September 9 trial date, of certain tapes, memoranda, papers, transcripts or other writings relating to certain precisely identified meetings between the President and others.[5] The Special Prosecutor was able to fix the time, place and persons present at these discussions because the White House daily logs and appointment records had been delivered to him. On April 30, the President publicly released edited transcripts of 43 conversations; portions of 20 conversations subject to subpoena in the present case were included. On May 1, 1974, the President's counsel, filed a "special appearance" and a motion to quash the subpoena, under Rule 17(c). This motion was accompanied by a formal claim of privilege. At a subsequent hearing,[6] further motions to expunge the grand jury's action naming the President as an unindicted coconspirator and for protective orders against the disclosure of that information were filed or raised orally by counsel for the President.

On May 20, 1974, the District Court denied the motion to quash and the motions to expunge and for protective orders. — F. Supp. — (1974). It further ordered "the President or any subordinate officer, official or employee with custody or control of the documents or objects subpoenaed," *id.*, at —, to deliver to the District Court, on or before May 31, 1974, the originals of all subpoenaed items, as well as an index and analysis of those items, together with tape copies of those portions of the subpoenaed recordings for which transcripts had been released to the public by the President on April 30. The District Court rejected jurisdictional challenges based on a contention that the dispute was nonjusticiable because it was between the Special Prosecutor and the Chief Executive and hence "intra-executive" in character; it also rejected the contention that the judiciary was without authority to review an assertion of executive privilege by the President. The court's rejection of the first challenge was based on the authority and powers vested in the Special Prosecutor by the regulation promulgated by the Attorney General; the court concluded that a justiciable controversy was presented. The second challenge was held to be foreclosed by the decision in *Nixon* v. *Sirica*, — U.S. App. D.C. —, 487 F. 2d 700 (1973).

The District Court held that the judiciary, not the President, was the final arbiter of a claim of executive privilege. The court concluded that, under the circumstances of this case, the presumptive privilege was overcome by the Special Prosecutor's prima facie "demonstration of need sufficiently compelling to warrant judicial examination in chambers. . . ." — F. Supp. at — The court held, finally, that the Special Prosecutor had satisfied the requirements of Rule 17(c). The District Court stayed its order pending appellate review on condition that review was sought before 4 p.m., May 24. The court further provided that matters filed under seal remain under seal when transmitted as part of the record.

On May 24, 1974, the President filed a timely notice of appeal from the District Court order, and the certified record from the District Court was docketed in the United States Court of Appeals for the District of Columbia Circuit. On the same day, the President also filed a petition for writ of mandamus in the Court of Appeals seeking review of the District Court order.

Later on May 24, the Special Prosecutor also filed, in this Court, a petition for a writ of certiorari before judgment. On May 31, the petition was granted with an expedited briefing schedule — U.S. — (1974). On June 6, the President filed, under seal, a cross-petition for writ of certiorari before judgment. This cross-petition was granted June 15, 1974. — U.S. — (1974), and the case was set for argument on July 8, 1974.

I. JURISDICTION

The threshold question presented is whether the May 20, 1974, order of the District Court was an appealable order and whether this case was properly "in," 28

Footnotes at end of article.

U.S.C. § 1254, the United States Court of Appeals when the petition for certiorari was filed in this Court. Court of Appeals jurisdiction under 28 U.S.C. § 1291 encompasses only "final decisions of the district courts." Since the appeal was timely filed and all other procedural requirements were met, the petition is properly before this Court for consideration if the District Court order was final. 28 U.S.C. § 1254(1); 82 U.S.C. § 2101(e).

The finality requirement of 28 U.S.C. § 1291 embodies a strong congressional policy against piecemeal reviews, and against obstructing or impeding an ongoing judicial proceeding by interlocutory appeals. See *e.g., Cobbledick* v. *United States*, 309 U.S. 323, 324–326 (1940). This requirement ordinarily promotes judicial efficiency and hastens the ultimate termination of litigation. In applying this principle to an order denying a motion to quash and requiring the production of evidence pursuant to a subpoena duces tecum, it has been repeatedly held that the order is not final and hence not appealable. *United States* v. *Ryan*, 402 U.S. 530, 532 (1971); *Cobbledick* v. *United States*, 309 U.S. 322, (1940); *Alexander* v. *United States*, 201 U.S. 117 (1906). This Court has "consistently held that the necessity for expedition in the administration of the criminal law justifies putting one who seeks to resist the production of desired information to a choice between compliance with a trial court's order to produce prior to any review of that order, and resistance to that order with the concomitant possibility of an adjudication of contempt if his claims are rejected on appeal." *United States* v. *Ryan*, 402 U.S. 530, 533 (1971).

The requirement of submitting to contempt, however, is not without exception and in some instances the purposes underlying the finality rule require a different result. For example, in *Perlman* v. *United States*, 247 U.S. 7 (1918), a subpoena had been directed to a third party requesting certain exhibits; the appellant, who owned the exhibits; the appellant, who owned the exhibits, sought to raise a claim of privilege. The Court held an order compelling production was appealable because it was unlikely that the third party would risk a contempt citation in order to allow immediate review of the appellant's claim of privilege. *Id.*, at 12–13. That case fell within the "limited class of cases where denial of immediate review would render impossible any review whatsoever of an individual's claims." *United States* v. *Ryan, supra*, at 533.

Here too the traditional contempt avenue to immediate appeal is peculiarly inappropriate due to the unique setting in which the question arises. To require a President of the United States to place himself in the posture of disobeying an order of a court merely to trigger the procedural mechanism for review of the ruling would be unseemly, and present an unnecessary occasion for constitutional confrontation between two branches of the Government. Similarly, a federal judge should not be placed in the posture of issuing a citation to a President simply in order to invoke review. The issue whether a President can be cited for contempt could itself engender protracted litigation, and would further delay both review on the merits of his claim of privilege and the ultimate termination of the underlying criminal action for which his evidence is sought. These considerations lead us to conclude that the order of the District Court was an appealable order. The appeal from that order was therefore properly "in" the Court of Appeals, and the case is now properly before this Court on the writ of certiorari before judgment. 28 U.S.C. § 1254; 28 U.S.C. § 2101(e). *Gay* v. *Ruff*, 292 U.S. 25, 30 (1934).[7]

II. JUSTICIABILITY

In the District Court, the President's counsel argued that the court lacked jurisdiction to issue the subpoena because the matter was an intra-branch dispute between a subordinate and superior officer of the Executive Branch and hence not subject to judicial resolution. That argument has been renewed in this Court with emphasis on the contention that the dispute does not present a "case" or "controversy" which can be adjudicated in the federal courts. The President's counsel argues that the federal courts should not intrude into areas committed to the other branches of Government. He views the present dispute as essentially a "jurisdictional" dispute within the Executive Branch which he analogizes to a dispute between two congressional committees. Since the Executive Branch has exclusive authority and absolute discretion to decide whether to prosecute a case, *Confiscation Cases*, 7 Wall. 454 (1869), *United States* v. *Cox*, 342 F. 2d 167, 171 (CA5), cert. denied, 381 U.S. 935 (1965), it is contended that a President's decision is final in determining what evidence is to be used in a given criminal case. Although his counsel concedes the President has delegated certain specific powers to the Special Prosecutor, he has not "waived nor delegated to the Special Prosecutor the President's duty to claim privilege as to all materials . . . which fall within the President's inherent authority to refuse to disclose to any executive officer." Brief for the President 47. The Special Prosecutor's demand for the items therefore presents, in the view of the President's counsel, a political question under *Baker* v. *Carr*, 369 U.S. 186 (1962), since it involves a "textually demonstrable" grant of power under Art. II.

The mere assertion of a claim of an "intra-branch dispute," without more, has never operated to defeat federal jurisdiction; justiciability does not depend on such a surface inquiry. In *United States* v. *ICC*, 337 U.S. 426 (1949), the Court observed, "courts must look behind names that symbolize the parties to determine whether a justiciable case or controversy is presented." *Id.*, at 430. See also: *Powell* v. *McCormack*, 395 U.S. 486 (1969); *ICC* v. *Jersey City*, 322 U.S. 503 (1944); *United States ex rel. Chapman* v. *FPC*, 345 U.S. 153 (1953); *Secretary of Agriculture* v. *United States*, 347 U.S. 645 (1954); *FMB* v. *Isbrandsten Co.*, 356 U.S. 481, 482n. 2 (1958); *United States* v. *Marine Bank Corp.* —— U.S. —— (1974), and *United States* v. *Connecticut National Bank*, —— U.S. —— (1974).

Our starting point is the nature of the proceeding for which the evidence is sought—here a pending criminal prosecution. It is a judicial proceeding in a federal court alleging violation of federal laws and is brought in the name of the United States as sovereign. *Berger* v. *United States*, 295 U.S. 78, 88 (1935). Under the authority of Art. II, § 2, Congress has vested in the Attorney General the power to conduct the criminal litigation to the United States Government. 28 U.S.C. § 516. It has also vested in him the power to appoint subordinate officers to assist him in the discharge of his duties. 28 U.S.C. §§ 509, 510, 515, 533. Acting pursuant to those statutes, the Attorney General has delegated the authority to represent the United States in these particular matters to a Special Prosecutor with unique authority and tenure.[8] The regulation gives the Special Prosecutor explicit power to contest the invocation of executive privilege in the process of seeking evidence deemed relevant to the performance of these specially delegated duties.[9] 38 Fed. Reg. 30739.

So long as this regulation is extant it has the force of law. In *Accardi* v. *Shaughnessy*, 347 U.S. 260 (1953), regulations of the Attorney General delegated certain of his discretionary powers to the Board of Immigration Appeals and required that Board to exercise its own discretion on appeals in deportation cases. The Court held that so long as the Attorney General's regulations remained operative, he denied himself the authority to exercise the discretion delegated to the Board even though the original authority was his and he could reassert it by amending the regulations. *Service* v. *Dulles*, 354 U.S. 363, 388 (1957), and *Vitarelli* v. *Seaton*, 359 U.S. 535 (1959), reaffirmed the basic holding of *Accardi*.

Here, as in *Accardi*, it is theoretically possible for the Attorney General to amend or revoke the regulation defining the Special Prosecutor's authority. But he has not done so.[10] So long as this regulation remains in force the Executive Branch is bound by it, and indeed the United States as the sovereign composed of the three branches is bound to respect and to enforce it. Moreover, the delegation of authority to the Special Prosecutor in this case is not an ordinary delegation by the Attorney General to a subordinate officer: with the authorization of the President, the Acting Attorney General provided in the regulation that the Special Prosecutor was not to be removed without the "consensus" of eight designated leaders of Congress. Note 8, *supra*.

The demands of and the resistance to the subpoena present an obvious controversy in the ordinary sense, but that alone is not sufficient to meet constitutional standards. In the constitutional sense, controversy means more than disagreement and conflict: rather it means the kind of controversy courts traditionally resolve. Here at issue is the production or nonproduction of specified evidence deemed by the Special Prosecutor to be relevant and admissible in a pending criminal case. It is sought by one official of the Government within the scope of his express authority; it is resisted by the Chief Executive on the ground of his duty to preserve the confidentiality of the communications of the President. Whatever the correct answer on the merits, these issues are "of a type which are traditionally justiciable." *United States* v. *ICC*, 337 U.S., at 430. The independent Special Prosecutor with his asserted need for the subpoenaed material in the underlying criminal prosecution is opposed by the President with his steadfast assertion of privilege against disclosure of the material. This setting assures there is "that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions." *Baker* v. *Carr*, 369 U.S., at 204. Moreover, since the matter is one arising in the regular course of a federal criminal prosecution, it is within the traditional scope of Art. III power. *Id.*, at 198.

In light of the uniqueness of the setting in which the conflict arises, the fact that both parties are officers of the Executive Branch cannot be viewed as a barrier to justiciability. It would be inconsistent with the applicable law and regulation, and the unique facts of this case to conclude other than that the Special Prosecutor has standing to bring this action and that a justiciable controversy is presented for decision.

III. RULE 17(C)

The subpoena *duces tecum* is challenged on the ground that the Special Prosecutor failed to satisfy the requirements of Fed. Rule Crim. Proc. 17(c), which governs the issuance of subpoenas *duces tecum* in federal criminal proceedings. If we sustained this challenge, there would be no occasion to reach the claim of privilege asserted with respect to the subpoenaed material. Thus we turn to the question whether the requirements of Rule 17(c) have been satisfied. See *Arkansas-Louisiana Gas Co.* v. *Dept. of Public Utilities*, 304 U. S. 61, 64 (1938); *Ashwander* v. *Tennessee Valley Authority*, 297 U. S. 288, 346–347 (1936). (Brandeis, J., concurring.)

Rule 17 (c) provides:

"A subpoena may also command the per-

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son to whom it is directed to produce the books, papers, documents or other objects designated therein. The court on motion made promptly may quash or modify the subpoena if compliance would be unreasonable or oppressive. The court may direct that books, papers, documents or objects designated in the subpoena be produced before the court at a time prior to the trial or prior to the time when they are to be offered in evidence and may upon their production permit the books, papers, documents or objects or portions thereof to be inspected by the parties and their attorneys."

A subpoena for documents may be quashed if their production would be "unreasonable or oppressive," but not otherwise. The leading case in this Court interpreting this standard is *Bowman Dairy Co.* v. *United States*, 341 U.S. 214 (1950). This case recognized certain fundamental characteristics of the subpoena *duces tecum* in criminal cases: (1) it was not intended to provide a means of discovery for criminal cases. *Id.*, at 220; (2) its chief innovation was to expedite the trial by providing a time and place *before* trial for the inspection of subpoenaed materials.[11] *Ibid.* As both parties agree, cases decided in the wake of *Bowman* have generally followed Judge Weinfeld's formulation in *United States* v. *Iozia*, 13 F.R.D. 335, 338 (SDNY 1952), as to the required showing. Under this test, in order to require production prior to trial, the moving party must show: (1) that the documents are evidentiary[12] and relevant; (2) that they are not otherwise procurable reasonably in advance of trial by exercise of due diligence; (3) that the party cannot properly prepare for trial without such production and inspection in advance of trial and that the failure to obtain such inspection may tend unreasonably to delay the trial; (4) that the application is made in good faith and is not intended as a general "fishing expedition."

Against this background, the Special Prosecutor, in order to carry his burden, must clear three hurdles: (1) relevancy; (2) admissibility; (3) specificity. Our own review of the record necessarily affords a less comprehensive view of the total situation than was available to the trial judge and we are unwilling to conclude that the District Court erred in the evaluation of the Special Prosecutor's showing under Rule 17(c). Our conclusion is based on the record before us, much of which is under seal. Of course, the contents of the subpoenaed tapes could not at that stage be described fully by the Special Prosecutor, but there was a sufficient likelihood that each of the tapes contains conversations relevant to the offenses charged in the indictment. *United States* v. *Gross*, 24 F. R. D. 138 (SDNY 1959). With respect to many of the tapes, the Special Prosecutor offered the sworn testimony or statements of one or more of the participants in the conversations as to what was said at the time. As for the remainder of the tapes, the identity of the participants and the time and place of the conversations, taken in their total context, permit a rational inference that at least part of the conversations relate to the offenses charged in the indictment.

We also conclude there was a sufficient preliminary showing that each of the subpoenaed tapes contains evidence admissible with respect to the offenses charged in the indictment. The most cogent objection to the admissibility of the taped conversations here at issue is that they are a collection of out-of-court statements by declarants who will not be subject to cross-examination and that the statements are therefore inadmissible hearsay. Here, however, most of the tapes apparently contain conversations to which one or more of the defendants named in the indictment were party. The hearsay rule does not automatically bar all out-of-court statements by a defendant in a criminal case.[13] Declarations by one defendant may also be admissible against other defendants upon a sufficient showing, by independent evidence,[14] of a conspiracy among one or more other defendants and the declarant and if the declarations at issue were in furtherance of that conspiracy. The same is true of declarations of coconspirators who are not defendants in the case on trial. *Dutton* v. *Evans*, 400 U.S. 74, 81 (1970). Recorded conversations may also be admissible for the limited purpose of impeaching the credibility of any defendant who testifies or any other coconspirator who testifies. Generally, the need for evidence to impeach witnesses is insufficient to require its production in advance of trial. See, *e.g.*, *United States* v. *Carter*, 15 F. R. D. 367, 371 (D. D. C. 1954). Here, however, there are other valid potential evidentiary uses for the same material and the analysis and possible transcription of the tapes may take a significant period of time. Accordingly, we cannot say that the District Court erred in authorizing the issuance of the subpoena *duces tecum*.

Enforcement of a pretrial subpoena *duces tecum* must necessarily be committed to the sound discretion of the trial court since the necessity for the subpoena most often turns upon a determination of factual issues. Without a determination of arbitrariness or that the trial court finding was without record support, an appellate court will not ordinarily disturb a finding that the applicant for a subpoena complied with Rule 17 (c). See, *e.g.*, *Sue* v. *Chicago Transit Authority*, 279 F. 2d 416, 419 (CA7 1960); *Shotkin* v. *Nelson*, 146 F. 2d 402 (CA10 1944).

In a case such as this, however, where a subpoena is directed to a President of the United States, appellate review, in deference to a coordinate branch of government, should be particularly meticulous to ensure that the standards of Rule 17 (c) have been correctly applied. *United States* v. *Burr*, 25 Fed. Cas. 30. 34 (No. 14,692d) (1807). From our examination of the materials submitted by the Special Prosecutor to the District Court in support of his motion for the subpoena, we are persuaded that the District Court's denial of the President's motion to quash the subpoena was consistent with Rule 17 (c). We also conclude that the Special Prosecutor has made a sufficient showing to justify a subpoena for production *before* trial. The subpoenaed materials are not available from any other source, and their examination and processing should not await trial in the circumstances shown. *Bowman Dairy Co., supra, United States* v. *Iozia, supra,*

IV. THE CLAIM OF PRIVILEGE

A

Having determined that the requirements of Rule 17(c) were satisfied, we turn to the claim that the subpoena should be quashed because it demands "confidential conversations between a President and his close advisors that it would be inconsistent with the public interest to produce." App. 48a. The first contention is a broad claim that the separation of powers doctrine precludes judicial review of a President's claim of privilege. The second contention is that if he does not prevail on the claim of absolute privilege, the court should hold as a matter of constitutional law that the privilege prevails over the subpoena *duces tecum*.

In the performance of assigned constitutional duties each branch of the Government must initially interpret the Constitution, and the interpretation of its powers by any branch is due great respect from the others. The President's counsel, as we have noted, reads the Constitution as providing an absolute privilege of confidentiality for all presidential communications. Many decisions of this Court, however, have unequivocally reaffirmed the holding of *Marbury* v. *Madison*, 1 Cranch 137 (1803), that "it is emphatically the province and duty of the judicial department to say what the law is." *Id.*, at 177.

No holding of the Court has defined the scope of judicial power specifically relating to the enforcement of a subpoena for confidential presidential communications for use in a criminal prosecution, but other exercises of powers by the Executive Branch and the Legislative Branch have been found invalid as in conflict with the Constitution. *Powell* v. *McCormack, supra; Youngstown, supra.* In a series of cases, the Court interpreted the explicit immunity conferred by express provisions of the Constitution on Members of the House and Senate by the Speech or Debate Clause, U.S. Const. Art. I, § 6. *Doe* v. *McMillan*, 412 U.S. 306 (1973); *Gravel* v. *United States*, 408 U.S. 606 (1973); *United States* v. *Brewster*, 408 U.S. 501 (1972); *United States* v. *Johnson*, 383 U.S. 169 (1966). Since this Court has consistently exercised the power to construe and delineate claims arising under express powers, it must follow that the Court has authority to interpret claims with respect to powers alleged to derive from enumerated powers.

Our system of government "requires that federal courts on occasion interpret the Constitution in a manner at variance with the construction given the document by another branch." *Powell* v. *McCormack, supra*, 549. And in *Baker* v. *Carr*, 369 U.S., at 211, the Court stated:

"[d]eciding whether a matter has in any measure been committed by the Constitution to another branch of government, or whether the action of that branch exceeds whatever authority has been committed, is itself a delicate exercise in constitutional interpretation, and is a responsibility of this Court as ultimate interpreter of the Constitution.[1]

Notwithstanding the deference each branch must accord the others, the "judicial power of the United States" vested in the federal courts by Art. III § 1 of the Constitution can no more be shared with the Executive Branch than the Chief Executive, for example, can share with the Judiciary the veto power, or the Congress share with the Judiciary the power to override a presidential veto. Any other conclusion would be contrary to the basic concept of separation of powers and the checks and balances that flow from the scheme of a tripartite government. The Federalist, No. 47, p. 313 (C. F. Mittel ed. 1938). We therefore reaffirm that it is "emphatically the province and the duty" of this Court "to say what the law is" with respect to the claim of privilege presented in this case. *Marbury* v. *Madison, supra*, at 177.

B

In support of his claim of absolute privilege, the President's counsel urges two grounds one of which is common to all governments and one of which is peculiar to our system of separation of powers. The first ground is the valid need for protection of communications between high government officials and those who advise and assist them in the performance of their manifold duties; the importance of this confidentiality is too plain to require further discussion. Human experience teaches that those who expect public dissemination of their remarks may well temper candor with a concern for appearances and for their own interests to the deterriment of the decisionmaking process.[15] Whatever the nature of the privilege of confidentiality of presidential communications in the exercise of Art. II powers the privilege can be said to derive from the supremacy of each branch within its own assigned area of constitutional duties. Certain powers and privileges flow from the nature of enumerated powers; [16] the protection of the confidentiality of presidential communications has similar constitutional underpinnings.

The second ground asserted by the President's counsel in support of the claim of

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absolute privilege rests on the doctrine of separation of powers. Here it is argued that the independence of the Executive Branch within its own sphere, *Humphrey's Executor* v. *United States*, 295 U.S. 602, 629–630; *Kilbourn* v. *Thompson*, 103 U.S. 168, 190–191 (1880), insulates a president from a judicial subpoena in an ongoing criminal prosecution, and thereby protects confidential presidential communications.

However, neither the doctrine of separation of powers, nor the need for confidentiality of high level communications, without more, can sustain an absolute, unqualified presidential privilege of immunity from judicial process under all circumstances. The President's need for complete candor and objectivity from advisers calls for great deference from the courts. However, when the privilege depends solely on the broad, undifferentiated claim of public interest in the confidentiality of such conversations, a confrontation with other values arises. Absent a claim of need to protect military, diplomatic or sensitive national security secrets, we find it difficult to accept the argument that even the very important interest in confidentiality of presidential communications is significantly diminished by production of such material for *in camera* inspection with all the protection that a district court will be obliged to provide.

The impediment that an absolute, unqualified privilege would place in the way of the primary constitutional duty of the Judicial Branch to do justice in criminal prosecutions would plainly conflict with the function of the courts under Art. III. In designing the structure of our Government and dividing and allocating the sovereign power among three coequal branches, the Framers of the Constitution sought to provide a comprehensive system, but the separate powers were not intended to operate with absolute independence.

"While the Constitution diffuses power the better to secure liberty, it also contemplates that practice will integrate the dispersed powers into a workable government. It enjoins upon its branches separateness but interdependence, autonomy but reciprocity." *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579, 635 (1952) (Jackson, J., concurring).

To read the Art. II powers of the President as providing an absolute privilege as against a subpoena essential to enforcement of criminal statutes on no more than a generalized claim of the public interest in confidentiality of nonmilitary and nondiplomatic discussions would upset the constitutional balance of "a workable government" and gravely impair the role of the courts under Art. III.

C

Since we conclude that the legitimate needs of the judicial process may outweigh presidential privilege, it is necessary to resolve those competing interests in a manner that preserves the essential functions of each branch. The right and indeed the duty to resolve that question does not free the judiciary from according high respect to the representations made on behalf of the President, *United States* v. *Burr*, 25 Fed. Cas. 187, 190, 191–192 (No. 14,694) (1807).

The expectation of a President to the confidentiality of his conversations and correspondence, like the claim of confidentiality of judicial deliberations, for example, has all the values to which we accord deference for the privacy of all citizens and added to those values the necessity for protection of the public interest in candid, objective, and even blunt or harsh opinions in presidential decisionmaking. A President and those who assist him must be free to explore alternatives in the process of shaping policies and making decisions and to do so in a way many would be unwilling to express except privately. These are the considerations justifying a presumptive privilege for presidential communications. The privilege is fundamental to the operation of government and inextricably rooted in the separation of powers under the Constitution.[17] In *Nixon* v. *Sirica*, — U.S. App. D. C. —, 487 F. 2d 700 (1973), the Court of Appeals held that such presidential communications are "presumptively privileged," *id.*, at 717, and this position is accepted by both parties in the present litigation. We agree with Mr. Chief Justice Marshall's observation, therefore, that "in no case of this kind would a court be required to proceed against the President as against an ordinary individual." *United States* v. *Burr*, 25 Fed. Cas. 187, 191 (No. 14,694) (CCD Va. 1807).

But this presumptive privilege must be considered in light of our historic commitment to the rule of law. This is nowhere more profoundly manifest than in our view that "the twofold aim [of criminal justice] is that guilt shall not escape or innocence suffer." *Berger* v. *United States*, 295 U. S. 78, 88 (1935). We have elected to employ an adversary system of criminal justice in which the parties contest all issues before a court of law. The need to develop all relevant facts in the adversary system is both fundamental and comprehensive. The ends of criminal justice would be defeated if judgments were to be founded on a partial or speculative presentation of the facts. The very integrity of the judicial system and public confidence in the system depend on full disclosure of all the facts, within the framework of the rules of evidence. To ensure that justice is done, it is imperative to the function of courts that compulsory process be available for the production of evidence needed either by the prosecution or by the defense.

Only recently the Court restated the ancient proposition of law, albeit in the context of a grand jury inquiry rather than a trial:

" 'That the public . . . has a right to every man's evidence' except for those persons protected by a constitutional, common law, or statutory privilege, *United States* v. *Bryan*, 339 U. S., at 331 (1949); *Blackmer* v. *United States*, 284 U. S. 421, 438; *Branzburg* v. *United States*, 408 U. S. 665, 688 (1973)."

The privileges referred to by the Court are designed to protect weighty and legitimate competing interests. Thus, the Fifth Amendmend to the Constitution provides that no man "shall be compelled in any criminal case to be a witness against himself." And, generally, an attorney or a priest may not be required to disclose what has been revealed in professional confidence. These and other interests are recognized in law by privileges against forced disclosure, established in the Constitution, by statute, or at common law. Whatever their origins, these exceptions to the demand for every man's evidence are not lightly created nor expansively construed, for they are in derogation of the search for truth.[18]

In this case the President challenges a subpoena served on him as a third party requiring the production of materials for use in a criminal prosecution on the claim that he has a privilege against disclosure of confidential communications. He does not place his claim of privilege on the ground they are military or diplomatic secrets. As to these areas of Art. II duties the courts have traditionally shown the utmost deference to presidential responsibilities. In *C. & S. Air Lines* v. *Waterman Steamship Corp.*, 333 U.S. 103, 111 (1948), dealing with presidential authority involving foreign policy considerations, the Court said:

"The President, both as Commander-in-Chief and as the Nation's organ for foreign affairs, has available intelligence services whose reports are not and ought not to be published to the world. It would be intolerable that courts, without the relevant information, should review and perhaps nullify actions of the Executive taken on information properly held secret." *Id.*, at 111.

In *United States* v. *Reynolds*, 345 U.S. 1 (1952), dealing with a claimant's demand for evidence in a damage case against the Government the Court said:

"It may be possible to satisfy the court, from all the circumstances of the case, that there is a reasonable danger that compulsion of the evidence will expose military matters which, in the interest of national security, should not be divulged. When this is the case, the occasion for the privilege is appropriate, and the court should not jeopardize the security which the privilege is meant to protect by insisting upon an examination of the evidence, even by the judge alone, in chambers."

No case of the Court, however, has extended this high degree of deference to a President's generalized interest in confidentiality. Nowhere in the Constitution, as we have noted earlier, is there any explicit reference to a privilege of confidentiality, yet to the extent this interest relates to the effective discharge of a President's powers, it is constitutionally based.

The right to the production of all evidence at a criminal trial similarly has constitutional dimensions. The Sixth Amendment explicitly confers upon every defendant in a criminal trial the right "to be confronted with the witnesses against him" and "to have compulsory process for obtaining witnesses in his favor." Morever, the Fifth Amendment also guarantees that no person shall be deprived of liberty without due process of law. It is the manifest duty of the courts to vindicate those guarantees and to accomplish that it is essential that all relevant and admissible evidence be produced.

In this case we must weigh the importance of the general privilege of confidentiality of presidential communications in performance of his responsibilities against the inroads of such a privilege on the fair administration of criminal justice.[19] The interest in preserving confidentiality is weighty indeed and entitled to great respect. However we cannot conclude that advisers will be moved to temper the candor of their remarks by the infrequent occasions of disclosure because of the possibility that such conversations will be called for in the context of a criminal prosecution.[20]

On the other hand, the allowance of the privilege to withhold evidence that is demonstrably relevant in a criminal trial would cut deeply into the guarantee of due process of law and gravely impair the basic function of the courts. A President's acknowledged need for confidentiality in the communications of his office is general in nature, whereas the constitutional need for production of relevant evidence in a criminal proceeding is specific and central to the fair adjudication of a particular criminal case in the administration of justice. Without access to specific facts a criminal prosecution may be totally frustrated. The President's broad interest in confidentiality of communications will not be vitiated by disclosure of a limited number of conversations preliminarily shown to have some bearing on the pending criminal cases.

We conclude that when the ground for asserting privilege as to subpoenaed materials sought for use in a criminal trial is based only on the generalized interest in confidentiality, it cannot prevail over the fundamental demands of due process of law in the fair administration of criminal justice. The generalized assertion of privilege must yield to the demonstrated, specific need for evidence in a pending criminal trial.

D

We have earlier determined that the District Court did not err in authorizing the issuance of the subpoena. If a president con-

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cludes that compliance with a subpoena would be injurious to the public interest he may properly, as was done here, invoke a claim of privilege on the return of the subpoena. Upon receiving a claim of privilege from the Chief Executive, it became the further duty of the District Court to treat the subpoenaed material as presumptively privileged and to require the Special Prosecutor to demonstrate that the presidential material was "essential to the justice of the [pending criminal] case." *United States* v. *Burr, supra*, at 192. Here the District Court treated the material as presumptively privileged, proceeded to find that the Special Prosecutor had made a sufficient showing to rebut the presumption and ordered an *in camera* examination of the subpoenaed material. On the basis of our examination of the record we were unable to conclude that the District Court erred in ordering the inspection. Accordingly we affirm the order of the District Court that subpoenaed materials be transmitted to that court. We now turn to the important question of the District Court's responsibilities in conducting the *in camera* examination of presidential materials or communications delivered under the compulsion of the subpoena *duces tecum*.

E

Enforcement of the subpoena *duces tecum* was stayed pending this Court's resolution of the issues raised by the petitions for certiorari. Those issues now having been disposed of, the matter of implementation will rest with the District Court. "[T]he guard, furnished to [President] to protect him from being harassed by vexatious and unnecessary subpoenas, is to be looked for in the conduct of the [district] court after the subpoenas have issued; not in any circumstances which is to precede their being issued." *United States* v. *Burr, supra*, at 34. Statements that meet the test of admissibility and relevance must be isolated; all other material must be excised. At this stage, the District Court is not limited to representations of the Special Prosecutor as to the evidence sought by the subpoena; the material will be available to the District Court. It is elementary that *in camera* inspection of evidence is always a procedure calling for scrupulous protection against any release or publication of material not found by the court, at that stage, probably admissible in evidence and relevant to the issues of the trial for which it is sought. That being true of an ordinary situation, it is obvious that the District Court has a very heavy responsibility to see to it that presidential conversations, which are either not relevant or not admissible, are accorded that high degree of respect due the President of the United States. Mr. Chief Justice Marshall sitting as a trial judge in the *Burr* case, *supra*, was extraordinarily careful to point out that:

"[I]n no case of this kind would a Court be required to proceed against the President as against an ordinary individual." *United States* v. *Burr*, 25 Fed. Cases 187, 191 (No. 14,694).

Marshall's statement cannot be read to mean in any sense that a President is above the law, but relates to the singularly unique role under Art. II of a President's communications and activities, related to the performance of duties under that Article. Moreover a President's communications and activities encompass a vastly wider range of sensitive material than would be true of any "ordinary individual." It is therefore necessary in the public interest to afford presidential confidentiality the greatest protection consistent with the fair administration of justice. The need for confidentiality even as to idle conversations with associates in which casual reference might be made concerning political leaders within the country or foreign statesmen is too obvious to call for further treatment. We have no doubt that the District Judge will at all times accord to presidential records that high degree of deference suggested in *United States* v. *Burr, supra*, and will discharge his responsibility to see to it that until released to the Special Prosecutor no *in camera* material is revealed to anyone. This burden applies with even greater force to excised material; once the decision is made to excise, the material is restored to its privileged status and should be returned under seal to its lawful custodian.

Since this matter came before the Court during the pendency of a criminal prosecution, and on representations that time is of the essence, the mandate shall issue forthwith.

Affirmed.

MR. JUSTICE REHNQUIST took no part in the consideration or decision of these cases.

FOOTNOTES

[1] See 28 U.S.C. §§ 1254(1) and 2101(e) and our Rule 20. See, *e.g. Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 937, 579, 584 (1952); *United States* v. *United Mine Workers*, 329 U.S. 708, 709, 710 (1946); 330 U.S. 258, 269 (1947); *Carter* v. *Carter Coal Co.*, 298 U.S. 238 (1936); *Rickert Rice Mills* v. *Fontenot*, 297 U.S. 110 (1936); *Railroad Retirement Board* v. *Alton R. Co.*, 296 U.S. 330, 344 (1935); *United States* v. *Bankers Trust Co.*, 294 U.S. 240, 243 (1935).

[2] The cross-petition in No. 73-1834 raised the issue whether the grand jury acted within its authority in naming the President as a coconspirator. Since we find resolution of this issue unnecessary to resolution of the question whether the claim of privilege is to prevail, the cross-petition for certiorari is dismissed as improvidently granted and the remainder of this opinion is concerned with the issues raised in No. 73-1766. On June 19, 1974, the President's counsel moved for disclosure and transmittal to this Court of all evidence presented to the grand jury relating to its action in naming the President as an unindicted coconspirator. Action on this motion was deferred pending oral argument of the case and is now denied.

[3] The seven defendants were John N. Mitchell, H. R. Haldeman, John D. Ehrlichman, Charles W. Colson, Robert C. Mardian, Kenneth W. Parkinson, and Gordon Strachan. Each had occupied either a position of responsibility on the White House staff or the Committee for the Re-Election of the President. Colson entered a guilty plea on another charge and is no longer a defendant.

[4] The President entered a special appearance in the District Court on June 6 and requested that court to lift its protective order regarding the naming of certain individuals as coconspirators and to any additional extent deemed appropriate by the Court. This motion to the President was based on the ground that the disclosures to the news media made the reasons for continuance of the protective order no longer meaningful. On June 7, the District Court removed its protective order and, on June 10, counsel for both parties jointly moved this Court to unseal those parts of the record which related to the action of the grand jury regarding the President. After receiving a statement in opposition from the defendants, this Court denied that motion on June 15, 1974, except for the grand jury's immediate finding relating to the status of the President as an unindicted coconspirator—U.S.— (1974).

[5] The specific meetings and conversations are enumerated in a schedule attached to the subpoena. 42a-46a of the App.

[6] At the joint suggestion of the Special Prosecutor and counsel for the President, and with the approval of counsel for the defendants, further proceedings in the District Court were held *in camera*.

[7] The parties have suggested that this Court has jurisdiction on other grounds. In view of our conclusion that there is jurisdiction under 28 U.S.C. § 1254(1) because the District Court's order was appealable, we need not decide whether other jurisdictional vehicles are available.

[8] The regulation issued by the Attorney General pursuant to his statutory authority, vests in the Special Prosecutor plenary authority to control the course of investigations and litigation related to "all offenses arising out of the 1972 Presidential Election for which the Special Prosecutor deems it necessary and appropriate to assume responsibility, allegations involving the President, members of the White House staff, or Presidential appointees, and any other matters which he consents to have assigned to him by the Attorney General." 38 Fed. Reg. 30739, as amended by 38 Fed. Reg. 32805. In particular, the Special Prosecutor was given full authority, *inter alia*, "to contest the assertion of 'Executive Privilege' . . . and handl[e] all aspects of any case within his jurisdiction." *Ibid.* The regulations then go on to provide:

"In exercising this authority, the Special Prosecutor will have the greatest degree of independence that is consistent with the Attorney General's statutory accountability for all matters falling within the jurisdiction of the Department of Justice. The Attorney General will not countermand or interfere with the Special Prosecutor's decisions or actions. The Special Prosecutor will determine whether and to what extent he will inform or consult with the Attorney General about the conduct of his duties and responsibilities. In accordance with assurances given by the President to the Attorney General that the President will not exercise his Constitutional powers to effect the discharge of the Special Prosecutor or to limit the independence he is hereby given, the Special Prosecutor will not be removed from his duties except for extraordinary improprieties on his part and without the President's first consulting the Majority and Minority Leaders and Chairman and ranking Minority Members of the Judiciary Committees of the Senate and House of Representatives and ascertaining that their consensus is in accord with his proposed action."

[9] That this was the understanding of Acting Attorney General Robert Bork, the author of the regulations establishing the independence of the Special Prosecutor, is shown by his testimony before the Senate Judiciary Committee:

"Although it is anticipated that Mr. Jaworski will receive cooperation from the White House in getting any evidence he feels he needs to conduct investigations and prosecutions, it is clear and understood on all sides that he has the power to use judicial processes to pursue evidence if disagreement should develop."

Hearings before the Senate Judiciary Committee on the Special Prosecutor, 93d Cong., 1st Sess., pt. 2, at 470 (1973). Acting Attorney General Bork gave similar assurances to the House Subcommittee on Criminal Justice. Hearings before the House Judiciary Subcommittee on Criminal Justice on H.J. Res. 734 and H.R. 10937, 93d Cong., 1st Sess. (1973). At his confirmation hearings, Attorney General William Saxbe testified that he shared Acting Attorney General Bork's views concerning the Special Prosecutor's authority to test any claim of executive privilege in the courts. Hearings before the Senate Judiciary Committee on the nomination of William B. Saxbe to be Attorney General, 93d Cong., 1st Sess. 9 (1973).

[10] At his confirmation hearings Attorney General William Saxbe testified that he agreed with the regulations adopted by Acting Attorney General Bork and would not remove the Special Prosecutor except for "gross impropriety." Hearings, Senate Judiciary Committee on the nomination of

William B. Saxbe to be Attorney General, 93d Cong., 1st Sess., 5–6, 8–10 (1973). There is no contention here that the Special Prosecutor is guilty of any such impropriety.

[11] The Court quoted a statement of a member of the advisory committee that the purpose of the Rule was to bring documents into court "in advance of the time that they are offered in evidence, so that they may then be inspected in advance, for the purpose . . . of enabling the party to see whether he can use [them] or whether he wants to use [them]." 341 U.S., at 220 n. 5. The Manual for Complex and Multi-district Litigation published by the Administrative Office of the United States Courts recommends that Rule 17(c) be encouraged in complex criminal cases in order that each party may be compelled to produce its documentary evidence well in advance of trial and in advance of the time it is to be offered. P. 142, CCH Ed.

[12] The District Court found here that it was faced with "the more unusual situation . . . where the subpoena, rather than being directed to the government by the defendants, issues to what, as a practical matter, is a third party." *United States* v. *Mitchell*, — F. Supp. — (D.C. 1974). The Special Prosecutor suggests that the evidentiary requirement of *Bowman Dairy Co.* and *Iozia* does not apply in its full vigor when the subpoena *duces tecum* is issued to third parties rather than to government prosecutors. Brief for the United States 128–129. We need not decide whether a lower standard exists because we are satisfied that the relevance and evidentiary nature of the subpoenaed tapes were sufficiently shown as a preliminary matter to warrant the District Court's refusal to quash the subpoena.

[13] Such statements are declarations by a party defendant that "would surmount all objections based on the hearsay rule . . ." and, at least as to the declarant himself "would be admissible for whatever inferences" might be reasonably drawn. *United States* v. *Matlock*, — U.S. — (1974). On *Lee* v. *United States*, 343 U.S. 747, 757 (1953). See also McCormack on Evidence, § 270, at 651–652 (1972 ed.).

[14] As a preliminary matter, there must be substantial, independent evidence of the conspiracy, at least enough to take the question to the jury. *United States* v. *Vaught*, 385 F. 2d 320, 323 (CA 4, 1973); *United States* v. *Hoffa*, 349 F. 2d 20, 41–42 (CA 6, 1965), aff'd on other grounds, 385 U.S. 293 (1966), *United States* v. *Santos*, 385 F. 2d 43, 45 (CA 7, 1967), cert. denied, 390 U.S. 954 (1968); *United States* v. *Morton*, 483 F. 2d 573, 576 (CA 8, 1973), *United States* v. *Spanos*, 462 F. 2d 1012, 1014 (CA 9, 1972); *Carbo* v. *United States*, 314 F. 2d 718, 737 (CA 9, 1963), cert. denied, 377 U.S. 953 (1964). Whether the standard has been satisfied is a question of admissibility of evidence to be decided by the trial judge.

[15] There is nothing novel about governmental confidentiality. The meetings of the Constitutional Convention in 1787 were conducted in complete privacy. 1 Farrand, The Records of the Federal Convention of 1787, xi–xxv (1911). Moreover, all records of those meetings were sealed for more than 30 years after the Convention. See 3 U.S. Stat. At Large, 15th Cong. 1st Sess., Res. 8 (1818). Most of the Framers acknowledged that without secrecy no constitution of the kind that was developed could have been written. Warren, The Making of the Constitution, 134–139 (1937).

[16] The Special Prosecutor argues that there is no provision in the Constitution for a presidential privilege as to his communications corresponding to the privilege of Members of Congress under the Speech or Debate Clause. But the silence of the Constitution on this score is not dispositive. "The rule of constitutional interpretation announced in *McCulloch* v. *Maryland*, 4 Wheat. 316, that that which was reasonably appropriate and relevant to the exercise of a granted power was considered as accompanying the grant, has been so universally applied that it suffices merely to state it." *Marshall* v. *Gordon*, 243 U.S. 521, 537 (1947).

[17] Freedom of communication vital to fulfillment of wholesome relationships is obtained only by removing the specter of compelled disclosure . . . [G]overnment . . . needs open but protected channels for the kind of plain talk that is essential to the quality of its functioning." *Carl Zeiss Stiftung* v. *V.E.B. Carl Zeiss, Jena*, 40 F.R.D. 318, 325 (D.C. 1966). See *Nixon* v. *Sirica*, — U.S. App. D.C. —, — 487 F 2d 700, 713 (1973); *Kaiser Aluminum & Chem Corp* v. *United States*, 157 F. Supp. 939 (Ct. Cl. 1958) (*per* Reed, J.); The Federabst No. 64 (S. F. Mittel ed 1938).

[18] Because of the key role of the testimony of witnesses in the judicial process, courts have historically been cautious about privileges. Justice Frankfurter, dissenting in *Elkins* v. *United States*, 364 U.S. 206, 234 (1960), said of this: "Limitations are properly placed upon the operation of this general principle only to the very limited extent that permitting a refusal to testify or excluding relevant evidence has a public good transcending the normally predominant principle of utilizing all rational means for ascertaining truth."

[19] We are not here concerned with the balance between the President's generalized interest in confidentiality and the need for relevant evidence in civil litigation, nor with that between the confidentiality interest and congressional demands for information, nor with the President's interest in preserving state secrets. We address only the conflict between the President's assertion of a generalized privilege of confidentiality against the constitutional need for relevant evidence to criminal trials.

[20] Mr. Justice Cardozo made this point in an analogous context. Speaking for a unanimous Court in *Clark* v. *United States*, 289 U.S. 1 (1933), he emphasized the importance of maintaining the secrecy of the deliberations of a petit jury in a criminal case. "Freedom of debate might be stifled and independence of thought checked if jurors were made to feel that their arguments and ballots were to be freely published in the world." *Id.*, at 13, Nonetheless, the Court also recognized that isolated inroads on confidentiality designed to serve the paramount need of the criminal law would not vitiate the interests served by secrecy.

"A juror of integrity and reasonably firmness will not fear to speak his mind if the confidences of debate are barred to the ears of more impertinence or malice. He will not expect to be shielded against the disclosure of his conduct in the event that there is evidence reflecting upon his honor. The chance that now and then there may be found some timid soul who will take counsel of his fears and give way to their repressive power is too remote and shadowly to shape the course of justice" *Id.*, at 16.

[21] When the subpoenaed material is delivered to the District Judge *in camera* questions may arise as to the excising of parts and it lies within the discretion of that court to seek the aid of the Special Prosecutor and the President's counsel for *in camera* consideration of the validity of particular excisions, whether the basis of excision is relevancy or admissibility or under such cases as *Reynolds*, *supra*, or *Waterman Steamship*, *supra*.

REMARKS OF THE HONORABLE WILBUR D. MILLS AT THE MEETING OF THE SOUTHEASTERN TAX ADMINISTRATORS ASSOCIATION, HOT SPRINGS, ARK., JULY 22, 1974

(Mr. WAGGONNER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WAGGONNER. Mr. Speaker, I would like to call to my colleagues' attention a timely speech given by the Honorable WILBUR MILLS, distinguished and able chairman of the Ways and Means Committee, at a meeting of the Southeastern Tax Administrators Association in Hot Springs, Ark., on July 22. It deals with our No. 1 problem today, inflation.

While everyone agrees that inflation is a major ailment, equally obvious is the fact that there is no single answer. The distinguished chairman of the Ways and Means Committee makes a number of recommendations which I submit are all worthy of consideration.

It follows:

REMARKS OF THE HONORABLE WILBUR D. MILLS AT THE MEETING OF THE SOUTHEASTERN TAX ADMINISTRATORS ASSOCIATION, HOT SPRINGS, ARK., JULY 22, 1974

It is a very great pleasure to have this opportunity to be with you today for the Annual Meeting of the Southeastern Tax Administrators' Association. It is a particular pleasure at this time to have the chance to discuss with you, as professionals in the field of taxation, the critical problems of the economy and the significant impact which tax policy can have in restoring stability while reducing inflation. I plan to limit my initial remarks today so that at their conclusion you might have the opportunity of asking questions on issues which may be of concern to you and with which I have not dealt in these brief remarks.

The most serious problem facing this nation today is the continuation of excessive levels of inflation. In recent months we have witnessed rates of inflation which are unsurpassed in the peacetime history of the United States, inflation so serious that economists have coined a new phrase—double digit inflation—to describe the magnitude of inflation at annual levels in excess of 10%.

I have been gravely concerned that despite the waning confidence of both consumer and business alike in the ability of the government to deal with inflation both the Congress and the Administration have failed to take action in a magnitude equal to the crisis we face.

Since 1965 inflation has run rampant in this country, and if the past appeared dismal, the future seems dark.

In recent months increases in the chemical, rubber, lumber, paper and metal industries have increased at an alarming pace at annual rates between 20% and 60%.

Inflation for the consumer has accelerated with prices rising at a rate in excess of 10% and wholesale prices at a rate in excess of 15%.

And with the lag in wage increases behind those of prices during the past year and a half, we can anticipate a strong catch-up effort on the part of labor in the forthcoming contract negotiations in many key industries.

There has been some indication that these drastic price increases have moderated and that the short-term factors which magnified the inflationary pressures within the economy has been reduced.

Food shortages of last spring, attributable to the worldwide shortage of grain and accentuated by the export policies of the Administration have subsided and in the past few weeks, livestock prices have shown signs of decline.

Energy shortages and drastic price increases caused by the political policies of the oil exporting nations are being reduced.

The impact of the devaluations of the dollar resulting in higher prices for imported goods has been absorbed and somewhat diminished.

And some signs of recovery from the distortions of the economy under the multiphased disaster of wage-price controls are appearing.

But though these short-term factors have reduced the stronger immediate pressures toward inflation, the long-term causes of which we have been aware for quite some time still reflect a dismal future and general governmental neglect.

The international boom economy has produced an enlarged demand for capital goods, and shortages of materials and component parts such as steel, aluminum, coal, paper, bearings, electric motors, and forgings forecast future shortages of consumer goods.

Wages rates have risen sharply at a time when production has been falling off, and in the second quarter, earnings in the private nonfarm economy have risen at an annual rate of 10%, and the labor cost per unit of output has risen at an even higher rate.

And we are continuing to pursue exhorbitant governmental spending policies, producing greater deficits and promoting demand.

The time has come and past for selective action, and our inaction in dealing with these long-term causes in the past has reduced our options compelling immediate and drastic action. In a speech last month on the floor of the House, I outlined my proposals for ending inflation and moving toward a more realistic and stable economic growth. Since that time many of our nation's key economic spokesmen have echoed that call for prompt and decisive measures to curb consumer demand, reduce government spending, and control the wage-price boom.

It is generally agreed that perhaps the most significant pressure toward continued inflation has been the fiscal policy of the Federal government for the past ten years, producing record deficits and setting the tone for the nation to live far beyond its means to produce. Few people realize that if you examine the history of Federal expenditures, we exceeded the $100 billion mark in spending in fiscal year 1962. But the next $100 billion increase came in 1971, meaning that in only 9 years, Federal spending increased as much as in the first almost two hundred years of our nation's history. And it is entirely possible that unless we take immediate action, the next $100 billion increase will be reached in this fiscal year.

In testimony before the House Committee on Ways and Means in our present tax reform deliberations, Chairman Arthur Burns of the Federal Reserve Board labeled the need for a $10 billion reduction in Federal spending in the current fiscal year as the most crucial step in an immediate assault on inflation.

In keeping with that call and my own long-standing commitment to a reduction in Federal spending, I called upon the President last week to join with the Congress to achieve this goal. This is neither the time for partisanship or Executive-Legislative conflict, but rather a time for immediate reductions to take place.

Secondly, I have called for the continuation of our present policy of monetary restraint. Such a policy is necessary at this time to break the psychology that has driven the consumer to anticipate a higher quality of life and to hedge against higher prices through the heavy use of borrowed funds. This expansion in demand has exceeded our capacity to produce sufficient goods, and credit restraint should serve to ease the pressure of this magnified demand. However, the present policy poses serious problems for many industries including agriculture, utilities, and governments to secure adequate capital for essential needs. Some action will be necessary in the course of this policy to insure that particularly in capital-goods short industries, adequate capital for expanded production is available.

Thirdly, I have called for the re-institution of wage-price controls. Some action will be necessary, I believe to insure that while the efforts toward controlling long-term inflation are becoming effective, a new surge of wage-price increases will not occur. I do not believe that with the present lack of confidence on the part of the American people in the ability of government to deal with our economic problems, jawboning will be sufficient to curb demands for higher wages in anticipation of higher prices and the resulting price increases which these wages will produce. I would call today upon organized labor both in the interest of the national economy and in the interest of one of the foremost goals of the labor movement, low unemployment, to negotiate in this round for moderate wage increases coupled with an assurance from business that the remainder of former wage demands will be used for capital expansion tied to new jobs. This would serve a three-fold purpose, stimulating production, reducing per unit costs, and moderating the cost-push pressure of higher wages.

And finally, I believe that we must continue to rely upon the tax system to provide those necessary incentives to capital expansion while avoiding the extreme inflationary step of reducing taxes across the board.

As you are aware, the Committee on Ways and Means has been engaged in an extensive tax reform effort, seeking to terminate abuses that have arisen under present law, simplify the tax law for the average taxpayer, and preserve the economic integrity which underlies the incentive provisions of the Code.

The economy at the present time demands that incentive provisions such as the accelerated depreciation range and the investment tax credit be retained in order to insure that adequate capital is available not only for modernization, but for expansion as well. The 12% increase in business capital expenditures that is projected for this year may mean very little should the sharp rises in the cost of material and labor continue to escalate.

Business capital investment in this nation has, in fact, not been sufficient in recent years, and particularly in such short-supply industries as those producing raw materials increased capital investment is essential to prevent a long-term demand-pull inflationary surge. It must be remembered that much of the capital expenditures in recent years have been geared to compliance with State and Federal anti-pollution and safety improvements and sufficient resources have not necessarily been directed to expenditures which will result in increased productivity. I believe that the Committee may also want to consider such proposals as increasing the investment tax credit as well as other possibilities for added incentives to capital expansion in short-supply industries.

In addition to retaining and the possibility of expanding these provisions of the tax law, the Committee has already taken tentative action which I believe will be in the interest of sparking the economy by unlocking capital currently tied to dismal market conditions. In keeping with my own long-standing interest in altering the tax treatment of capital gains, the Committee last week tentatively decided to implement a form of sliding-scale treatment for capital gains. Under present law, gain from the sale of a capital asset held for six months or longer qualifies for preferential long-term capital gains treatment. I have felt that six months was too short a period for such treatment and that giving an equal deduction to those who held assets for only six months to those that had been held for a number of years was inequitable. As a result, the Committee's tentative decision would extend the holding period for long-term capital gains treatment to one year or more.

The present fifty percent deduction allowed for such gains would be retained for assets held for up to five years. This is the period over which income averaging provides significant benefits. After five years, the fifty percent exclusion ration would be increased by an amount equal to 1% of the cost basis of the asset for each year thereafter up to twenty years. This provision would not only more accurately reflect the amount of such gain attributable to inflation, but would also succeed in freeing assets and capital to rejuvenate the sagging securities and real estate industries.

In addition, the amount of long-term capital loss allowed as a deduction against ordinary income has been increased from $1,000 annually to $2,000. Coupled with the carryback and carryforward provision which is currently allowed only to corporations, this will hopefully allow investors currently locked-in to a downturned market to liquidate and reinvest again sparking greater economic activity.

But in order for the Congress to develop a tax policy that is consistent with the goal of restoring strength to our ailing economy, it is necessary to demonstrate to the average taxpayer that our tax system is equitable and that similarly situated taxpayers will assume an equal share of the tax burden. As State tax administrators, you are well aware of the general public feeling that there is widespread abuse of the tax law resulting in individuals with high incomes paying little tax. This feeling has been accentuated of late with revelations of the public marketing of tax shelters and various other manipulations of the tax law.

A system of voluntary compliance upon which we rely for the reporting and collection of income taxes in this nation, requires that every taxpayer have faith in the tax law with which he is required to comply. Few people realize that the Committee and the Congress have enacted far-reaching tax reform legislation in the past, and the Committee on Ways and Means was widely known as the most reform minded Committee of the Congress long before reform was a catchphrase for political demagoguery.

For example, from 1962 through 1973, the tax liability of the average married couple with two children earning $6,000 per year was reduced by 53.9%. For the same family earning less than $4,000 per year, that burden was reduced by 100%. In fact, changes in the tax law since 1962 are estimated to result in individuals paying $40 billion less in income taxes in fiscal year 1975.

In our present tax reform effort, the Committee has examined every incentive provision in the tax code, first through panel discussions and later through extensive public hearings. Although I do not believe that there will be sufficient time remaining in the present session to complete action in every area in which action is desired, I do believe that we have already taken tentative action which will move us much closer to eliminating the abuses that have arisen under present law. In our close examination of tax shelters, we found that not only was equity being sacrificed in most of these abuses, but that economic distortions were resulting as well. The Committee has tentatively decided to adopt the Administrations Limitation on Artificial Accounting Loss (LAL) proposal which will limit the amount of income from other sources that can be offset by accelerated deductions and the resulting artificial losses from certain business operations.

Among these operations which the Committee found were the subject of tax shelter abuse were farming, real estate, oil and

gas operations, and films. I believe that the action which the Committee has taken in these areas not only will remove the abuse of the tax law, but will also promote the non-tax shelter operators of such business who rely on sound economics, not the tax laws to derive a profit. The Committee has also taken action in the field of taxation of foreign source income, an area which has received wide attention because of the possibility that many domestic corporations could offset U.S. domestic income with foreign losses in early years of foreign operations, while offsetting the income derived from those operations in later years with foreign tax credits. The Committee's action will, I believe, insure that the tax treatment of those foreign operations is equitable and in accord with generally accepted international practice, while insuring that abuse will not occur.

Additionally, the Committee has taken tentative action designed to simplify compliance for the individual taxpayer. And though many of these tentative decisions in the area of simplification have been interpreted as increasing taxes for the average taxpayer, I want to point out that it has been the Committee's long-standing practice to complete action on revenue-raising provisions before determining how much relief we will be able to provide.

Among these decisions are the elimination of the $100 dividend exclusion, elimination of the deduction for gasoline taxes, an increase in the 3% floor applicable to the medical expense deduction to 5%, and the inclusion of a floor of $200 which miscellaneous deductions must exceed in order to be deductible. Among the possibilities for providing similar reductions to compensate for the deductions that have been eliminated or reduced are the increase of the personal exemption, an increase in the standard deduction, and a miscellaneous itemized deduction of a fixed amount.

I believe that the Committee's action will insure a greater degree of equity in our present tax law in a rational manner consistent with our economic goals.

The months ahead will be trying months for our economy and for the American people. In cooling-off the boom period we have created, we must pay for the accelerated pace at which we have moved. In order to insure that the inflation eroding away our wages, our investments, and our economic strength is ended, we must move into an era of great sacrifice for us all. This effort will require the strong support of all of the American people, their understanding and their trust, and it will also require the cooperation and complementary efforts of each of the other levels of government in this nation. Spending at all levels of government must be reduced. The pressure toward high interest rates must be ended. Productive resources must be expanded, and the cost per unit of production must be reduced.

With the support of the American people, the Congress, the Administration, and government at the State and local level can insure a higher quality of life in a more stable economic climate.

"BETWEEN FANATICISM AND CYNICISM," AN ADDRESS BY PRESIDENT JOHN R. SILBER OF BOSTON UNIVERSITY

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, given the current consideration by the House of Representatives of the impeachment of President Nixon, I believe that Members of Congress will find illuminating and, indeed, inspiring, an address delivered by John R. Silber, president of Boston University, at the 101st commencement of that institution.

In his address, President Silber deals in a profound way with the meaning of the rule of law in the American constitutional system and does so with particular attention to the current impeachment proceedings.

I should note, Mr. Speaker, that a longer and more detailed version of this address is to appear in the September issue of the Center magazine, published by the Center for the Study of Democratic Institutions at Santa Barbara, Calif.

I insert the text of Mr. Silber's address at this point in the RECORD:

BETWEEN FANATICISM AND CYNICISM

(Address by President John R. Silber)

For the past four years this graduating class has been witness to continuing and accelerating change in American life. They have found themselves in an age of bewilderment marked by a pervasive sense of indirection, alienation and loss. They have lived in a time of intensified polarization in our society that seems almost to validate John Adams' somber description of the ineluctable fate of democracies: "Remember," he wrote thirty-eight years after the Declaration of Independence, "democracy never lasts long. It soon wastes, exhausts, and murders itself. There never was a democracy yet that did not commit suicide."

Adams was himself a revolutionary of impressive professional credentials. He did not write this evaluation out of counter-revolutionary pessimism. He could find examples in his own lifetime and in recent history, of democratic experiments that destroyed themselves: Adams himself had seen the bloody and erratic course of the French Revolution, and the memory of the decay, a century before, of the English Puritan republic into a military dictatorship was still fresh. Even more than by these examples, Adams must have been guided by his assessment of the nature of man and by his belief that the character of society is derived from the character of those who make it up: "Passions are the same in all men, under all forms of simple government, and when unchecked, produce the same effects of fraud, violence and cruelty. When clear prospects are opened before vanity, pride, avarice, or ambition, for their easy gratification, it is hard for the most considerate philosophers and the most conscientious moralists to resist the temptation. Individuals have conquered themselves; nations and large bodies of men, never."

A dozen years ago graduating classes and those attending graduation exercises might have given slight credence to Adams' judgment. In the 1950's and early 60's America seemed a society on the move and in the right direction, gaining momentum, adequate to the challenge of the future as it had been to the challenges of the past. The events of the intervening years have eroded that confidence, and now Adams' words seem obviously and frighteningly true. Balance and control seem lacking, not merely in the nation but in the individuals who make it up. Idealism has given rise to fanaticism and lawlessness.

The moral force and ultimate respect for law that animated Martin Luther King's Southern Christian Leadership Conference dissipated into the factionalisms of black power. The idealism of the Port Huron statement and the original members of the Students for a Democratic Society degenerated into brutal assaults on the university. As youth movements once motivated by the highest idealism became increasingly shrill, irrational and fanatical, what had been a careful coordination of means with ends became first careless and finally disappeared altogether by May 1970, when arsonists put the torch to more than one academic building in the mad belief that this action would force the cancellation of the Cambodian invasion. Far from bringing the President to his knees, the ten days of rioting diverted the attention of the great majority from the serious moral issue at hand.

OLDER GENERATIONS

Older generations that under Roosevelt and Truman and Eisenhower had risen to the moral challenge of the times, rose once again under Kennedy and Johnson to meet responsibilities abroad and the goal at home of providing increased opportunity for all citizens. But the older generation, enjoying the growing affluence of an economy force-fed by federal spending, allowed itself to be compromised by gradual stages into a full-scale land war in Asia that it eventually came to see as, first, economically, then militarily, and finally morally bankrupt. The "activists" spent themselves in an effort to achieve instant public virtue for the nation, and the older generation spent itself trying to make the worse appear the better cause by affixing the gloss "Peace With Honor" to an exhausting exercise that discredited us all.

Like two bulls exhausted by the probes of overzealous picadors, the generations have come to face each other impassively, questioningly, uncertainly, on the common ground of cynicism. Many of the young have reached an accommodation with their parents only by giving up on them. Expecting nothing noble or worthy from the older generation, they have become free to find them tolerable, amusing, or even delightful. The parental generation has also become increasingly reconciled to the younger, and largely through a similar act of renounced expectation. And so the generations have lived since 1972, the Nixon re-election having been the point at which the younger generation lost its interest in instant politics and the older began to ponder the implications of triumphant cynicism.

During the last two years the generations have maintained a wary truce. They pause in cynicism, one having arrived there through frustrated fanaticism, the other through gradual accommodation.

Each generation tends toward an excess of qualities that in moderation are necessary to the human condition: the idealism, aspiration and daring of youth, and the realism, experience and caution of age. In the best of times, when the generations are in proper contact, the tendencies are self-correcting. When the generations are separated—as they have been—the tendencies have been free to develop into excess. In the last decade the idealism of youth too often became mindless fanaticism, and then at the first sign of failure degenerated into cynicism of an intensity possible only in the young. The experience of age too often moved from wisdom to pragmatism to compromise to sell-out, accommodating to anything and expecting nothing. Each generation was confirmed, first in its excess and then in its cynicism, by a constant, if remote, view of the other. The corrections, like the tendencies, were to excess.

THE MEETING OF THE GENERATIONS

But if the generations meet once again, the process of mutual correction can begin once again. We can make the correction of youth, insisting upon idealism. We can make the correction of age, insisting upon an ideal that can be realized. We can meet on the ground of law, on the ground of decency, and on the ground of civility.

The possibilities of such a collaboration are brilliantly set forth in Robert Bolt's play, *A Man for All Seasons*, in a passage dealing with Sir Thomas More's impending confrontation with Henry VIII. More receives a visit from a devious and ambitious young

man named Rich who appears to be spying on him in the guise of asking for help. "Employ me!" says Rich. "No!" replies More. "Employ me," says Rich desperately. He turns to exit.

RICH. I would be steadfast.

MORE. Richard, you couldn't answer for yourself even so far as tonight.

[Rich leaves and More takes counsel with his wife, Alice, his daughter, Margaret, and his prospective son-in-law, Roper.]

ROPER. Arrest him!

ALICE. Yes.

MORE. For what?

ALICE. He's dangerous!

ROPER. For libel; he's a spy.

ALICE. He is! Arrest him!

MARGARET. Father, that man's bad!

MORE. There is no law against that!

ROPER. There is! God's law!

MORE. Then God can arrest him!

ROPER. Sophistication upon sophistication!

MORE. No, sheer simplicity. The law, Roper, the law. I know what's legal, not what's right. And I'll stick to what's legal.

ROPER. Then you set man's law above God's!

MORE. No, far below; but let *me* draw your attention to a fact—I'm *not* God. The currents and eddies of right and wrong, which you find such plain sailing, I can't navigate. I'm no voyager. But in the thickets of the law, oh, there I'm a forester. . . .

ALICE. While you talk, [Rich] is gone!

MORE. And go he should, if he was the Devil himself, until he broke the law!

ROPER. So now you'd give the Devil the benefit of law!

MORE. Yes. What would you do? Cut a great road through the law to get after the Devil?

ROPER. I'd cut down every law in England to do that!

MORE. Oh? And when the last law was down, and the Devil turned round on you—where would you hide, Roper, the laws all being flat? . . . If you cut them down—and you're just the man to do it—d'you really think you could stand upright in the winds that would blow then? Yes, I'd give the Devil benefit of law, for my own safety's sake.

There you hear a dialogue that moves successfully between the generations. These men talk directly to each other. Roper wants right to be done. He is understandably impatient with the law's inadequacies. He does not want to let the guilty go free or to accomplish less than the highest perfection demanded by the law of God. More is not insensitive to these higher demands, these loftier purposes. Like Roper, he prays, he reads the Bible, he understands theology, he is aware of the shortcomings of the law. But he would rather stand with the law of man and all its shortcomings than open wide the gates to the moral judgments of the fanatic.

THE CONSTRAINT OF LAW

Without the constraint of law, not only Roper but anyone can decide what is right. He need not be deterred by what is legal. The imperative of conscience is a rationale open to any man, a guide to which every man can lay claim. Conscience is no better than the person to whom it speaks. Acutely aware of this, More tries to convince his young colleague of the necessity to transcend the subjectivity of conscience, the subjectivity of individual opinion about what is right, through appeal to a society grounded in law. It is More's point that without the law only contingent factors may differentiate the idealist Roper from the scoundrel Rich.

MR. JUSTICE BRANDEIS

The view that Bolt here puts into More's mouth is strikingly reminiscent of a celebrated statement of Mr. Justice Brandeis. In 1928, dissenting in the Olmstead case, Brandeis said:

"Decency, security, and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means—to declare that the government may commit crimes in order to secure the conviction of a private criminal—would bring terrible retribution."

If the younger generation takes Brandeis' words as the sagest counsel an older generation has to offer, and as the opening statement in what might become a healing dialogue between them, what would it say? Would it not correctly respond that the government of the United States has been guilty—by its own admission—of precisely those actions that Brandeis condemns? And that the terrible retribution he promises is now upon us?

It is evident in the improper subordination of the legislative and judicial branches to the executive. Congress must restore the proper balance between the executive and legislative branches. This balance will deteriorate further if Congress allows the President to define the nature of impeachable offenses, to determine what evidence may be available to the House of Representatives in the assessment of his stewardship, and to dictate the procedure of the Judiciary Committee's inquiry.

PROPER BALANCE IN OUR GOVERNMENT

Proper balance will not be restored to our government until the authority and scope of the judicial branch are also re-established. Elementary legal traditions, such as that sanction should follow conviction of a crime, must be observed. While the President has said of the misdeeds of Watergate, "I assume responsibility for such actions," he has thus far refused to entail his responsibility with consequences. He emphatically disclaims any legal consequences, and he angrily dismisses those who propose moral or political consequences as mere partisans.

Some defenders of the administration are prompted, not by cynicism, but by a genuine, though ill-conceived, concern that no one should injure the office of the President of the United States. On this point we may all be reassured. There is no way that anyone can injure or detract from the office of the President as long as one holds all incumbents to the very highest standards of moral, legal, and political rectitude. To demand anything less than the highest standards of the incumbents of this office would seriously impair if not destroy the office of the President.

THE PRESIDENCY

To preserve the presidency we need only distinguished the office from its incumbent. This basic distinction was made 1500 years ago by St. Augustine and reiterated at the Council of Trent when the Catholic Church held that the efficacy of the Mass did not depend upon the moral quality of the priest. By distinguishing carefully between office and incumbent, it preserved the integrity of the Mass. No institution—not the Church, not the judiciary, not the bar, not the Constitution of the United States—can guarantee that every incumbent will fulfill the responsibilities of his office. We do not damage or dishonor the presidency of the United States by being critical of its incumbents. Serious damage to the presidency derives rather from the cynicism of the sort voiced by Secretary Melvin Laird, whom *The New York Times* reported to say: "If the President was involved in Watergate, I don't want to know about it." If the President is involved, the public must know about it. If the President is involved, the President must be removed.

Macaulay in his *History of England* deals brilliantly with this question. Concerning the removal of King Charles I, he said that "When [an institution] is regarded with love and veneration, but the person who fills that office is hated and distrusted, it should seem that the course which ought to be taken is obvious. The dignity of the office should be preserved; the person should be discarded" In 1649 the English beheaded the incumbent and abolished the office. After eleven years of experiment with a republic that degenerated into dictatorship, the country restored the monarchy, realizing that there was nothing wrong with the monarchy that a good king could not correct. After twenty-five fairly satisfactory years with Charles II the country was troubled by an incompetently arbitrary incumbent, but they did not repeat the mistake of 1649. They dismissed James II and retained the monarchy.

THE FOUNDING FATHERS AND IMPEACHMENT

The Founding Fathers of the American Republic were beneficiaries of the English experience and provide impeachment as a means of preserving the office while assaying the worthiness of any incumbent to hold it.

How do we deal wih the objection, however, that the nation cannot afford impeachment, for impeachment itself creates serious problems? At this point I would not urge the youthful shortcut of a Roper. I would stick with Sir Thomas More. I would argue that until the law concerning impeachment is changed, the law must be observed as it stands. And if impeachment turns out to be an inconvenience to the nation, so be it, for that is the law. I would reject the revolutionary counsel that since impeachment can be difficult and since impeachment will impair the processes of government, let us therefore abide cynically with the only President we've got; put Watergate behind us and get on with it. This answer has some initial plausibility. Despite its cynicism, it reflects a concern for the nation. But at this point we must reject the suggestion out of respect for the Constitution. Until the Constitution is changed to provide a more satisfactory procedure for removing the incumbent, we must uphold the Constitution for our own safety's sake. By upholding the Constitution we shall have less than an ideal solution, but we shall avoid the risks of anarchy and tyranny.

We may restore the balance of power in government on which successful democracy depends, and we may move to overcome the alienation and disgust of a younger generation that could rightly have expected better of us than we have delivered in the past decade. In turn, the younger generation may find in us more nobility than they have come to expect, and we may find in them a willingness to respect the rule of law and to eschew those shortcuts dictated by a fanatical desire to achieve perfection.

THE WATERGATE TRANSCRIPTS AND THE FEDERALIST PAPERS

If the American public takes time to read the Watergate transcripts, as it seems it will, this will be the first time since the publication of the Federalist Papers that the literate population of America has been united by the knowledge of a single document. This is a new and regrettably sordid basis for our political community. But a nation that reads together may stay together—long enough to improve. Its appetite for reading having been quickened, the people may turn again to the works of our Founding Fathers, whose relevance for today is greater than that suggested by the ceremonial programs of the Bicentennial. If we return to the documents of our Founding Fathers we may make the Bicentennial more than an occasion for tourism.

No one who understands the law will identify it with perfection. The law denies us access to the highest reaches of moral insight and political aspiration; likewise, the rule of law saves us from a variety of diseases to which the social organism is prone, most especially, from anarchy and tyranny. We need the law, not in order to obtain the best, but to avoid the worst. The Constitution, our legislative enactments, and English and American common law provide the least, not the most, that can be expected of our citizens and our Congressmen. After they have fully met the requirements of law, we can then hope they will move on to the requirements of perfection and wisdom. But we will destroy this nation if we attempt to make things convenient for ourselves, if we do anything less than carry out the full demands of the Constitution.

Over the past three and a half years in conversation and in confrontation, Boston University has argued against and condemned all efforts by students to circumvent legal, constitutional channels in the pursuit of their social, political, and moral objectives. And in urging students to observe the refinements and restraints of law, we have received the applause of parents, alumni, and Trustees. It is essential, now, that this parental generation also be observant of the rule of law. It is essential that across generational lines we insist that the House Judiciary Committee pursue the evidence wherever it may lead; that the House of Representatives act on the evidence presented by the Judiciary Committee, wherever it may lead, even to impeachment; and that the Senate act on the recommendation of the House, wherever it may lead, even to the removal of the President. If Congressman Wilbur Mills or any other member of Congress introduces legislation immunizing Mr. Nixon from the legal consequences of his acts, the Congress must defeat it resoundingly. If he is found guilty, let him be dealt with in accordance with law, not in accordance with political convenience.

The older generation forfeited much of its self-respect by its unwillingness to face the Vietnam issue squarely; the student generation forfeited much of its self-respect by using illegal and immoral means to advance its objectives. Let us together regain our self-respect by facing Watergate squarely within the context of law. Let us firmly resolve that anyone who occupies the office of President shall meet the highest expectations of that office, that he shall meet the demanding standards proposed by John Adams, who on his first night in the White House wrote his wife, Abigail: "I pray Heaven to bestow the best blessings on this house and all that shall hereafter inhabit it. May none but honest and wise men ever rule under this roof."

If we parents insist on the fulfillment of the rule of law and on the fullest realization of those ideals and purposes for which this nation was founded, we shall find our children by our side. The generation gap shall be closed, and a new period of high purpose and opportunity shall open before this nation.

A TRIBUTE TO JULIA BUTLER HANSEN FROM NANCY HANKS

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, yesterday, during debate on H.R. 16027, the Interior and Related Agencies Appropriations, fiscal 1975, bill, among the persons seated in the House gallery was the distinguished and able chairman of the National Endowment for the Arts, Miss Nancy Hanks.

Mr. Speaker, I take great pleasure in including at this point in the RECORD the text of a letter I have just received from Miss Hanks in which she pays tribute to the outstanding contributions to the support of the arts and humanities of our beloved colleague, the gentlewoman from Washington (Mrs. HANSEN).

Miss Hanks' letter follows:

NATIONAL ENDOWMENT FOR THE ARTS,
Washington, D.C., July 25, 1974.

HON. JOHN BRADEMAS,
U.S. House of Representatives,
Washington, D.C.

DEAR JOHN: It was with mixed emotions that I had the great privilege of hearing, from a seat in the House gallery, the outpouring of tributes to Representative Julia Butler Hansen on Wednesday. As member after member of this distinguished body rose to praise a truly remarkable woman for her legislative skills, her contribution to the Congress and to the country, her personal charm and warmth as a wonderful human being, I was thrilled that I, too, have had the meaningful experience of knowing Julia Hansen and the privilege of calling her "friend."

My four and a half years as Chairman of the National Endowment for the Arts have been blessed and enriched by my personal and professional relationship with Mrs. Hansen. She has been a source of encouragement and help when I . . . and the arts in America . . . most needed it. Her realistic, as well as inspirational approach to the development and support of the arts in our country have helped make the joys of music, theatre, dance, painting, sculpture, film, crafts, poetry, a right for all citizens rather than a privilege for the few. Along with pure water, clean air, great forests and national parks, Julia Hansen has recognized the arts as part of our heritage and as a national resource to bring beauty to our lives. Although a very small part of a major budget, Mrs. Hansen has devoted the same conscientious, painstaking attention to the needs of our nation's artists and cultural resources as she has those agencies and projects that make up the major part of her responsibilities as Chairman of the Subcommittee.

Always available for counsel and guidance, always sympathetic to the needs of this very small agency, always interested in our goals and our problems, she has indeed been an integral part of the cultural growth and the burgeoning involvement in the arts which marks the United Staes as we approach our bicentennial. Her influence will be felt for generations to come.

Along with my joy and pride that I could share in the outpouring of affection and admiration expressed by Julia's Congressional colleagues is a feeling of regret that she is leaving Washington, D.C., for her beloved state of Washington.

We will all miss her very much but she will always be part of my life and that of the arts in America.

Sincerely,

NANCY HANKS,
Chairman.

COMPARISON OF HOUSE-PASSED PROVISIONS AND H.R. 69 CONFERENCE REPORT PROVISIONS RELATING TO BUSING AND DESEGREGATION ORDERS

(Mr. QUIE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. QUIE. Mr. Speaker, there were 23 sections in title II of the House-passed H.R. 69—known as the Esch amendment—plus the Ashbrook amendment, for a total of 24 sections relating to desegregation orders and busing to carry out such orders.

Of those 24 sections, the Senate amendment retained 17 intact—dropping four and amending three. Those provisions remaining intact included the very heart of the bill—the direction to the courts on application of remedies in desegregation cases and the limitation on busing as an applicable remedy.

The four provisions dropped included section 218—Reopening Proceedings—although the Senate amendment contained a weaker version of that which is in the Conference bill, section 212—Attorney's Fees—and sections 219 and 220—Limitation on Orders—which relate to the termination of court orders once a unitary school system is achieved.

The three amended sections included one amendment each to the Policy and Purpose and Findings sections—202 and 203—commonly referred to as the "Scott-Mansfield amendment", and an amendment to the Ashbrook amendment, already in existing law, which permits a local school board to use Federal funds for transportation to carry out a desegregation plan if it voluntarily requests such use.

So only these seven House sections were before the conference. In addition, the Senate had added in a separate title 10 sections, much of which is in existing law—such as the Broomfield amendment staying orders through final appeal—and all of which—with the exception of a clause watering down the Ashbrook amendment—are consistent with the positions taken by the House. For example, one of these provisions says that no provision of the act shall be construed to require racial balancing; another says that rules of evidence in desegregation cases should be uniform throughout the Nation; another, and new provision, says that no court shall approve a desegregation plan involving the transportation of students unless it finds that all alternative remedies are inadequate; another new provision prohibits the initiation of forced busing in the midst of the school year.

So these were hardly at issue. The real issue narrowed to the seven sections of the House bill which were dropped or amended, none of which were at the heart of the proposed limitations on orders of courts and of Federal agencies relating to desegregation and busing.

Now it will be argued that the conferees' acceptance of the Scott-Mansfield language in one instance vitiates the limitations on court orders. The language states that:

> It is necessary and proper that the Congress, pursuant to the powers granted to it by the Constitution of the United States, specify appropriate remedies for the elimination of the vestiges of dual school systems, except that the provisions of this title are not intended to modify or diminish the authority of the courts of the United States to enforce fully the fifth and fourteenth amendments to the Constitution of the United States to enforce fully the fifth and fourteenth amendments to the Constitution of the United States.

My question is: How in the world could an act of Congress even purport to diminish the authority of the courts to fully enforce constitutional rights? It would require an amendment to the Constitution to do that, presumably by limiting rights established under the Constitution.

Title II of this act does not attempt to do this; it reaffirms rights established under the 5th and 14th amendments to the Constitution, while legislating with respect to the remedies which may be applied to secure those rights. If we have gone so far as to deny an effective remedy for the denial of a constitutional right, then undoubtedly the courts will declare that action unconstitutional—but it would not be because of the presence or absence of the Scott-Mansfield language.

It will be further argued, however, that this language somehow confirms remedies approved by the courts, as opposed to the rights those remedies sought to assure. To assert that is to completely confuse remedies and rights. The constitutional right in this case is for children to attend public schools which are not racially segregated by law or by a governmental act having the force of law. This bill emphatically reasserts that right, as do those of us who support it. Numerous remedies have been devised and approved by trial courts to correct denials of that right in widely varying circumstances. The remedies, accordingly, widely vary—as has been recognized by the U.S. Supreme Court. There are also pronounced variations in remedies applied by trial courts and sustained on appeal in quite similar factual circumstances. What this bill seeks to do is to bring about a far greater degree of uniformity in the application of remedies—particularly as they relate to busing. The Scott-Mansfield language in no way asserts that a particular remedy has been elevated by the courts to the level of a constitutional right which would then be fully enforced.

Indeed, one could take the view that to argue that the Scott-Mansfield language modifies the explicit requirements of the bill with respect to the application of remedies comes perilously close to arguing that the Congress has no power to legislate with respect to remedies for denials of constitutional rights because such legislation diminishes "the authority of the courts of the United States to enforce fully . . . the Constitution of the United States." While recognizing that the Congress could go so far in such legislation as to have that effect, I for one would not take that view as a general proposition. I believe that the Congress can legislate with respect to remedies so long as it does not deny a court the power to shape an effective remedy for the denial of a constitutional right.

There will be argument over the remaining changes from the House bill. The reopener provision adopted is not as strong, as I have indicated, as the House provision because it does not relate directly to conforming old orders to the new law. However, courts may reopen such cases upon the motion of a proper party in the absence of an explicit provision. The same is true with respect to the award of attorneys' fees to the prevailing party, although admittedly courts would seldom do so except for express statutory authority. Of the two sections dealing with limitations on orders in cases where a school system has met constitutional requirements, section 219 dealing explictly with transportation seemed more important to us than the more general section 220. Admittedly, that section is weakened by making it permissive rather than mandatory, but it still constitutes a clear congressional direction to the courts.

The Ashbrook amendment, which we have passed several times only to have it watered down by Senate action, emerges in stronger form than in existing law or in the Senate amendment to this bill. It would bar the use of many Federal funds for transportation to carry out a desegregation plan, with the single exception of those portions of impact aid funds—Public Law 874, 81st Congress—as are available for general educational purposes and are commingled with and treated as local school revenues.

So I would argue that the House conferees while trying to do even better did quite well with the limited number of issues involved in this portion of the bill. In any event, the important thing to recognize is that—aside from the vast educational benefit of this bill—this bill goes farther than the Congress has ever gone in attempting to guide and restrain the courts and Federal agencies in the use of busing as a remedy in desegregation cases. If this conference report is lost, that action to restrain the courts is lost with it.

There follows a side-by-side comparison of the provision of the House-passed bill and of the conference committee bill which relate to desegregation and busing.

HOUSE BILL

TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES

SEC. 201. This title may be cited as the "Equal Educational Opportunities Act of 1974".

PART A—POLICY AND PURPOSE

SEC. 202. (a) The Congress declares it to be the policy of the United States that—

(1) all children enrolled in public schools are entitled to equal educational opportunity without regard to race, color, sex, or national origin; and

(2) the neighborhood is the appropriate basis for determining public school assignments.

(b) In order to carry out this policy, it is the purpose of this Act to specify appropriate remedies for the orderly removal of the vestiges of the dual school system.

SEC. 203. (a) The Congress finds that—

(1) the maintenance of dual school systems in which students are assigned to schools solely on the basis of race, color, sex, or national origin denies to those students the equal protection of the laws guaranteed by the fourteenth amendment;

(2) for the purpose of abolishing dual school systems and eliminating the vestiges thereof, many local educational agencies have been required to reorganize their school systems, to reassign students, and to engage in the extensive transportation of students;

(3) the implementation of desegregation plans that require extensive student transportation has, in many cases, required local educational agencies to expend large amounts of funds, thereby depleting their financial resources available for the maintenance or improvement of the quality of educational facilities and instruction provided;

(4) transportation of students which creates serious risks to their health and safety, disrupts the educational process carried out with respect to such students, and impinges significantly on their educational opportunity, is excessive;

CONFERENCE REPORT BILL

TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES AND THE TRANSPORTATION OF STUDENTS

SHORT TITLE

SEC. 201. This title may be cited as the "Equal Educational Opportunities Act of 1974".

PART A—EQUAL EDUCATIONAL OPPORTUNITIES

SUBPART 1—POLICY AND PURPOSE

DECLARATION OF POLICY

SEC. 202. (a) The Congress declares it to be the policy of the United States that—

(1) all children enrolled in public schools are entitled to equal educational opportunity without regard to race, color, sex, or national origin; and

(2) the neighborhood is the appropriate basis for determining public school assignments.

(b) In order to carry out this policy, it is the purpose of this Act to specify appropriate remedies for the orderly removal of the vestiges of the dual school system.

FINDINGS

SEC. 203. (a) The Congress finds that—

(1) the maintenance of dual school systems in which students are assigned to schools solely on the basis of race, color, sex, or national origin denies to those students the equal protection of the laws guaranteed by the fourteenth amendment;

(2) for the purpose of abolishing dual schools solely on the basis of race, color, sex, thereof, many local educational agencies have been required to reorganize their school systems, to reassign students, and to engage in the extensive transportation of students;

(3) the implementation of desegregation plans that require extensive student transportation has, in many cases, required local educational agencies to expend large amounts of funds, thereby depleting their financial resources available for the maintenance or improvement of the quality of educational facilities and instruction provided;

(4) transportation of students which creates serious risks to their health and safety, disrupts the educational process carried out with respect to such students, and impinges significantly on their educational opportunity, is excessive;

HOUSE BILL—Continued

TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES—Continued

(5) the risks and harms created by excessive transportation are particularly great for children enrolled in the first six grades; and

(6) the guidelines provided by the courts for fashioning remedies to dismantle dual school systems have been, as the Supreme Court of the United States has said, "incomplete and imperfect," and have not established a clear, rational, and uniform standard for determining the extent to which a local educational agency is required to reassign and transport its students in order to eliminate the vestiges of a dual school system.

(b) For the foregoing reasons, it is necessary and proper that the Congress, pursuant to the powers granted to it by the Constitution of the United States, specify appropriate remedies for the elimination of the vestiges of dual school systems.

PART B—UNLAWFUL PRACTICES

DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY PROHIBITED

SEC. 204. No State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by—

(a) the deliberate segregation by an educational agency of students on the basis of race, color, or national origin among or within schools;

(b) the failure of an educational agency which has formerly practiced such deliberate segregation to take affirmative steps, consistent with part D of this title, to remove the vestiges of a dual school system;

(c) the assignment by an educational agency of a student to a school, other than the one closest to his or her place of residence within the school district in which he or she resides, if the assignment results in a greater degree of segregation of students on the basis of race, color, sex, or national origin among the schools of such agency than would result if such student were assigned to the school closest to his or her place of residence within the school district of such agency providing the appropriate grade level and type of education for such student;

(d) discrimination by an educational agency on the basis of race, color, or national origin in the employment, employment conditions, or assignment to schools of its faculty or staff, except to fulfill the purposes of subsection (f) below;

(e) the transfer by an educational agency, whether voluntary or otherwise, of a student from one school to another if the purpose and effect of such transfer is to increase segregation of students on the basis of race, color, or national origin among the schools of such agency; or

(f) the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.

BALANCE NOT REQUIRED

SEC. 205. The failure of an educational agency to attain a balance, on the basis of race, color, sex, or national origin, of students among its schools shall not constitute a denial of equal educational opportunity, or equal protection of the laws.

ASSIGNMENT ON NEIGHBORHOOD BASIS NOT A DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY

SEC. 206. Subject to the other provisions of this title, the assignment by an educational agency of a student to the school nearest his place of residence which provides the appropriate grade level and type of education for such student is not a denial of equal educational opportunity or of equal protection of the laws unless such assignment is for the purpose of segregating students on the basis of race, color, sex, or national origin, or the school to which such student is assigned was located on its side for the purpose of segregating students on such basis.

PART C—ENFORCEMENT

CIVIL ACTIONS

SEC. 207. An individual denied an equal educational opportunity, as defined by this title, may institute a civil action in an appropriate district court of the United States against such parties, and for such relief, as may be appropriate. The Attorney General of the United States (hereinafter in this title referred to as the "Attorney General"), for or in the name of the United States, may also institute such a civil action on behalf of such an individual.

SEC. 208. When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population

CONFERENCE REPORT BILL—Continued

TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES AND THE TRANSPORTATION OF STUDENTS—Continued

(5) the risks and harms created by excessive transportation are particularly great for children enrolled in the first six grades; and

(6) the guidelines provided by the courts for fashioning remedies to dismantle dual school systems have been, as the Supreme Court of the United States has said, "incomplete and imperfect", and have not established a clear, rational, and uniform standard for determining the extent to which a local educational agency is required to reassign and transport its students in order to eliminate the vestiges of a dual school system.

(b) For the foregoing reasons, it is necessary and proper that the Congress, pursuant to the powers granted to it by the Constitution of the United States, specify appropriate remedies for the elimination of the vestiges of dual school systems, except that the provisions of this title are not intended to modify or diminish the authority of the court of the United States to enforce fully the fifth and fourteenth amendments to the Constitution of the United States.

SUBPART 2—UNLAWFUL PRACTICES

DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY PROHIBITED

SEC. 204. No State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by—

(a) the deliberate segregation by an educational agency of students on the basis of race, color, or national origin among or within schools;

(b) the failure of an educational agency which has formerly practiced such deliberate segregation to take affirmative steps, consistent with subpart 4 of this title, to remove the vestiges of a dual school system;

(c) the assignment by an educational agency of a student to a school, other than the one closest to his or her place of residence within the school district in which he or she resides, if the assignment results in a greater degree of segregation of students on the basis of race, color, sex, or national origin among the schools of such agency than would result if such student were assigned to the school closest to his or her place of residence within the school district of such agency providing the appropriate grade level and type of education for such student;

(d) discrimination by an educational agency on the basis of race, color, or national origin in the employment, employment conditions, or assignment to schools of its faculty or staff, except to fulfill the purposes of subsection (f) below:

(e) the transfer by an educational agency, whether voluntary or otherwise, of a student from one school to another if the purpose and effect of such transfer is to increase segregation of students on the basis of race, color, or national origin among the schools of such agency; or

(f) the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instruction programs.

BALANCE NOT REQUIRED

SEC. 205. The failure of an educational agency to attain a balance, on the basis of race, color, sex, or national origin, of students among its schools shall not constitute a denial of equal educational opportunity, or equal protection of the laws.

ASSIGNMENT ON NEIGHBORHOOD BASIS NOT A DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY

SEC. 206. Subject to the other provisions of this part, the assignment by an educational agency of a student to the school nearest his place of residence which provides the appropriate grade level and type of education for such student is not a denial of equal educational opportunity or of equal protection of the laws unless such assignment is for the purpose of segregating students on the basis of race, color, sex, or national origin, or the school to which such student is assigned was located on its site for the purpose of segregating students on such basis.

SUBPART 3—ENFORCEMENT

CIVIL ACTIONS

SEC. 207. An individual denied an equal educational opportunity, as defined by this title, may constitute a civil action in an appropriate district court of the United States against such parties, and for such relief, as may be appropriate. The Attorney General of the United States (hereinafter in this title referred to as the "Attorney General"), for or in the name of the United States, may also institute such a civil action on behalf of such an individual.

EFFECT OF CERTAIN POPULATION CHANGES ON CIVIL ACTIONS

SEC. 208. When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population

HOUSE BILL—Continued

TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES—Continued

occur which result in school population changes in any school within such a desegregated school system, such school population changes so occurring shall not, per se, constitute a cause for civil action for a new plan of desegregation or for modification of the court approved plan.

JURISDICTION OF DISTRICT COURTS

SEC. 209. The appropriate district court of the United States shall have and exercise jurisdiction of proceedings instituted under section 207.

INTERVENTION BY ATTORNEY GENERAL

SEC. 210. Whenever a civil action is instituted under section 207 by an individual, the Attorney General may intervene in such action upon timely application.

SUITS BY THE ATTORNEY GENERAL

SEC. 211. The Attorney General shall not institute a civil action under section 207 before he—

(a) gives to the appropriate educational agency notice of the condition or conditions which, in his judgment, constitute a violation of part B of this title; and

(b) certifies to the appropriate district court of the United States that he is satisfied that such educational agency has not, within a reasonable time after such notice, undertaken appropriate remedial action.

ATTORNEYS' FEES

SEC. 212. In any civil action instituted under this Act, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorneys' fee as part of the costs, and the United States shall be liable for costs to the same extent as a private person.

PART D—REMEDIES

FORMULATING REMEDIES; APPLICABILITY

SEC. 213. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, a court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws.

SEC. 214. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, which may involve directly or indirectly the transportation of students, a court, department, or agency of the United States shall consider and make specific findings on the efficacy in correcting such denial of the following remedies and shall require implementation of the first of the remedies set out below, or of the first combination thereof which would remedy such denial:

(a) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account school capacities and natural physical barriers;

(b) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account only school capacities;

(c) permitting students to transfer from a school in which a majority of the students are of their race, color, or national origin to a school in which a minority of the students are of their race, color, or national origin;

(d) the creation or revision of attendance zones or grade structures without requiring transportation beyond that described in section 215;

(e) the construction of new schools or the closing of inferior schools;

(f) the construction or establishment of magnet schools; or

(g) the development and implementation of any other plan which is educationally sound and administratively feasible, subject to the provisions of sections 215 and 216 of this title.

TRANSPORTATION OF STUDENTS

SEC. 215. (a) No court, department, or agency of the United States shall, pursuant to section 214, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student.

(b) No court, department, or agency of the United States shall require directly or indirectly the transportation of any student if such transportation poses a risk to the health of such student or constitutes a significant impingement on the eduducational process with respect to such student.

CONFERENCE REPORT BILL—Continued

TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES AND THE TRANSPORTATION OF STUDENTS—Continued

occur which result in school population changes in any school within such a desegregated school system, such school population changes so occurring shall not, per se, constitute a cause for civil action for a new plan of desegregation or for modification of the court approved plan.

JURISDICTION OF DISTRICT COURTS

SEC. 209. The appropriate district court of the United States shall have and exercise jurisdiction of proceedings instituted under section 207.

INTERVENTION BY ATTORNEY GENERAL

SEC. 210. Whenever a civil action is instituted under section 207 by an individual, the Attorney General may intervene in such action upon timely application.

SUITS BY THE ATTORNEY GENERAL

SEC. 211. The Attorney General shall not institute a civil action under section 207 before he—

(a) gives to the appropriate educational agency notice of the condition or conditions which, in his judgment, constitute a violation of subpart 2 of this part; and

(b) certifies to the appropriate district court of the United States that he is satisfied that such educational agency has not, within a reasonable time after such notice, undertaken appropriate action.

SUBPART 4—REMEDIES

FORMULATING REMEDIES; APPLICABILITY

SEC. 213. In formulating a remedy for a denial of educational opportunity or a denial of the equal protection of the laws, a court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws.

PRIORITY OF REMEDIES

SEC. 214. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, which may involve directly or indirectly the transportation of students, a court, department, or agency of the United States shall consider and make specific findings on the efficacy in correcting such denial of the following remedies and shall require implementation of the first of the remedies set out below or of the first combination thereof which would remedy such denial:

(a) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account school capacities and natural physical barriers;

(b) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account only school capacities;

(c) permitting students to transfer from a school in which a majority of the students are of their race, color, or national origin to a school in which a minority of the students are of their race, color, or national origin;

(d) the creation or revision of attendance zones or grade structures without requiring transportation beyond that described in section 215;

(e) the construction of new schools or the closing of inferior schools;

(f) the construction or establishment of magnet schools; or

(g) the development and implementation of any other plan which is educationally sound and administratively feasible, subject to the provisions of section 215 and 216 of this part.

TRANSPORTATION OF STUDENTS

SEC. 215. (a) No court, department, or agency of the United States shall, pursuant to section 214, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student.

(b) No court, department, or agency of the United States shall require directly or indirectly the transportation of any student if such transportation poses a risk to the health of such student or constitutes a significant impingement on the educational process with respect to such student.

HOUSE BILL—Continued

TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES—Continued

(c) When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, no educational agency because of such shifts shall be required by any court, department, or agency of the United States to formulate, or implement any new desegregation plan, or modify or implement any modification of the court approved desegregation plan, which would require transportation of students to compensate wholly or in part for such shifts in school population so occurring.

DISTRICT LINES

SEC. 216. In the formulation of remedies under section 213 or 214 of this title, the lines drawn by a State, subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn for the purpose, and had the effect, of segregating children among public schools on the basis of race, color, sex, or national origin.

VOLUNTARY ADOPTION OF REMEDIES

SEC. 217. Nothing in this title prohibits an educational agency from proposing, adopting, requiring, or implementing any plan of desegregation, otherwise lawful, that is at variance with the standards set out in this title, nor shall any court, department, or agency of the United States be prohibited from approving implementation of a plan which goes beyond what can be required under this title, if such plan is voluntarily proposed by the appropriate educational agency.

REOPENING PROCEEDINGS

SEC. 218. On the application of an educational agency, court orders, or desegregation plans under title VI of the Civil Rights Act of 1964 in effect on the date of enactment of this title and intended to end segregation of students on the basis of race, color, or national origin, shall be reopened and modified to comply with the provisions of this title. The Attorney General shall assist such educational agency in such reopening proceedings and modifications.

LIMITATION ON ORDERS

SEC. 219. Any court order requiring, directly or indirectly, the transportation of students for the purpose of remedying a denial of the equal protection of the laws shall, to the extent of such transportation, be terminated if the court finds the defendant educational agency is not effectively excluding any person from any school because of race, color, or national origin, and this shall be so, whether or not the schools of such agency were in the past segregated de jure or de facto. No additional order requiring such educational agency to transport students for such purpose shall be entered unless such agency is found to be effectively excluding any person from any school because of race, color, or national origin, and this shall be so, whether or not the schools of such agency were in the past segregated de jure or de facto.

SEC. 220. Any court order requiring the desegregation of a school system shall be terminated, if the court finds the schools of the defendant educational agency are a unitary school system, one within which no person is to be effectively excluded from any school because of race, color, or national origin, and this shall be so, whether or not such school system was in the past segregated de jure or de facto. No additional order shall be entered against such agency for such purpose unless the schools of such agency are no longer a unitary school system.

PART E—DEFINITIONS

SEC. 221. For the purposes of this title—

(a) The term "educational agency" means a local educational agency or a "State educational agency" as defined by section 801(k) of the Elementary and Secondary Education Act of 1965.

(b) The term "local educational agency" means a local educational agency as defined by section 801(f) of the Elementary and Secondary Education Act of 1965.

(c) The term "segregation" means the operation of a school system in which students are wholly or substantially separated among the schools of an educational agency on the basis of race, color, sex, or national origin or within a school on the basis of race, color, or national origin.

(d) The term "desegregation" means desegregation as defined by section 401(b) of the Civil Rights Acts of 1964.

(e) An educational agency shall be deemed to transport a student if any part of the cost of such student's transportation is paid by such agency.

CONFERENCE REPORT BILL—Continued

TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES AND THE TRANSPORTATION OF STUDENTS—Continued

(c) When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, no educational agency because of such shifts shall be required by any court, department, or agency of the United States to formulate, or implement any modification of the court approved desegregation plan, which would require transportation of students to compensate wholly or in part for such shifts in school population so occurring.

DISTRICT LINES

SEC. 216. In the formulation of remedies under section 213 or 214 of this title the lines drawn by a State subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn for the purpose, and had the effect, of segregating children among public schools on the basis of race, color, sex, or national origin.

VOLUNTARY ADOPTION OF REMEDIES

SEC. 217. Nothing in this title prohibits an educational agency from proposing, adopting, requiring, or implementing any plan of desegregation, otherwise lawful, that is at variance with the standards set out in this part, nor shall any court, department, or agency of the United States be prohibited from approving implementation of a plan which goes beyond what can be required under this part, if such plan is voluntarily proposed by the appropriate educational agency.

REOPENING PROCEEDINGS

SEC. 218. A parent or guardian of a child, or parents or guardians of children similarly situated, transported to a public school in accordance with a court order, or an educational agency subject to a court order or a desegregation plan under title VI of the Civil Rights Act of 1964 in effect on the date of enactment of this part and intended to end segregation of students on the basis of race, color, or national origin, may seek to reopen or intervene in the further implementation of such court order, currently in effect, if the time or distance of travel is so great as to risk the health of the student or significantly impinge on his or her educational process.

LIMITATION ON ORDERS

SEC. 219. Any court order requiring, directly or indirectly, the transportation of students for the purpose of remedying a denial of the equal protection of the laws made to the extent of such transportation, be terminated if the court finds the defendant educational agency has satisfied the requirements of the fifth or fourteenth amendments to the Constitution, whichever is applicable and will continue to be in compliance with the requirements thereof. The court of initial jurisdiction shall state in its order the basis for any decision to terminate an order pursuant to this section, and the termination of any order pursuant to this section shall be stayed pending a final appeal or, in the event no appeal is taken, until the time for any such appeal has expired.

No additional order requiring such educational agency to transport students for such purpose shall be entered unless such agency is found not to have satisfied the requirements of the fifth or fourteenth amendments to the Constitution, whichever is applicable.

SUBPART 5—DEFINITIONS

SEC. 221. For the purposes of this part—

(a) the term "educational agency" means a local educational agency or a "State educational agency" as defined by section 801(k) of the Elementary and Secondary Education Act of 1965;

(b) the term "local educational agency" means a local educational agency as defined by section 801(f) of the Elementary and Secondary Education Act of 1965;

(c) the term "segregation" means the operation of a school system in which students are wholly or substantially separated among the schools of an educational agency on the basis of race, color, sex, or national origin or within a school on the basis of race, color, or national origin;

(d) the term "desegregation" means desegregation as defined by section 401(b) of the Civil Rights Act of 1964; and

(e) an educational agency shall be deemed to transport a student if any part of the cost of such student's transportation is paid by such agency.

HOUSE BILL—Continued

TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES—Continued

PART F.—MISCELLANEOUS PROVISIONS

SEC. 222. Section 709(a)(3) of the Emergency School Aid Act is hereby repealed.

SEPARABILITY OF PROVISIONS

SEC. 223. If any provision of this title or of any amendment made by this title, or the application of any such provision to any person or circumstance, is held invalid, the remainder of the provisions of this title and of the amendments made by this title and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 303. Part B of the General Education Provisions Act is amended by adding at the end thereof a new section as follows:

"PROHIBITION AGAINST USE OF APPROPRIATED FUNDS FOR BUSING

"SEC. 417. No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purpose of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system."

CONFERENCE REPORT BILL—Continued

TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES AND THE TRANSPORTATION OF STUDENTS—Continued

SUBPART 6.—MISCELLANEOUS PROVISIONS

REPEALER

SEC. 222. Section 709(a)(3) of the Emergency School Aid Act is hereby amended.

SEPARABILITY OF PROVISIONS

SEC. 223. If any provision of this part or of any amendment made by this part, or the application of any such provision to any person or circumstance, is held invalid, the remainder of the provisions of this title and of the amendments made by this part and the application of such provision to other persons or circumstances shall not be affected thereby.

PART B.—OTHER PROVISIONS RELATING TO THE ASSIGNMENT AND TRANSPORTATION OF STUDENTS

PROHIBITION AGAINST ASSIGNMENT OR TRANSPORTATION OF STUDENTS TO OVERCOME RACIAL IMBALANCE

SEC. 251. No provision of this Act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

PROHIBITION AGAINST USE OF APPROPRIATED FUNDS FOR BUSING

SEC. 252. Part B of the General Education Provisions Act, as amended by title IV of this Act, is amended by adding at the end thereof the following new section:

"PROHIBITION AGAINST USE OF APPROPRIATED FUNDS FOR BUSING

"SEC. 420. No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system, except for funds appropriated pursuant to title I of the Act of September 30, 1950 (P.L. 874, 81st Congress), but not including any portion of such funds as are attributable to children counted under subparagraph (C) of section 3(d)(2) or section 403(1)(C) of that Act."

PROVISION RELATING TO COURT APPEALS

SEC. 253. Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired. This section shall expire at midnight on June 30, 1978.

PROVISION REQUIRING THAT RULES OF EVIDENCE BE UNIFORM

SEC. 254. The rules of evidence required to prove that State or local authorities are practicing racial discrimination in assigning students to public schools shall be uniform throughout the United States.

APPLICATION OF PROVISO OF SECTION 407(A) OF THE CIVIL RIGHTS ACT OF 1964 TO THE ENTIRE UNITED STATES

SEC. 255. The proviso of section 407(a) of the Civil Rights Act of 1964 providing in substance that no court or official of the United States shall be empowered to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards shall apply to all public school pupils and to every public school system, public school and public school board, as defined by title IV, under all circumstances and conditions and at all times in every State, district, territory, Commonwealth, or possession of the United States, regardless of whether the residence of such public school pupils or the principal offices of such public school system, public school or public school board is situated in the northern, eastern, western, or southern part of the United States.

ADDITIONAL PRIORITY OF REMEDIES

SEC. 256. Notwithstanding any other provision of law after June 30, 1974, no court of the United States shall order the implementation of any plan to remedy a finding of de jure segregation which involves the transportation of students, unless the court first finds that all alternative remedies are inadequate.

HOUSE BILL—Continued

TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES—Continued

CONFERENCE REPORT BILL—Continued

TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES AND THE TRANSPORTATION OF STUDENTS—Continued

REMEDIES WITH RESPECT TO SCHOOL DISTRICT LINES

SEC. 257. In the formulation of remedies under this title the lines drawn by a State subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn, or maintained or crossed for the purpose, and had the effect of segregating children among public schools on the basis of race, color, sex, or national origin, or where it is established that, as a result of discriminatory actions within the school districts, the lines have had the effect of segregating children among public schools on the basis of race, color, sex, or national origin.

PROHIBITION OF FORCED BUSING DURING SCHOOL YEAR

SEC. 258. (a) The Congress finds that—

(1) the forced transportation of elementary and secondary school students in implementation of the constitutional requirement for the desegregation of such schools is controversial and difficult under the best planning and administration; and

(2) the forced transportation of elementary and secondary school students after the commencement of an academic school year is educationally unsound and administratively inefficient.

(b) Notwithstanding any other provisions of law, no order of a court, department, or agency of the United States, requiring the transportation of any student incident to the transfer of that student from one elementary or secondary school to another such school in a local educational agency pursuant to a plan requiring such transportation for the racial desegregation of any school in that agency, shall be effective until the beginning of an academic school year.

(c) For the purpose of this section, the term "academic school year" means, pursuant to regulations promulgated by the Commissioner of Education, the customary beginning of classes for the school year at an elementary or secondary school of a local educational agency for a school year that occurs not more often than once in any twelve-month period.

(d) The provisions of this section apply to any order which was not implemented at the beginning of the 1974–1975 academic year.

REASONABLE TIME FOR DEVELOPING VOLUNTARY PLAN FOR DESEGREGATING SCHOOLS

SEC. 259. Notwithstanding any other law or provision of law, no court or officer of the United States shall enter, as a remedy for a denial of equal educational opportunity or a denial of equal protection of the laws, any order for enforcement of a plan of desegregation or modification of a court-approved plan, until such time as the local educational agency to be affected by such order has been provided notice of the details of the violation and given a reasonable opportunity to develop a voluntary remedial plan. Such time shall permit the local educational agency sufficient opportunity for community participation in the development of a remedial plan.

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. RONCALLO of New York) to revise and extend their remarks and include extraneous matter:)

Mr. CRANE, for 5 minutes, today.

Mr. YOUNG of Florida, for 5 minutes, today.

Mr. BIESTER, for 5 minutes, today.

Mr. FRENZEL, for 15 minutes, today.

Mr. BURKE of Florida, for 10 minutes, today.

Mr. HOGAN, for 15 minutes, today.

(The following Members (at the request of Mr. MOAKLEY) to revise and extend their remarks and include extraneous matter:

Mr. MURPHY of Illinois, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. TIERNAN, for 10 minutes, today.

Mr. VANIK, for 10 minutes, today.

Mr. KOCH, for 5 minutes, today.

Mr. PODELL, for 10 minutes, today.

Mr. HECHLER of West Virginia, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BRADEMAS 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 $1,459.50.

Mr. PEPPER, to extend his remarks in the Committee of the Whole today on H.R. 11500, immediately preceding the adoption of the Pepper amendment.

Mr. HECHLER of West Virginia, to revise and extend his remarks made during general debate in the Committee of the Whole today on H.R. 11500, and to make one deletion.

Mr. QUIE, 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 $1,181.50.

(The following Members (at the request of Mr. RONCALLO of New York) and to include extraneous matter:)

Mr. HANRAHAN in two instances.

Mr. RONCALLO of New York.

Mr. SYMMS.

Mr. PARRIS.

Mr. BIESTER.

Mr. HUBER.

Mr. SMITH of New York.

Mr. ASHBROOK in four instances.

Mr. DERWINSKI in two instances.

Mr. CARTER in three instances.

Mr. COUGHLIN.

Mr. HOSMER in three instances.

Mr. SHRIVER.

Mr. ROUSSELOT in two instances.

Mr. WYMAN in two instances.

Mr. VANDER JAGT.

Mr. PRITCHARD.

Mr. YOUNG of South Carolina.

Mr. ROBISON of New York.

Mr. FRENZEL in two instances.

Mr. ZWACH.

Mr. ARMSTRONG.

Mr. WALSH.

Mr. HOGAN in five instances.

Mr. SPENCE.

Mr. BRAY in three instances.

Mr. RINALDO in three instances.

(The following Members (at the request of Mr. MOAKLEY) and to include extraneous matter:)

Mr. STEED.

Mr. GONZALEZ in three instances.

Mr. RARICK in three instances.

Mr. ANDERSON of California in two instances.

Mr. McCORMACK in four instances.
Mr. HARRINGTON in three instances.
Mr. ADDABBO.
Mr. CHARLES H. WILSON of California.
Mr. TIERNAN in two instances.
Mr. ROSE.
Mr. ROONEY of New York.
Mr. MATSUNAGA.
Mr. BADILLO in two instances.
Mr. ROSTENKOWSKI.
Mr. HELSTOSKI in 10 instances.
Ms. SCHROEDER in two instances.

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. 1566. An act to provide for the normal flow of ocean commerce between Hawaii, Guam, American Samoa, or the Trust Territory of the Pacific Islands and the west coast, and to prevent certain interruptions thereof; to the Committee on Education and Labor.

S. 2125. An act to amend the act of June 9, 1906, entitled "An act granting land to the city of Albuquerque for public purposes" (34 Stat. 227), as amended; to the Committee on Interior and Insular Affairs.

ADJOURNMENT

Mr. MOAKLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 19 minutes p.m.), under its previous order, the House adjourned until Monday, July 29, 1974, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2586. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on loan, guarantee and insurance transactions supported by Eximbank to Yugoslavia, Romania, the U.S.S.R., and Poland during May 1974; to the Committee on Foreign Affairs.

2587. A letter from the Chairman, Federal Home Loan Bank Board, transmitting a draft of proposed legislation to amend the Federal Home Loan Bank Act to provide for the continued duration of the Federal Savings and Loan Advisory Council; to the Committee on Banking and Currency.

2588. A letter from the Chairman, Federal Trade Commission, transmitting a statistical supplement to the Commission's report on cigarette labeling and advertising; to the Committee on Interstate and Foreign Commerce.

2589. A letter from the Director of Federal Affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of March 1974, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

2590. A letter from the Director of Federal Affairs, National Railroad Passenger Corporation, transmitting a report for the month of May 1974, on the average number of passengers per day on board each train operated, and the ontime performance at the final destination of each train operated, by route and by railroad, pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

2591. A letter from the Director of Federal Affairs, National Railroad Passenger Corporation, transmitting a report for the month of June 1974, on the average number of passengers per day on board each train operated, and the ontime performance at the final destination of each train operated, by route and by railroad, pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

2592. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting a report on the facts in each application for conditional entry of aliens into the United States under section 203(a)(7) of the Immigration and Nationality Act for the 6-month period ended June 30, 1974, pursuant to section 203(f) of the act (8 USC 1153(f)); to the Committee on the Judiciary.

2593. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting the annual report for calendar year 1973 on the administration of the Federal Water Pollution Control Act (Public Law 92-500), pursuant to section 516(a) of the act; to the Committee on Public Works.

RECEIVED FROM THE COMPTROLLER GENERAL

2594. A letter from the Comptroller General of the United States, transmitting a report on the need to modernize the Mining Law of 1872; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STRATTON: Committee on Armed Services. H.R. 15936. A bill to amend chapter 5, title 37, United States Code, to provide for continuation pay for physicians of the uniformed services in initial residency; with amendment (Rept. No. 93-122). Referred to the Committee of the Whole House on the State of the Union.

Mr. POAGE: Committee on Agriculture. H.R. 13267. A bill to authorize Federal agricultural assistance to Guam for certain purposes; with amendment (Rept. No. 93-1222). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 14897. A bill to amend the Youth Conservation Corps Act of 1972 (Public Law 92-597, 86 Stat. 1319) to expand and make permanent the Youth Conservation Corps, and for other purposes (Rept. No. 93-1223). Referred to the Committee of the Whole House on the State of the Union.

Mr. FISHER: Committee on Armed Services. H.R. 16006. A bill to amend section 2634 of title 10, United States Code, relating to the shipment at Government expense of motor vehicles owned by members of the armed forces, and to amend chapter 10 of title 37, United States Code, to authorize certain travel and transportation allowances to members of the uniformed services incapacitated by illness (Rept. No. 93-1224). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIGGS: Committee of conference. Conference report on H.R. 15074 (Rept. No. 93-1225). Ordered to be printed.

Mr. POAGE: Committee of conference. Conference report on S. 2296 (Rept. 93-1226). Ordered to be printed.

Mr. WHITTEN: Committee of conference. Conferencereport on H.R. 15472 (Rept. No. 93-1227). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS of North Carolina (for himself, Mr. MATSUNAGA, Mr. GINN, Mr. BIESTER, Mr. ROGERS, Mr. DICKINSON, Mr. ESCH, Mr. ADDABBO, Mr. HAMILTON, Mr. PODELL, Mr. BEVILL, Mr. BELL, Mr. SATTERFIELD, Mr. BADILLO, Mr. GUBSER, Mr. PEYSER, Mr. LANDGREBE, Mr. BIAGGI, Mr. O'BRIEN, Mr. MURPHY of New York, Mr. MCCLOSKEY, Mr. WYLIE, Mr. SHOUP, Mr. PERKINS, and Mr. HAYS):

By Mr. ASPIN:

H.R. 16115. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income the amount of certain cancellations of indebtedness under student loan programs; to the Committee on Ways and Means.

H.R. 16116. A bill to extend the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. BAKER (for himself, Mr. OBEY, Mr. BEARD, Mr. COUGHLIN, Mr. FORD, Mr. HINSHAW, Mr. ROE, Mr. ROSTENKOWSKI, Mr. ROUSH, Mr. STEELMAN, Mr. TALCOTT, and Mr. TRAXLER):

H.R. 16117. A bill to further the purposes of the Wilderness Act by designating certain lands for inclusion in the National Wilderness Preservation System, to provide for study of certain additional lands for such inclusion, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DINGELL:

H.R. 16118. A bill to limit the jurisdiction of the Supreme Court and of the district courts in certain cases; to the Committee on the Judiciary.

By Mr. DULSKI (by request):

H.R. 16119. A bill to amend title 5, United States Code, to establish and govern the Executive Personnel System, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. FREY:

H.R. 16120. A bill to protect the constitutional right of privacy of individuals concerning whom identifiable information is recorded by enacting principles of information practices in furtherance of articles I, III, IV, V, IX, X, and XIV of amendment to the U.S. Constitution; to the Committee on the Judiciary.

By Mr. MCKINNEY:

H.R. 16121. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the tax imposed on interest on savings; to the Committee on Ways and Means.

By Mr. MURPHY of Illinois (for himself, Mr. ROGERS, Mr. CARTER, Mr. ANNUNZIO, Mrs. COLLINS of Illinois, Mr. HANRAHAN, Mr. MADIGAN, Mr. METCALFE, Mr. KLUCZYNSKI, Mr. ROSTENKOWSKI, Mr. YATES, Mr. ROY, Mr. WALDIE, and Mr. ANDERSON of California):

H.R. 16122. A bill to provide for the development of a long-range plan to advance the national attack on arthritis and related musculoskeletal diseases and for arthritis training and demonstration centers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. RIEGLE (for himself, Mr. BRADEMAS, Mr. FASCELL, Mr. GUNTER, Mr. HUNGATE, Mr. JONES of Oklahoma, Mr. OWENS, Mr. PEPPER, Mr. RUPPE, Mr. RYAN, Mr. SHIPLEY, Mr. STEELMAN, Mr. STOKES, and Mr. WHALEN):

H.R. 16123. A bill to amend the Employment Act of 1946 with respect to price stability; to the Committee on Government Operations.

By Mr. ROUSH (for himself and Mr. McCLORY):

H.R. 16124. A bill to amend the act establishing the Indiana Dune National Lakeshore to provide for the expansion of the lakeshore, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. STEELMAN (for himself, Ms. HECKLER of Massachusetts, Mr. HORTON, and Mr. MOSHER):

H.R. 16125. A bill to enforce the first amendment and fourth amendment to the Constitution and the constitutional right of privacy by prohibiting any civil officer of the United States or any member of the Armed Forces of the United States from using the Armed Forces of the United States to exercise surveillance of civilians or to execute the civil laws, and for other purposes; to the Committee on the Judiciary.

By Mr. THONE:

H.R. 16126. A bill to authorize the Secretary of the Department of Agriculture to carry out an emergency assistance program to assist States in relieving severe drought conditions that threaten to destroy livestock or crops; to the Committee on Agriculture.

By Mr. WALSH:

H.R. 16127. A bill to provide for the issuance of a special postage stamp in commemoration of the life and work of Harriet Tubman; to the Committee on Post Office and Civil Service.

By Mr. WYLIE:

H.R. 16128. A bill to amend the Federal Election Campaign Act of 1971 to provide for an independent Federal Elections Commission, and for other purposes; to the Committee on House Administration.

By Ms. ABZUG:

H.R. 16129. A bill to amend chapter 3 of title 3, United States Code, to provide for the protection of foreign diplomatic missions; to the Committee on Public Works.

By Mr. ARMSTRONG:

H.R. 16130. A bill to amend section 1401a (e) of title 10, United States Code, to preclude a military member from receiving less retired pay by continued active service; to the Committee on Armed Services.

H.R. 16131. A bill to amend the Fair Labor Standards Act of 1938 to revise the application of the overtime compensation provisions of that act to public employees engaged in public utility functions or other functions operated on a continuous basis; to the Committee on Education and Labor.

By Mr. BARRETT:

H.R. 16132. A bill to amend the Federal Reserve Act, the Federal Deposit Insurance Act, and the Federal Home Loan Bank Act to provide for the regulation of the issuance and sale of debt obligations by affiliates of member banks, nonmember insured banks (including insured mutual savings banks), and savings and loan associations, and for other purposes; to the Committee on Banking and Currency.

By Mr. COCHRAN:

H.R. 16133. A bill to amend title 23, section 323, of the United States Code to make certain changes in the procedures for donating highway rights-of-way; to the Committee on Public Works.

By Mr. KYROS (for himself and Mr. BOLAND):

H.R. 16134. A bill to amend the Wool Products Labeling Act of 1939 with respect to reprocessed wool; to the Committee on Interstate and Foreign Commerce.

By Mr. LATTA:

H.R. 16135. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973, and to provide for daylight saving time for 8 months during each calendar year; to the Committee on Interstate and Foreign Commerce.

By Mr. PIKE (for himself and Mr. KING):

H.R. 16136. A bill to authorize certain construction at military installations, and for other purposes; to the Committee on Armed Services.

By Mr. ROY (for himself and Mr. MILLS):

H.R. 16137. A bill to provide for a mandatory balanced budget, automatic tax bracket adjustments reflecting increases in the Consumer Price Index, and, after the budget is balanced, increases in personal exemptions and the low income allowance; to the Committee on Ways and Means.

By Mrs. SCHROEDER (for herself, Mr. FRENZEL, Mr. MANN, and Mr. VAN DEERLIN):

H.R. 16138. A bill to amend title 39, United States Code, to provide additional standards to regulate the proper use of the penalty mail privilege on an official basis by Government departments, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. STAGGERS (for himself and Mr. DEVINE):

H.R. 16139. A bill to amend certain provisions of the Communications Act of 1934 to provide long-term financing for the Corporation for Public Broadcasting and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. TIERNAN:

H.R. 16140. A bill to establish a fuel stamp program which will provide fuel stamps to certain low-income elderly households to help meet fuel costs incurred by such households; to the Committee on Interstate and Foreign Commerce.

By Mr. DINGELL:

H.J. Res. 1098. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. HELSTOSKI (for himself, Ms. ABZUG, Mr. BRASCO, Mr. BROWN of California, Mr. CRONIN, Mr. DRINAN, Mr. EILBERG, Mrs. GRASSO, Mr. KOCH, Mr. ROSENTHAL, and Mr. SISK):

H.J. Res. 1099. Joint resolution to designate April 24 of each year as National Day of Remembrance of Man's Inhumanity to Man; to the Committee on the Judiciary.

By Mr. BIESTER (for himself, Mr. BINGHAM, Mr. RHODES, Mr. HILLIS, Mr. REGULA, Mr. WYDLER, Mr. LUKEN, Mr. MCDADE, Mr. MCKINNEY, Mr. MADDEN, Mr. MAZZOLI, Mr. MEEDS, Mr. MELCHER, Mr. METCALFE, Mr. MITCHELL of Maryland, Mr. MITCHELL of New York, Mr. MOAKLEY, Mr. MOORHEAD of Pennsylvania, Mr. MOSS, Mr. MURPHY of Illinois, Mr. MURTHA, Mr. NIX, Mr. PATTEN, Mr. PEPPER, and Mr. PERKINS):

H. Res. 1261. Resolution to establish a John W. McCormack senior intern program; to the Committee on House Administration.

By Mr. BIESTER (for himself, Mr. BINGHAM, Mr. PICKLE, Mr. PREYER, Mr. PRITCHARD, Mr. RANGEL, Mr. RIEGLE, Mr. RODINO, Mr. ROY, Mr. SARASIN, Mr. SARBANES, Mrs. SCHROEDER, Mr. SEIBERLING, Mr. STEELMAN, and Mr. STOKES):

H. Res. 1262. Resolution to establish a John W. McCormack senior intern program; to the Committee on House Administration.

By Mr. BIESTER (for himself, Mr. BINGHAM, Mr. STUBBLEFIELD, Mr. THONE, Mr. VANIK, Mr. WALDIE, Mr. WAGGONNER, Mr. WHITEHURST, Mr. WOLFF, Mr. WON PAT, Mr. YOUNG of Illinois, Mr. DELLENBACK, Mr. DRINAN, and Mr. HARRINGTON):

H. Res. 1263. Resolution to establish a John W. McCormack senior intern program; to the Committee on House Administration.

By Mr. BINGHAM (for himself, Mr. BIESTER, Mr. ALBERT, Mr. O'NEILL, Mr. PODELL, Ms. ABZUG, Mr. ADDABBO, Mr. BADILLO, Mr. BERGLAND, Mrs. BOGGS, Mr. BRINKLEY, Mr. BUCHANAN, Mrs. BURKE of California, Mr. BURKE of Massachusetts, Mr. CAREY of New York, Mrs. CHISHOLM, Mrs. COLLINS of Illinois, Mr. CONTE, Mr. CORMAN, Mr. COUGHLIN, Mr. DANIELSON, Mr. DOMINICK V. DANIELS, Mr. DAVIS of South Carolina, Mr. DENHOLM, and Mr. DENT):

H. Res. 1264. Resolution to establish a John W. McCormack senior citizen intern program; to the Committee on House Administration.

By Mr. BINGHAM (for himself, Mr. BIESTER, Mr. DERWINSKI, Mr. DIGGS, Mr. EILBERG, Mr. EVINS of Tennessee, Mr. FLOOD, Mr. FORSYTHE, Mr. FRASER, Mr. FRENZEL, Mr. FULTON, Mrs. GRASSO, Mr. GUNTER, Mr. HANRAHAN, Mr. HANSEN of Idaho, Mr. HECHLER of West Virginia, Mrs. HECKLER of Massachusetts, Mr. HEINZ, Mr. HELSTOSKI, Mrs. HOLT, Ms. HOLTZMAN, Mr. HORTON, Mr. JOHNSON of Pennsylvania, Ms. JORDAN, and Mr. KETCHUM):

H. Res. 1265. Resolution to establish a John W. McCormack senior citizen intern program; to the Committee on House Administration.

By Mr. LITTON (for himself, Mr. BROWN of California, Mr. GUNTER, Mr. LUKEN, Mr. MITCHELL of Maryland, Mr. TRAXLER, Mr. ST GERMAIN, and Mr. UDALL):

H. Res. 1266. Resolution requesting the President to turn over evidentiary information to the House Judiciary Committee and the Special Prosecutor; to the Committee on the Judiciary.

By Mr. McKINNEY:

H. Res. 1267. Resolution to amend the Rules of the House of Representatives to allow broadcasting of public sessions of the House and the Committee of the Whole House; to the Committee on Rules.

By Mr. PEPPER (for himself, Mr. BENNETT, Mr. MILLS, Mr. ASHLEY, Mr. BINGHAM, Mrs. BOGGS, Mr. JOHNSON of California, Mr. ROUSH, Mr. KOCH, Mr. MITCHELL of Maryland, Mr. REID, Mr. MELCHER, Mr. HAMILTON, Mrs. GRASSO, Mr. COTTER, Mr. MURPHY of Illinois, and Mr. CARNEY of Ohio):

H. Res. 1268. Resolution calling for a domestic summit to develop a unified plan of action to restore stability and prosperity to the American economy; to the Committee on Banking and Currency.

By Mr. PODELL:

H. Res. 1269. Resolution expressing the sense of the House of Representatives with respect to the responsibility of the Government of Lebanon for Arab Terrorists whose bases are located within Lebanon; to the Committee on Foreign Affairs.

By Mr. YATES (for himself, Mr. PRICE of Illinois, Mr. ANNUNZIO, Mr. BURKE of Massachusetts, and Mr. VANIK):

H. Res. 1270. Resolution providing for television and radio coverage of proceedings in the Chamber of the House of Representatives on any resolution to impeach the President of the United States; to the Committee on Rules.

By Mr. YATES (for himself, Mr. HEINZ, and Mr. ANDERSON of Illinois):

H. Res. 1271. Resolution providing for television and radio coverage of proceedings in the Chamber of the House of Representatives on any resolution to impeach the President of the United States; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. GUBSER introduced a bill (H.R. 16141) for the relief of Firman B. Voorhies, which was referred to the Committee on Merchant Marine and Fisheries.

EXTENSIONS OF REMARKS

AN ADDRESS BEFORE THE AMERICAN LEGION OF NEW HAMPSHIRE

HON. NORRIS COTTON

OF NEW HAMPSHIRE

IN THE SENATE OF THE UNITED STATES

Thursday, July 25, 1974

Mr. COTTON. Mr. President, at the annual statewide meeting of the American Legion of New Hampshire, the Honorable Meldrim Thomson, Jr., Governor of the State, delivered a forthright speech which I request to be printed in the Extensions of Remarks of the RECORD.

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

ADDRESS TO THE ANNUAL STATEWIDE MEETING OF THE AMERICAN LEGION IN NEW HAMPSHIRE

(By Gov. Meldrim Thomson, Jr.)

My heart swells with pride when I meet a veteran.

I find in every veteran an unconquerable force for good—one who loves God, believes in his country, and labors for the welfare of his fellow citizens; one who has bound these great virtues together with the inseparable cement of personal sacrifice in the face of national danger.

When I meet a veteran I know that he, like me, is alarmed by the darkening clouds of doubt, change, and surrender that gather today on the horizons of our nation.

I am tired of seeing God driven from our schools and public places by politicians who, like the Pharisees of old, sanctimoniously importune His aid for their selfish ends while denying His presence to the youth of the land.

I am tired of indecency and immorality that encourages perversion on tax supported institutions, filth in the written word, and laughs at promiscuity that destroys the home.

I am tired of seeing our flag, the emblem of all of our Nation's glory, sat upon, spat upon, and defiled by tiny minorities who claim their rights in the name of a free speech which they would be the first to deny to others.

I am tired of murderers, drunks, and druggies of all kinds turning our prisons into social holding areas, wrecking carnage on our highways, and being returned to the public domain before their rehabilitation.

But most of all, I am sick and tired of those judges who by their distorted sense of social reform and downright stupid decisions have tried to glorify indecency, perpetuate immorality and destroy law enforcement throughout the land.

Whatever might be their motive these thoughtless men of robes constitute the greatest internal danger to our American civilization!

I am tired, also, of politicians who believe that the only answers to our energy shortages are certification, regulation and allocation.

I am tired of rising taxes and declining public services.

I am tired of high interest rates, wild inflation and market baskets that become harder to fill with every passing week.

I am tired of seeing one great American industry after another destroyed by unchecked foreign competition.

I am weary of sending wheat to Russia, rice to China, and a countless list of American products to the four corners of the world when each and all are vitally needed here at home.

I am deeply disturbed that America is no longer first in military might among the nations of the world, that our merchant marine is decadent, and that we will let foreign vessels poke to our very shorelines as they plunder and destroy our once great fishing industry.

And above all else, I am deeply concerned with a foreign policy that seeks dollar detente with old enemies while forsaking tried and true friends.

Veterans, you did not make the world safe for democracy with World War I.

You did not improve the lot of humanity after World War II by putting your trust in a United Nations organization rifled with intrigue and stacked with the sworn enemies of your homeland.

Nor did you gain a lasting peace after Korea and Vietnam.

If all of this must be held together with bribes and gifts from the American taxpayer!

Ours is a great nation. We must preserve and improve upon that greatness.

This we can do if we will rekindle in our own breasts that indomitable spirit of '76 whose bicentennial we are about to celebrate.

It is time that we think first of America.

Inflation we can lick if we speed up the engines of productivity in our free enterprise system.

But inflation we can never lick if we continue to tinker with the bureaucratic panaceas of shortages and governmental controls.

We can have energy in abundance if we will get about the business of building refineries and nuclear plants, drill and produce oil and gas, mine coal and explore the unsolved mysteries of fusion and solar energy.

We can construct new homes and great new factories, build the world's finest merchant marine, lace America together with improved highways and byways and bring back a stable and progressive prosperity if we will grasp with renewed vigor the tools of productivity.

Yes, and we can have an age of peace if we will make America the strongest nation in all the world, for it is only through strength that we will be able to deter aggression.

The America of free enterprise, of low taxes and high prosperity, of decency and morality, of equal justice for everyone—a land of shining cities and happy homes, of fertile valleys and purple mountains can be more than a dream.

The America we all want can be a reality in our times—but only if you and I will start fighting with all of our might to achieve it.

THE REVOLUTION IN WARFARE: THE COMPUTER IMPACT

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. HUBER. Mr. Speaker, there are many reasons to question East-West trade relative to the question whether our Nation's best interests are served by such commerce. The most important of such questions, in my view, is the transfer of technology which will strengthen the Soviet economy, directly and indirectly and, of course, when you strengthen the Soviet economy you are also strengthening the Soviet military establishment. One field in which the Soviet Union has lagged behind has been in the production of and wide application of the latest computer technology. This lag has resulted in their being behind both in space and missiles to a certain extent. A recent article in Human Events of July 20, 1974, by Mr. Miles Costick, points out the further problems involved in this area and the great risks involved in any commerce in computers with the U.S.S.R. I commend this article to the attention of my colleagues:

[From Human Events, July 20, 1974]

THE REVOLUTION IN WARFARE: THE COMPUTER IMPACT

(By Miles M. Costick*)

At the outset, let me say that we are concerned lest the present détente euphoria mislead us into lowering our guard toward the Communist world. Consequently, we must recognize that a crucial element in our international relations is the maintenance of a margin of military advantage through possession of a number of sophisticated technologies.

The field of computers provides a prime example. A great many modern weapons systems depend on computers, and in the technology of their production and their application in combination with systems integration we are, by conservative estimate, about 15 years ahead of the Soviets. It is not that they cannot make computers. The fact is that they have a computer industry with substantial logic design capability and one to some extent able to supply the most critical military requirements.

What the Soviets lack is the ability to build large numbers of highly reliable sophisticated machines, to provide related equipment and follow-on support, and "naked" technology; i.e., technology as such and not that embodied in a machine.

In October 1973, Control Data Corp. announced its signing with the USSR Council of Ministers for Sciences and Technology of a 10-year agreement for technical "cooperation" in developing and manufacturing advanced computing equipment.

The Soviets said a key purpose of this agreement would be "econometric modeling and management of the Soviet economy." American sources in Moscow put the ultimate worth of the agreement at about $500 million.

Admittedly, the United States must redress its foreign trade imbalances of recent years. It is my contention, however, that such dubiously profitable ventures as this help the Soviets plan what could become our eventual destruction.

The unusual enthusiasm with which Moscow announced the signing of this computer contract was, in itself, quite revealing. It was in marked contrast to the bland, general announcement disseminated by Control Data.

Working through TASS, the official Soviet

* Mr. Costick is Special Assistant to Rep. Ben Blackburn (R.-Ga.) on foreign affairs and trade. He holds degrees in mechanical engineering from the University of Graz, an MA in international economics from the University of Zurich and an MBA in finance and business from the University of Chicago.

news agency, the Kremlin leaders volunteered the information that Control Data and Soviet tracking organizations had maintained "commercial ties . . . for over six years." The TASS announcement in English on Oct. 23, 1973, states that "the Control Data Corp. is the first American firm to have signed with the Soviet State Committee an agreement for scientific-technical cooperation for a period of 10 years.

"The agreement envisages joint work in designing most up-to-date computers, computer peripheral equipment (magnetic tapes), systems of information processes, and communication and also software (language and instructions to the computer what to do) for such systems."

Furthermore, the TASS announcement went on to reveal that . . . "talks are on the way on the sale of high-speed 'Cyber' electronic computers."

This raised eyebrows in some of Washington's more sensitive sanctums. U.S. officials, as well as some Control Data officials, were surprised that TASS announced any dialogue on the Cyber System. Cyber is an extremely sensitive topic. It is a very high-speed, large-volume, third- or fourth-generation scientific computer which processes 94 million bits of information per second, or even more.

Only eight to 10 such installations exist. Typical installations belong to the Atomic Energy Commission, U.S. Air Force, NASA, and National Security Agency.

Considerable confusion exists regarding the strategic importance of computers. Many analysts point out that numerous other technologies are revolutionizing warfare. For example: giros, lasers, nucleonics, metallurgy and propulsion.

Yet, in one way or another, *all* technologies, including the computer technologies, themselves, are dependent on computers. For example, our Illiac IV, which is the key facility of the large computer network run by the Advance Research Projects Agency (belongs to NASA), the world's most advanced computer, was built with the help of several other large computers.

In short, today's emerging technologies are as dependent on computers as the technologies of the first industrial and military revolution were related to energy. Furthermore, computers, lasers and nucleonics are inter-related.

Without computers, modern weapons systems could not be built, integrated, tested, deployed, kept combat-ready and operated. In fact, weapons such as missiles, aircraft, tanks and submarines incorporate computers, as part of their armament. Avionics are intrinsically computer-linked. So is missile accuracy. MIRVing missile heads is impossible without computers. Helicopters used against tanks are provided with computers and computer links to obtain the realtime information needed for effective battlefield inaction.

In brief, there are no modern weapons systems that are not vitally dependent upon high-speed computers. A number of strategic missions are centered on high-performance computers; e.g., early warning systems, command-control-communications (C–3), all command control problems, anti-ballistic missiles defense, anti-submarine warfare, space operations and several branches of intelligence.

Simply stated, computers are not just swift calculating machines. They are entire systems. They include memory stores and testing and correcting mechanisms that include, also, peripheral equipment such as display units, input and output links, communications and "software" (instructions for computer what to do); i.e., old and new installations.

The big operational structures such as missile force or the meteorological or hydrological service must have several large general-purpose computers and special computers feeding the general-purpose machines. They also require field computers aboard mobile units such as ships, airplanes, missiles and space vehicles.

For example, in the Apollo Program a fairly large computer is carried in the Saturn booster. One is housed in the command spacecraft; two are attached to the lunar module. The launch site has a large computer installation. The vast tracking system contains many smaller and several large computers. Mission control has still another large installation. The Earth Resource Technology (ERT) program would be useless without computers to handle and "enhance" the inputs from the diverse sensors aboard the satellite.

The actual dismantling of export controls began during 1972. The Officer of Export Control staff was reduced from 206 to 138. Also reduced was the list of commodities embargoed for strategic reasons for export to the Soviet Union and other Communist-ruled countries.

Since October 1972, the Commerce Department has removed export restrictions on all but 70 of the 550 items once on that embargo list. At the same time, the Commerce Department has created a new bureau under its jurisdiction—the Bureau for East-West Trade with a staff of 150 people.

The Bureau for East-West Trade has three offices abroad: in Vienna, with 50 employes, Warsaw and Moscow. The purpose of the Bureau for East-West Trade is to actively promote commercial relations with the Soviet Union, its satellites and Red China. In addition, the United States has surprised its allies by actively seeking exemptions to restrictions jointly set by the countries in its own defense network.

In August 1972, the Congress' response prodded by the White House ordered the embargo list to be reviewed. This was in connection with the passage of the "Equal Export Opportunity Act." Commerce officials alleged that the review brought the unilateral American controls into line with the less extensive controls of "COCOM," the Coordinating Committee; the latter consisted of Japan and all the NATO countries except Ireland.

A Paris-datelined New York Times report of July 14, 1973, said: "The U.S., which used to be the main force pressing Western Europeans to outlaw a number of items for export to Communist countries on strategic grounds, is now pushing for more exceptions to the ban list.

"The about-face in the American position came about last January 1, it was learned from U.S. officials dealing with East-West Trade in Vienna. Now, when the Coordinating Committee for the Western Allies Trade Embargo Committee meets, the American sources say, the U.S. is the major seeker for clearance of new types of products it can sell to the East.

"COCOM was intended to make sure that strategic goods did not leak through to the East as a result of competition among concerns in different Western countries. Two reviews of the forbidden list have been made recently. They reduced the number of banned items from many hundreds down to what was described as 'less than 50.' 'We no longer use the shot-gun approach,' S. Douglas Martin of the American East-West Trade Center in Vienna said recently. 'We don't ban whole categories of items. Our job here is not to enforce control.' "

Examples of commodities which have been removed from the embargo list include: vehicles for carrying liquefied gases; parts and accessories for certain kinds of helicopters; video tape recording equipment; some computers and semi-conductors, satellite communications equipment: industrial pumps; cathode ray tubes; some kinds of transistors; various kinds of quality control machinery; raw materials such as tungsten and titanium; navigation aids; and some explosives.

According to the Washington Post of Nov. 14, 1973, a highly placed U.S. official said: "If the U.S. goes too strong in delisting, the whole COCOM fabric could come apart!"

The present U.S. list is still lengthy. It contains a wide variety of chemicals (rocket boosters in which we hold a significant lead over the Soviet Union), metals, adhesives and electronics, equipment used mainly in chemical warfare agents, rocketry and military aircraft.

On paper, most computer technology is still restricted. But the U.S. has sold a variety of computers and computer hardware to a number of Communist nations. Decisions on which computers to let the Soviets buy seem to be marked by a latitude which detente buffs call judgment and which experts call "ad-hockery."

Wade B. Holland, editor of Rand Corporation's *Soviet Cybernetics Review* put it this way in *Science*, Vol. 183, Feb. 8, 1974:

"There are no rigid standards. Getting a license to export depends on how much weight you can throw or whether your timing is right, like if Nixon has just made a visit to Moscow."

In 1972 the Commerce and State Departments approved the export of 164 Centalign-B precision grinding machines. Just before the presidential election, Nicholas Leyds, general manager of the Bryant Chucking Grinder Co. of Springfield, Vt., announced a contract with the Soviets for 164 Centalign-B machines capable of finishing precision miniature ball bearings to tolerances of 25th-millionth of an inch. The U.S. reportedly never owned more than 77 of these machines.

Ball bearings are an integral part of many weapons systems; there is no substitute. The entire Soviet ball bearing production capability is of Western origin. All Soviet tanks and military vehicles run on bearings manufactured on Western equipment or on copies of Western equipment.

All Soviet missiles and related systems, including guidance systems, have bearings manufactured on Western equipment or on Soviet duplicates of this equipment. Bryant Chucking Grinder Co. has been a major supplier of ball bearings processing equipment to the Soviet Union.

"Upon purchase, in 1972, of 164 Bryant precision grinding machines, Anatoliy I. Kostousov, minister of the Machine Tool Industry in the Soviet Union, said they had waited 12 years for these machines, which included mostly the banned models: "We are using more and more instruments of all kinds and our needs for bearings for these instruments is very great. In all, we need to manufacture five times more bearings than 12 years ago."

That makes sense—the Soviets have five times more missiles than they did 12 years ago. (*National Suicide*, Antony C. Sutton, Arlington House, 1973, pp. 100.)

My inquiry with a Defense Department source regarding the Bryant equipment and precision miniature ball bearings resulted in the following reply: "They are the key to our highly accurate, miniaturized ICBM guidance systems and the MIRVing of our warheads."

Recent reports about agreements signed by General Dynamics Corp. with the Soviet State Committee for Science and Technology are also disturbing. The five-year agreement for scientific and technological cooperation covers such defense-related fields as ships and ship building, telecommunications equipment, asbestos mining and processing, commercial and special purpose aircraft, computer-operated microfilm equipment and navigation and water buoys.

Similarly upsetting: the Fairchild Corp. deal with Communist Poland for sale of U.S. integrated circuit technology used extensively in modern weapons systems and in third-generation computers.

The February 1974 issue of *Armed Forces Journal International* reports that the Soviets are asking major U.S. aerospace firms (Boeing, Lockheed and McDonnell-Douglas) to sell them, on a major scale, the manufacturing technology and managerial expertise to build wide-bodied commercial jet liners. This is but one of a series of recent deals that bring to a head the issue: How far should the United States go in cultivating new "trade" relations with the Soviet Union?

Where do we draw the line between commercial technology and military or strategic technology in our exports to the Soviet Union?

Firms now being asked to supply Moscow with a full range of technical know-how to build jumbo jets are the same firms building most of our military aircraft. It would be challenging, to say the least, for these firms to develop a major aviation complex for the USSR without some compromise of our own security.

Jumbo jets are the primary aviation in which U.S. industry holds unchallenged domination in world markets. It makes no sense to ship our technology to our self-declared adversary, thereby giving him the ability to disrupt markets, wage economic warfare and inflict damage upon the United States' economic welfare. The word for this is "suicide."

CAB PROVIDES DATA ON 30 LARGEST STOCKHOLDERS

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Thursday, July 25, 1974

Mr. METCALF. Mr. President, during recent months the independent regulatory commissions have been reviewing and revising their foreclosures for collection, tabulation, and publication of data concerning corporate ownership and control. One of the commissions that is doing the most in this regard is the Civil Aeronautics Board.

CAB Chairman Timm has just provided me with the Board's special report entitled, "Thirty Largest Stockholders of U.S. Certificated Air Carriers and Summary of Stock Holdings of Financial Institutions."

It includes, in addition to the introduction, summary of findings. and technical notes, the following appendixes:

Appendix A—Air carrier Stock Held by Financial Institutions Included in Listings of Top 30 Stockholders.

Appendix B—Financial Institutions Which Held the Most Shares of Stock in the U.S. Certificated Air Carriers.

Appendix C—Financial Institutions Included Among 30 Largest Stockholders of U.S. Certificated Air Carriers.

Appendix D—Stockholders of 5 Percent or More of Outstanding Carrier Shares.

Appendix E—Air Carrier Shares Held by Top 30 Stockholders.

Appendix F—Thirty Largest Stockholders (Listed for Each Airline).

This report does not tell the reader the extent to which the various financial institutions are empowered to exercise voting rights to the stock which they hold. But this report does get behind nominee names, behind Cede & Co., the nominee for the New York Stock Exchange Commission subsidiary. This report does aggregate the holdings of the major stockholders. It is a forward step in information management by a regulatory commission. I compliment Chairman Timm, his fellow commissioners, and the CAB staff for this work.

Copies of the report may be viewed in the CAB public reference room, room 710, Universal Building, 1825 Connecticut Avenue NW.

Mr. President, I ask unanimous consent to print in the RECORD the July 19, 1974, letter I received from Chairman Timm, the introduction to the report, and summary of findings.

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

CIVIL AERONAUTICS BOARD,
Washington, D.C., July 19, 1974.

Hon. LEE METCALF,
Chairman, Subcommittee on Budgeting, Management and Expenditures, Committee on Government Operations, Washington, D.C.

DEAR MR. CHAIRMAN: The enclosed report, entitled "Thirty Largest Stockholders of U.S. Certificated Air Carriers and Summary of Stock Holdings of Financial Institutions," was prepared in response to your letter of January 3, 1974.

Each of the certificated route and supplemental air carriers operating under regulations prescribed by the Civil Aeronautics Board was directed to submit a list of the names and addresses of the top 30 stockholders with holdings in nominee accounts consolidated for each institutional holder.

This report includes the list of the top 30 stockholders for each carrier, a summary of findings, several summary tables, and a description of the procedure used by carriers for compiling the lists.

Because of the nature of your request and the interest you have expressed in the holdings of financial institutions, the summary of findings focuses on aggregate figures for the top 30 stockholders of air carriers and on the holdings of financial institutions. You will understand, however, that the holdings listed are those of record and to a considerable extent do not represent beneficial holdings, and that the Board has not concluded that industry-wide aggregations of shareholdings are necessarily meaningful.

Please let us know if we may be of further assistance.

Sincerely,

ROBERT D. TIMM,
Chairman.

INTRODUCTION

The Chairman of the Senate Subcommittee on Budgeting, Management, and Expenditures, Committee on Government Operations, has stated that: "Stockholdings are more concentrated, within a few large banks, than corporate reports to regulatory commissions indicate. The widespread use of multiple nominee accounts, by single institutional investors, distorts ownership reports and diminishes their value to regulators, stockholders, Congress and the public." He requested the Board to obtain a list of the names and complete mailing addresses of the 30 larger stockholders of each certificated air carrier. This report contains a listing of the top 30 stockholders for each carrier. Additional tabulations included in this report focus on the stockholdings of financial institutions, defined for the purposes of this report as banks, trust and insurance companies.

At present, the Civil Aeronautics Board requires information on stockholdings separately from the air carriers, stockholders, officers and directors of the carriers. The air carriers are required to report each stockholder of record holding at any time during the calendar year more than 5 percent of the carrier's outstanding capital stock. In addition, the carriers are required to inform their stockholders that the Civil Aeronautics Board under Part 245, Subpart B, of the Economic Regulations requires reports to be filed by each person holding more than 5 percent of any class of the capital stock or capital of a carrier. A bank or broker who holds more than 5 percent, beneficially or as trustee, is required to identify separately each stockholder for whom 1 percent or more of the carrier's outstanding capital stock is held.

The relationships between air carriers and financial institutions, including those institutions given special attention in this report, are the subject of detailed consideration in a formal proceeding announced by the Board in January 1974 (Board Order 74–1–132, Docket 26348). The issues in that proceeding include, *inter alia*, the adequacy of and degree of compliance with current Board stock reporting requirements and the degree of concentration of air carrier stocks held by various financial institutions. In issuing this report, it is not the Board's intention to convey any conclusions or implications respecting the issues in that investigation.

SUMMARY OF FINDINGS

The top 30 stockholders for all carriers hold 180.1 million shares of stock or 52.3 percent of the total 334.4 million outstanding shares of the 38 certificated air carriers. The top 30 stockholders for 26 of the 38 carriers hold more than 50 percent of the carrier's outstanding stock. There are 76[1] stockholders that hold more than 5 percent each of an individual air carrier's stock. Twenty-nine of these, or 38 percent, are financial institutions compared to 47 or 62 percent that are nonfinancial institutions and individuals.

Seventy-two financial institutions appear on the list of the top 30 stockholders for the 38 carriers. They hold 22.6 percent of the outstanding shares of stock of the U.S. certificated air carriers. The largest institutional stockholder holds 3.7 percent of the total outstanding shares of stock for the 38 air carriers. Major holdings are summarized below (See Appendix B for more details):

Financial institution	Shares held	
	Millions of shares	Percent of outstanding carrier shares
1. Bank of New York	12.9	3.7
2. Chase Manhattan Bank	10.3	3.0
3. Morgan Guaranty Trust	7.8	2.3
4. Bankers Trust	7.0	2.0
Total	38.0	11.0
All 68 other financial institutions included in the carriers' top 30 stockholders list	40.0	11.6
Total	78.0	22.6
Total shares outstanding for 38 U.S. certificated air carriers	344.4	

The percent of shares held by the 72 financial institutions of the total outstanding shares of individual carriers ranges from a high of 56.3 percent to a low of .3 percent (See Appendix A for more details). More than 45 percent of the total stock of four carriers is held by financial institutions included among the 72.

[1] Some stockholders appear on more than one carrier's list.

Carrier	Number of institutions	Percentage of outstanding shares held
Northwest	22	56.3
National	18	56.0
Trans World	18	45.7
United	24	45.5

Twenty-five carriers include at least one financial institution among their top 30 stockholders. Thirteen carriers show no financial institutions among the top 30 stockholders.

Five carrier reports show that 100 percent of the outstanding shares are held by one stockholder. Howard Hughes and the Summa Corporation are combined as a single stockholder.

Carrier and 100 percent stockholder

McCulloch—McCulloch Oil.
Modern—GAC Corporation.
Trans International—Transamerica Corporation.
Aspen—Ringsby Airline Systems.
Hughes Air—Hughes/Summa Corporation.

Ten carrier reports show single stockholdings (including 3 husband/wife combinations) ranging from a high of 81.1 percent to a low of 37.2 percent. All trunk carriers and most local service carriers fall below this percentage range since they have a large number of outstanding shares widely distributed among many stockholders.

Carrier, stockholders, and outstanding shares held

1. World, Edward J. Daly, 81.1.
2. Reeve Aleutian, Janice M. and Robert C. Reeve, 77.5.
3. Johnson Flying Service, Robert R. Johnson, 76.8.
4. Saturn, Howard J. Korth, 74.8.
5. Kodiak Western Alaska, Helen F. and Robert L. Hall, 66.7.
6. Capitol International, Anne D. and Jessie F. Stallings, 66.5.
7. Texas International, Jet Capital Corporation, 58.6.
8. Frontier, RKO General, 49.7.
9. Hawaiian, John H. Magoon, Jr., 37.3.
10. Wright, Don Schneller, 37.2.

Thirty-five of the 38 carriers or 92 percent have individual stockholders with 5 percent or more of the carrier's outstanding shares. Airlift, North Central and Piedmont are the only carriers in which all individual stockholders hold less than 5 percent each of the outstanding shares of stock.

SHOCKING TESTIMONY CHALLENGES THE AEC "RASMUSSEN REPORT"

HON. MIKE GRAVEL

OF ALASKA

IN THE SENATE OF THE UNITED STATES

Thursday, July 25, 1974

Mr. GRAVEL. Mr. President, the Rasmussen report, which is a $2 million paper about nuclear accident probabilities, will be completed soon. The Atomic Energy Commission, which sponsored the study, has been citing selected parts of the unpublished study since January. In particular, the AEC says the report will say that the chance of a calamitous nuclear power accident is only 1-per-billion per plant per year.

That figure has already been challenged by several responsible sources.

William Bryan, of the Mechanical Engineering Department, the University of California at Davis, discussed the Rasmussen report in his testimony February 1, 1974, before the California State Assembly's Committee on Planning and Energy. Dr. Bryan has had 10 years of experience in the reliability and safety analysis programs of the Apollo effort and the AEC's nuclear rocket program.

PREDICTION IS A PSEUDOSCIENCE

Dr. Bryan, who has talked with several people working on the Rasmussen report, testified as follows:

I think, in this case, Rasmussen's study, for instance, it would be very interesting to see what they came up with the first time through. I happen to know.

Then the committee chairman, Charles Warren, asked:

Could you tell us?

To which Dr. Bryan replied:

It was nowhere near the number that it is now.

Mr. Warren asked then:

Can you tell us exactly?

And Dr. Bryan's response was as follows:

They didn't finish the analysis, so all you can tell from the bits and pieces that they started on is that they changed failure-rate data-basis several times because they were not getting high enough numbers. This is not the first time I've seen this happen. We did it before.

Mr. Warren remarked:

That's a temptation inherent in the system, I assume.

And Dr. Bryan replied:

Right. Everybody that was involved in the Apollo program that I know of did the same type of thing. You're paid by somebody to do an analysis and most of the work on the special study, for instance, is not independently funded. It is through normal AEC channels—some through their lab at Idaho run by Aerojet Nuclear and other places—that most of the people that work with Rasmussen are doing the work on this program. So it is not an independent study, and it is really still part of the AEC. The pressures are still there to come up with the right answer. And given that one set of data is as good as another, why not? You cannot justify one any more than the other. So if one gives you the right answer and one gives you the wrong answer, and they are both as easy to justify, it is much easier to pick the one with the right answer and get it done and go back to your academic studies and do something worthwhile.

Dr. Bryan explains that statement in fascinating and easy-to-follow detail in his testimony, which is truly shocking in its implications for public safety.

Mr. President, I ask unanimous consent that excerpts from William Bryan's testimony February 1, 1974, before the California State Assembly be printed as exhibit 1 at the end of these remarks.

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

(See exhibit 1.)

WHERE IS THE CONGRESSIONAL WATCHDOG?

Mr. GRAVEL. On July 10, a member of the Joint Committee on Atomic Energy told the House of Representatives as follows at page H6346:

It will not take long for the Joint Committee to review it [the Rasmussen Report] because it has been through all of the conclusions of the report time and again, with Dr. Rasmussen himself.

I am distressed by this statement. Here is a report which uses new and highly debatable methods of predicting accidents, a report which took 1½ years to prepare and will take months for independent experts to review, a report which will be the subject of debate for years to come, and a leading member of the Joint Committee announces that this "watchdog" committee will accept it with little review.

I think that Congress should consider getting itself another watchdog for the Rasmussen Report. Perhaps we should fund a team of experts at the Office of Technology Assessment or the Government Accounting Office to identify conflicting assessments of the report in the scientific and technical communities, to identify items in the report which are agreed to by both its critics and its supporters, to describe with precision those matters which are contested, and to offer guidance to Congress about the implications of the contested matters for public safety and economic stability.

THE PRESENTATION OF MEANINGLESS FIGURES

There is no doubt that the validity of the Rasmussen report will be seriously challenged. Besides Dr. Bryan's testimony, there are other sources of responsible criticism to which my colleagues can refer.

The Committee for Nuclear Responsibility—Post Office Box 2329, Dublin, Calif. 94566—issued a statement this spring after the AEC Chairman started using the one-chance-per-billion catastrophe claim, allegedly from the Rasmussen report. The committee, whose board includes four Nobel laureates and one former associate director of the AEC's Livermore Laboratory, offered four reasons why those catastrophe odds can have no meaning: first, the possibly fatal assumption that all possible paths leading to a catastrophe have even been recognized and considered by the Rasmussen team; second, the unjustifiable assumption that untested nuclear safety systems like emergency core cooling have been correctly designed; third, the lack of lengthy experience with operating nuclear hardware; fourth, the impossibility of predicting the frequency and consequences of human error and malice.

Mr. President, I ask unanimous consent that the statement from the Committee for Nuclear Responsibility, Inc., be printed as exhibit 2 at the end of these remarks.

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

(See exhibit 2.)

Mr. GRAVEL. Dr. Barry Smernoff, of the Hudson Institute in Croton, N.Y., has also criticized the one-chance-per-billion accident prediction; his statement is available from the Stone House Press, 4 Grove Street, New Paltz, N.Y. 12561.

TO WIPE OUT EMBARRASSING CONCLUSIONS

Dr. Bruce Welch, who is an associate professor at the Johns Hopkins University Medical School, discussed the Rasmussen report in his testimony before

the JCAE on March 28, 1974. In addition to describing the report's inherent weaknesses, Dr. Welch also presented a devastating overview of the way the AEC is trying to use Rasmussen's favorable conclusions to discredit the embarrassing conclusions of the AEC's two earlier studies.

Mr. President, I ask unanimous consent that Dr. Welch's testimony be printed as exhibit 3 at the end of these remarks.

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

(See exhibit 3.)

Mr. GRAVEL. The Union of Concerned Scientists—Post Office Box 289, MIT Branch Station, Cambridge, Mass. 02139—is the group which has documented in detail the problems with the crucial emergency core cooling systems in American nuclear powerplants. In October 1973, this group issued a six-chapter report entitled "The Nuclear Fuel Cycle." The third chapter, which concerns catastrophic nuclear accidents, concludes with a statement which the Union still stands behind:

In our opinion, the links in the chain of assurances of reactor safety are substantially defective.

Mr. President, I ask unanimous consent that the text of chapter 3 from "The Nuclear Fuel Cycle" be printed as exhibit 4 at the end of my remarks.

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

(See exhibit 4.)

TESTIMONY OF WILLIAM BRYAN, DEPARTMENT OF MECHANICAL ENGINEERING, UNIVERSITY OF CALIFORNIA, DAVIS, CALIF. EXCERPTED FROM HEARINGS OF THE SUBCOMMITTEE ON STATE ENERGY POLICY, COMMITTEE ON PLANNING, LAND USE, AND ENERGY, CALIFORNIA STATE ASSEMBLY; HON. CHARLES WARREN, SUBCOMMITTEE CHAIRMAN, FEBRUARY 1, 1974

Chairman WARREN. Mr. Bryan, I understand that you're prepared today to give testimony concerning the fault tree analysis technique that apparently was employed by Dr. Rasmussen in his assessment of accident probability.

Mr. WILLIAM BRYAN. That is correct.

Chairman WARREN. I wonder if you might preface your comments by some brief statement of personal background, again, without any undue modesty.

Mr. BRYANT. I spent 11 years in the aerospace industry—up until 1972. Ten years of this was in the reliability and safety analysis field on two programs. One was on the Apollo program, from 1962 to 1969, and then was on the NERVA program which is the nuclear-powered upper stage vehicle program that was under development and was cancelled in 1973. On these two programs we went through a definite learning curve on how to make reliability estimates and on how to improve inherent reliability of parts. I want to reflect back on this experience to indicate my concerns as to where the A.E.C. is at the present time on this learning curve.

During the NERVA experience, I first came into contact with A.E.C. and the methodology they were using to assess safety problems of nuclear power plants. Obviously, since we were developing a nuclear plant that was going to fly over people's heads we had some of the same problems—in some cases even more severe since we were moving the plant, rather than having a stationary source. We spent a considerable amount of money on research into improved reliability techniques when we entered the NERVA program. This was primarily because of the fact that you could not build a lot of these and test them like we could in the Apollo program to find out where the problems were. During this experience, we would occasionally be analyzing a potential accident or problem and we'd see the similarity between that and what a power plant would have so we would go to the A.E.C. or to the industry and try to find out what was going on in analyzing this particular subproblem.

We were very surprised to find a lack of the overall knowledge of what the aerospace techniques were within the A.E.C. and pretty much a lack of interest in developing them. They were having a lot of problems at that time just with normal quality control (QC) type functions and were not too concerned. They were in the midst of just implementing that as a program which, of course, had been in aerospace for many years and in industry many years before then. But they were having problems implementing that type of program which, incidentally, is an inspection after-the-fact type of program whereas reliability is trying to analyze it before the fact.

And, so we didn't find a lot of help from anything that was going on within the A.E.C. or within the industry in the work we were doing. I did not make much contact then with A.E.C., or with the industry, other than through our normal reporting functions to the branch of A.E.C. that we were working with until the program was on the verge of being cancelled.

Since we had spent considerable millions in research here in Sacramento to develop some new techniques in the NERVA program for reliability and safety analysis, we were urged by our A.E.C. funding sponsors to contact other A.E.C. people to see what could be salvaged from this program and transferred over to the A.E.C. to use in the nuclear power plant analyses. So, we made many presentations in Germantown and in other places to A.E.C. personnel on just what we had gone through—what we had learned and the techniques that we had developed. We were very disappointed that they elected not to take advantage of this experience not even to consider, for instance, taking our final documents and reports of this methodology into a library function to hold until they got to the point in their learning curve that they could use them. In fact, what we found was a major concern with their own problems and a very typical resistance to change and to use any methodology that they were not themselves either concerned with or had developed or had knowledge about.

Therefore, I personally concluded that, from these many contacts and from discussions with people since those contacts, in general the A.E.C. is up to 10 years behind the times as far as implementing aerospace reliability and safety techniques, and as a substitute to good analysis are pushing phony reliability and safety numbers to assure us of just the opposite.

Chairman WARREN. Do you want to repeat that?

Mr. BRYAN. Okay. My concern, and several other people who worked with me at Aerojet on this program came up with the same conclusion—is that the A.E.C. is probably, in most cases, up to 10 years behind the learning curve or experience level that was developed in aerospace in reliability and safety technology and, therefore, as a substitute to doing this sound analysis are hiding behind or pushing phony reliability and safety numbers to assure us of just the opposite; i.e., that there are no safety problems.

In order to substantiate this conclusion, I would like to just briefly sketch the learning curve that we went through in Aerospace—where we started from and where we got to—and then from this, draw conclusions or substantiate why I think the A.E.C. is behind; in particular, why the techniques used in both the Rasmussen study and even the special task force study done before that cannot produce reliability numbers that we can believe in.

In the early '60's on the Apollo program we started out the same way. We had a numbers game that was arbitrarily handed down in terms of specifications to us. Somebody within NASA determined that the crew safety of a launch vehicle on the Apollo program should not be any worse, or have any higher risk, than an average 35-year-old living for an additional 12 months on earth. From that number, from insurance mortality tables, they then backed out reliability and safety goals for all the sub-components of the system.

In order to play this numbers game you have to realize that, when you have a system as complex as a Saturn rocket vehicle or a nuclear power plant, you have hundreds of thousands of parts in these vehicles—some of which are redundant, some of which are in series. For every 10 parts in a series you are talking about an order of magnitude change in failure rate. To explain, just let me say, if you put 10 parts in a series all of which have to work and your failure rate for the system is, say, 10^{-3} then the failure rate for your part would have to be 10^{-4}.

So as a result, since the overall goal for the vehicle was in the neighborhood of 10^{-3} some of the sub-system part reliability requirements, for instance, on the fourth stage engine on which I worked, were in the same neighborhood as the values that are now being used by A.E.C.. We were talking about 10^{-5} to 10^{-6} failure rates; that is, failure rates one in a billion operating cycles to one in a trillion operating cycles.

Well, to those of us with an engineering background when we first received these requirements, this was obviously ridiculous. There is nothing that has a failure rate that low. I don't have anything in my house that has a failure rate that low. Certainly my washing machine, vacuum cleaner and car engine don't and neither does a complex rocket system nor a system with thousands of parts like a nuclear plant.

However, in order to comply with NASA's desires most firms did the same as what our firm did. They accepted the criteria, organized a group called the "reliability and safety group", put them off in a corner to generate a lot of paper work studies that would prove that even if we couldn't today have that reliability, that at least some day in the future it might be achievable. I stress that this effort in the initial stages had obviously no impact on the engineering design of the equipment that was being built. It was a total separate paper work exercise just to try to prove that we could meet this requirement.

Occasionally we'd have a few problems in doing this. We would propagate our specification requirements down to subcontractors and now and then we couldn't get one to play the game, they would take it seriously and say, "There's no way I can build you a valve that has a failure rate as low as one in a billion", and would in some cases even refuse to do business because they would not sign a contract that had such a high requirement in it. Others would adopt the same philosophy the rest of us had and initiate the paper work studies necessary to demonstrate that it would be a feasible number.

Most of us at that point in time would discuss among ourselves the fallacy of this and even with some of our NASA and A.E.C. counterparts. But mostly when the time came to make a presentation to NASA as to whether or not it was conceivable to meet this requirement we would hedge considerably, but in general terms we would leave the impression that it was conceivable someday.

One exception to this in my personal case was when an astronaut was visiting us out

at Aerojet and we were having lunch together. He asked me aside once. He said, "Knowing what you know as the reliability manager of this program, would you fly in this vehicle?" And I honestly had to say that I wouldn't even get within range of the launch pad, let alone fly in it. I just knew too many ways that things could go wrong. He subsequently quit the program and I'm not sure what impact I had on his leaving the program.

I look back on that period and I certainly don't think that it was extremely ethical to do the type of things that I did and that others did, but I think it goes to prove a couple of points. One is that job security and the almighty dollar are great pressures. If your boss tells you that you're going to make a presentation and says that it has to be slanted a certain way you tend to slant it that way. And obviously you cannot trust or have somebody auditing themselves and that is what reliability is all about. You're really auditing your ability to meet a certain reliability requirement and if you're in the business of building and selling these parts you're not going to go around telling the world that you can't build them with a high reliability. It would be akin to General Motors going out and advertising the failure rates on their new automobiles as they come out. It's just not done. So obviously you would need somebody else as an independent audit to come in and do this kind of study, if you really wanted to get a real answer.

As I indicated, things did get better as time went on. It became obvious to some of the people in NASA and in middle management that they weren't really getting anyplace with this approach and they were only kidding themselves and the public, and that it wasn't having any effect on the hardware itself that was being developed. It was just generating a lot of paper. And in the middle '60's there was a special task force put together that did analyze the entire Saturn rocket vehicle, very superficially, but it was an analysis intended at the time to come up with an independent estimate of what the reliability of the vehicle was. Their number was so low that it was the best guarded secret in the Apollo program. It was this type of thing that convinced at least a few people in NASA that they ought to abandon this approach and start something else.

The first thing that was changed was to completely forget about trying to determine the numerical value of what the reliability was. This was an impossible task. The reason it was an impossible task was that you never have complete failure rate information on the parts that you are building, regardless of how good the analysis is. You always end up using failure rates from a slightly different configuration of a part, or for a part that was developed for a totally different use, or when you don't have any part testing experience you have to go to some kind of a qualitative guessing game method. One of the guessing games that was widely used on the Apollo and NERVA Programs was called the Delphi technique. That's where you get a lot of people together to estimate from their experience how probable each specific failure mode is.

So, it became clear that these techniques for quantifying failure rates and looking at design concepts were all right if you only use the numbers as a relative merit, when you compare it to alternative designs. We evolved into the point where we would only use the numbers game when we were comparing one design against another and the absolute value of the numbers was not used. We would always qualify in any report we put out that these numbers, we called them reliability factors, not even reliability values, were for quantitative evaluation of alternative designs only.

This was a real step forward. The other thing we did was go into a very comprehensive failure reporting, failure analysis and corrective action system. This was the real backbone of the reliability effort on the Apollo programs from the mid '60's on. The philosophy being that since we could never build enough complete units and test them to demonstrate a high reliability number, which is the only way you can really get a true reliability number, and since we have no techniques that are good enough to predict or estimate the true quantitative value of reliability; that every time we have a test malfunction or test failure we would analyze that to our utmost to determine what the cause of this failure was—not to fix the blame, but to take corrective action to redesign, to change the manufacturing process—whatever it took to eliminate or reduce the possibility that that failure even would occur.

If this was done properly and followed up to make sure that by fixing something you didn't introduce a new failure mode that was worse than the one that you originally had, then you were improving the reliability of the hardware. Even though you could not estimate or measure how much. This was commonly called the Test-Fail-Fix philosophy and this was how we got a man on the moon. In many cases we would intentionally test to the point of failure just to learn about the failure mechanism so we could then find the weak point in the design and make a design correction.

The Apollo program has a reputation for a very reliable system that was quite successful. I would like to point out, though, that in our case our fourth-stage engine had over 740 test failures and malfunctions, many of them very catastrophic, during the development phases, so we did an awful lot of learning. Also, even after these 740 failures during the development and qualification phases, there were approximately 25 to 30 significant malfunctions per Apollo flight. This is not a well-known fact and was not publicized much. Many of these, without some ingenuity of man-machine interaction at the time, would have caused mission aborts, and, in some cases, could have caused even crew fatalities. But they didn't and we had a fairly successful program. However, the probability of a critical failure occurring, if it could be measured, would most likely be in the range of one in fifty to one in 200 flights. This is certainly a far cry from our reliability and goals, and certainly nowhere close to the absurd numbers the A.E.C. is using for nuclear power plant accidents. Obviously the three astronaut deaths and the high number of flight malfunctions are evidence to this fact. This Test-Fail-Fix philosophy was used in military programs—Polaris and other manned programs during the mid '60's.

Then we went to NERVA where we were now involved with nuclear power and couldn't use this Test-Fail-Fix philosophy. Obviously, you couldn't test reactors to fail to learn about their weak points. Also, since they were very expensive, you could not build the number of units that we built in the Apollo program to test them before they were flown. So, when NERVA started we went to a much more analytical approach to try to identify problems early in the program and to see if there was some way we couldn't quantitatively determine what the probability would be of success of the vehicle.

In developing the approach we came up with several different tools, some of which had been discarded in the Apollo program and some of which we learned from the Apollo program. The most valuable tool that we developed was a computer malfunction analysis program which simulated the operation of our vehicle during flight. This program could be used to simulate malfunctions by making minor changes to the program's valve settings, flow rates and other parameters. You could then trace what happened to the vehicle, giving changes. This gave us many surprises that we had not determined in the typical failure mode approach where you just look at one problem and then you try to trace back all the things that could go wrong to create that one problem—similar to what the A.E.C. is doing now where they take one event and they go back and they say, "How can this event occur?" Well, we did that first but found out that we missed a lot of problems, especially interactive malfunctions that we discovered in this computer malfunction analysis program. We also used a technique called the System Failure Modes Effects and Criticality analysis. This is something where analytically, not using a simulated computer run, you just look at the various phases of flight and look at the types of failure modes that can happen, classify them as to how critical the effect would be if the problem did happen, and then try to trace this effect through the system.

We did use fault tree analysis to some extent to try to identify some of these interactive effects that we were after in computer malfunction analysis. We also tried to use the fault tree analysis to identify some of the single failure points. Single failure point analysis is probably one of the most critical things that can be done on a reactor. One designs a reactor with a lot of redundancy and thinks that, on the surface because they have system redundancy, that really they don't have any single failure points; that at least two bad events have to occur for you to have a failure. When you start digging back into the system, whether you use fault tree analysis, failure mode analysis, or a computer simulation program to do this, you find out that there are many, many subfailure mechanisms which are common to what you thought were redundant systems.

Going back to our Apollo engine, we had redundant valving for allowing the propellants into the combustion chamber. We had two separate bores, each of which had two valves in it—redundant in both modes. Either valve could have shut it down and if one channel didn't work, if one of the valves stayed closed, you could go into the other channel. However, as in the case of most valves, anytime you've got any contamination in the system and scored the seats or damaged the valve seats in any way they would leak. So, there was no redundancy against leakage because if something was in the system it could damage both bores and all valve seats just as easily as it damaged one, as it passed through. So, that would be a single failure point and cause leakage. If the leakage was bad enough it could cause a certain catastrophic event. It would cause enough leakage in the combustion chamber that when you went to start up the engine it would explode rather than ignite.

In our nuclear analysis we went through this and although we had complete system redundancy on our nuclear rocket we did find 62 critical single-failure points. This was just the first time through our analysis and before we got into a really detailed analysis. In the case of a nuclear power plant, a single failure point might be the burst of a high pressure steam line which will damage other equipment as it bursts. You therefore could damage your cool-down system to the extent that it could not operate. This was one of the problems we had on our vehicle. It was, in general, not possible again to quantify how this event would happen. One of the reasons you couldn't quantify was that there was not enough known, for instance, in this pipe burst example, about crack propagation in materials. Knowledge still doesn't exist today as to what stress level that particular pipe might give if you had a certain flaw that would tend to propagate into a crack as the pressure was increased.

Another problem in trying to predict prob-

ability numbers is that even in a very sophisticated analytical approach, the variability in such things as material strength or processing conditions can result in an order of magnitude difference in your reliability estimate. There's a tremendous amount of judgment involved in determining the bounds and variability of stresses and strengths when you do a detailed analysis to try to come up with a quantifiable number.

Thus, even on the NERVA program, even though we developed some sophisticated techniques for helping to identify failures that could happen so that we could take corrective design action before we built one, we still did not come up with a method that would accurately predict a numerical value, and certainly fault-tree analysis is not amenable to coming up with a number.

Chairman WARREN. Can you explain fault tree anlaysis?

Mr. BRYAN. Yes. A fault tree analysis is where you start with some system problem that can occur, some system malfunction, then you start tiering your analysis much like an organizational chart. You start with a box at the top that says you're going to have a loss of coolant accident. You then tier it down to the six or so things that can cause a loss of coolant accident and then for each one of those six things, you analyze what the number of things that could cause each of those six and you just keep tiering down until you're down to the nuts and bolts of the system.

The problem then in building fault tree and getting a number out of the fault tree analysis is obvious. You have this huge tree of possible failure mechanisms that all interreact and all lead into other events for which you have no quantifiable data. The only possible way to quantify each one of these boxes is to have a failure rate for each one. You'd have to have a failure rate for the bolt. You have to have a failure rate for the interreactive effect between two adjoining parts. You have to have the failure rate of the seal leaking between two parts. You just have to have failure rates for every point in the analysis, and there just does not exist that type of information to fill in those boxes. So, you end up doing the same thing that we've always done—where you can get failure rates you use them. Where there are industrial failure rates you use them; for instance, maybe you can't find anything on the particular burst failure-mechanics of a high pressure line that you had, so you go to the oil industry and you see what they've got. Obviously, a pipe used in the oil industry is going to fail much differently under different environment and maybe non-irradiated conditions than one would under a nuclear application. But this is the best you have got so this is what you use.

In other cases, where there is no industrial failure rate, you go back to some qualitative method like I mentioned before—like the Delphi technique or some guessing game.

If you're consistent in the use of these numbers in the fault tree, when you get done you certainly can compare one design against another and say this design is better than the other if you used a common data base for each.

Chairman WARREN. But only for comparison?

Mr. BRYAN. Only for comparison. The absolute value of the number is totally meaningless. There is just no way that number can mean anything in terms of the real world probability of failure.

Chairman WARREN. So, if someone has said to me, "The likelihood of a particular event occurring is one in one thousand million years," that then is really meaningless. The only time that could conceivably be meaningful is when compared to a competing system where the probability was assessed at one in five hundred million.

Mr. BRYAN. Exactly.

Chairman WARREN. So, that only permits the conclusion to be drawn that the event system which has an accident occurring in one thousand million years is probably safer than the other.

Mr. BRYAN. Right. But again I stress you have to use the same...

Chairman WARREN. Safety is still an unknown?

Mr. BRYAN. Safety is unknown. It is still as unknown as before you started.

Chairman WARREN. All right. Thank you.

Mr. BRYAN. And also you have to use the identical data information and fault tree system and even the same personnel because everybody will draw a different fault tree. No two people will go through the same mechanism because you're making judgments at every branch as to what really is going to affect the next tier, how this branch over here concerning valves is going to affect this branch over here concerning some other instrumentation; whether failure here will propagate a subsequent failure over there or changing conditions over here. You're making judgments at every point in that fault tree. So there is just no way you can quantify that and come up with a meaningful number.

It is also very subject then to qualitative manipulation, since you have to make so many judgments on what failure rate data you use. Obviously, if you go through it the first time and come up with a number that is too high, you can go back and use a different failure rate and come up with a different number. And this happened very often. If you used, for instance, a low reliability number you just go to another source and, if that didn't work, then maybe you'd go to the Delphi technique and you'd finally get a number that worked. You're really not changing the design at all. You're just manipulating the numbers to make the analysis come out right. I think, in this case, Rasmussen's study, for instance, it would be very interesting to see what they came up with the first time through. I happen to know.

Chairman WARREN. Could you tell us?

Mr. BRYAN. It was nowhere near the number that it is now.

Chairman WARREN. Can you tell us exactly?

Mr. BRYAN. They didn't finish the analysis, so all you can tell from the bits and pieces that they started on is that they changed failure rate data basis several times because they were not getting high enough numbers. This is not the first time I've seen this happen. We did it before.

Chairman WARREN. That's a temptation inherent in the system, I assume.

Mr. BRYAN. Right. Everybody that was involved in the Apollo program that I know of did the same type of thing. You're paid by somebody to do an analysis and most of the work on this special study, for instance, is not independently funded. It is through normal A.E.C. channels—some through their lab at Idaho run by Aerojet-Nuclear—and other places that most of the people that work with Rasmussen are doing the work on this program. So it is not an independent study and it is really still part of the A.E.C. The pressures are still there to come up with the right answer. And given that one set of data is as good as another, why not? You cannot justify one any more than the other. So if one gives you the right answer and one gives you the wrong answer and they are both as easy to justify, it is much easier to pick the one with the right answer and get it done and go back to your academic studies and do something worthwhile.

Chairman WARREN. On the remaining grant?

Mr. BRYAN. So, in general, you obviously have to get away from this same philosophy of the fox guarding the chickens. This is the same thing that happened locally here in our state in the timber legislation a couple of years ago when it was determined to be unconstitutional. You've got to have an independent body, independently funded from the A.E.C., whether it is at the state level or national level to perform the audit and reliability type analysis of nuclear power plants before you're ever going to get the information public as to what relative reliabilities are between alternatives and what the real problems are.

You can never come up with the number at least in today's technology that is meaningful in an absolute sense; but you could do a complete analysis that would be open for criticism where you do document through a very organized method all the types of things that can possibly go wrong and then you can start taking every one of these things that can possibly go wrong and you can say what you're going to do to prohibit that thing from happening. At the same time you perform a contingency analysis to determine what should be done in case each one of these bad events occurs. And you don't just take one failure mode or the worst event and analyze that. Because sure you probably reduce the probability of that happening, but all these others that you didn't analyze are going to happen. So you need an organized method that looks at all failure mechanisms and brings them to light so one can qualitatively state what they are going to do to reduce the potential of those events occurring. That's all I have.

EXHIBIT 2

[From the Committee for Nuclear Responsibility]

ONE-CHANCE-IN-A-BILLION?

Recently, the AEC paid professors at M.I.T. two million tax-dollars to estimate the probability of a nuclear power catastrophe. The report, which is known as "the Rasmussen study", provides the AEC with figures like one-chance-in-a-billion per plant, per year, according to the AEC.

SUCH FIGURES HAVE NO MEANING

First reason is the difficulty of predicting either the frequency or the consequences of human error (and malice). Error or malice could instantly reduce the catastrophe-odds from 1-per-billion to near certainty. Estimates about the small chance of a nuclear disaster depend on the reckless assumption that operators of nuclear plants will make no serious errors during emergencies; also, that no demented or hostile people will try to destroy the plants.

Second reason is the lack of experience with operating nuclear hardware. Since the very first 1,000-megawatt nuclear plant went into operation in June 1973, experts have hardly one reactor-year of experience to examine. They can do little better than guess when they assign reliability estimates to nuclear hardware of this type. Furthermore, for 4 years in a row, the AEC has had to scold and to fine nuclear equipment firms, engineering firms, and utilities for unacceptably sloppy quality-control, but according to a report in the Los Angeles Times, Dec. 26, 1973, the industry is still unresponsive.

Third reason is the unjustifiable assumption that nuclear safety-systems (some of them never tested) have been properly designed. This assumption denies all the recent nuclear "surprises" which show that nuclear engineers are failing to foresee all the design problems. If the design of a safety-system is defective, even perfectly working hardware will not make it effective.

Fourth reason is the flaw of assuming that all possible paths leading to a catastrophe have been recognized and considered. As recently as October 1973, the AEC's Director of Regulation, L. Manning Muntzing, admitted to a Congressional Committee (JCAE): "I'm really concerned about some of the surprises we see". How many unsuspected paths to catastrophe are still waiting to be discovered?

COMMITTEE FOR NUCLEAR RESPONSIBILITY, INC., POST OFFICE BOX 2329, DUBLIN, CALIF. 94566

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EXHIBIT 3

STATEMENT BY BRUCE L. WELCH, PH. D., ON POSSIBLE MODIFICATION OR EXTENSION OF FEDERAL LIABILITY INSURANCE FOR NUCLEAR POWER REACTORS UNDER THE PRICE-ANDERSON ACT, BEFORE THE JOINT COMMITTEE ON ATOMIC ENERGY, U.S. CONGRESS, MARCH 28, 1974

Mr. Chairman, Gentlemen: The Price-Anderson Act was enacted in 1957 and extended in 1965 to encourage the development of a civilian capability for nuclear power generation by relieving the nuclear industry of public liability of a magnitude that they themselves could not assume, and against which existing insurance companies would not insure.

I recommend that the Price-Anderson Act *not* be renewed or extended. The purpose of my recommendation is to discourage further development of the civilian nuclear power enterprise.

Specifically, I recommend:

(i) that the federal subsidy to the nuclear industry which is represented by the Price-Anderson Act not be extended.

(ii) that this be regarded as the first step in the deliberate phasing out of civilian nuclear power generation by nuclear fission.

(iii) and that a definitive national policy be immediately adopted to deliberately take continuing actions to phase out all civilian nuclear power production in an orderly manner and to terminate it entirely at the earliest practical date.

This, I submit, is the only responsible course that our government can take.

By way of qualifying introduction, I am Bruce L. Welch. I speak to you as an individual.

I am an Associate Professor in the School of Medicine, The Johns Hopkins University, and Director, Environmental Studies, Friends Medical Science Research Center, Inc., Baltimore. For the past twelve years my special area of professional activity has been environmental health.

I have had post-graduate training in physiology, ecology, chemistry, physics, mathematics and statistics, and I have taught courses at the graduate level which required the students to have previous advanced training in these areas. I have been licensed to do biomedical research utilizing radioisotopic procedures in three states and funded by various federal agencies to perform such research.

I have had formal training in health physics and radiation protection and have had formal responsibilities in these areas, both civilian and military.

I have an elementary acquaintance with steam turbine power plants as a result of engineering responsibilities as a midshipman and subsequently as an officer on a battleship, a heavy cruiser and on smaller vessels in the U.S. Navy.

I have had training in, and have been responsible for teaching, military demolitions and small unit special warfare to U.S. Navy, U.S. Marine, U.S. Army and foreign military personnel. For four years, I served as an officer with U.S. Navy Underwater Demolition Teams. During this period, I was in charge of independent operational detachments in various parts of the western hemisphere, and for one of these years I was in charge of the replacement training program for Underwater Demolition Teams in the eastern United States. I have had the good fortune, however, to have never been involved in direct military combat. I have approximately 300 hours experience as a private aircraft pilot.

I have studied the civilian nuclear power program very carefully for the past ten months. I have become acquainted with both proponents and opponents of the program. I have quietly attended your hearings on nuclear reactor safety.

On March 15, 1974, I formally declared my intent to seek the Democratic Party nomination for the governorship of the State of Maryland. This step was motivated in part by concern about the nuclear commitment that is evolving.

I will discuss six broad but overlapping reasons for recommending that the Price-Anderson Act not be extended:

1. THE RISK THAT THERE WILL BE LARGE RELEASES OF RADIOACTIVITY FROM NUCLEAR FACILITIES WITH CATASTROPHIC EFFECTS IS UNACCEPTABLY GREAT

Large amounts of radioactivity can be released from a nuclear reactor as a consequence of either: (i) sabotage, (ii) impact of a crashing aircraft or of another large airborne missile, or (iii) an accident in which engineered safeguards fail to function.

1. Sabotage

As one trained in special warfare and demolitions, I feel certain that I could pick three to five ex-Underwater Demolition, Marine Reconnaissance or Green Beret men at random and sabotage virtually any nuclear reactor in the country. It would not be essential for more than one of these men to have had such specialized training.

Access for purposes of taking over and placing charges could be gained by force or under ruse. Alternatively, containment could be breached from the outside with relatively small shaped charge and additional charges could be quickly set after gaining entry through the breach. The "engineered safeguards" would be minimally effective or wholly ineffective and the amount of radioactivity released could be of catastrophic proportions.

There is every reason to expect that there are now, or will someday be, competent people in the country who are willing to engage in such activities. There is no way to stop such activity other than to maintain a system of civil surveillance more strict than that maintained during the last world war, and this would be absurd—and on a continuing peacetime basis, impossible.

2. Impact of crashing aircraft or other missile

As an experienced aircraft pilot, I feel certain that I could deliberately crash a large aircraft into the containment structure of a nuclear reactor. The result, even if the aircraft was not loaded with explosives, could render the "engineered safeguards" minimally or wholly ineffective and the amount of radioactivity released could be of catastrophic proportions.

Only a few weeks ago, a young man who did not have a pilot license executed intricate maneuvers, avoided pursuers and landed on the White House lawn. There is no reason to doubt that there are now or someday will be competent but deranged people in the country who are willing to commit suicide by crashing a large aircraft into a nuclear reactor. There would be no way to stop such efforts save by manning antiaircraft and pursuit aircraft in the vicinity of nuclear reactors at all times, and this is hardly realistic.

Reactors would be logical targets for airborne missiles in time of war.

3. Accident in which "engineered safeguards" fail to function

Preliminary results of the studies of nuclear accident probabilities now being conducted under Dr. Norman C. Rasmussen estimate that the chance of a loss of coolant accident followed by failure of the emergency core cooling system and meltdown of the reactor core is one in a million per reactor year. When core meltdown occurs, the chance of "rapid" breach of containment (e.g. within two hours) is one in a hundred, but breach of containment within 24 hours is a virtual certainty.

The range of error in this estimate is at least plus or minus an order of magnitude: The probability, therefore, could as well be one in 100,000 or one in ten million as one in a million. Responsible conservatism demands that it be considered one in 100,000.

If there is one chance in a million per reactor year of this major nuclear power plant accident, then the probability of such an accident at a two-reactor site such as Calvert Cliffs is one in 500,000 per year or one in 12,500 to 16,667 during the 30–40 year plant life; and the chance of such an accident at a four-reactor site such as North Anna or Mineral (in Virginia) is twice as great. If, however, one conservatively considers the chance of such an accident to be one in 100,000 per reactor year, the probability during the 30–40 year operational life is 1250 to 1667 at a two-reactor site and 625 to 833 at a four-reactor site.

As many as 45 reactors with an aggregate capacity of about 46,000 megawatts are scheduled or likely to be scheduled for operation within 120 miles of Baltimore or Washington, D.C., or located on the Chesapeake Bay or its tributaries, within 15 years. If the probability of core meltdown is one in 100,000 per reactor year, then the chance of such an accident in this region within the 30–40 year operating life of these reactors is one in 56 to one in 74. If you want to be an optimist and stick to one in a million as the probability per reactor year, then the chance is one in 560 to one in 740. In either case the probability, considering the human and ecological damage that could be done, is unacceptably close to one.

The AEC projects that 1000 nuclear reactors will be operating in these United States by the turn of the century, which is only 26 years. If the chance of core meltdown is one in a million per reactor year, the chance of this accident occurring during the 30 to 40 year operating lifetime of these reactors will be one in 25 to one in 33. If the probability of core meltdown is one in 100,000 per reactor year, this chance is one in 2 to 3, that is, virtual certainty.

Other kinds of accident, of course, are also possible and the probability of a major release of radioactivity is the combined probabilities of these different possible accidents. As one example, the Advisory Committee on Reactor Safeguards published a report on January 14, 1974 on "Integrity of Reactor Vessels for Light-Water Power Reactors" which concluded from the analysis of available data that the probability of disruptive failure of non-nuclear pressure vessels constructed to commercial standards and con-

ventionally operated was one in 100,000 per year. The Committee arbitrarily judged that the chance of disruptive failure of a modern nuclear reactor vessel, because of presumed higher standards, was about an order of magnitude less, e.g. one chance in a million per reactor year.

The consequences of a major release of radioactivity from a nuclear reactor are determined largely by the density of population in the surrounding area and the meteorological conditions prevailing at the time.

WASH-740, a 1957 study of "Theoretical Possibilities and Consequences on Major Accidents in Large Nuclear Power Plants," commonly known as the "Brookhaven Report" estimated consequences of a major accident. It assured that a hypothetical reactor was located 30 miles from a major city near a large body of water in an area of low population density comparable to that around Calvert Cliffs; that rather typical day and night weather conditions prevailed; that fission products had 24 hours in which to decay between core meltdown and containment breach; that people were indoors during the period when most casualties were predicted (estimated radiation exposures were arbitrarily halved to take this into account); and that, in the scenario predicting the most damage, fifty percent of total fission products were released to the atmosphere. All of these assumptions except the last could reasonably apply to a modern reactor. The percentage of fission products released from a modern reactor might be less due to containment sprays, filters and deposition on containment and intra-containment structures, although this would not necessarily be the core in the event of sabotage or missile impact. Moreover, modern nuclear power plants have 6 to 12 times the generating capacity of the WASH-740 reactor and contain proportionately more fissionable material; they operate twice as long without refueling, and fission product accumulation increases with operating time. Release of only 5-10 percent of the fission products of a modern 1000 megawatt reactor would be equivalent to a fifty percent release from the hypothetical WASH-740 reactor.

WASH-740 projected that an accident occurring during a period of common nighttime thermal inversion could result in lethal radiation to 3400 people at distances up to 15 miles; severe radiation sickness in an additional 43,000 people at distances up to 44 miles; radiation at levels now believed to be sufficient to double the risk of cancer to an additional 182,000 people at distances up to 205 miles; property damage to $11.1 billion in 1974 dollars; rapid evacuation of up to 66,000 people from 92 square miles at distances up to 100 miles; and slower evacuation of 460,000 people from an area of 760 miles at distances up to 320 miles.

If the radioactive cloud was released hot during daylight hours under conditions of normal adiabatic lapse rate, if the wind was blowing away from land or if the molten core bored deep into the ground before containment was breached the number of deaths could theoretically be a few to a few hundred. But the radioactivity added to the ecosphere and widely circulated could be equivalent to that of many atom bombs and would have serious effects at a distance.

Beginning with the letter of transmittal and continuing through AEC pronouncements of the present day, the WASH-740 casualty and damage estimates have been officially dismissed as being unrealistically high, due to their being based upon assumptions of "worst possible" combinations of circumstances. A careful reading of the document, however, clearly reveals that this is not justified. WASH-740 states that the results reflect ". . . the philosophy of the study, in that there were no deliberate attempts to maximize the hazard . . . This study . . . is considered neither unduly pessimistic nor optimistic." It states that conservative assumptions were made where knowledge was insufficient but that, on balance, it emphasizes that, "Conditions and specifications . . . are chosen to be representative of a 'generalized' power reactor situation," that the assumptions made ". . . give reasonably dependable general indications of the results to be expected in a large majority of possible situations". Elsewhere, it explicitly states ". . . this study does not set an upper limit for the potential damage; there is no known way at present to do this."

Actually, there are reasons to consider the WASH-740 results much less than extreme. First, in appraising the effects of the hypothetical accident, it was necessary to define the probable extent of damage produced by various doses of radiation, and much lower doses of radiation are now known to cause damage than was thought to be the case at that time. Second, WASH-740 did not attempt to predict genetic damage or the induction of cancer. Third, the equations used for predicting the dispersion and settling out of radioactive particles led to underestimation of radioactive contamination for areas at a distance from the reactor. Fourth, all people exposed to radiation were assumed to be in good health. Fifth, gamma radiation received when not actually immersed in the radioactive cloud and radiation scattered back from the ground were ignored in estimating doses received.

II. THOSE WHO CONTROL THE NUCLEAR ENTERPRISE ARE SOMETIMES CAVALIER AND DECEPTIVE IN THEIR DEALINGS WITH THE PUBLIC AND ARE UNRECEPTIVE TO COMPETENT CRITICISM

I will give several examples:

1. Citizens, even professionals, who question the commitment to nuclear power are often given canned administratively approved platitudes about "safe, clean power", "defense in depth", and "extremely improbable" accidents. Upon closer questioning, they are often told that reactors are so complex that people who are not professionally involved cannot hope to understand them well enough to make judicious decisions about the nuclear commitment.

Yet, Dr. Dixy Lee Ray, Chairman of the Atomic Energy Commission, was a marine biologist, a specialist on marine worms, for 27 years prior to assuming Chairmanship of the Atomic Energy Commission about 13 months ago. She has had no training whatsoever in engineering principles relevant to power plant operation and has had absolutely no formal training in radioisotope methodology, radiological protection procedures or health physics. She has a confident demeanor, an outgoing personality and an exceptional ability for public relations. We are expected to believe that she knows enough about atomic energy to seal the Faustian bargain that society is being asked to accept on our behalf—while millions of other scientists and intelligent laymen must accept the bargain on faith, and on the basis of bland half-true or totally misleading commercials. The irony of this charade, gentlemen—in which our nation is being manipulated into making one of the most important decisions in its history—is overwhelming.

2. Dr. Ray, Dr. Rasmussen and Dr. Herbert C. Kouts, Director of Reactor Safety Research, have repeatedly attempted to de-emphasize the WASH-740 damages before this Committee and elsewhere by calling "WASH-740, an analysis of the worst possible case". As I have noted above, this is clearly not true if one reads beyond the cover letter of the document. Moreover, in his attempts to de-emphasize these findings, Dr. Kouts has repeatedly—including in speeches to the Atomic Industrial Forum—claimed that WASH-740 assumed a suburban location, no rapid evacuation, no attempts to avoid immediate radiation effects to persons and the worst combination of meteorological conditions. These claims are false.

3. In 1964-65, another AEC study re-examined the results of WASH-740 and predicted more serious accident consequences, proportional to the larger size of modern reactors: up to 45,000 deaths, long-term contamination of an area the size of Pennsylvania and tens of billions of dollars of damage. The study was administratively halted prior to completion, and AEC refused to make the draft report public until eight years later when threatened with a law suit under the Freedom of Information Act.

4. Dr. Ray and Dr. Kouts have reported the preliminary results of the Rasmussen study of nuclear accident probabilities to this Committee, to the press and elsewhere—in such a manner as to reassure the public that the chance of accident is so low as to be negligible. But they have not qualified their comments with appropriate information on the underlying assumptions, the limitations and the huge range of error in the Rasmussen estimates.

Yet the Rasmussen results, while having the aura of computer based sophistication, will have no more quantitative value for guiding safety decisions than WASH-740. Computer results are no better than the program and the data fed into the computer. A chain is no stronger than its weakest link. The Rasmussen estimates have the following weaknesses: (i) A huge range of uncertainty which, itself, is quantitatively very uncertain. (ii) The fact that all possible accidents cannot be anticipated. (iii) The fact that anticipated accident sequences intuitively judged to have comparable magnitude of effect are lumped into general categories and detailed probability analyses are done only for those events in each "consequence category" which are considered likely to have the highest probability. (iv) Although probabilities of failure are available for parts and components widely used in conventional plants, "best engineering judgement" is used to estimate how these probabilities differ for the "higher quality" versions of these parts and components that are used in nuclear plants, and "best engineering judgement" (e.g. educated guesses) are likewise used for the probability of failure of parts and components unique to nuclear plants. (v) The probability analysis assumes independence of accident events, whereas the most important events in an actual accident may result from common mode failures. (vi) Whereas the most critical factors in nuclear facility accidents are likely to be psychological and social factors—including sabotage, nuclear diversion, etc.—there have been no sophsticated professional studies of these factors as they relate to nuclear facilities and the Rasmussen study cannot, in any quantitative sense, take these factors into account. Attempting to sell the Rasmussen results as "quantitative" and attempting to reassure the public concerning nuclear risk on the basis of the Rasmussen results, as Dr. Ray and Dr. Kouts have done, can only reflect either extreme naivety or intent to deliberately deceive the public.

5. Dr. Ray, Dr. Kouts and the Chairman and members of this Committee have repeatedly emphasized the independence of the Rasmussen Study, associating it in their comments with the sponsorship of Dr. Rasmussen's home institution, The Massachusetts Institute of Technology, which is located in Boston, Massachusetts. In truth, however, each of you is very well aware of the fact that this study, which is funded by a $2 million contract from the Atomic Energy Commission to the Massachusetts Institute of Technology, has its personnel and facilities quartered in AEC Headquarters in Germantown, Maryland, and the research is being conducted and administered there. The extended attempt that has been made to relate the Rasmussen Study to the Massachusetts Institute of Technology will not help the credibility of the findings. Dr. Rasmussen and his staff, for the purposes of this study, are effectively employees of the AEC. More-

over, the AEC and this Committee have already demonstrated their propensity to cite these Rasmussen results in a biased manner to achieve particular desired results.

6. Referring to the Rasmussen results, and reassuring that the consequences of a nuclear accident would be much less than previously anticipated, Dr. Ray has repeatedly attempted to "normalize" the lethalities in a nuclear power plant accident by equating them to those produced by a large airplane crash—a few hundred to a thousand deaths. This is one of the most callous, misleading, intellectually insulting and reprehensively irresponsible pronouncements that I have ever heard a public official make to American citizens. In trying to minimize and simplify the effect, she has completely ignored the facts that *for each acutely lethal radiation exposure* there would be about 15 cases of severe radiation sickness, many of whom may die after prolonged sickness, over 50 people receiving radiation sufficient to at least double the risk of cancer, substantial genetic damage, evacuation of over 150 people from their homes, over $3 million in property damage and long-term contamination and consequent abandonment or loss of the use of many square miles of agricultural land. Moreover, in attempting to minimize these effects, she has ignored the fact that the quoted lethalities and damage depend upon the assumption that "average" weather conditions prevail at the time of the accident and that bad weather could increase the lethalities and damage by orders of magnitude. While Dr. Ray may be citing the statistically "most probable" results, it seems reasonable to question how much, in such an important matter, should be left to the vagaries of weather.

In defending Dr. Ray's attempt to recognize only the acute radiation lethalities caused by a nuclear power plant accident and thereby equate the effects to those of a large airplane crash, Dr. Kouts has contended that "This is all that the public is interested in or understands—the number of people killed". I wager that Dr. Ray and Dr. Kouts badly underestimate the real depth of the public interest.

7. In radiating optimism and relief as she attempted to emphasize the quantitative insignificance of such accidents relative to other predictions of more serious damage, Dr. Ray has totally avoided focusing upon one crucial fact: *the few hundred to a thousand people who are killed are those who live closest to the nuclear reactor. Living close to a nuclear reactor entails special risk.* This is a point which the utilities and the AEC have continually attempted to avoid or deny. Indeed, the AEC and the utilities strongly oppose the idea of instructing people who live in the vicinity of nuclear reactors about the actions that they should take in order to maximize their safety in the event of a nuclear accident and about the nature of the rather elaborate coordinated evacuation procedures that are planned and practiced by civil and military agencies on their behalf. They fear, they say, that this instruction might unduly dampen the public confidence in nuclear power.

8. Dr. Ray has repeatedly emphasized that she has an open door policy with regard to providing information on the civilian nuclear enterprise. The Chairman of this Committee re-emphasized this policy on numerous occasions during the hearings on nuclear reactor safety that were held here in January, and he said repeatedly that if any person had any trouble whatsoever in obtaining access to any document, he wanted to know about it personally—that he and the Joint Committee staff would see that the information was made available. Commissioner Doub has publicly promised on numerous occasions, and in print, that staff papers and other internal working documents not normally covered by the Freedom of Information Act would be made available to the public. Nonsense!

On January 28, Ralph Nader referred to a secret AEC Regulatory Staff memorandum to the Commissioner which recommends new guidelines for nuclear power plant siting with respect to population. Nader said that by those guidelines a number of existing nuclear plants would be judged to be unsafely sited.

I tried to obtain access to this document commencing on January 29. On this date I made a telephone call to the Regulatory Branch of the AEC and was told that the document was a working paper and could not be made available. My subsequent efforts, which I have continued to pursue, both because I genuinely needed access to the document and because I wanted to test the validity of the claims of openness that are being made by the AEC and this Committee, clearly demonstrate that insofar as sensitive and "un-sanitized" claims of openness have no validity at all:

February 1—I wrote a letter to Congressman Melvin Price, the Chairman of this Committee, and also a separate letter to Dr. Dixy Lee Ray, Chairwoman of the AEC, reminding them of their statements concerning open access to documents and requesting their assistance in obtaining access to the document on power plant siting mentioned by Nader. I received no reply.

Week of February 18—I made several telephone calls to the Joint Committee on Atomic Energy attempting to speak with Mr. Edward Bauser, Executive Secretary of the Committee. I stated the nature of my business to his secretary and asked for a return call. But I was not able to get in touch with him.

February 21—I telephoned Dr. Ray's office and asked an assistant to check on the disposition of my letter of February 1 and her intended reply.

February 22—I called Congressman Price's office to inquire about the disposition of my letter to him of February 1. I was told that it would have been forwarded to the Joint Committee Staff.

I tried to reach Mr. Bauser again, unsuccessfully. However, a Mr. Klug, who identified himself as a consultant, spoke with me and I called his attention to my letter of February 1 to Mr. Price and Dr. Ray and asked assistance in obtaining the requested document.

February 28—An attorney in the Office of General Counsel, Mr. Thomas Catalan, called and said that he was speaking on behalf of Dr. Ray and that "the matter" had been turned over to another attorney. Mr. Thomas Engelhardt, whom he said would call. Mr. Engelhardt, however, did not call nor would he return my call when I tried to reach him.

March 1—Called Mr. Peter Scrivner, Administrative Assistant to Mr. Price, and asked for help. At his suggestion, I wrote another letter to Mr. Price, calling attention to my letters of February 1, summarizing the problem and requesting assistance. I reached Mr. Bauser by telephone. He probed at length to learn why I wanted the document and said he had no way to get it. Finally, he agreed to look into it.

March 8—I called Mr. Scrivner and notified him that the document had not been received. He agreed to check further with Mr. Price. Mr. Bauser returned my telephone call and I queried him about the status of permission to read the document. He was contrite, rude, non-committal, hostile and mocking.

I called and reached Mr. Engelhardt for the first time. He said that everything was coming along smoothly. He had been getting things together for me and would mail them shortly.

March 15—I received a note from Mr. Bauser, saying that he had not received the reference but would forward it when he got it. I received a letter from Mr. Engelhardt, saying that he was enclosing a copy of "the draft document" prepared by the Regulatory Staff dated October 31, 1973, and released in December 1973, entitled "General Environmental Siting Criteria for Nuclear Power Plants: Topics and Bases". This, however, turned out to be an extremely bland document and not the one to which Nader referred.

March 23—I attempted to reach Mr. Engelhardt by telephone at his office and, being unable to reach him, told his secretary that this was a diversionary document, that I was attempting to obtain a regulatory staff memo to the Commission of April 23, 1973, entitled "Population Density Around Nuclear Power Plant Sites". She later called back, telling me that Mr. Engelhardt said to call Harold R. Denton, Assistant Director for Site Safety, Directorate of Licensing, to gain access to the document.

I called Mr. Denton and he said that he would have to check with Mr. Engelhardt for permission to let me see the document.

March 26—Mr. Denton called me and said that he had checked with Mr. Engelhardt and that permission to see the document was denied on the grounds that it was "considered as a working paper and, hence, not available".

I called Mr. Peter Scrivner, Administrative Assistant to Mr. Price, again to request assistance in gaining an opportunity to read this document in Washington prior to testimony; he said that he would talk with Mr. Price about it and call me back. He has not called.

After two months of effort and delay and a diversionary substitute document—I have still been unable to see the document which Ralph Nader quoted on nuclear power plant siting. It is tempting to conclude that Nader was correct that the proposed siting criteria indicate many existing and planned power plants to be unsafely sited. If this were not the case, I would expect the AEC to hasten to make the document available in order to show this serious charge to be incorrect. Moreover, I conclude that: (i) if the Regulatory Staff of the AEC called administrative attention to serious safety problems in nuclear power plant siting and recommended siting changes eleven months ago; (ii) if, as was clearly the case, the AEC proceeded just three months ago to publish and distribute an incredibly bland and innocuous document entitled "General Environmental Siting Guide for Nuclear Power Plants: Topics and Bases", with absolutely no mention of the latter problems or recommendations; and (iii) if, as has clearly been the case, the AEC has been pushing as hard as possible to capitalize on the acute energy crisis by accelerating the siting of nuclear reactors and minimizing the review process for their siting—it appears that the recently published document was deliberately diversionary and that the AEC is deliberately trying to deceive the public in these matters.

Moreover, in view of Nader's testimony before this Committee two months ago, the consternation that it caused members of this Committee and the Committee's pledge to respond to his charge, there is no reasonable doubt that this Committee is familiar with the April 23, 1973 document to which Nader referred. If the members of this Committee are not familiar with that document, they are remiss in their responsibilities. If they are familiar with this document and if Nader's charges are correct, they are a party to the AEC's deliberate continuing efforts to withhold from the public professional concern about the safety of siting for nuclear power plants and a party to administrative and AEC efforts to hastily increase the siting of nuclear power plants in spite of—and without public discussion of—the consequences.

Congressman Price is either personally unwilling for the document to be made public in spite of his public avowals to the contrary,

or he is unable to influence Dr. Ray to release it. Whichever is the case, it does not speak well for the controlling function of this Committee in matters related to the public safety.

9. In January, Ralph Nader also referred to another document that at that time was not available to the public. "Task Force Report: Study of the Reactor Licensing Process," October, 1973. This document, which outlines numerous deficiencies in quality assurance and other regulatory functions, was subsequently published in two volumes. The sanitized version was obtained for me in the course of the transactions just described both by Mr. Bauser and by Mr. Engelhardt—more than a month after the document, unknown to me, had been made public. It is instructive to compare the original version with the sanitized version that was released to the public. The released document has been extensively altered in ways that tend to minimize the concern that the comments and recommendations may cause the general public. Following, I quote examples of the differences between the original report and the modified "Study of Quality Verification and Budget Impact" which was published with a date of January, 1974:

a. *Original version,* pg. 18—"The Task Force" does not believe that the overall incident record over the past several years, combined with the common mode failures that have been identified, give the required confidence level that the probability for such an accident is 10^{-6} (one in a million) or less per reactor year."

Sanitized version, pg. 18—The Task Force "believes that further continuing actions need be taken to provide additional assurance that the probability for such an accident will be one in a million or less per reactor-year."

b. *Original version,* pg. 18—"As a matter of interest, if there were 1,000 reactors operating and the probability for a major accident were 10^{-6} (one in a million) per reactor-year, the probability would be less than 0.03 (one in 33 that such an accident would occur at one or more reactors during the 30 year lifespan of the reactors."

Sanitized—totally deleted.

c. *Original version,* pg. 59—"While it is very true that not many deficiencies have been found in vender produced items, this is only because there have been few inspections performed."

Sanitized version—totally deleted.

d. *Original version,* pg. 4–16—"It is obvious that when only AEC resources are considered as applied to the numerous facets . . . of quality assurance . . . "the result is an extremely low quantitative confidence level that the product will perform as designed."

Sanitized version—totally deleted.

e. *Original version,* pg. 16—"Review of the operating history associated with 30 operating nuclear reactors indicated that during the period 1/1/72–5/30/73 approximately 850 abnormal occurrences were reported to the AEC. Many of the occurrences were significant and of a generic nature requiring follow-up investigations at other plants. Forty percent of the occurrences were traceable to some extent to design and/or fabrication related deficiencies. The remaining incidents were caused by operator error, improper maintenance, inadequate ejection control, administrative deficiencies, random failure and combinations thereof."

Sanitized version, pg. 15—"Review of the operating history associated with 30 operating nuclear reactors has shown that during the period 1/1/72–5/30/73 no nuclear accidents occurred and no member of the public was injured in any way due to radiological causes. However, this record also contains approximately 830 abnormal occurrence reports filed with the AEC. While the vast majority of these abnormal occurrences represented failures that are anticipated, will always occur with manufactured equipment, and are protected against by the redundant design of nuclear systems; and while none of them resulted in a significant direct threat to the health and safety of the public; many of the occurrences either illustrated failures in QA programs during the construction or fabrication phases or were symptomatic of or identified design weaknesses in safety-related components and systems. Many of the occurrences also were of a generic nature requiring follow-up investigations at other plants.

10. This Committee derisively treats critics of civilian nuclear power and attempts to intimidate and ignore them. I vividly recall the testimony of Dr. David R. Inglis in this chamber last January. This 69-year-old distinguished scholar and nuclear engineer had important professional responsibilities in the original Manhattan Project. He is now a Professor of Physics at the University of Massachusetts, Amherst. He prepared a careful statement cautioning against the nuclear commitment and came here from Massachusetts in the heart of winter to testify at his own expense. He was kept waiting until near the end of the day. Then, the Chairman and all members of the Committee departed, save one, Mr. Hollifield, who was given the Chairman's responsibilities. Dr. Inglis then began his testimony while Mr. Hollifield impatiently thumbed papers. Before he completed his statement, he was asked to stop and deposit it for the record. The contrast between the attention and respect given this gentle man and that accorded Dr. Ray, who has none of his experience or professional qualifications, is deplorable.

Other experienced men who have previously had major responsibilities with the Atomic Energy Commission are likewise ignored and treated in similar manner when they attempt to question the promotion of civilian nuclear energy. How recently in reasoned public discussions or non-public policy discussions have such experienced men as Dr. George L. Weil and Dr. Karl Z. Morgan been asked by the AEC or the Joint Committee to present their views?

11. It is clear from the points that I have enumerated above that the stripes of the Atomic Energy Commission and of the Joint Committee on Atomic Energy—even in the light of the bright image projected by Dr. Dixy Lee Ray—have not changed. This Committee does not serve a regulatory function with regard to the AEC. Rather, it acts jointly with the AEC to *promote* the development of civilian nuclear energy—and regularly defers to the economic interests of the nuclear industry when conflicts with public safety emerge. It has not been many years, I recall, since the Chairman of this Committee—in the face of irrefutable evidence for their need actively attempted to prevent more stringent safety standards from being sent for uranium miners.

To have the AEC and this Committee responsible for considering nuclear safety is almost as absurd as a spectacle that I witnessed at the National Academy of Sciences on January 29: Dr. Chauncey Starr—who is an electrical and nuclear engineer, President of the Electric Power Research Institute, the original organizer of the Atomic Industrial forum and a major proponent of civilian nuclear power—had primary responsibility for lecturing to an audience of thousands on the subject of "Environmental Health and Safety" in an Academy Forum on "Energy: Future Alternatives and Risks". No physicians or public health people were involved. There were no scheduled discussions of the risks of civilian nuclear power and no scheduled discussions of alternatives such as solar, wind and ocean thermal energy. Dr. Philip Handler, President of the National Academy of Sciences, in his closing remarks did express serious concern about the civilian nuclear enterprise, paiticuiairly the commitment to the breeder reactor.

The atomic establishment has a strangle hold which is virtually all pervasive on most matters regarding energy research and development in the federal government. Dr. Dixy Lee Ray and the AEC have been charged with primary responsibility for developing budgets for energy research and development. It is not overly surprising, therefore, that administrative recommendations for renewable resource research and development in the coming fiscal year are considerably less than the "minimum viable" amount requested by those who have responsibilities in these areas: the amount projected for all kinds of solar, ocean, wind and biological conversion technologies combined is less than the City of Baltimore will spend on legal fees related to extension of its expressway system; far less than was recently spent printing rationing tickets for gasoline; only two-thirds the cost of a single phantom jet; 6.6 percent the amount EXXON spent changing its signs; and 1.6 percent the amount the AEC will spend on civilian nuclear power. The amount being spent this year on these technologies is less than that buried in the budget for expenses related to development of supersonic and hypersonic air transports.

It is true that after many years of doing virtually nothing to develop renewable energy resource conversion technologies, we are now beginning to move ahead—but only at a slow crawl as opposed to sitting dead still.

A new office for determining future policy and goals for energy research and development was recently established in the Executive Office of the White House. Dr. Alvin Winberg—a leading proponent of civilian nuclear power, and previously Director of the Oak Ridge National Laboratory—was placed in charge. It was hardly two years ago when he publicly said that if we developed a drug to prevent or halt the growth of cancer we could cease worrying about most exposures to radiation.

III. THOSE WHO CONTROL THE NUCLEAR ENTERPRISE ARE OFTEN CAVALIER ABOUT MATTERS THAT AFFECT THE PUBLIC SAFETY

1. A modern nuclear reactor may contain radioactive fission products equivalent to those produced by the explosion of thousands of Hiroshima-sized atomic bombs. There are problems of scale, and this country has less than 45 years total operational experience with large nuclear reactors having an electrical generating capacity of 400 megawatts electrical or greater. Not one reactor with a power rating of over 809 megawatts electrical has a full year of operational experience. Human error is the most likely cause of a nuclear accident. There are extreme shortages of qualified personnel for building and operating nuclear power plants and continual safety related personnel problems. Milton Shaw continually emphasized this during his period of tenure as Director of the Reactor Research Division, and he repeatedly emphasized this in his testimony before Congress in support of the fiscal 1974 budget. Experience has shown that an average of 20 abnormal incidents per year may be expected in an operating nuclear reactor, and that many of these incidents have important safety implications. Fully 20 to 25 percent of the commercial reactors in the country are often shut down and inoperative due to safety related problems.

Yet, the Administration, the AEC and this Committee are doing everything in their power to increase the speed of nuclear power plant siting, minimize public review and discussion of proposed sites and attain the goal of increasing the number of nuclear reactors from the present 42 to 1000 within the short period of 27 years.

2. There are no protective systems in any reactor that mitigate against catastrophic releases of radioactivity in the event of a primary reactor pressure vessel rupture. Many older reactors are constructed of lower quality steels than those currently considered acceptable for nuclear reactor vessels. Moreover, the belt zones of these ves-

sels have been subjected to prolonged high-intensity irradiation. Although systematic information is not available, it is known that prolonged irradiation weakens steel and increases the probability of vessel failure. The probability of pressure vessel failure in a non-nuclear vessel made of this quality steel is about one in 100,000 per vessel-year. We may guess that the probability of pressure vessel failure in these older nuclear reactors is even greater than this. Yet, they continue to operate, and there has been no indication that operation is to be stopped. (Refer: Stratton report, Jan. 14, 1974).

3. It is anticipated that a need for emergency shut-down will arise at least once in the operating life of a reactor. Thus, it was officially recognized by the AEC and this Committee last December that reactors should have redundant emergency shutdown ("SCRAM") systems. Yet, the prescribed redundancy of SCRAM systems will be required in the design of nuclear power plants only for applications submitted subsequent to October 1, 1976. That is two and a half years from now, and many new applications are expected to be processed before that time. The need for this safety feature should have been acknowledged years ago. Now, an extremely relaxed approach is being taken to enacting this important safety precaution on behalf of the public.

4. The new Acceptance Criteria for Emergency Core Cooling Systems that were promulgated on December 28, 1973, recognized that it is in the interest of safety for higher standards to be required in the fabrication of fuel rods. Yet, fuel has already been fabricated to the old standards for 53 reactors that are now under construction. Although most of these reactors will not be ready for operation for several years, it is planned to use these inferior fuel rods. Moreover, since fuel rods are replaced at the rate of only 30 percent per year during operation, it will be three years—as much as ten years from now on some reactors—before these reactors will be equipped with the improved fuel rods that are judged, in the interest of safety, to be desirable today.

5. The AEC has recently suggested (WASH–1270, "Technical Report on Anticipated Transients Without Scram") that a goal be set for the risk level to be accepted for nuclear reactors in the country at large such that the probability of an accident killing 100 to 1000 people would be "less than" one in 1000 per year ("less than" in statistical jargon means no greater than one in 1001—for practical purposes, it means no more often than once in 1000). From this, one may conclude: (i) In the year 2000, when we are expected to have 1000 operating reactors in the nation, we should be happy if we achieve the goal of experiencing only one such accident each year. (ii) The AEC policy, reflecting Dr. Ray's public pronouncements on related subjects, is ignoring the tremendous damage done by such an accident aside from the acute lethalities and ignoring the ability of adverse weather to increase these deaths and other casualties and damage by orders of magnitude. I think that I can confidently say that if the public were told that they could expect such an accident, the seriousness of which would depend upon the weather, each year—they would reject the nuclear option hands down.

6. Radiation Management Corporation, a small company in Philadelphia, is responsible for coordinating the evaluation and treatment of radiation casualties at civilian nuclear facilities in the central eastern region of the United States. Utility emergency evacuation plans prepared to protect the public near nuclear reactors specify that people receiving 100 rad or more of whole body irradiation will be transported to Philadelphia for diagnostic and treatment procedures under their auspices. The Corporation has rental access to two or three helicopters each of which carry two patients. The U.S. Marines could be asked to supply 100 helicopters in a major emergency. In the kind of accident referred to above, in which 100 to 1000 people received acutely lethal radiation exposures, thousands of people would receive doses in excess of 100 rads and would have severe radiation sickness and many would require prolonged special treatment. Upon query to Radiation Management Corporation, I have been told that the emergency plan actually covers only patients who are severaly overexposed *on site*, i.e., their services are geared to treatment of a few casualties occurring within a nuclear facility. Their special clinical facilities, which are located at the University of Pennsylvania Hospital, have capacity for full treatment of only 2 or 3 patients. I was told that by purchasing mobile reverse isolation units from a local supplier, the number of patients that could be accommodated could be increased to between 50 and 100.

It is obvious that there is no reasonable way to provide for the adequate care of the number of patients who would be sublethally but seriously irradiated in the event of an accident such as that discussed above.

7. Although our civilian nuclear program is now far advanced and nuclear power plant siting is being rapidly accelerated, the AEC has no substantive program for verifying the quality of components that go into reactors. They have no authority or arrangements for inspecting even such important manufacture and fabrication activities as those of nuclear steam system supplies. The utilities, whose capabilities in these areas are often limited, are held "responsible". Adherence to "high standards" specified on paper is largely handled by assurances on paper. The January, 1974, Task Force Report "Study of Quality Verification and Budget Impact" recognizes this and recommends increased staffing and an increased budget to overcome these deficiencies. These recommendations come late in the game when one considers that the AEC and this Committee have been assuring the public of "high quality," "stringent inspections" and "defense in depth" for years.

The report emphasizes that if the recommendations made by the Task Force had been on the conservative side with regard to safety, the recommended increase in personnel and budget would be much greater. The report states, ". . . it should be made clear that the Task Force's recommendations really represent the *minimum* program that is believed to be consistent with providing reasonable assurance that an appropriate level of risk will be achieved."

A small pilot program for in residence inspectors to be on two construction sites and a modest increase in inspectors for component vendors are now projected. But the increased effort projected for the coming fiscal year in no sense approximates that which the report indicated would be necessary to provide adequate quality and safety assurance in nuclear reactors.

8. Current issues of 10 CFR Part 100 which specify Reactor Site Criteria still refer "For further guidance in developing . . . the low population zone . . . to Technical Information Document 14844, dated March 23, 1962, which contains a procedural method and a sample calculation that results in distances roughly reflecting current siting practices of the Commission." This document, "Calculation of Distance Factors for Power and Test Reactor Test Sites" gives sample calculations of a low population zone radius around a 465 megawatt electrical reactor of 13.3 miles. Yet present day reactors two and a half times that size have low population zone radii of only three miles, e.g., less than a quarter as treat. This is justified, as specified in Regulatory Guide 1.4, by assumptions concerning the probable attenuation of released radioactivity by engineered safeguards, e.g., containment sprays, recirculating filter systems, etc.

The effectiveness of these engineered safeguards, however, is dependent upon the assumption that the main containment is not breached, that it leaks contained radioactivity only at a low technically specified rate, usually 0.1 or 0.2 percent per day. If containment is breached, as by an airborne missile, sabotage or internal missiles and dislocations as would likely be experienced in the event of a pressure vessel rupture or a complete core meltdown, these engineered safeguards are largely ineffective. It is such events as these to which my previous discusison had applied.

Core meltdown or pressure vessel rupture, however, are not design basis accidents. It is not presently considered possible to design for protection against them. The only protections are assumptions of improbability and distance. Consider for a moment the real significance of the "Maximum Credible Design Basis Accident" to which standard calculations of low population zones apply.

The design basis accident or "maximum credible accident" assumes release into an intact containment of an amount of radioactivity calculated to be made available if total core meltdown were to occur—an event which most authorities think cannot occur without containment being breached. It is, therefore, purely hypothetical and portrays a less severe than possible accident situation. Moreover, even in this relatively benign hypothetical situation in which all engineered safeguards work, the total radiation dose to the adult thyroid on the outer boundary of the low population zone could be up to 300 rem. Doses for people within the law population zone and near its inner perimeter could be much greater. Biologically, these are not low or innocuous adult radiation exposures. While using these exposures as criteria for calculating low population zones, 10 CRF 100 says in a footnote: that . . . "these site criteria guides are . . ." not ". . . intended to imply that these numbers constitute acceptable limits for emergency doses to the public under accident conditions. Rather, . . . the 300 rem thyroid value . . . has been set forth as . . . a reference value . . ., which can be used in the evaluation of reactor sites with respect to potential reactor accidents. . . ." In practice, however, this is the risk that we decide to take for an accident in which all engineered safeguards work when we calculate low population zones on this basis. These criteria, as Ralph Lapp has pointed out, do not consider the fact that one would expect a ten-fold higher radiation dose for the infant thyroid than the adult thyroid for the same uptake of radio-iodine, and 3 to 4 times the adult dose in young children exposed to common air concentrations of radio-iodine.

Hence, even the most optimistic accident assumptions that are used in calculating low population zones leave much to be desired where public safety is concerned.

In spite of this, the AEC did not move to prohibit the siting of reactors on an island in the Delaware River 11 miles from Philadelphia—where 50,000 people would have been contained in the "low population zone"—until the State of Pennsylvania insisted that reactor siting be prohibited there.

According to "Guide to the Preparation of Emergency Plans for Production and Utilization Facilities," December, 1970, a low population zone should be designated such that all people therein can be evacuated within two hours.

In many instances where nuclear reactors are being sited at low population densities, the population is expected to increase fourfold by the turn of the century. Low population zones, therefore, cannot realistically be expected to remain "low population zones" forever.

Is there any acceptable safe way, gentlemen, in the eastern United States, to site a nuclear reactor?

IV. THE CIVILIAN NUCLEAR COMMITMENT IS DESTROYING FREE ENTERPRISE IN THE ELECTRICAL POWER AND RELATED INDUSTRIES—RESULTING IN THEIR VIRTUAL NATIONALIZATION—EXCEPT THAT THE INCREDIBLY FREE ENTERPRISE OF SHOVELING AS MUCH PUBLIC MONEY AS POSSIBLE OUT OF THE U.S. TREASURY REMAINS

The nuclear power industry has been deliberately created by the government through the auspices of this Committee. It could not have become a reality without the government gift of nuclear technology, access to utilization of government facilities, billions of federal dollars in research and development funds, matching funds for demonstration plants, state and federally supported monitoring and emergency programs, and federal liability insurance. Some states are now expending large sums for advance location and evaluation of sites which will eventually be used for power plants by the utilities. Some efforts have been made to stimulate "competition" by such methods as attempting to contract demonstration plants to more than one manufacturer. In fact, however, the cost of each is so great and so few companies are sufficiently large and well equipped with expertise and resources that competition is nil. The effect of the nuclear program is to make these few companies larger yet.

The need to standardize nuclear facilities to federally determined specifications and to increase quality assurance will increasingly favor federal control of the power industry and the growth of a few large companies to the exclusion of others. The evolving recognition of a need for resident inspectors of construction and of component manufacture will inevitably lead to greater federal control. The need to protect against sabotage of nuclear facilities and against diversion of nuclear materials will lead in the same direction. Theodore Taylor suggested to this Committee in January that a federal police force costing $100 million per year would be needed by 1980 to provide adequate protection of nuclear facilities and shipments.

By declaring the future of electrical power generation to be nuclear, by claiming that nuclear power would be so cheap that it would not be worthwhile to meter it, and by providing numerous incentives the federal government effectively made most utilities fear that it would be uncompetitive for them not to "go nuclear". If some now have doubts, they are, nevertheless, "hooked". They have now invested huge amounts of capital and years of advance planning, and they are trapped. The nuclear commitment has effectively robbed a large sector of American business of three most basic elements of the free enterprise system: initiative, competition and risk. The pigeons of this planning and economic fiasco will eventually come home to roost, with the disbandment of this Committee. But the damage will long since have been done.

The various solar energy options would have required far less federal research and development support and would have been amenable to more diversified activities within a more viable and independent free enterprise economy. Ironically, the $100 million that Taylor suggests as an annual cost of policing nuclear facilities is exactly twice the fiscal 1975 Administration budget recommendation for the "solar" energy options.

V. THE FORCED DEVELOPMENT OF CIVILIAN NUCLEAR POWER BY THE GOVERNMENT HAS PLAYED AN IMPORTANT ROLE IN PRODUCING THE PRESENT ENERGY "CRISIS". IF ALLOWED TO CONTINUE IN ITS PRESENT COURSE, IT WILL CONTRIBUTE TO EVEN MORE SERIOUS ENERGY CRISIS IN THE FUTURE

The strong federally motivated emphasis upon nuclear power over the past twenty-six years has played an important role in encouraging the decline of the coal mining industry, in delaying the evolution of production methods for liquification and gasification of coal, and in diverting interest from earnest efforts to develop mature technologies for conversion of the naturally renewable energy resources.

Considerably less effort and money placed into solar, wind, ocean thermal and bioconversion technologies over the past twenty years than has been placed into nuclear technology could have resulted in far more energy being produced, more cheaply, more reliably and more safely from these sources than is being produced by nuclear energy today. There would be no energy crisis.

VI. CIVILIAN NUCLEAR POWER DECREASES THE NATIONAL SECURITY

It *directly* decreases the national security by rendering us more vulnerable to natural disaster, civil disorder and military attack. The concentration of relatively large quantities of potentially lethal fission products is a prime reason for this increased vulnerability. Also important, however, is the fact that nuclear power, because of the economies of scale, favors increased dependence upon central sources of power.

Solar energy sharply contrasts with this. No extraordinary hazard is created by destruction of a solar facility. Also, it favors decentralization of power sources. Virtual independence of large portions of residential and commercial buildings through the utilization of solar energy is not an unreasonable goal.

Civilian nuclear power *indirectly* decreases the national security by making international terrorist activities more likely and by otherwise setting the stage for large scale disruptions in less developed countries of the world. If it taxes our ability to safely use civilian nuclear energy on a large scale, can we expect the less developed countries to use it safely to meet their energy needs and solve the dilemma of balancing resources and population? The answer is clearly "No". On the other hand, I can think of no commitment that this nation could make that has greater potential for assuring world peace than to develop the various solar, wind and ocean energy conversion technologies on a crash basis.

The Atomic Energy Act of 1946 stated a national policy of developing and utilizing atomic energy to "assure the common defense" and for "improving the public welfare, increasing the standard of living, strengthening free competition in private enterprise, and promoting world peace". In each of these policy areas, the civilian nuclear power commitment is now doing, or threatens to do, the exact opposite of that which was intended.

Moreover, in view of the deliberate deception of the public with regards to the risks of the civilian nuclear enterprise, the indifference to constructive criticism, and the self-righteous "more qualified to decide than you" arrogance of those who control the nuclear enterprise—the civilian nuclear commitment threatens to undermine the most fundamental principles on which this government is based. The decision to fully embrace or to reject nuclear fission as our primary future source of energy may be more momentous than the decision to elect any individual president. It is now past time for the American public to become involved in this decision. I personally believe that it is time for our government to squarely face the fact that the commitment to civilian nuclear fission was a great mistake and to set about extricating itself from that commitment as rapidly and as gracefully as possible.

EXHIBIT 4

THE NUCLEAR FUEL CYCLES A SURVEY OF THE PUBLIC HEALTH, ENVIRONMENTAL, AND NATIONAL SECURITY EFFECTS OF NUCLEAR POWER, OCTOBER 1973

THE AUTHORS

Daniel F. Ford, Staff, Union of Concerned Scientists.

Thomas C. Hollocher, Associate Professor of Biochemistry, Brandeis University.

Henry W. Kendall, Professor of Physics, Massachusetts Institute of Technology.

James J. MacKenzie, Joint Scientific Staff, Massachusetts and National Audubon Societies.

Lawrence Scheinman, Professor of Government, and Associate Director of Peace Studies Program, Cornell University.

Arell S. Schurgin, Environmental Studies Program, Brandeis University.

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CHAPTER III—CATASTROPHIC NUCLEAR ACCIDENTS

(By Daniel F. Ford and Henry W. Kendall, Union of Concerned Scientists)

1. Introduction

The large quantity of radioactive material that accumulates in each operating nuclear reactor implies the need for the most stringent care to see that no appreciable portion ever escapes. If any major release were to occur, the stage would be set for an accident of unprecedented scale.

Whether the safety systems, specifically the emergency core cooling systems (ECCS), installed in the present generation of water-cooled nuclear power reactors are adequate to prevent the major loss of radioactivity during an accident has recently become a matter of national controversy, a controversy in which the Union of Concerned Scientists (UCS) has played a leading role. The public debate on reactor safety began in 1971 following the failure of some critical safety system tests. Within a year, two reports[1] were released identifying weaknesses in the design of present ECCS and setting forth the size and scale of an accident that might possibly occur as a result of these weaknesses. Stimulated in part by these reports, the Atomic Energy Commission (AEC) initiated a rulemaking proceeding[2] in January 1972 in which USC provided the technical and scientific support to an intervening coalition of citizens groups, the Consolidated National Intervenors. This hearing did not end until July 1973. The accumulated record of oral proceedings was over 22,000 pages long with

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Footnotes at end of article.

a nearly equivalent volume of documents of record. The hearing record [2] has proved to be a major embarrassment to the AEC and the nuclear industry. It exposed for the first time major disagreements over the design criteria for ECCS promulgated by the AEC, disagreements between the AEC's staff in Washington and the majority of the reactor safety experts on whom it relies for its safety research and technical evaluations.

The matters discussed at the ECCS hearing were highly technical and, as the size of the hearing record indicates, of great volume. It is not possible to summarize the technical arguments and positions in a brief but satisfactory manner.[2] However, discussion of the risks and consequences of catastrophic accidents in the reactor program cannot be omitted from a review of the nuclear fuel cycle without damaging the review's completeness. Accordingly, we have set forth in this chapter a brief, largely non-technical summary of these important matters drawing on the ECCS hearing record, several UCS analyses, and other sources. The references will allow the interested reader access to the material on which our summary is based.

2. The consequences of a major uncontrolled accident

The potentially devastating consequences of a major nuclear reactor accident are related to the prodigious quantities of radioactivity that accumulate during normal operation. This radioactivity is, in turn, a result of the fissioning or splitting of the original Uranium-235 nuclei in the fuel elements. The quantities of radioactivity in a reactor are measured in the tens of billions of curies. This radioactivity includes materials with short and intermediate half-lives and some alpha-active elements referred to as "transuranics," * some of which have half-lives on the order of tens of thousands of years. The radioactive accumulation in a large power reactor is equivalent to the fallout from thousands of Hiroshima-size nuclear weapons and great care must be taken to prevent any inadvertent release. Consider, for example, that 20% of a reactor's radioactive material is gaseous in normal circumstances, and, if released to the environment in one way or another, could be swept along by the winds for many tens of miles to expose people outside the reactor site boundaries to what could be lethal amounts of radioactivity. The lethal distance may approach 100 miles. Injury to health, genetic damage, and increased susceptibility to a variety of diseases can occur at hundreds of miles.

A typical urban population density might exceed 8000 persons per square mile, and reactors are now more often being sited close to major population centers. Thus, for example, the Indian Point site has three reactors and is situated in heavily populated Westchester County, within 24 miles of New York City. The Zion, Illinois reactors are within 8 miles of 80,000 persons in Waukegan, Wisconsin. An accident under temperature inversion conditions at Indian Point could result in a strip up to 2 miles wide extending from the reactor site to the Atlantic ocean in which more than 100,000 persons might receive lethal or near-lethal radiation exposures. Property damage and claims for such an accident could range in the tens of billions of dollars.

The AEC has initiated two major studies whose goal has been a quantitative assessment of the damage that could result from a major reactor accident. These studies, undertaken in 1957 and 1964–65, were carried out for the AEC by the Brookhaven National Laboratory. The earlier study, as described in AEC report WASH–740, presented a set of calculations describing the effects of a major release of radioactivity from a reactor then considered to be large, but small compared to today's devices. The 1957 calculations showed 3400 deaths, 43,000 injuries, and $7 billion worth of property damage.

In the years following the release of WASH–740, it was felt that a new study employing a more sophisticated approach would demonstrate that the earlier procedures were too conservative, that is, has resulted in unrealistically large consequences of a major accident. Moreover, a new study could deal with the reactors then under design: five times larger than the reactor of WASH–740. Accordingly, an updated version of WASH–740 was commissioned.

The update, however, established that WASH–740 was *not* unduly conservative. Indeed, the more sophisticated analysis method employed in the analysis of accidents with the larger reactors led to a prediction of 45,000 fatalities, contamination of an area "the size of the state of Pennsylvania," and many tens of billions of dollars damage in the event of an accident. The AEC did not make public any report on the results of its reevaluation of WASH–740. The AEC apparently determined that the release of this information would prove too detrimental to the nuclear industry.

In June 1973, however, under threat of a Freedom of Information Act lawsuit, the AEC releasd its internal files from the 1964–65 study. An assessment of these AEC papers is being carried out by UCS.

3. The nature of a reactor accident

The uranium fuel in a reactor core is placed inside long, thin zironium alloy tubes forming the fuel rods. The tens of thousands of fuel rods are mounted inside the reactor pressure vessel, itself installed within another protective shield, the containment building. As the fuel is gradually "burned," a great deal of radioactivity is created, which generates heat which cannot be turned off. Thus, even if the reactor is shut down so that fissioning ceases, these waste materials continue to produce appreciable heat. In the event of a reactor cooling pipe rupture, or certain other kinds of malfunction, the reactor's normal cooling water could be lost from the hot core. If this water were lost and emergency coolant not supplied promptly and in adequate amount to the reactor core, then a very rapid heatup would start, which after a period of a few minutes could no longer be controlled. The reactor core would, in these circumstances, melt down and broach all man-made structures, with what appears to be the inevitable release of at least the gaseous components of the fission products. The multiple barriers to radioactive release would in this event all be of no use. The details of such an accident are not completely understood, but there is little controversy that an uncontrolled meltdown would result in the very serious circumstances we have outlined above and could present an unparalleled hazard to people at great distance from the plant.

What has been at issue in the ECCS hearing is whether or not the systems designed to provide emergency core coolant in the event of loss of reactor coolant can in fact effectively control the accident. The hearing record, discussed below, plainly demonstrates that adequate assurance of emergency cooling system effectiveness is absent.

4. The chance of an accident

In reviewing the assurances of reactor safety, we must ask the following questions: 1) what is the probability of having the kind of rupture or other event which could give rise to meltdown, and 2) what is the probability that the emergency systems will in fact perform their function of preventing meltdown when they are called on?

Determining the probability of a major pipe rupture is one of the most important tasks in establishing assurances of safety. The probability of a serious rupture is frequently referred to as "highly unlikely" or "extremely remote" by the AEC and the nuclear industry. Nevertheless, it is considered likely enough so that, by AEC regulations, emergency cooling systems must be provided to reflood a reactor core or provide spray cooling to it in the event of a pipe rupture. It is an event of sufficient concern to be the principal subject of AEC safety research.

Recently the AEC, in a document entitled "The Safety of Nuclear Power Reactors and Related Facilities, WASH–1250," [4] has indicated that a pipe rupture might occur as frequently as once in a thousand reactor-years of operation. This is not too different from a General Electric estimate [5] applicable to its own reactors where a *major* pipe break is expected once in ten thousand reactor-years of operation.

The first important consequence to be drawn from these estimates is that accidents are, in our opinion, *not* highly unlikely at all. In fact, they are unacceptably large. The U.S. now has over 170 reactors operating, under construction, or ordered. When these are all operating, we can expect, on the basis of the AEC's best estimates, to have one pipe rupture approximately every 7 years and, by the end of the century when we have a thousand reactors, one pipe rupture every year. It is difficult to imagine by what criteria such a high frequency rate can be regarded as "highly unlikely."

In the published estimates of probability in WASH–1250, the AEC states that there is only roughly one chance in a thousand that elements of the emergency core cooling system will in fact fail to function when called on in the event of an accident. The AEC's estimate of ECCS "failure" ignores the message inherent in the very lengthy transcript and documents of the record of the recently concluded emergency core cooling hearing. In this hearing, it was established that the large majority of the nuclear reactor safety experts in the AEC's own safety research laboratories, together with the AEC's Advisory Committee on Reactor Safeguards and senior AEC Regulatory Staff scientists, have substantial reservations about the assurances of proper operation of the emergency core cooling system.

In a letter [6] of December 6, 1971 from William Cottrell, Director of Nuclear Safety Programs at Oak Ridge National Laboratory, he stated, writing in behalf of the experts in his group:

"We are not certain that the [licensing] criteria for emergency core cooling systems adopted by the AEC will, as stated in the Federal Register, 'provide reasonable assurance that such systems will be effective in the unlikely event of a loss-of-coolant accident.'"

D. O. Hobson and P. L. Rittenhouse,[7] Oak Ridge metallurgists, wrote a letter to Dr. Morris Rosen of the AEC's Regulatory staff on March 1, 1971, which stated:

"We believe that there is a consensus that what might occur during a major loss-of-coolant accident is still open to question."

George Lawson, a heat transfer expert from Oak Ridge, testified on March 1, 1972 at the ECCS hearing:

"Any conclusion with respect to the effectiveness of emergency core cooling systems is speculative."

And Norman Lauben of the AEC Regulatory Staff on February 10, 1972, testified:

"It is possible that for certain [loss-of-coolant accidents] which now calculate a temperature of 2300° [F] that the cladding temperature calculated could reach melting."

William Cottrell also stated in the Oak Ridge National Laboratory Nuclear Safety Program annual information meeting, February 16, 1971,[9] that, in view of the results that Oak Ridge had obtained in studying fuel rod swelling and damage (which aggravates the course of an accident), *he believed it was doubtful* that the emergency

Footnotes at end of article.

core cooling would work. And finally, Milton Shaw, Director of the AEC's Division of Reactor Development and Technology, in a memorandum of February 1971 to Robert E. Hollingsworth, General Manager of the AEC, stated:

"No assurance is yet available that emergency coolant can be delivered at the rates intended and in the time period prior to clad and subsequent fuel melting due to decay heat generation."

In view of these statements and many similar ones in the transcripts of the hearings, it is apparent that the contention that emergency core cooling systems will work satisfactorily 999 times of 1000 is, at best, dubious. In fact, UCS studies [12] have indicated that the margins of safety once believed to exist in these emergency systems have in some cases vanished entirely, and that there are certain accidents associated with pipe ruptures for which these systems will provide no protection. In the event of a major pipe rupture, where the emergency cooling systems fail to perform, a major accident as described above is virtually certain to result.

It is a reasonable conclusion, based on the above, that, within ten years or so, there may be a catastrophic release of radioactivity from an operating nuclear power reactor. This conclusion is based only on the AEC's own stated probability of a pipe break. This estimated accident rate neglects other possible initiating events, such as pressure vessel rupture, operator error, and other presently undefined events.

The estimated likelihood of a major radioactive release, stated above, may well substantially underestimate the actual rate of occurrence. Included among the factors that will likely increase the rate are the extensive defects in the workmanship with which nuclear power plants are constructed. The Rand Corp., well known for its work for the U.S. Department of Defense, recently commented on ". . . [the] increasing reports of poor quality control and documented carelessness in the manufacture, operation, and maintenance of these complex nuclear machines." [13]

5. Defects in the AEC'c analysis of accidents

There is a class of accidents for which the emergency core cooling systems as presently designed are, in principle, ineffective; pressure vessel rupture is one such.

It has been stated in the AEC hearing concerning the McGuire reactor by Professor Robert Whitelaw that the bolts which hold down the main pressure vessel cover could rupture, allowing the entire cover to be released and projected vertically, leaving the reactor internals open and taking the control rods with it. The preliminary estimates that he made of the probability of this occurrence was one in a thousand reactor years of operation.

There are apparently a number of reactors—Kewaunee and Prairie Island, for example—for which the placement of the steamlines is unacceptable. In some plants, the steamline passes through the auxiliary building outside the principal reactor containment. A rupture here could disable all of the emergency equipment and leave the reactor with no residual core heat removal capability. Meltdown is a real possibility in such a case. In other plants, the main streamline passes under the control room, where a rupture could destroy the control room and kill the plant operators. These defects passed all review procedures of the architects, engineers, the reactor vendors, the utilities, and the AEC Regulatory Staff, from the design stage through final construction. An anonymous letter to the AEC was required to alert the agency to the defects. It is difficult to see how this situation could have developed if AEC claims of thoroughness and care are taken at face value.

There are several other unassessed effects that can aggravate a loss-of-coolant accident. It appears now that radioactive heating of the core has been underestimated. Steam generator tube failure in reactors occurs normally but will be aggravated in an accident. It has been shown that this effect can defeat entirely the reflooding capability that is required to mitigate a loss-of-coolant accident in a pressurized water reactor. Flow blockage arising from fuel damage remains unassessed. It was this phenomenon that occasioned Mr. Cottrell's comments that he doubted that the emergency systems would work.

There have been severe and far ranging defects in the management of the reactor safety program that has contributed to the situation in which the private views of so many reactor safety experts are at variance from official pronouncements. These defects and how the safety controversy developed are set out in a series of articles in *Science*.[14] Other defects in the program are discussed in additional articles.[15]

In our opinion, the links in the chain assurances of reactor safety are substantially defective. This view is based on our own very substantial analysis and on the relevations of the emergency core cooling hearing record. This circumstance results in what we believe is one of the most serious of the several public safety aspects in the nuclear power program. There is presently no adequate remedial action being taken to diminish the risk—surely among the greatest of any technology the country has ever implemented.

FOOTNOTES

* These are formed in the reactor during normal operation of "build-up" nuclear reactions that result in elements heavier than uranium. Plutonium is one of these. The radioactive transuranics are especially potent cancer producing materials.

[1] *Nuclear Reactor Safety: An Evaluation of New Evidence*, Ian Forbes, Daniel F. Ford, Henry W. Kendall, James J. MacKenzie, Union of Concerned Scientists Report, July 1971.

Nuclear Reactor Safety: A Critique of AEC Interim Standards for Emergency Core Cooling Systems, Daniel F. Ford, Henry W. Kendall, James J. MacKenzie, Union of Concerned Scientists Report, October 1971.

An article abridging the material of the two reports above was published in *Environment*, Vol. 14, No. 1, p. 40, Jan./Feb., 1972.

[2] Emergency Core Cooling Systems (ECCS) Hearings. AEC Docket RM–50–1. The hearing record, and other AEC records and reports referenced below are available for inspection at the AEC Public Document Room, 1717 "H" Street, N.W., Washington, D.C. A report on the first nine months of the hearing, by Daniel F. Ford and Henry W. Kendall, is in *Environment*, Vol. 14, No. 7, p. 2, September 1972; a later book-length report on the ECCS hearing by the same authors is: *"An Assessment of the ECCS Rulemaking Hearing*, Union of Concerned Scientists report, April 1973.

[3] *Theoretical Possibilities and Consequences of Major Accidents in Large Nuclear Power Plants, WASH–740*, USAEC, March 1957.

[4] *The Safety of Nuclear Power Reactors and Related Facilities, WASH–1250*, USAEC, July 1973.

[5] Appendix A to General Electric Document, GEAP–4574.

[6] Exhibit 1112, ECCS Hearing (ref. 2).

[7] Exhibit 251, Ibid.

[8] Transcript page 5447 and Exhibit 137 (ref. 2).

[9] Transcript page 2084 (ref. 2).

[10] *ORNL Nuclear Safety Program—Annual Information Meeting, February 16–17, 1971, Oak Ridge, Tennessee.* Summary by A. A. Katterhenry.

[11] Exhibit 1011, ECCS Hearing (ref 2).

[12] Incorporated in UCS documents prepared in connection with the ECCS hearing:

(a) Direct Testimony, Exhibit 1041, March 1972.

(b) Redirect and Rebuttal Testimony, Exhibit 1153, October 1972.

(c) Concluding Statement, April 1973.

[13] R. D. Doctor et al, *California's Electric Quandary* (RAND Corporation, R–1116–NSF/CSA, Sept. 1972), Vol. 3, p. 25.

[14] *Science*, Vol. 177, September 1, 1972; Vol. 177, September 8, 1972; Vol. 177, September 15, 1972; and Vol. 177, September 22, 1972.

[15] *Science*, Vol. 176, May 5, 1972; Vol. 177, July 28, 1972; Vol. 178, November 3, 1972; Vol. 179, January 26, 1973; and Vol. 181, August 24, 1973.

NEW GUIDELINES PREPARED TO SAVE ENERGY IN LARGE U.S. BUILDINGS

HON. ROBERT O. TIERNAN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. TIERNAN. Mr. Speaker, residential and commercial buildings currently consume some 33 percent of total U.S. energy. Studies conducted by the National Bureau of Standards indicate that on the average, about 40 percent of that energy is wasted through design of the building, construction practices in implementing design, and occupant practices in using the buildings. These deficiencies lead to an annual waste of energy equivalent to about 345 million tons of coal or 65 billion gallons of oil or 9 trillion cubic feet of natural gas. There are also consequently substantial environmental effects stemming from this waste.

In view of the current energy problem, and in conjunction with prior environmental efforts, I have introduced legislation, H.R. 16020, instructing the National Bureau of Standards, in cooperation with any interested Federal agencies or industrial groups such as the American Association of Home Builders and the American Institute of Architects to prepare building insulation standards, varying by climatic conditions and type of building. These standards, besides being immediately applicable in new Federal building construction, would serve as an information base to aid State and local governments in designing their own insulation codes.

There are very few areas where such a substantial savings can be realized by so small an investment. Proper insulation can save enormous amounts of our Nation's precious resources. Federal initiation is necessary, because the technical complexity of the subject precludes State and local governments from doing a thorough job. However, a degree of implementation is left up to the States and local governments who can best account for varying local factors such as: building materials, severity of energy crisis, and so forth.

Prof. David C. White, of MIT, stated in testimony to the Subcommittee on Science, Research and Development of the Science and Astronautics Committee of the House that—

Conservation to slow down waste while satisfying the other needs of society has a greater social payoff than any other single factor today including new energy supply developments and new resource discoveries.

The benefits of increased insulation are not confined to the Northern areas of our country. A New York Times magazine article of July 14, 1974, documents that—

Some architects seem to think air-conditioning . . . may not be necessary at all—or only infrequently so as if buildings are designed for coolness. They talk these days, with all the excitement of original discovery, of windows that open, of cross ventilation, and thick walls.

It should also be noted that proper residential insulation would be a necessary adjunct to the introduction of solar energy for residential heating and cooling.

The bill is enclosed for the Members' perusal. Also included is an article from the Washington Post, June 1, 1974, which delineates the work already done by the National Bureau of Standards in this area and the enormous amount of effort still necessary if this Nation is ever to realize a substantial energy savings through insulation standards:

[From the Washington Post, June 1, 1974]

NEW GUIDELINES PREPARED TO SAVE ENERGY IN LARGE U.S. BUILDINGS

(By Joseph C. Davis)

A significant but somewhat insecure advance has been made in the complex and difficult task of bringing rational guidelines to energy conservation in building construction throughout the United States.

In late January the National Bureau of Standards of the Department of Commerce issued a draft energy document for review by competent authorities—a document that will ultimately be a guide for builders, architects and state and local officials for constructing residential and large buildings that will allow a minimum of wasted energy.

This draft document should help take up the sloppy slack of the construction energy waste of the 1950s and 1960s. It has the lofty title, "Draft Design and Evaluation Criteria for Energy Conservation in Buildings," and is the conception of the National Conference of States on Building Codes and Standards.

An important idea whose place in history came easily, it was dreamed up originally by Joseph Stein, formerly building commissioner of New York City and associate member of the standards and evaluation committee of NCSBCS. It took hold quickly once it was suggested in late spring of 1973.

A guide, such as this draft document ultimately promises to be, was a natural.

States and other jurisdictions were in the process of planning guidelines of their own and incorporating them into legislation for ensuring energy conservation in building construction in their own communities. California already was in the process, and Stein's state of New York was about to start the writing of guidelines.

Everywhere was a waste of our good things that come from the earth and the sun.

Once the amazing shock of the energy crisis struck the minds of the people in the building community, they looked around them and noticed, almost for the first time, the tall skyscrapers with their glass-curtain walls, overabundances of light, and unrecovered heat thrown to the winds of the big cities. Good guidelines, they saw, were needed urgently.

The document pulls few punches. It subtly, and with certainty, narrows the builder down with requirements and suggestions toward reasonable building practices.

Among the items included are restrictive requirements relating to heat losses, air-leakage control, condensation, window heat loss, lighting, heating and cooling equipment, and electrical distribution. There are other requirements just as important.

Many builders and architects may be disappointed and puzzled at first when they see the final document and the method of presentation. Performance requirements rather than the specific and detailed requirements and specifications they are familiar with will be listed.

A performance requirement is one in which a prescribed accepted level of performance is specified but the writer of the requirement cares not how the performance level is accomplished.

In this case a builder can use any technique he desires, and his materials can be burlap or gold ingots as long as he complies.

An example taken from the text states: "The entire duct system for heating, ventilating and air-conditioning systems shall not leak more than 5 per cent of the design airflow at design duct pressure."

Now the builder may not be equipped to know whether his duct leakage will be more than 5 per cent. The requirement would take some sophisticated equipment.

Therein lies a problem: more has to be done. That's why the Center for Building Technology of NBS and advisers from industry and from professional societies, have elected to call the energy document a draft, and it has not yet been formally presented to NCSBCS.

Some way must be found and more funds collected, so the nuts and bolts and techniques can be carefully related to the performance requirements, and complete assurance is reached that the finished guide will be accepted by architects and builders.

This means more study, but more than that it means real laboratory work will be necessary to determine material and detail requirements that will comply with the printed material in the guide.

A library of reference sheets with the needed information could be prepared for general use. The task is formidable. But so is the need.

Some interesting performance requirements are worth mentioning at this point, not only because of the way they are presented but because some magnitude of the improvement can be gleaned from their reading. For example, the amount of glass in a building is not specified explicitly.

Instead an overall coefficient of thermal transmittance through a wall that included windows and doors, known as the U value, is given for the entire wall. The architect can specify anything he wants in the wall: if he wants a reasonably large glass area he must specify double-glazed windows (two panes of glass with an air space between). And he must beef up the insulation properties of the opaque parts of the wall.

What will this save in energy? Only the sharp and knowledgeable engineers from the Bureau of Standards, with their differential equations and Bessel functions, can tell with some certainty, but a good guess might be 30 per cent.

Another interesting requirement relates to lighting. Here the designer is inexorably nudged into using a concept known as task lighting.

The requirement states in part: "The level of illumination in the immediate area of the specified task shall be no greater than that recommended by the Illuminating Engineering Society Lighting Handbook, 5th edition, for the task . . . and task illuminance shall be produced by local luminaries directed only at the immediate task areas, and such luminaires shall be individually switched at the task area."

Also: "the general level of illumination in the space surrounding the task areas shall not be more than ⅓ of the task level . . ." This is serious stuff.

There probably will be serious resistance by industry to the new document. There always is to anything as sweeping and with such an impact. Some manufacturers may be seriously affected.

But compliance is voluntary: It's not a restrictive measure coming from the government—a procedure that has been anathema to industry. Also if anybody can pull it off, it will be NCSBCS.

Through the past decade as one school of building researchers strove through legislation to build up a strong building-research station under government control such as exist in countries like Canada, Finland and England, and industry strove just as hard to limit government building research to the small Center for Building Technology at the Bureau of Standards, NCSBCS represented the middle way.

Such enviable position comes about mostly because the organization promotes state and local autonomy.

Ultimate disposition of the document after it has been formally prsented to NCSBCS is not known. Several avenues are open. Some states may want to make it mandatory in the future.

It might, under the sponsorship of the NCSBCS, go through what is known as the voluntary consensus process where approval is reached by a committee of the American National Standards Institute whose membership is made up from industry and government.

During a recent meeting of the American Society of Heating, Refrigerating and Air-Conditioning Engineers in Los Angeles, and the morning after a general review of the NBS staff members, the board of the society offered to assume sponsorship of the document.

(The author retired from the National Bureau of Standards in 1969. He was a member of the staff of the Center for Building Technology.)

H.R. 16020

A bill to direct the National Bureau of Standards to prepare building insulation standards

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS AND PURPOSE

SECTION 1. (a) The Congress finds that—

(1) the United States potentially faces an energy shortage of acute proportions during the next decade;

(2) the problem of inadequate supplies of energy has already manifest itself in the form of power blackouts, school closings because of the scarcity of heating fuels, and shortages of gasoline and other fuels for automobiles and farm equipment;

(3) a significant easing of the energy problem can be achieved by eliminating wasteful uses of energy and by promoting more efficient uses of energy;

(4) a substantial amount of energy is used to heat, cool, and otherwise control climatic conditions in homes, schools, stores, offices, factories, and other buildings;

(5) such energy is used most efficiently when buildings are designed and constructed in ways which minimize the adverse impact of external climatic and meteorologic conditions upon interior temperature and humidity levels; and

(6) standards for determining whether buildings are so designed and constructed are not now readily available, and the technical complexity of such standards precludes individual State and local development.

(b) It is the purpose of this Act to promote the efficient use of energy by directing the Secretary of Commerce acting through the Director of the National Bureau of Standards which can be used by municipal Standards, to prepare building insulation governments and others interested in establishing energy conservation requirements for new construction.

DEFINITION

SEC. 2. As used in this Act, the term "Secretary" means (unless the context requires otherwise) the Secretary of Commerce.

PREPARATION OF BUILDING INSULATION STANDARDS

SEC. 3. (a) The Secretary shall prepare building insulation standards (hereafter in this Act referred to as "standards"), applicable to new construction, which can be incorporated into building codes for use in determining whether a building has been designed and constructed in such a way that external climatic and meteorologic conditions will have the minimum practicable adverse impact upon temperature and humidity levels within such building.

(b) The Secretary may prepare different sets of standards for—

(1) different types or classes of buildings; and

(2) buildings located in different climatic regions.

(c) In preparing standards the Secretary may consult with—

(1) the Secretary of Housing and Urban Development, and other appropriate Federal officials; and

(2) private individuals and entities, including professional engineering and architectural societies, trade associations, and consumer organizations.

DISSEMINATION OF BUILDING INSULATION STANDARDS

SEC. 4. (a) No later than June 1, 1975, the Secretary shall issue a bulletin for public distribution containing (1) the standards prepared pursuant to section 3 of this Act, and (2) the best available estimates of the amount of energy which would be saved by incorporating such standards into design and construction requirements for new buildings.

(b) The Secretary shall (1) publish the contents of such bulletin in the Federal Register, and (2) take such additional steps as he deems appropriate to inform appropriate agencies of State and local government of the availability of the standards.

EXERCISE OF FUNCTIONS

SEC. 5. The Secretary shall exercise his functions under this Act through the Director of the National Bureau of Standards.

COURTS UPHOLD FEDERAL ADVISORY COMMITTEE ACT

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Thursday, July 25, 1974

Mr. METCALF. Mr. President, advocates of open and participatory government can be heartened by three recent court orders in the U.S. District Court for the District of Columbia concerning Public Law 92-463, the Federal Advisory Committee Act.

On June 18, Judge Aubrey E. Robinson, Jr. issued an order in the case of Margaret Gates et al. against James R. Schlesinger et al. This case involved an advisory committee known as DACOWITS—Defense Advisory Committee on Women in the Services. In his order, Judge Robinson ruled that—

(1) Exemption 5 of the Freedom of Information Act (which deals with internal memoranda) could not be used to prohibit the public from appearing before a meeting of the advisory committee;

(2) Notice of the advisory committee's meetings, except those of an emergency nature, should be published at least thirty days in advance;

(3) Notice should be published in media other than (and in addition to) the Federal Register;

(4) Public notice of meetings should note if the meeting is to be closed under a Freedom of Information Act exemption; and

(5) Members of the public had the right to talk in the advisory committee meeting, subject only to reasonable restrictions.

On June 21, Judge William B. Bryant issued an order in Aviation Consumer Action Project against Jack Yohe and the Civil Aeronautics Board. The order enjoined the defendants, their agents, and employees from convening future meetings not in full compliance with Public Law 92-463, and from excluding plaintiff, its agents or employees from any such meetings.

On June 28, Judge Charles R. Richey issued a memorandum opinion and order in Food Chemical News against Rex D. Davis, Director of the Treasury Department's Bureau of Alcohol, Tobacco, and Firearms. Judge Richey concluded that informal meetings of the agency with consumer and distilled spirits industry representatives were subject to the act. He enjoined the Government official from convening future advisory committee meetings without complying fully with the act, and from excluding plaintiff, its agents, or employees from any such meetings.

Mr. President, I believe these orders and opinions will be of interest and value to Members. They also provide guidance for committee management officers, and for the heads of agencies who may be considering advisory committee matters. Therefore, I ask unanimous consent to print in the RECORD the three items to which I have referred along with the July 9, 1974 article by Bob Kuttner in the Washington Post, headlined "U.S. Lobbying May Be Open to Public."

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

[U.S. District Court for the District of Columbia]

ORDER

Margaret Gates, et al., Plaintiffs, v. James R. Schlesinger, et al., Defendants. Civil Action No. 1864-73.

Upon consideration of the complaint and the answer, the parties' motion for summary judgment, the respective pleadings in support thereof, the parties' statement of material facts as to which there is no genuine issue, and for the reasons set forth in the Memorandum filed on October 10, 1973, accompanying the Order granting a preliminary injunction, it is by the Court this 8th day of June, 1974;

Declared that under the Federal Advisory Committee Act, exemption 5 of the Freedom of Information Act (5 U.S.C. § 552(b)(5)) cannot be used to prohibit plaintiffs and the public from attending or appearing before any DACOWITS meeting or session;

Declared that the requirement of Section 10(a)(2) of the Federal Advisory Committee Act that timely advance public notice be given of each DACOWITS meeting is not met except for emergency meetings, by any notice not published as required at least thirty (30) days in advance;

Declared that Section 10(a)(2) of the Federal Advisory Committee Act requires defendant to publish notice at least thirty (30) days in advance of a meeting in media other than the Federal Register;

Declared that the Federal Advisory Committee Act requires that where defendants have decided to close a meeting because its subject matter relates to an exemption under the Freedom of Information Act, this action must be set forth in the public notice;

Declared that Section 10(a)(3) of the Federal Advisory Committee Act grants members of the public the right to participate orally in DACOWITS meetings, subject only to reasonable restrictions, and it is

Ordered that plaintiffs' motion for summary judgment be and it hereby is granted.

AUBREY E. ROBINSON, JR.,
U.S. District Judge.

[U.S. District Court for the District of Columbia]

ORDER

Aviation Consumer Action Project, Plaintiff, v. Jack Yohe and Civil Aernautics Board, Defendants. Civil Action No. 707-73.

Upon consideration of plaintiff's motion for summary judgment, the pleadings, points and authorities, exhibits and arguments of counsel in support thereof and in opposition thereto; and it appearing that there is no genuine issue of material fact; that the meeting of April 9, 1973 convened by defendants was a meeting of an advisory committee within the meaning of the Federal Advisory Committee Act of 1972; that the defendants violated the Act by not establishing the committee in accordance with Section 9(a), by not filing the committee's charter in accordance with Section 9(e) prior to the commencement of the meeting, and by closing such meeting and excluding the public therefrom contrary to Section 10(a) of the Act; and that plaintiff is entitled to judgment as a matter of law, it is by the Court this 21st day of June, 1973,

Ordered that plaintiff's motion for summary judgment be and is hereby granted; and that the defendants and their agents and employees be and are hereby enjoined from convening any future meetings of any of plying fully with the Act, and from excluding plaintiff or its agents or employees from any such meetings in contravention of the Act.

WILLIAM B. BRYANT,
Judge.

[U.S. District Court for the District of Columbia]

ORDER

Aviation Consumer Action Project, Plaintiff, v. Jack Yohe and Civil Aeronautics Board, Defendants. Civil Action No. 707-73.

It is hereby, this 21st day of June, 1974,

Ordered that judgment be, and hereby is, entered for plaintiff in the above-entitled action.

WILLIAM B. BRYANT,
Judge.

[U.S. District Court for the District of Columbia]

MEMORANDUM OPINION OF U.S. DISTRICT JUDGE CHARLES R. RICHEY

Food Chemical News, Inc., 1341 G Street N.W., Washington, D.C., Plaintiff, v. Rex D. Davis, Director, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, Washington, D.C. 20226, Defendant. Civil Action No. 74-215.

Appearances: For the Plaintiff: Ronald L. Plesser, Esquire and Alan B. Morrison, Esquire.

For the Defendant: Robert M. Werdig, Esquire and Assistant United States Attorney.

The issue before this Court is whether the two separate "informal" meetings with consumer and distilled spirits industry representatives relative to drafting proposed regulations of the Bureau of Alcohol, Tobacco and Firearms of the Treasury Department (hereinafter, "Bureau"), on ingredient labeling of distilled spirits were meetings of "advisory

committees" utilized by Defendant Rex Davis, Director of the Bureau, to obtain advice within the meaning of Section 3(2) of the Federal Advisory Committee Act of 1972 (hereinafter, "Act"), 5 U.S.C. App. I, and, therefore, "open to the public". 5 U.S.C. App. I & 10(a)(1). The Court has concluded that the two meetings in question were subject to the Act and, accordingly, the Defendant was required to provide public access to each meeting pursuant to Section 10(a)(1) of the Act and to follow the Act's procedural requirements. The Court will, therefore, grant Plaintiff's Motion for Summary Judgment and enjoin the Defendant and his agents, servants, and employees from convening any future meetings of the advisory committees discussed herein, or meetings of any of their advisory committees, without complying fully with the Act's requirements, and from excluding plaintiff or its agents or employees from any such meetings in contravention of the Act.

I. BACKGROUND

Plaintiff Food Chemical News, a weekly trade journal that reports generally on matters concerning the Government regulation of food products and chemicals, brought the instant action under the Federal Advisory Committee Act of 1972 to compel Defendant Davis to open to the public certain meetings he scheduled separately with consumer and industry groups. In an effort to delay the meetings until the public access issue could be effectively resolved, Plaintiff applied to the Court for a Temporary Restraining Order seeking to enjoin the Defendant from holding the meetings unless Plaintiff would be permitted to send a representative to them. On February 4, 1974, Judge Corcoran of this Court, sitting as motions judge, denied Plaintiff's application, but set down a date for argument on Plaintiff's Motion for a Preliminary Injunction and Defendant's Motion to Dismiss which were heard by this Court on February 13, 1974. In light of the fact that both meetings had already taken place at the time of oral argument before the Court, the parties agreed to stipulate that the case could be disposed of as a matter of law and their respective motions could be treated as cross motions for summary judgment. In addition, the parties reached agreement upon and ultimately filed with the Court a stipulation of material facts which are not in dispute. Such is the present posture of this case. The Court has jurisdiction pursuant to the provisions of 28 U.S.C. § 1361 and 5 U.S.C. §§ 702–4.

The undisputed facts indicate that the Bureau is presently considering amendments to 27 C.F.R. Part 5, which covers the labeling and advertising of distilled spirits, and in this regard has prepared a draft of several proposed amendments to the regulations set forth therein. Prior to the commencement of this suit, the Director of the Bureau, Defendant Davis, obtained the preliminary views of representatives of interested industry and consumer committees respecting the proposed amendments and scheduled separate meetings with these groups to discuss the proposals and obtain the group's "comments or suggestions". (See Exhibit A to the Amended Complaint.) These meetings were intended to precede any notice of the proposed rulemaking or notice of a public hearing in the Federal Register.

Plaintiff, by letter of January 24, 1974, advised the Defendant that Plaintiff was entitled to send a representative to both meetings pursuant to Section 10(a)(1) of the Act, which provides in pertinent part:

"Each advisory committee meeting shall be open to the public." 5 U.S.C. App. I § 10(a)(1). (Emphasis added.)

Plaintiff sought access to the meeting in order to report to the public on the discussion and recommendations behind closed doors of these groups as to the Bureau's proposed regulations pertaining to the alleged widespread use of artificial colorings and synthetic chemical preservatives in the preparation of wine, beer and distilled spirits. At present such ingredients and additives are not fully listed on the labels of these products as offered to the consumer. In response, the Defendant denied that the Act indeed applied to the scheduled meetings and explained that the meeting would be closed to the public and, therefore, members of the press such as Plaintiff would be excluded. Plaintiff then brought the instant action and shortly thereafter the Defendant met separately with the two groups in question.

II. THE DEFENDANT'S UTILIZATION OF THE INDUSTRY AND CONSUMER COMMITTEES IN ORDER TO OBTAIN ADVICE ON THE DRAFT AMENDMENTS TO AGENCY REGULATIONS SUBJECTS THE COMMITTEES TO THE STRICT PROCEDURAL REQUIREMENTS OF THE ADVISORY COMMITTEE ACT INCLUDING, AMONG OTHER THINGS, THAT MEETINGS BETWEEN THE DEFENDANT AND PRIVATE INDIVIDUALS COMPRISING THE COMMITTEE BE ACCESSIBLE TO THE PUBLIC

It is the Court's opinion that the industry and consumer committees were "advisory committees" within the meaning of Section 3(2) of the Act which reads in pertinent part:

"The term advisory committee means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or any other subgroup thereof (hereinafter in this paragraph referred to as committee) which is . . .

"(c) *established or utilized by one or more agencies*

"In the interests of obtaining advice or recommendations for the President or one or more agencies or officers of the federal government . . ." (Emphasis added).

It is undisputed that the Defendant utilized an *ad hoc* committee of industry representatives in order to obtain advice. Such a relationship, like that with the consumer group, clearly comes within the terms of Section 3(2) of the Act. *Aviation Consumer Action Project* v. *Yohe*, et al, CA No. 707–73 (D.D.C. June 24, 1974).

Defendant argues that an "advisory committee" under the Act may not meet or take any action until its establishment is determined as a matter of formal record pursuant to the provisions of Section 9(a)–(c) of the Act. It does not follow, however, that because such formalities were not observed with respect to the instant committees, the meetings of the committees were not subject to the Act's public access requirement. Clearly where, as here, a federal agency utilizes an advisory committee for the purpose of obtaining advice, the agency must charter and establish the committee in compliance with all the terms of the Act. Failure to comply with such requirements cannot be employed as a subterfuge for avoiding the Act's public access requirements.

The purpose of the Federal Advisory Committee Act to control the advisory committee process and to open to public scrutiny the manner in which government agencies obtain advice from private individuals is furthered by the Court's action herein. Indeed, Congressional concern for informal meetings such as those in the case at bar contributed to the statute's enactment:

"The lack of public scrutiny of the activities of advisory committees was found to pose the danger that subjective influences not in the public interest could be exerted on the Federal decision-makers." S. Rep. 92-1098, 92d Cong. 1st Sess. 6 (Sept. 7, 1972).

The potential dominance of the advisory committees in an increasingly complex bureaucratic environment and the evils that would flow from such dominance were fully reported by the House Committee on Government Operations which, in reporting out the legislation, stated in part:

"One of the great dangers in the unregulated use of advisory committees is that special interest groups may use their membership on such bodies to promote their private concerns. Testimony received at hearings before the Legal and Monetary Affairs Subcommittee pointed out the danger of allowing special interest groups to exercise undue influence upon the Government through the dominance of advisory committees which deal with matters in which they have vested interests." H. Rep. 92-1017, 92d Cong., 2d Sess. 6 (Apr. 25, 1972).

The subject matter of the meetings in question involved serious and much-debated public health issues concerning the merits of chemical additive labeling requirements for beer, wine and distilled spirits. The Government's consideration of such sensitive issues must not be unduly weighted by input from the private commercial sector, lest the Government fall victim to the devastating harm of being regulated by those whom the Government is supposed to regulate in the public interest. *Moss* v. *C.A.B.*, 430 F. 2d 891, 893 (D.C. Cir. 1970).

Finally, there is the interest of consumers who, for the purposes of their individual well-being, seek information regarding the chemical additives applied to the foods and beverages they purchase, have an identifiable interest in the information considered by the Government in conjunction with advisory meetings held with industry and consumer committees. To a large extent, such individuals must depend on the press, and in particular, trade journals like Plaintiff, to advise them of new developments in the Government's regulatory efforts. Plaintiff's ability to adequately inform the public respecting Government conduct turns on the Government's compliance with the Advisory Committee Act's procedural requirements. Thus, it is imperative that public access to advisory committee meetings be provided by the Government if the Act is to become a reality and individuals such as Plaintiff are to have the opportunity to discharge their responsibility to inform the public. It is this Court's intention to fully enforce the Act's procedural requirements and thereby involve the public in the advisory committee process in the manner Congress intended. To do otherwise would allow the powerful executive branch of government to conduct its business behind closed doors in a manner that would prevent the press from performing its aforementioned responsibility to keep the public informed.

The press, as represented here by Plaintiff, has a statutory right under the Act as well as a First Amendment privilege to report on the manner in which Government affairs are conducted. This Court regards such a right or privilege as among this nation's most sacred protections against tyranny and oppression at the hand of the Executive, and, accordingly, the Court will do all that is within its power to safeguard the public's right to know.

For all the foregoing reasons, the Court will grant Plaintiff's motion for summary judgment by Order of even date.

CHARLES R. RICHEY,
U.S. District Judge.

JUNE 28, 1974.

[U.S. District Court for the District of Columbia]

ORDER

Food Chemical News, Inc., Plaintiff, v. Rex D. Davis, Director, Bureau of Alcohol, Tobacco, and Firearms, Defendant. Civil Action No. 215–74.

Upon consideration of the parties' cross-motions for summary judgment, and the memoranda filed in opposition to, and in support thereof, and the oral argument of counsel, and upon consideration thereof, and for all the additional reasons set forth in the Court's Memorandum Opinion of even date

herewith, it is by the Court, this 28th day of June, 1974,

Ordered that defendant's motion for summary judgment be, and the same is, hereby denied, and it is

Further ordered that plaintiff's motion for summary judgment be, and the same is, hereby granted; and the defendant and his agents, servants, and employees be, and the same are, hereby enjoined from convening any future meetings of the advisory committees which met on February 6, 1974, and February 8, 1974, respectively, or any meetings of defendant's advisory committees, without complying fully with the Act, and from excluding plaintiff or its agents or employees from any such meetings in contravention of the Act.

CHARLES R. RICHEY,
U.S. District Judge.

JUNE 28, 1974.

[From the Washington Post, July 9, 1974]

U.S. LOBBYING MAY BE OPEN TO PUBLIC

(By Bob Kuttner)

Private meetings between industry lobbyists and government bureaucrats could be opened to the public, if a little-noticed ruling by a federal judge last month is upheld and applied.

At issue in the case was the right of a trade paper, Food Chemical News, to send a reporter to two separate meetings where officials of the Treasury Department's Bureau of Alcohol, Tobacco and Firearms discussed regulations on ingredient labeling with representatives of distilling companies and consumer groups. The Treasury was deciding whether to require labeling of artificial coloring and chemical preservatives in beer, wine and hard liquor.

Although lobbying on Capitol Hill is more familiar, Washington lawyers for major corporations and trade associations probably spend more of their time in contact with regulatory agencies downtown.

When Food Chemical News managing editor Ray Gallant was told by Treasury officials that the meeting on liquor labeling would be closed to the press, the trade weekly sued under the 1972 Federal Advisory Committee Act.

That legislation was an effort by Congress to clamp down on the more than 1,500 committees composed largely of industry specialists established in recent years to advise various government agencies. An investigation by the Senate Government Operations Committee last year found that some corporations such as RCA and ITT had representatives on nearly 100 different committees.

In reporting the legislation, the House Government Operations Committee concluded that "one of the great dangers in the unregulated use of advisory committees is that special-interest groups may use their membership on such bodies to promote their private concerns." The 1972 law set standards for advisory committees, and provided for public access to all committee meetings and records.

In his ruling in the Food Chemical News case June 28, U.S. District Court Judge Charles R. Richey held that even though the industry and consumer representatives meeting with Treasury aides were not an official committee, they were in effect functioning as advisory committees under the 1972 law.

Consequently, Judge Richey reasoned, the meeting should have been open: "The government's consideration of such sensitive issues must not be unduly weighted by input from the private commercial sector, lest the government fall victim to the devastating harm of being regulated by those whom the government is supposed to regulate in the public interest."

Richey's order prohibited the Bureau of Alcohol, Tobacco and Firearms from closing future advisory meeting to the plaintiff, Food Chemical News, or presumably to anybody else.

The government has not yet decided whether to appeal. According to the plaintiff's lawyer, Ronald L. Plesser, who specializes in public access cases, the ruling could permit the public to monitor meetings between regulatory agencies and industry representatives generally.

In another recent case brought under the Federal Advisory Committee Act, U.S. District Court Judge Aubrey Robinson ruled that the Pentagon not only had to admit the public to meetings of its advisory committee on women in the services, but also had to give advance notice in the Federal Register and other media. In addition, said Robinson, the plaintiff, in the suit, Margaret Gates of the Center for Women's Policy Studies, had a right to participate in the meeting.

Lobbying of the executive branch has also come under attack by Common Cause, which bills itself as a "citizens' lobby." Fred Werthheimer, Common Cause's legislative director points out that while congressional lobbyists are required to register with the clerk of the House and the secretary of the Senate, no such registrations are required for executive branch lobbying.

Last May Federal Energy Director John Sawhill said he agreed in principle with a Common Cause suggestion that his agency devise a method of logging all contacts with industry representatives.

CLOSING TAX LOOPHOLES

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mrs. SCHROEDER. Mr. Speaker, yesterday I spoke about the need for tax cuts to bring relief from inflation to the average wage earner. Each day these citizens pay more to live. Each year they pay more in taxes than many of their most wealthy compatriots. Yet, for all the decency of moderate-income taxpayers in accepting such a burden, their only reward has been castigation from the administration for refusing to support a tax increase which was never requested, and administration proposals for further tax concessions to big business. We should not be making further giveaways to big business. In fact, we need to close many of the current loopholes which serve no valid purpose in order to insure that all citizens pay their fair share of taxes and to raise revenues to offset the costs of tax relief measures.

The panel of economists advising the Democratic Steering and Policy Committee made a series of suggestions for major revenue-raising tax reforms including: First, a strengthening of the minimum tax; second, repeal of the Domestic International Sales Corporation (DISC) system of tax incentives for exports of often scarce commodities; third, elimination of U.S. tax credits for taxes and royalty payments paid by oil producers to foreign governments; and fourth, cracking down on hobby farm tax deductions which bid up the price of agricultural land. Many Members, including myself, already have submitted legislation in this area to the Ways and Means Committee. There are, for example, fourteen bills to revamp the minimum tax, and over fifty sponsors of legislation to repeal DISC. The Ways and Means Committee has held 3 months of hearings and over 30 days of markup on these and other reforms. Out of all this deliberation, there have been only two instances where the House was in the vicinity of considering a tax reform measure. The first was a Committee-opposed move to amend the debt ceiling bill to strengthen the minimum tax, a move which was effectively stifled in the Rules Committee. Then the House was privy to "almost consideration" of the Oil and Gas Energy Tax Act which would have given us a chance to repeal the oil depletion allowance, but this measure too has fallen victim to a power struggle in the Rules Committee.

Mr. Speaker, support of tax reform is meaningless if we who support it cannot even reach tax reform measures for debate and passage. Equity, the economy and already ample hearings and consideration leave no excuse for the present inaction.

NATO ALLIANCE RESTORED

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. DERWINSKI. Mr. Speaker, while events in Cyprus are somewhat clouded, new developments in Greece must be throughly analyzed. I believe that overall what could have been a disaster and a NATO tragedy for Greece, Turkey, and Cyprus has been avoided.

In my judgment, the NATO alliance emerges strengthened from this potential disaster situation and that, in fact, objective consideration of a long-term solution to the chronic Cyprus problems may be forthcoming.

It is also my opinion that the total diplomatic effort by which this possible disaster was avoided represents a great triumph for the U.S. diplomatic leadership. The President, Secretary of State Henry A. Kissinger, and Under Secretary of State, Joseph Sisco were greatly instrumental in engineering this diplomatic achievement.

Mr. Speaker, in furtherance of this point, I direct the Members' attention to a column by James Reston in yesterday's July 24 Washington Star-News which I believe to be an accurate appraisal of the situation:

NATO ALLIANCE RESTORED

(By James Reston)

One of the reassuring aspects of Greek-Turkish settleemnt of the Cyprus crisis has been the speed and unity of NATO diplomacy.

Only a few short months ago, officials were complaining that American leadership was crippled and that the European allies couldn't agree on anything, but in the last few days they have demonstrated what can be done when consultation and trust are restored.

Within two hours, Secretary of State Henry A. Kissinger and the other nine foreign ministers were able to talk to one another and agree on the wording of a sharp demarche to the Greek and Turkish governments. The result has been a transformation of the mili-

tary and political situation in the Eastern Mediterranean.

No doubt there will be sporadic fighting for a few days, and considerable political maneuvering before a new order is firmly established in Athens and Nicosia, but the outlook is now infinitely better than it was before the fighting started.

The U.S. government is particularly pleased by the political developments in both Greece and Cyprus. Even Kissinger, who played a key role in the settlement and was optimistic from the start that a major Greek-Turkish war could be avoided, had not dared to hope that the military junta in Athens would summon former Greek Premier Constantine Caramanlis back from exile in Paris to form a civilian government of national union.

Washington is also pleased that Glafkos Clerides, speaker of the Cypriot House of Representatives under the regime of Archbishop Makarios, has replaced Nikos Sampson as interim president of Cyprus.

Meanwhile, consultations are continuing between the United States and Britain over the future of Archbishop Makarios. This will be for the Cypriot people to decide, and while London and Washington are not wholly in agreement about Makarios, the main difference is that Britain is a coguarantor of the independent constitutional government of Cyprus, and the United States, whose enthusiasm for Makarios is not unbounded, has no such official responsibility.

For the future, the main thing is that the allies have rediscovered that they can be effective when they work together on common problems. In the latest war between Israel and the Arab states, the Europeans complained that Kissinger was not consulting them on military moves that might affect their vital interests.

At the same time, Kissinger was complaining publicly that the European members of the alliance were excluding the United States from their talks on the energy crisis and other matters and were confronting him with decisions whenever they were able to agree, which wasn't often.

Since the installation of new governments in London, Paris, and Bonn, however, there has been a new spirit of cooperation.

Washington is now eager to see a political transformation in Athens that will restore liberty to that country while retaining allied cooperation in the Greek bases on the mainland and in Crete.

This is regarded at the Pentagon as fundamental to the lines of communication between Europe and the Middle East.

What Kissinger hopes to do now is to expand the allied cooperation into the economic field, and particularly to move forward to a better understanding on monetary control, trade and energy.

His argument has been that the problems of inflation, trade, and defense are linked and cannot be eased without greater consultation and cooperation, not only between Europe and the United States but also with Japan.

These are more difficult questions than avoiding a war between two of the allies, but there is a little more confidence in Washington as a result of the last week's diplomacy that the alliance is back on a stronger foundation.

SEARCH FOR ELDORADO

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. SYMMS. Mr. Speaker, once again gold has been discovered in Idaho, this time in the Idaho State Auditor's wastebasket.

Joe Williams has been the Idaho State Auditor for many years and still can show us all a trick or two.

I would like to share the following article from the July 24 Wall Street Journal with the readers of the RECORD:

SEARCH FOR ELDORADO

The Idaho state auditor's office sold five tons of waste paper and used data processing cards to a paper recycling company, thus enriching the state treasury by some $850. The auditor was so pleased with the sale, according to UPI, that he intends to make this standard procedure for other state agencies.

Even in our inflationary age, that amount of money is nothing to sneeze at. And if one department of government in a sparsely populated state can recycle paper, imagine the riches awaiting to be harvested along the banks of the Potomac. Recycling the federal bureaucracy's endless procession of memos, laws, regulations and decrees may not produce money enough to pay off the multi-billion-dollar national debt. But every little bit helps, especially when prices everywhere are skyrocketing with an important assist from the government's printing presses.

Washington has done a poor job of protecting the value of money, but it may have done the next best thing. By perfecting the simple declarative sentence to book length, officialdom may inadvertently have created a city of untapped riches, an Eldorado constructed of red tape. And who among us could have foreseen that in terms of financial clout, the Gnomes of Zurich might one day be supplanted by an army of nameless paper shufflers?

OWNERSHIP OF THE MASS MEDIA

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. RANGEL. Mr. Speaker, access of minorities to ownership of the mass media is being pursued by many people who are concerned about the great desparity between minority representation in the general population and the presence of minorities in the media at all levels. Despite the fact that minority groups are an integral part of our national life, we remain the "invisible men" in mass media representation.

Now the House has passed and the Senate is considering a bill which threatens the small progress which has been made to increase minority ownership of the Broad Cast Media the Broadcast Licensing Renewal Act of 1974 as I have stated repeatedly provides for the further entrenchment of the white broadcasting individuals and corporations, who historically have neither provided adequate nor positive coverage of the minority community's concerns and aspirations.

The bill prohibits the Federal Communications Commission from considering as a factor in the license renewal process the "Cross ownership" or the owning of more than one station, communications media or businesses by existing licensee or one seeking a new license. In other words, cross ownership allows a broadcaster or newspaper to operate radio and television stations in the same service area. This poses distinct antitrust questions that should have been referred to the House Judiciary Committee but were not. Cross ownership blocks minority access to broadcast media ownership and perpetuates the control of mass communications in the hands of those who have not satisfactorily established and implemented equal hiring and programing practices and who continue to put forth the white interpretation of life in America as the only interpretation.

Another aspect of the bill provides for an extension of the licensing period from 3 to 5 years. The additional 2 years further enhances the position of existing licensees and makes it extremely difficult for minorities challenging the existing broadcast licensees even if they have legitimate grounds for the challenge. The extension will serve to lessen the competition for existing licensees and will make it more difficult to use the license challenge procedure as a lever to make existing broadcasters more responsive to the needs and interest of our community.

The Puerto Rican Media Action and Educational Council, Inc. today presented testimony before the Subcommittee on Communications of the U.S. Senate. This testimony which I include in the RECORD clearly states the danger which the Broadcast Renewal Act poses to the limited gains minorities have enjoyed in this field. The testimony is presented by a group which is struggling to provide opportunity for the Puerto Rican and other minority communities to be represented in the New York metropolitan television market which remains dominated by broadcast corporations that have not been responsive to the needs of our communities. It is groups such as the Puerto Rican Media Action and Educational Council, Inc., that are on the front line of this struggle, it is a worthy struggle which we in the Congress should be assisting rather than impeding through passage of such regressive legislation as the Broadcast Licensing Renewal Act.

I commend the leadership of the Puerto Rican Media Action and Educational Council, Inc., and its able counsel, Jose Rivera, for their forthright and eloquent testimony on this vital issue:

TESTIMONY BEFORE THE SUBCOMMITTEE ON COMMUNICATIONS, U.S. SENATE, JULY 25, 1974

(By Jose A. Rivera)

I thank you for the opportunity to appear before the Committee to testify concerning H.R. 12993 which would amend the Communications Act of 1934. The Puerto Rican Media Action and Educational Council, Inc. is a non-profit corporation formed to insure and foster equal employment opportunity in the broadcast industry and to encourage and assist stations to be responsive to the needs, interests and views of the Puerto Rican and Latino communities.

The extension of the licensing renewal period from three to five years can only have a devastating impact on the movements by the various minority communities to insure that broadcast stations are responsive to their needs, interests and views. It is important to note that discrimination not only appears in unresponsive programming but also in such areas of importance as denial of employment and promotional opportunities and in the case of

non-commercial broadcasters, discriminatory funding practices. The Council is right now in the midst of a license challenge against a non-commercial broadcaster charging discrimination in both of these latter categories. To extend the licensing period to five years would have the effect of allowing culpable broadcasters to institutionalize almost irreversible discriminatory hiring, promotional, and seniority practices. Further, considering the often phlegmatic nature of grants in the non-commercial area, five years would allow a station to funnel literally millions of dollars into discriminatory and unresponsive programming. The five year period would be long enough for broadcasters with discriminatory practices to engage in last minute "pork barrel" programming and hiring so that their five year balance would seem neutral.

Presently, broadcasters are required to file annual reports showing the ethnic makeup of the station's workforce. Obviously, the Commission cannot police or even audit these reports to ascertain whether broadcasters have non-discriminatory employment practices. The Courts and the Commission have recognized that this job must be left, for the most part, to the public, acting as "private attorneys general".

It is my belief and that of the Council that to extend the renewal period to five years may indeed have the effect desired by many broadcasters, that is, limit the number of license challenges. This same effect would also have the effect of significantly hampering the ability of minority communities to insure equal opportunity and responsiveness within the broadcast industry.

We are not opposed to the language contained in the proposed sec. 307(d)(2)(A) requiring the Commission to consider among other things whether "the licensee has engaged in broadcast operations during the term of the license which were substantially responsive to those needs, views and interests." However, we are distresseed by that section of the Committee Report suggesting that "the applicant/licensee should be granted renewal if it has provided minimal service to its service area." Not only are these two views antithetical but the Committee's interpretation vitiates the meaning of the word substantial. Under the "minimal service" standard it would not matter whether licenses were renewable in one, three or five years. "Minimal service" merely requires broadcasters to pay lip service to affirmative action in employment and would make a mockery of responsive programming. Under this standard any programming, if it is marketable, will also be responsive. "Substantial responsiveness" on the other hand epitomizes affirmative action and recognizes that licensees, who are given a virtual monopoly in transmission, have a *positive* duty to respond and relate to the community they seek to serve. Negative statutory language or interpretation only invites negative or half-hearted compliance.

In the comparative license renewal situation, the Council renews its insistence on the "substantial responsiveness" standard. If consideration is to be given to an incumbent, then such consideration should only be given a licensee that has been "substantially responsive" to the needs, interests and views of the community it seeks to serve. To require less is to reward mediocrity and thereby perpetuate the status quo.

It is important to understand that even "substantial responsiveness" is a step down from the present state of the law as enunciated by the Courts. The Council strongly feels that in comparative license renewal situations at least equal weight should be given to the proposal being advanced by the competing applicant.

Section 309(i), which codifies the service area principles, fails to take into consideration the various and diverse communities in our country. To require the use of such an inflexible standard of ascertainment without regard to geography is to assume that the "service area" requirement will have the same impact in let us say, Indianapolis as in New York. This deficiency can be easily corrected by adding to the second sentence of subsection (i) the words "and different geographical regions."

My final point concerns the appeal provisions of section 402. The Council feels, and rightly so, that the broadcast industry is upset with the pro-public positions and opinions of the District of Columbia Court of Appeals. Without belaboring the point but with due regard to the accumulated expertise of the District of Columbia courts, we would propose that the appellant from an adverse decision be allowed to appeal either to the Court of Appeals for the circuit where the broadcast facility is located or directly to the Court of Appeals for the District of Columbia.

It is important to understand that the groups traditionally excluded from participation in the broadcast industry have been Puerto Ricans and other Latinos, Blacks, Asian Americans and Native Americans. A weak bill or a bill that does not take this into full consideration will only serve to condone the exclusion and perpetuate the cultural segregation of our Nation's minorities.

NUCLEAR DEVELOPMENTS DICTATE CLOSER CONGRESSIONAL CONTROL

HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. SHRIVER. Mr. Speaker, I am pleased to join with my able colleague from Massachusetts (Mr. CONTE) in introducing legislation designed to obtain adequate information by the Congress on developments in the field of nuclear energy, both at home and abroad. This legislation would substantially bolster the responsibilities of the Joint Committee on Atomic Energy over the nuclear activities of the Atomic Energy Commission, the Department of Defense, and any other Government agencies which might become involved in the field.

I am joining this effort because of my growing concern and the concern expressed by my constituents about the problem of nuclear proliferation. We only need to look at the increasing number of nuclear powerplants being licensed and constructed throughout the country, the recent proposals to sell nuclear reactors to Israel and Egypt, and the detonation of an atomic bomb by India.

In view of these developments, it is no longer sufficient for a few Congressmen on selected committees and a few agency people to be informed on what is happening. The safety of our citizens and of citizens around the world from abuses or accidents involving nuclear materials is the responsibility of all Members of Congress. To exercise that responsibility, we must become more knowledgeable in the field.

This bill requires that the joint committee hold hearings during the first 90 days of each session of Congress on the development, growth, and state of nuclear power. Upon completion of the hearings, the committee would be directed to report to both Houses of Congress on their findings.

Another provision of the bill requires the Atomic Energy Commission and the Department of Defense to keep Congress fully informed on nuclear energy. To the extent possible, these reports would be presented in open committee sessions and in unclassified written materials.

CITIZEN CONCERNS EVIDENT IN ANNUAL COUGHLIN POLL

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. COUGHLIN. Mr. Speaker, in keeping with my regular practice, I am pleased to insert into the CONGRESSIONAL RECORD the results of my yearly poll of residents of Pennsylvania's 13th Congressional District.

Not only the answers to the questions, but the added coments on questionnaires and the mail generated by the poll express a high degree of concern by citizens in a number of key areas. From the impeachment question to means of combating inflation, my constituents indicate their anxiety over the course of our Federal Government and its actions, or lack of actions, in meeting the compelling problems that face us.

While these questionnaire polls—started my first year in the Congress—always have drawn heavy responses, I think it interesting that this year's figures remain high even though a much shorter period was specified in which to return answers.

A total of 16,982 individual responses were received before the July 15, 1974, deadline.

My congressional district consists of most of Montgomery County and Philadelphia's 21st Ward. Much of the district is urban and suburban in character with a few sparsely populated areas of rural nature.

To insure accuracy of results, I again instructed my staff to tabulate carefully using statistical procedures designed to make sure that errors were kept to a minimum.

As a further check, all results were weighted by ZIP code to help protect the legitimacy of the final figures. This also enabled the staff to compare sentiments from various parts of the district. Sentiment as evidenced in replies to questions showed little variance in different parts of the district.

In a two-part question on President Nixon, constituents split sharply over whether they favored not impeaching, impeaching, or awaiting House Judiciary Committee findings before deciding. A clear majority, however, did not approve generally of the way Mr. Nixon is handling his job.

I think it of interest to note that last year's questionnaire included a question ranking in order a list of seven specified major problems confronting the Nation. At that time, my constituents rated Watergate as last in that list.

Constituents were asked to rank 1, 2, 3, and 4 in order of credibility President Nixon, the Congress, the courts, and the news media. Using cumulative percentages in order not to discriminate against any of the four, the results proved interesting.

Ranked first in credibility were the courts. Following behind the courts was the Congress. The news media received third ranking while Mr. Nixon was last.

Inflation and the economy were rated first in last year's poll as the major problem. Since it was apparent that this issue has intensified, I asked a question in the 1974 poll on what steps constituents favored in combating inflation.

The results emphasize that those responding want positive Government action with an overwhelming majority favoring some form of wage and price controls with, at the very least, standby controls. Only 2 out of 10 want to operate without controls.

On which specified actions should the Congress take to meet the energy crisis, more than half of the constituents answered that oil companies should be regulated as public utilities. This option drew the highest approval, while reducing auto emission standards was accorded the lowest.

A strong majority of constituents want methods of financing political campaigns changed. Of those favoring reform, a nearly even split was evidenced between those who want complete public funding of campaigns and those who approve of a blend of public and private funds.

While tax reform is an overriding issue, my constituents took a responsible approach to the problem, with a plurality responding "no" to a question asking if reduction in personal income taxes was warranted even with its tendency to increase inflationary pressures.

A number of proposed reforms were listed with the highest percentage wanting credits to elderly for taxes and rent, retirement income exemptions. The least favored alternative was providing tax credits for nonpublic elementary-secondary education expenses.

A question on health care drew a highly mixed bag of answers.

In a series of "yes-no" questions, majorities feel enough money at all levels of government is being spent on public education, believe the United States should make necessary expenditures to maintain parity with the Soviet Union in defense capabilities, approve of a Federal agency with the authority to advocate the consumer viewpoint in Government proceedings, and want the United States to maintain its sovereignty and control over the Panama Canal and the Canal Zone.

The questionnaires were printed—not at Government expense—and sent to all households, apartments, and boxholders in the district.

I am also sending a copy of the results to President Nixon.

The results follow:

QUESTIONNAIRE RESULTS

1. Which of the following actions should the Congress take to meet the energy crisis? (one or more)

	[*In percent*]
Relax air quality standards to permit more use of coal	32.5
Reduce auto emission standards	23.8
Continue year 'round Daylight Saving Time	38.3
Initiate gas coupon rationing if shortages reoccur	28.9
Retain domestic oil depletion allowance to encourage exploration	24.4
Regulate oil companies as public utilities	57.8

2. Tax reform is an overriding concern of the American people.

A. Is a reduction in personal income taxes warranted even with its tendency to increase inflationary pressures?

	[*In percent*]
Yes	41.3
No	45.7
Undecided	13.0

B. Which of these proposed reforms do you favor? (one or more)

	[*In percent*]
Tax credits for high education expenses	45.1
Tax credits for non-public elementary-secondary education expenses	23.3
More effective provisions for tax payments on high incomes	60.2
An increase in personal income tax exemptions	37.3
Credits to elderly for taxes and rent, retirement income exemptions	69.6
Excess profits taxes on oil companies	66.3

3. The effect of Watergate-related disclosures on President Nixon and his ability to govern is a topic of major national concern.

A. Do you approve generally of the way Mr. Nixon is handling his job?

	[*In percent*]
Yes	33.4
No	59.7
Undecided	6.9

B. On the basis of information now available to you, would you? (one only)

	[*In percent*]
Vote not to impeach	29.0
Vote to impeach	37.8
Await Judiciary Committee findings	30.4
Other (specify)	2.8

4. Do you believe that methods of financing political campaigns should be changed?

	[*In percent*]
Yes	84.2
No	9.5
Undecided	6.3

If "yes", would you favor? (one only)

	[*In percent*]
Complete public funding of campaigns	44.3
Blend of public and private funds	41.4
Other (specify)	14.3

5. Please rank 1, 2, 3 and 4 in order of credibility. President Nixon, fourth; The Congress, second; The Courts, first; The news media, third. (Compiled by cumulative percentages in ranking).

6. Senate and House committees have refused to report out legislation to continue wage and price controls. In combatting inflation, which would you favor? (one only)

	[*In percent*]
Reimpose controls	29.6
Establish standby controls	15.3
Selective controls on food and rent	24.9
Operate without controls	21.4
None of the above (specify)	8.8

7. Which course would you prefer the Congress to pursue in health care? (one only)

	[*In percent*]
Tax financed government plan of medical care for all	31.0
Tax financed government plan for catastrophic illness only	21.9
Present reliance on private plans with government paying for low income	21.2
Government-industry plan using private insurers	20.8
Other (specify)	5.1

8. Considering expenditures of Federal, state and local governments, do you feel enough money is being spent on public education?

	[*In percent*]
Yes	61.7
No	32.1
Undecided	6.2

9. Should the United States make the necessary expenditures to maintain parity with the Soviet Union in defense capabilities?

	[*In percent*]
Yes	65.1
No	23.3
Undecided	11.6

10. To provide consumer protection, should the Congress establish a Federal agency with the authority to advocate the consumer viewpoint in government proceedings?

	[*In percent*]
Yes	70.1
No	21.7
Undecided	8.2

11. Should the United States maintain its sovereignty and control over the Panama Canal and the Canal Zone?

	[*In percent*]
Yes	64.1
No	18.5
Undecided.	17.4

Party preference of those responding:

	[*In percent*]
Republican	58.1
Democrat	21.9
Non-partisan	18.2
Other	1.8

Ages of those responding:

	[*In percent*]
18 to 21	1.6
21 to 35	23.5
35 to 50	29.3
50 to 65	28.1
65 and over	17.5

TALK TURKEY TO THE TURKS

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. ADDABBO. Mr. Speaker, as one who has joined in leading the effort to cut off illegal narcotics from our shores. I want all of my colleagues to share a recent editorial in the Long Island Press, July 23, 1974, which vividly points up the needs and the problems.

The editorial follows:

TALK TURKEY TO THE TURKS

Rep. Lester L. Wolff wants President Nixon or Secretary of State Kissinger to hold top level negotiations immediately to convince Turkey not to resume harvesting of the opium poppy. It's a good idea.

Keeping the poppy out of production will be a serious blow to Turkish farmers. That's too bad. But resumption will mean death for millions of people throughout the world—particularly the young. That's intolerable.

It doesn't mean that we should consider the use of military force to keep the ban in

effect. But we can put a tight economic squeeze on that country as we have done to other nations that have tried to harm us—like Cuba—by cutting off all economic and military aid. To this end, President Nixon and/or Secretary Kissinger should talk turkey to the Turks.

SAM STEWART, JOURNALIST

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. CHARLES H. WILSON of California. Mr. Speaker, on September 1, 1974, Sam Stewart will retire his brilliant journalist's career as editor of the Daily Breeze newspaper in Torrance, Calif. Sam Stewart has occupied this editor's chair for the past 18 years. And, during that time, he has spun thousands of words of commentary into a column under the banner, "The Bay Window."

To read all of Sam's columns in their entirety would be a course in history, one enlivened by his straightforward writing style and incisive journalistic ability. The kindness in his writing reflects the man himself, for he tells of events as they are and so lives up to the hallmark of the Copley publications, "The Ring of Truth."

It was on September 1, 1950 when the Stewart family packed its belongings in Ogden, Utah, and moved to the South Bay area of Los Angeles. The past 24 years have seen many changes and Sam's job as managing editor has evolved in the process. In the early days his newspaper reached 8,500 homes. Today more than 78,000 homes receive its message daily. His editorial staff of six has swelled to more than 50—gathering the news from its 15 surrounding cities—and thus changing from a folksy fledgling to what is no wa major suburban publication.

Because of this growth, I know Sam misses the old days when he knew every person by their first name, how many kids they had, and where they were from. Sheer numbers now make that an impossibility. Yet, by the folksy sparkle in Sam's eyes when talking to him, you feel you are his neighbor for he has a sincere interest and concern for people.

Including his work on his high school newspaper, Sam's journalism career spans 50 years. Upon graduation from the University of Colorado in 1929, his first job was as police reporter for the Colorado Springs Gazette-Telegraph. He was promoted to sports editor, then to managing editor, and moved to Ogden also as a managing editor. Feeling that he had shoveled his share of snow and coal, he brought his wife and two children to Southern California in 1950 and also made a move up the journalism ladder.

In the ensuing 24 years, he has garnered a host of honors and an impressive record of involvement in community activities. Sam Stewart has received three awards from the Freedoms Foundation, four Copley Ring of Truth awards for editorial excellence, and recognition from law enforcement agencies for his support of their cause. "The Bay Window" has carried his byline for more than 18 years, and his community activities have been legion—more than most persons can accomplish in several lifetimes.

He has served on the board of directors for several chambers of commerce, is past president of Hermosa Beach Rotary Club, former vice chairman of the Redondo Beach Cultural Committee, and past president of the South Bay Visiting Nurses Association. Also, he was one of the original advisory board members at California State College, Dominguez Hills, and has in the past served on the board of directors at Torrance Memorial Hospital.

But because his profession has commanded his active attention, he was in the past selected as chairman of the Southern California Associated Press News Executive Council and is a member of the American Society of Newspaper Editors, the American Press Institute at Columbia University, Sigma Delta Chi, Los Angeles Press Club, and the Southwest Press Association.

Sam Stewart's name on the masthead will be missed by many—his fellow journalists as well as his wide audience of readers. But his ability and dedication to serving his community stands as an inspiration to us all.

H.R. 69

HON. JOEL PRITCHARD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. PRITCHARD. Mr. Speaker, I am taking this opportunity to encourage all of my colleagues in the House of Representatives to support the conference committee report on H.R. 69, which yesterday overwhelmingly passed the Senate.

I can appreciate the disappointment that many of our Members have over the conference committee compromise; but it is my conviction that the importance and significance of the substance of the amendments to the Elementary and Secondary Education Act (H.R. 69) far outweigh the deficiencies some of our Members believe exist.

I believe this for the following reasons:

First. Its title I funding is of utmost importance to urban school districts in this country, if educationally and economically deprived children are going to continue to have a chance to break the poverty cycle.

Second. Many of our school districts need the extension of the impact aid programs, if they are going to provide a reasonable education for their children.

Third. The substantial strengthening of the Bilingual Education Act is of utmost significance, if we are going to eventually allow another segment of our population to move into the mainstream of American life.

Fourth. The extension of the Education of the Handicapped Act with its accompanying improvements should be of concern for all of us who have friends, acquaintances, and relatives who have handicapped children.

Fifth. The national reading improvement program authorized in this bill should be important to all of us who are concerned about our children's future welfare.

Sixth. The inclusion of the Women's Equity Act which is designed to insure educational equity for women in the United States is long overdue.

Seventh. The provision for forward funding which obligates appropriations 1 year in advance of actual disbursements will finally give State and local education agencies adequate time for advance planning and budgeting of Federal moneys to meet the intent of the programs contained in the legislation and thereby the direct need of the children they serve.

I propose that we approve the conference committee's recommended compromise, in spite of its inadequacies, and that in doing so we place the welfare of deserving children ahead of other considerations when we vote on this bill.

NEW GOVERNMENT OF GREECE

HON. PAUL W. CRONIN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. CRONIN. Mr. Speaker, on Monday I plan to introduce a joint resolution congratulating the new Greek Government and the Greek people on their recent endeavors. This new civilian government is dedicated to solving the present problems and creating a renewed peace. Reports today indicate that 12,000 Turks and their tanks are massing, ready to invade Cyprus in continuing abuse of the Greek willingness to overlook the Turkish genocide in favor of peace. Once again the Turks are neglecting their responsibility toward the world and all peace-loving nations.

By contrast, the Greek civilian government is working through legal formalities to solve its problems and create stability for its people. They are trying to help Cyprus unify once again, while we hourly hear reports of continuing violations of the cease-fire by the Turks in a direct attempt to thwart those efforts.

We must, therefore, stop and step back to take a look at what the Greeks have done and at our relations with them over our history. The Greeks have always been staunch allies of the United States and have solidly stood by our side since we fought together at Tripoli. They have been continuing supporters of NATO from the very beginning.

The Greeks have always warmly welcomed Americans—both officials and tourists—and since the inception of the Truman Doctrine in the late forties have always been grateful to the United States for our help in keeping Greece from falling to the Communists during their civil

war. Our Mediterranean Fleet is based in Greece, and the hospitality shown to us has always been notable.

Again in contrast, the Turks have continually abused the American offers of friendship and have damaged our ally, Greece, whenever the opportunity has presented itself. Even today, following years of negotiation with the United States, followed by monetary assistance and our own offers of friendship, the Turkish Government has sanctioned the growth of poppies for sale of opium and morphine—the recognized source of the heroin on the streets of our country and the scourge that continues to destroy the youth of America.

Mr. Speaker, I urge you and my colleagues to join with me in welcoming the new Government of Greece as a freedom-loving nation and to encourage them to work with us in the continuing efforts to achieve world peace and harmony.

URBAN MASS TRANSIT ACT OF 1974

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. RINALDO. Mr. Speaker, I was very pleased that the House Rules Committee has cleared for floor consideration the conference report on the Urban Mass Transit Act of 1974. This legislation is badly needed.

I have made increased funding for mass transit one of my highest legislative priorities since coming to Congress. I worked closely with the principal sponsor, my distinguished colleague from New Jersey for passage in the House of this legislation. The energy crisis this year has pointed up more than ever the need for expanded mass transit.

This bill will give a great deal of flexibility to local government in determining the use of the funds; $800 million will be made available over the coming 2 years for either operating assistance or capital expenditures.

The conference report adopts the most important parts of the House-approved bill, taking our basic formula which uses as factors both population and passengers carried by the transit system.

The House bill contained an important provision, which I strongly supported, to allow discount fares for elderly and handicapped riders. While the Senate bill has no similar provision, I feel that the conferees did the right thing by insisting on this House language.

Approval of this bill will mean $40 million for my State. Of this sum, over $35 million will go to the densely populated northern area of the State in which my district is located. Mass transit is desperately needed.

While the energy crisis has shown that there are times when environmental issues must be weighed against energy shortages, this is one bill that attacks both problems. Expanded mass transit will decrease automobile exhaust pollution, which is the No. 1 cause of deadly air in many of our urban areas, and it will also decrease the demand for gasoline as fewer cars are used.

I have already called on the Union County Board of Chosen Freeholders in my district to designate an appropriate agency so they will be in a position to move quickly on obtaining funds under this program.

MEMBERS OF NORTH CAROLINA GENERAL ASSEMBLY TESTIFY ON LEGISLATION TO SAVE THE NEW RIVER

HON. WILMER MIZELL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. MIZELL. Mr. Speaker, the Subcommittee on National Parks and Recreation of the Committee on Interior and Insular Affairs has reported out legislation which would designate a section of the New River in North Carolina and Virginia as a potential component of the National Wild and Scenic Rivers System.

During hearings on this legislation, two distinguished members of the North Carolina General Assembly, Representatives William S. Hiatt and E. Lawrence Davis, who are from this general area, testified before the subcommittee and presented excellent comments on the need to save the New River.

For the benefit of my colleagues, I would like to insert their testimony at this time:

TESTIMONY OF REPRESENTATIVE WILLIAM S. HIATT

Mr. Chairman, and distinguished members of this committee. I would first like to express my appreciation to you for allowing me to appear before you this morning.

I am honored to be able to join Congressman Wilmer Mizell, Senators Jesse Helms and Sam Ervin and others in recommending your favorable consideration of House Bill 11120, a bill to study the beautiful and historic New River for inclusion into the National Wild and Scenic River System.

The New River in northwestern North Carolina is perhaps new to many people but it is, according to geologists, the second oldest river in the world, second only to the Nile in Egypt. Both of these great rivers are unique in that they flow north.

The New River originates in the northwestern corner of North Carolina and its waters flow a few miles in Ashe and Alleghany counties before going into Virginia, merging with the Kanawa River in West Virginia, on to the Ohio and Mississippi Rivers and eventually to the Gulf of Mexico.

The Section of the River described in this bill is scenic in every way and is almost pollution free, the only such major river in eastern United States.

The New River is now threatened by the proposal of two dams to be erected in Virginia by Appalachian Power Company of Roanoke Virginia, a subsidiary of the American Electric Power Company of New York City, which sells hydroelectric power in Virginia and north of Virginia thoughout the Midwest. The proposed project would flood thousands of fertile farm land and would involve vertical drawdowns in North Carolina, ranging up to 12 feet in the upper impoundment to 44 feet in the lower impoundment; even during the recreational season. A 12 foot vertical drawdown on the upper impoundment would mean stretches of wide mud flats along the hundreds of miles of shoreline. A 44 foot vertical would mean the conversion of a beautiful and historic river into the equivalent of a flush tank on a water closet. Federal Scenic River status will not only preclude the foregoing adverse environmental effects, but will avoid the destruction of family roots and ties in the area proposed to be flooded and the creation of a vast number of displaced people.

One of the great tragedies of so called progress is that we often overlook humanity. In addition to the rare and beautiful species of plants and wildlife which inhabit this area, there is another rare and quite endangered group for which the New River banks have been home for generations. This is a group called "PEOPLE", people who live, and whose ancestors have lived, close to the land, people who live in the same houses their ancestors built years ago, People whose ancestors were among the earliest settlers of the American Frontier.

For the foregoing reasons, the North Carolina General Assembly has repeatedly passed resolutions stating its opposition to impoundment of the New River. The most recent was Senate Joint Resolution 668, passed by the 1973 Session. The 1974 General Assembly passed House Bill 1433, which I cosponsored with Representative Davis; this bill designates a segment of the New River in North Carolina a part of the state's Scenic River System, under state law. Mr. Chairman, this bill passed the North Carolina House of Representatives without an opposing vote.

It has been my privilege to represent the wonderful people of Alleghany and Ashe Counties, as well as Stokes, Surry and Watauga Counties in the North Carolina General Assembly. I have visited with the people of these counties often as a candidate for office and then as their elected representative. I have heard from many and their repeated request was to help them save their beautiful home land by blocking the construction of the proposed dams. Until as late as February of this year only a handfull of people had informed me of their desire to see the dam completed. When House Bill 1433 was pending in the North Carolina General Assembly and U.S. Senate Bill 2430 was pending in the U.S. Senate, in February of this year several people did make their views in favor of the dam known. I say this in fairness to them, but I must also add that in my opinion this does not represent the feelings of the majority of the people of Alleghany and Ashe Counties. The County Commissioners of both of these counties have informed me that the majority of the people favor the scenic river status rather than the impoundment of the beautiful New River which flows through their county.

Mr. Chairman, my desire in testifying to this committee is to represent the wishes of the majority of the citizens which reside in my district; to do otherwise would be inconsistent with a representative form of government.

Mr. Chairman, members of the committee, I urge you to include the New River in the National Wild and Scenic River System at the earliest possible date, so that our nation will not lose what Senator Sam Ervin has described as "one of the most beautiful areas that the Lord God Created."

Thank you.

TESTIMONY OF REPRESENTATIVE E. LAWRENCE DAVIS

The New River in northwestern North Carolina may indeed be a new river to many people, but the geologists tell us it is the second oldest river in the world—second only to the Nile in Egypt, and that it has been flowing for over 100 million years. The river originates in the northwestern corner of North Carolina and its waters flow only a few miles in Ashe and Alleghany Counties before going on to Virginia, merging with the Kanawa River in West Virginia, on to the Ohio and Mississippi Rivers and eventually to the Gulf of Mexico.

The section of river described in Senate Bill 2439 is scenic in every way. According to the North Carolina Department of Natural and Economic Resources, it is the home of several forms of rare plant and animal life. It is the best smallmouth bass fishery in the state and one of the few remaining streams where smallmouth bass still exist in significant quantity.

The New River is now threatened by two proposed dams proposed to be erected in Virginia by the Appalachian Power Company of Roanoke, Virginia, a subsidiary of the American Electric Power Company of New York City, which sells hydroelectric power in Virginia and north of Virginia throughout the midwest. The proposed project would involve drawdowns in North Carolina ranging up to 12 feet in one impoundment and up to 44 feet in the other impoundment even during the recreation season. A 12-foot vertical drawdown would mean a 60-foot stretch of mud flats along hundreds of miles of shoreline. A 44-foot drawdown would mean the conversion of a scenic river valley into the equivalent of a flush tank on a water closet.

Federal scenic river status will not only preclude the foregoing adverse environmental effects, but will also avoid the destruction of family roots and ties in the area proposed to be flooded and the creation of a vast number of displaced persons.

Thomas Wolf, in writing of the mountain region of western North Carolina, composed the magnificent novel, *You Can't Go Home Again*. Unless you will act now, thousands of residents of this area will have permanently lost all physical ties to their ancestral homes and the nation will have lost what Senator Sam Ervin has described as "one of the most beautiful areas that the Lord God Almighty created".

For the foregoing reasons, the North Carolina General Assembly has repeatedly passed resolutions in opposition to the proposed Blue Ridge Dam Project of the Appalachian Power Company. The most recent of these resolutions being Senate Joint Resolution 668, 1973 Session Laws, Ratified Resolution 79. During the 1974 Session, the General Assembly by overwhelming majorities passed House Bill 1433, ratified as Chapter 879 of the 1974 Session Laws designating a segment of the New River in North Carolina as a scenic river area and including it in the North Carolina Natural and Scenic Rivers System. The General Assembly passed Senate Joint Resolution 646, 1974 Session Laws Ratified Resolution 170, calling for a study of the possible inclusion of the south fork of the New River as a scenic river under state law. Under the Supremacy Clause of the United States Constitution the Federal Power Commission has the authority to ignore the action by the General Assembly to preserve and protect the New River. It is for that reason that we seek your support in providing at the federal level for study and recommendation by the Department of the Interior as to the inclusion of the New River in the National Wild and Scenic Rivers System.

U.S. MILITARY AID POLICIES: GREECE AND CHILE

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. HARRINGTON. Mr. Speaker, like many of my colleagues, I laud the recent events in Greece, particularly the appearance of a trend toward a more democratic government than the military regime which has ruled there since 1967. However, it is not my purpose here to discuss those specific events. Rather, it seems to me that the reaction of the U.S. Government in dealing with an impending military and political crisis of major proportions offers an instructive lesson for our dealings elsewhere in the world.

Throughout the hectic days leading up to the restoration of civilian rule in Greece, it became clear that the United States was using its military assistance programs as a leverage point to turn both Greece and Turkey from all-out war. Officially, there was no cessation or suspension of military aid. But an intention to cut off the furnishing of military articles was made plain to Greece and Turkey. In addition, two F–4 aircraft, which were en route to Greece as part of the foreign military sales program, were detained for several days in Spain, ostensibly because of the uncertainties of delivery and the general instability in Greece.

It is perhaps naive to assume that the prospect of a halt to U.S. military supplies encouraged the Greek military leaders to turn political control over to civilians, as well as to turn back from a course that seemed to lead to full-scale war with Turkey. Nevertheless, it appears that the United States was willing to believe that such an effect was possible, and that subtle pressure could be exerted by an implicit threat that aid would be withdrawn.

Given the context of our policies of the past few days, it seems to me to be inconsistent for the administration to continue to insist on providing military assistance to Chile, which is also controlled by a military junta, that will total more than $21.3 million in fiscal 1975. That sum does not even include arms that will be sold by commercial manufacturers under State Department licenses, but covers only direct grants for military training and credits for purchases under the Foreign Military Sales Act. What is the justification for a policy that allows a foreign government to draw on U.S. arms stocks until a crisis, such as the one in Greece this week, finally erupts? Past experience, and particularly the lesson of the last few days, ought to indicate by now that our military assistance policies require much closer scrutiny and reexamination.

If such a needed rethinking of our policies is undertaken, I am convinced that military aid to the military junta in Chile would be eliminated. It is surely better to exercise our leverage before the fact, by clearly indicating to the current Government of Chile that neither do we favor their retreat from democracy nor will we continue to supply them with the tools to maintain the tight military control over the population. Otherwise we will be forced, at some future date, to react to a crisis with brinkmanship diplomacy, in a desperate effort to reverse the detrimental effect of years of unthinking arms sales and military assistance.

I urge all my colleagues, and particularly those on the House Foreign Affairs Committee, to think about the lesson that I believe the episode in Greece so dramatically reveals, and to support an amendment to the foreign assistance bill that I intend to introduce which would terminate all U.S. military assistance to the junta in Chile.

BADILLO HAILS SUPREME COURT TAPES RULING

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. BADILLO. Mr. Speaker, the Supreme Court is to be applauded for its definitive ruling that the laws of this land are rooted in the Constitution and not in nebulous doctrines of executive privilege and Presidential confidentiality.

I believe that the decisive unanimity of the Court in its Wednesday ruling will help reverse the drift toward defiance of coequal branches of the Government that has characterized the Nixon administration since it took office in 1969. Surely it is a danger signal for our society when the highest court in the land must inform the President that he is subject to those very laws that he is sworn to execute and uphold, and that the right to interpret the law rests not with the Executive but with the judicial branch.

The record is now clear enough for inferences to be drawn. The Nixon administration has been taken to court more than any other in modern times in nearly every instance has been ordered to desist from unlawful activities. Whether it be impoundment of funds appropriated by Congress in fulfillment of its constitutional duty, the ad hoc dismantling of a duly constituted Government agency with whose purposes the Oval Office disagrees, or withholding of potential criminal evidence in affairs unrelated to the conduct of public business, we have witnessed the emergency of a pattern of contempt for the law by those sworn specifically to enforce the laws of the land impartially.

Furthermore, the total lack of substance in the President's case as presented to the Supreme Court must be taken as but another sign that the strategy of the Nixon administration is to draw out the pursuit of the truth in the Watergate affair as long as possible, keeping the country polarized by divi-

siveness that can only result in further deterioration of respect for Government institutions.

Mr. Speaker, the Supreme Court has earned our thanks for making it plain that the Constitution cannot be revised for Executive expediency. In their 8-to-0 vote the Justices unequivocally rebuffed the usurpation of judicial prerogatives by the White House, as well as showing that an affirmation of the bedrock principles embodied in the Constitution is the remedy for the national malaise.

The Nixon administration has likewise attempted to assume the constitutional role granted to the Congress to determine how to conduct impeachment proceedings. We in the House now have the same opportunity embraced by the Supreme Court to halt the spread of Executive power. Our success in asserting our prerogatives will affect the conduct of the public business far into the future.

MIKE FORD'S PRAYER

HON. EDWARD YOUNG

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. YOUNG of South Carolina. Mr. Speaker, we in the Congress know better than anyone what a great Vice President we have. Well, he has a very fine son who delivered a moving prayer at the prayer breakfast last month. I want to share it with the country.

MIKE FORD'S PRAYER DEDICATION GIVEN AT THE VICE PRESIDENTIAL PRAYER BREAKFAST, JUNE 27, 1974

Dear Heavenly Father: We come before you this day in knowledge and recognition of our own personal shortcomings and insufficiencies.

So often as we go through life we are misled by our pride and self-centered confidence. We find ourselves guilty of thinking that we can prevail and lead a victorious life on our own merits and work. Again and again we try to make it alone in this ever-demanding world, and again and again we are humbled before Thee.

But Lord we thank you for the stumbling blocks and obstacles you have set before us, the daily struggles in our lives that call for us to stop and reevaluate our relationship with you.

We know that we must never stop asking ourselves the question, "Where does Christ stand in my life? In the center, or on the fringe?"

We thank you for the patience you have continued to show us even in the times of our unfaithfulness. And above all we thank you for the everlasting and infinite love you have given us in Thy Son, Jesus Christ—Our Redeemer, Our Saviour, who died on the Cross in our Place that we, believing in Him, might be reconciled with Thee.

And in the midst of the burdens, and the tasks and the many responsibilities of this world we rejoice in the newness of life which you have given to us through our faith in Christ.

We give praise for the truth and power you have revealed to us through Thy Holy Spirit and celebrate in the joy and peace you have blessed us with in knowing you as a loving and personal God.

Lord we come together this day, each of us unique creations in your image and yet united in the Body of Christ.

You have blessed *everyone* of us with special gifts and abilities and we look forward with excitement to the jobs and tasks you have called us to perform for your kingdom.

We fully acknowledge our great helplessness and the complete dependency we have upon your grace—and so we ask most humbly that you might grant us wisdom and understanding as we set out on our separate paths.

And Lord as we gather together today to affirm each other, we collectively uplift to you one of your children, Jerry Ford.

In the position of Vice President of this great nation, you have called him to a tremendously demanding task at a turbulent and critical time in history.

Our new Vice President brings to this most important position so many wonderful qualities of leadership and service, but it is only through *Thy* grace that these special gifts in this man might work together in a way so as to have a positive impact on the lives around him.

It is our prayer Lord that you would bless him with discernment and good judgment as he seeks to faithfully carry out the many responsibilities laid before him.

Protect him and keep him strong in spirit, mind, and body throughout all his days—the trials, the tests, the temptations before him.

Grant him the courage to trust in you always and not in the things of this world.

Work in his heart the desire to seek your guidance and direction in all things.

And Lord, we pray most humbly that your Holy Spirit which reveals all truth and which gives all life may dwell in him, and also in us—That we together as your faithful children may walk in Thy ways and glorify Thy name. We ask this in Christ's name. Amen.

THE HECKMAN FOUNDATION

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. HELSTOSKI. Mr. Speaker, one of mankind's major health problems is the problem of kidney disease, and today I would like to call our attention to some very fine work being done in this area by the Heckman Foundation.

The Heckman Foundation, a nonprofit corporate foundation, was named in honor of Hudson County Superior Court Judge August Heckman. Judge Heckman gave up one of his own kidneys in an unsuccessful attempt to save his son's life, and his daughter is now on a dialysis machine, having received a kidney from her mother.

Under the leadership of administrative director, Jacob Robinson, the foundation has been instrumental in raising funds for research and for the purchase of equipment such as dialysis machines. The foundation also intends to establish a program to urge people to donate kidneys upon death to those who need them.

Mr. Speaker, kidney disease is the fifth largest cause of death in the United States. When viewed within the context of this statistic, the work of the foundation becomes even more important. Hence, I would like to take this opportunity to thank those associated with the foundation for the fine work they are doing, and to offer my best wishes for continued success.

THE SINS OF THE TIMES

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. CARTER. Mr. Speaker, Francis Bacon, the noted author, statesman, and chief judge of the realm in England, underwent many trials and tribulations during the course of his life. Today, however, students of history consider him to be one of the most intelligent and literate men of all time. Many suggest that the plays of Shakespeare flowed from his pen.

I include for the RECORD a most interesting article by William Safire:

THE SINS OF THE TIMES

(By William Safire)

In 1620, Francis Bacon, the lord chancellor of England, was riding high.

"He had reached the age of 60, and had gained the object of his ambition," wrote biographer R. W. Church in 1884. "More than that, he was conscious that in his great office he was finding full play for his powers, and his high public purposes. He apprehended no evil; he had nothing to fear, and much to hope from the times.

"His sudden and unexpected fall, so astonishing and so irreparably complete, is one of the strangest events of that imperfectly comprehended time."

In his climb to great place as chief judge of the realm, Bacon had made his share of enemies, among them Sir Edward Coke, a man of the House of Commons who believed that the judges of the Chancery Court were too subservient to the king.

Prodded by Coke, Parliament began looking into the widely known practice, common to judges of the day, of accepting emoluments from parties in suits before them. Judges felt that as long as they did not permit the gifts to influence their decisions, they were free to line the pockets of their black robes.

A committee on inquiry put the heat on a Bacon aide: "An infamous forger of chancery orders," writes Church, "finding things going hard with him, and 'resolved,' it is said, 'not to sink alone,' offered his confessions of all that was going on wrong in the court."

This created a stir, but Bacon did not worry; the investigation was of the court system generally, and was not likely to reach him. Then, suddenly, a couple of suitors appeared before the bar of the house to accuse Lord Bacon himself of taking their money; they were angry because he had then decided the cases against them.

Parliament Rose in wrath; Bacon, suspecting this was all a plot by Coke and other enemies, said, "I know I have clean hands and a clean heart . . . but Job himself, or whosoever was the justest judge, by such hunting for matters against him as hath been used against me, may for a time seem foul, especially in a time when greatness is the mark and accusation is the game."

But the investigation fed on itself; not to be outdone by Commons, the House of Lords appointed three committees: "Considering that the future judges had of their own accord turned themselves into the prosecutors," wrote the biographer, "the unfairness was great."

Belatedly, Bacon took alarm, seeking support from king and prime minister, but he was already tainted too much for that.

Bacon could not fight the torrent alone; he succumbed, confessed, and offered no defense.

Such confession did him no good with pub-

to opinion, which reviled him all the more for not defending himself. "I have been no avaricious oppressor of the people," the puzzled Bacon wrote the king. "I have been no haughty or intolerable or hateful man in my conversation or carriage but am a good patriot born. Whence should this be?"

Bacon was sent to jail for four days and then pardoned. The last five years of his life were the most productive of all in terms of writing history, but he went to his grave believing that "there are *vitia temporis* as well as *vitia hominis*, and that his enemies had made him suffer for the sins of the times.

Three hundred and fifty years later, Bacon is revered by scientists as the father of empirical reasoning, by thinkers as the pioneer of natural philosophy, by writers as the first of the great English essayists. Some people even claim he wrote plays under the pseudonym of William Shakespeare.

But as lord chancellor of England, Francis Bacon was one corrupt judge. History has a tendency to overlook the faults of men who mattered, just as contemporaries overlook the contributions of men who fail while daring greatly.

S. 1868, RESTORING RHODESIAN SANCTIONS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. FRASER. Mr. Speaker, on March 25, 1974, I introduced into the CONGRESSIONAL RECORD a World Federalist fact sheet on "The Case for Restoring U.S. Compliance With U.N. Sanctions Against Rhodesia, H.R. 8005 and S. 1868." I said at that time that the World Federalists' publication was a very helpful, concise, and straightforward presentation of the issues involved.

The Federalists have now issued an updated version of their fact sheet. Entitled "Restoration of U.S. Compliance With U.N. Sanctions Against Rhodesia, S. 1868," it is of the same high quality as the original fact sheet. I hope many of my colleagues have an opportunity to read this fine publication:

RESTORATION OF U.S. COMPLIANCE WITH U.N. SANCTIONS AGAINST RHODESIA, S. 1868

Within the coming weeks Members of the House will have the opportunity to vote for legislation, S. 1868, to restore the United States to full compliance with United Nations sanctions against the minority ruled government of Southern Rhodesia. On June 27, 1974, the House Foreign Affairs Committee favorably reported S. 1868 by a margin of 25-9. An identical bill passed the Senate on December 18, 1973, by a vote of 54-37. This legislation has the effect of repealing the Byrd Amendment by exempting UN sanctions from the operation of Section 10 of the Strategic and Critical Materials Stock Piling Act. The Byrd Amendment, which passed in 1971, has the effect of allowing importation from Rhodesia of chrome ore, ferrochrome and nickel.

Sanctions against Rhodesia were imposed following Southern Rhodesia's unilateral declaration of independence from Great Britain in 1965 and its establishment as a regime dedicated to white-minority rule. These mandatory sanctions, which were requested by Great Britain and vigorously supported by the United States, provide for comprehensive prohibition of all trade with Rhodesia. With the passage of the Byrd Amendment, the United States became the only nation other than South Africa and Portugal to openly violate sanctions.

World Federalists, USA urges the House of Representatives to pass S. 1868 for the following reasons:

1. *Violation of sanctions endangers international relations and undermines US access to essential raw materials from African countries, who adamently support sanctions.* The energy crisis is evidence of how foolhardy it would be to ignore the views of African nations on whom we are increasingly reliant for our supply of natural resources. Already a large share of our imports come from the African continent where US private investment totals more than $4 billion (as compared to $56 million in Rhodesia). Continued cooperation will require an increased sensitivity to the Africans' concern that minority rule be abolished in southern Africa. Secretary of State Henry Kissinger recently stated that:

"The Byrd provision has impaired our ability to obtain the understanding and support of many countries, including such important African nations as Nigeria, a significant source of petroleum and a country where we have investments of nearly $1 billion."

2. *Rhodesia is not the only source of competitively-priced chrome ore.* In fact, only a small portion of US crome ore comes from Rhodesia. In 1972, only 10% of our imports of metallurgical chromite (the type used in the production of stainless steel) came from Rhodesia and in 1973 only 11%. Numerous countries have substantial reserves of chrome ore at prices that are often cheaper than Rhodesia's. Among these are Turkey, Brazil, Pakistan, the Philippines, Iran, South Africa and the Soviet Union. Willis C. Armstrong, Assistant Secretary of State for Economic and Business Affairs, testified that:

"Reimposition of the US ban on imports of Rhodesian chrome ore and other materials would not deprive the US of any needed raw materials. Adequate domestic and other foreign supplies are available. Moreover, foreign supplies of ferrochrome are available from South Africa, Finland, Brazil, Norway, Sweden and others."

Contrary to unsubstantiated charges the USSR is the best source of high quality chrome ore in the world. The US Bureau of Mines reports that Russia has the highest grade chrome ore available, with a chrome to iron ratio of 4:1 as against the 3:1 of Rhodesian cromite. At the same time, Soviet ore is less expensive than the Rhodesian variety. Figures from the Bureau of the Census for the first quarter of 1974 showed that the US pays only $43 per ton for Russian chrome ore while paying $74 per ton for chrome ore from Rhodesia.

3. *The USSR does not transship Rhodesian ore to the United States.* Despite factual evidence to the contrary, supporters of the Byrd amendment continue to circulate the canard that the USSR covertly purchases Rhodesian chromite and subsequently transships it to the United States at inflated prices. There is no truth to the charge. The US Geological Survey has examined samples of chrome ore imported from the Soviet Union and concluded that the composition was such that they could not have originated in Rhodesia.

4. US National Security would not be impaired by observance of sanctions against Rhodesia. When the Byrd amendment passed in 1971 its proponents argued that the national security of the United States depended upon the supply of chrome ore from Rhodesia. The demand for metallurgical grade chrome ore for military and defense needs, however, is relatively small in relation to the numerous alternative sources of chromite. The Defense Department reports that only 8 to 10 per cent of US consumption of high grade chromite is used for national defense. The rest is consumed for non-defense related purposes such as home appliances, auto trim and civilian jet engines. Secretray of State Kissinger has stated:

"I am personally convinced that the Byrd Provision is not essential to our national security, brings us no real economic advantages, and is costly to the national interest of the United States in our conduct of foreign relations."

In 1971, supporters of the Byrd Amendment claimed that sanctions against Rhodesia resulted in the US becoming too reliant upon the Soviet Union for chrome ore. The Byrd amendment, however, has not resulted in a reduction of US imports of Soviet ore. In fact, chrome imports from the USSR have increased.

Unlike Rhodesia, whose internal and external disruptions make its long term reliability increasingly less certain, the USSR has proven to be a reliable source of chrome ore. It is extremely unlikely that it would attempt to cut off shipments of ore to the US since the Soviets are dependent upon the US for key strategic materials. In 1971, for example, the Soviet Union relied on the US for 59% of its imports of aluminum oxide, which is used in abrasives essential to the manufacture of machinery. Thus, during the 1962 Cuban Missile Crisis, the Vietnam War and the Middle East wars, the USSR not only continued chrome imports, but actually increased them. Moreover, Soviet economic development rests heavily upon infusions of superior US technological and managerial skills in virtually every industrial field.

5. The US has an ample stockpile of chrome ore. Aside from reliable foreign sources of chrome ore, the US has a huge stockpile of surplus chromite. According to data supplied by the National Materials Advisory Board and the Department of Defense, the U.S. stockpile of Metallurgical grade chrome ore is sufficient to meet our military needs for 42 years of war and over 7 years of civilian and military consumption. As a result, President Nixon has proposed that 4 million tons of chrome ore be sold as surplus. In addition, low grade chromite can be converted to ferrochrome. Finland, for example, converts low grades of chrome ore into ferrochrome for stainless steel production at prices competitive on the world market. Finally, recoverable stainless steel scrap could annually supply 40% of America's demand for chrome.

6. *Jobs in America's domestic ferrochrome industry are endangered by the flood of cheap Rhodesian ferrochrome.* Although the Byrd amendment has not resulted in vastly increased imports of chrome ore, an unexpected result of its passage has been the flood of Rhodesian ferrochrome (a chrome-iron alloy used in making stainless steel) into the United States. In 1973, Rhodesian imports of high carbon ferrochrome claimed 46% of the US import market, thus threatening the very existence of our domestic ferrochrome industry. Rhodesian ferrochrome imports have already cost the jobs of hundreds of American workers whose plants have had to shut down. Rhodesia's ferrochrome is less expensive than the US product because its industry is allowed to employ cheap and frequently forced labor under working conditions which deny Africans the right to strike or bargain collectively. In addition, the Rhodesian government subsidizes freight and power rates while allowing industry to avoid even minimal environmental protection standards in its quest for foreign currency. Thus the threat to American jobs comes not from adherence to sanctions, as the stainless steel industry has claimed, but from continued competition of Rhodesian ferrochrome. As I. W. Abel, President of the United Steelworkers of America, wrote to Congressman Donald Fraser:

"If any job loss argument can be made, then it would have to be that American ferrochrome jobs have been jeopardized by the partial lifting of the embargo for chrome products—not that reimposition of the embargo would cost jobs for American specialty steelworkers. . . . Do not make your decision under the misimpression that American steelworkers will suffer if the United Nations sanctions are enforced. The reverse is true."

7. *Restoration of sanctions will not cause large increases in the price of stainless steel.* If sanctions are restored, replacement of Rhodesian ferrochrome by purchases of ferrochrome from other foreign producers costing an additional $100 per ton will cost the stainless steel industry only slightly over $3 million annually, not the $96 million it has predicted. The stainless steel producers have not passed on to the consumers any cost savings that may have come from breaking sanctions. In fact, stainless steel producers have recently hiked prices by 10 to 15% on top of previous price increases of as much as 6% in 1973.

8. *Sanctions are an effective method for the international community to bring peaceful pressure upon a government that endangers the peace of southern Africa by its policies of denying the most basic principles of human justice.* In Rhodesia, where a small minority dominates 95% of the population, sanctions can serve as an effective and legitimate means of bringing the black majority into the political, economic and social fabric of the country. The United States has a treaty obligation under the UN Charter to comply with sanctions. The UN Charter, which the United States ratified as a Treaty, gives the Security Council authority to impose mandatory sanctions when it *"determines the existence of any threat to the peace,"* which Rhodesia's racial policies clearly represent to the region of southern Africa. By failing to comply with sanctions, the US violates international law and undermines its credibility as a law abiding member of the international community.

9. *Sanctions against Rhodesia have been effective.* Despite US failure to fully comply with sanctions, Rhodesia has suffered severe economic strain. Sanctions have resulted in a serious balance of payments deficit for Rhodesia. In addition, they have denied Rhodesia access to the capital necessary for economic expansion, as well as frustrated efforts to obtain materials essential to the maintenance of the country's agricultural, industrial and military capacity.

10. *Repeal of the Byrd Amendment would provide the decisive impetus for peaceful change in Rhodesia.* Internal and external forces opposed to the Smith regime are rapidly building. The recent coup in Portugal has made a black-ruled government in Mozambique inevitable, thus cutting Rhodesia's direct access to the sea. Even South Africa is now urging a quick settlement and may be prepared to limit its military commitment to Rhodesia if the white Rhodesians continue to be intransigent. House passage of S. 1868 would provide additional and probably decisive pressure on the Smith regime to reach an equitable settlement; thus averting a tragic war that could engulf the entire southern region of Africa.

OLDER AMERICANS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. STOKES. Mr. Speaker. I have received a letter on a subject in which I have long had a very great concern. I know many of my colleagues share my belief that the contribution of older Americans has not been adequately recognized. I am, therefore, particularly pleased to present for the information of the public and my colleagues, a copy of a letter which I received from Miss Esther I. Test, director, Senior Community Service Aides Project, American Association of Retired Persons:

CLEVELAND, OHIO.

Hon. LOUIS STOKES,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN STOKES: We are in the process of designing a commemorative postage stamp honoring Older Americans—A Great National Resource.

In addition to being on honor long overdue it is also a way of expressing appreciation for their unheralded and much needed contribution to our society.

The increasing number of older Americans with their rich store of experience, if recognized and utilized, could be the catalyst resulting in an improvement of the quality of life for many older Americans and for our society in general.

When the design is completed and submitted to the Citizen's Stamp Advisory Committee we will notify you.

If you agree with this concept please give this idea now and later the widest possible circulation through your particular contacts. We will need and do now ask your help in getting the idea of our stamp accepted.

Cordially,

Miss ESTHER I. TEST,
Director,
Senior Community Service Aides Project.

PROFESSIONAL STANDARDS REVIEW ORGANIZATION

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. CRANE. Mr. Speaker, recently the Wall Street Journal carried two letters to the editor on the subject of PSRO's.

These letters are significant because they are from rank and file doctors, not bureaucrats or professional lobbyists.

The analogy that Dr. Ritter makes between PSRO's and Watergate activities is an intriguing one that I particularly commend to the attention of my colleagues:

PEER REVIEW

Editor, The Wall Street Journal:

Regarding Jonathan Spivak's page-one article "'Heal Thyself. . . .'" (June 24):

Mr. Spivak's article on the physician Professional Standards Review Organization debate missed one point. It is that most physicians are already involved in peer review. Hospitals have committees of physicians which review a new physician's credentials before he is allowed on the staff, a surgical review committee which oversees his operations, a tissue review committee which checks to see what is being removed, a transfusion committee to determine whether or not blood is being administered in proper amounts and various other similar committees.

The majority of medical societies has within it various peer review committees. We have a Foundation for Medical Care which reviews utilization, length of hospital stay and charges for not only Medicare and Medicaid patients but for other insurance covered-patients as well.

Mr. Spivak cites that the Foundation for Health Care Evaluation in the twin cities in Minnesota has cut hospital stays. He fails to mention that this was done on a local basis and not set up by the federal government. Again, he referred to Bethesda Lutheran reviewing charts. This too is being done by the local physicians and not the federal government. The advocates of a federally legislated PSRO try to allay the fears of physicians by stating that such review would continue to be done at a local level. If this is true then why not repeal the law which gives the federal government the right to have the final say? If, on the other hand, the name of the game is "control" of medical care then the federally directed PSRO is a good beginning. There is no way to nationalize 300,000 physicians without nationalizing 200 million Americans. Physicians are not against peer review but are against centralized control.

MATTHEW C. GLEASON, M.D.,
President,
San Diego County Medical Society.

SAN DIEGO.

CONFIDENTIALITY

Editor, The Wall Street Journal:

Mr. Spivak totally missed the point on the issue of confidentiality under the "professional Standards Review Organization" amendment to the Medicare law. Doctors are concerned because PSRO legalizes the activity for which John Ehrlichman and the "plumbers" are being prosecuted. Under PSRO, government agents can walk into a hospital or doctor's private office and inspect the medical records of his patients.

Those records contain the intimate details of our patients' personal lives, matters they are even reluctant to discuss in the confessional. PSRO simply makes it impossible to be guardians of our patients' privacy any longer.

Medicare carriers are presently microfilming patients' medical records and forwarding them to the Bureau of Health Insurance in Baltimore where they are stored. And BHI is demanding more and more personal information, including "social histories," on our patients.

It is patently impossible to keep a secret once government becomes privy to the matter.

KENNETH A. RITTER, M.D.

NEW ORLEANS.

CHARLES McQUEENEY

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. GIAIMO. Mr. Speaker, Connecticut has lost a distinguished journalist this week with the death of Charles T. McQueeney, retired managing editor of the New Haven Register.

Charles McQueeney was a man whose name was synonymous with both journalism and community service in New Haven. He worked for the Register for more than 46 years, and spent 20 of those years in the position of managing editor.

Through the Register, Charley made many important contributions to the life and spirit of New Haven, especially through his work with the Register fresh air fund, a campaign which annually sends many deserving youngsters to camp, and with many other city clubs aimed at the development of the potential of New Haven's young people.

Just as importantly, Charley McQueeney was the guiding inspiration behind the development of a generation of news people, both those who stayed to grow with the Register, and those who left New Haven to work on other prominent papers.

Active in journalists' organizations, in educational institutions, in rehabilitation, in health, in police and fire work, Charles McQueeney was literally a man of many interests, many talents, and thousands of friends.

The excerpted article and editorial from the New Haven Register of July 18, detailing the work and the life of the man who was "Mr. Newspaper" and "Mr. Register" to New Haven follow:

CHARLES MCQUEENEY, EDITOR, DEAD AT 64

Charles T. McQueeney, who retired last Sept. 1 after 46 years with The Register, the last 20 as its managing editor, died Wednesday, July 17, 1974, Yale-New Haven Hospital. He would have been 65 on Aug. 21.

Memorial contributions may be made to Our Lady of Grace Monastery, North Guilford, or to the Register Fresh Air Fund.

The J. Markiewicz and Sons Funeral Home, 14 Trumbull St., is in charge of arrangements.

Widely known for his civic activities, Mr. McQueeney began his newspaper career during his senior year at the old Commercial High School, when he was a member of the school's newspaper staff and served as a high school correspondent for The Register. When he began his fulltime association with The Register in 1927 it meant relinquishing a boyhood ambition to be a member of the New Haven Fire Department. He was a department "buff," however, all of his life, and eventually he was designated an honorary chief of the department.

He was particularly known in the community for his work with the Register Fresh Air Fund, the Albie Booth Memorial Committee, Farnam-Neighborhood House, and the Boys Club.

A man of warm personality with an infectious sense of humor and a flare for the funny story—particularly about himself and fellow newspapermen—Charlie McQueeney personified The Register for innumerable people in the New Haven area. He was an eager recipient of news "tips" and he had an attentive and sympathetic ear for the ordinary men and women who might drop by his desk for the managing editor's help in preparing a personal news item or an organizational release.

At his retirement in August of 1973, Mr. McQueeney wrote his final "Saturday Journal." The column was in its 11-year span a popular feature of the Saturday Register, and he closed with comments about his appreciation for the "support and encouragement" received through the years—factors that were reciprocated on his part in many community ventures.

"We broke into the business," he wrote, "when The Register was on Crown Street and under the tutelage of a couple of hard-nosed but knowledgeable newsmen, the late John Day Jackson, publisher, and Roger A. Connolly, managing editor, our predecessor who was in the spot for 26 years. We owe much to both and the success we enjoyed can be attributed to their teaching and unrelenting drive."

Similarly, during his dedicated career, Mr. McQueeney was to be the force behind the development of many of the city's newsmen, and he was a familiar figure directing staff members at the scene of many of the major news stories—particularly fires—through the years.

Mr. McQueeney exuded a friendship and loyalty that touched people in all walks of life. He possessed the facility of knowing the names and individual interests of hundreds of people, and this was amply expressed in his "Saturday Journal" columns listing names and extending greetings on special holidays during the year.

He was known personally by a great variety of people—from the news dealer at Church and Chapel Streets to mayors and governors who dropped in to see him when they were visiting New Haven. In one of his columns he mentioned talking to J. Edgar Hoover, the late director of the FBI, only to draw a sarcastic letter from a reader who thought "Charlie" was name-dropping about a luminary he had never actually met. A week later, Mr. McQueeney reproduced in his column a personal note from Hoover.

His friendships extended beyond the area and he was widely known throughout New England newspaper circles. Mr. McQueeney always found particular delight in attending the annual "Banshees" luncheon in New York, a gathering of people high in the news profession as well as headline personalities. His attendance at this New York event was an occasion to renew friendships with those prominent in the news field, while at the same time reflecting his feeling of dedication in being a part of the newspaper business.

Devoted to the Catholic Church, he was warmly greeted by bishops, priests and nuns as he attended dinners throughout the state. Friends riding with him soon learned that he tipped his hat whenever he drove past a Catholic church. Clergymen from throughout Connecticut—large numbers of them non-Catholic—knew him on a first-name basis and sought-out "Charlie" when there was church news to be reported.

On the occasion of his 35th anniversary with the newspaper, Mr. McQueeney was guest of honor at a dinner where he was lauded as a "newspaperman's newspaperman," an apt summary of his life work.

Many time over, Mr. McQueeney was singled out for specific honors by groups and organizations he assisted through the years. He was cited as a man who had made his "mark in life" through his work with the Register Fresh Air Fund, with handicapped Boy Scouts and the Albie Booth Memorial Committee effort to get a new building for the Boys Club.

With his close friend, the Rev. Robert G. Keating, he received the New Haven Chapter of the National Foundation and Hall of Fame 1967 Distinguished American Award. The citation read, "in his role as a trustee of the Fresh Air Fund, Charlie McQueeney has played a big part in helping to provide summer vacations for thousands of underprivileged New Haven youngsters."

A rare form of recognition came to Mr. McQueeney on his retirement when Mayor Bartholomew F. Guida declared Aug. 31, 1973, "Charles T. McQueeney Day" in New Haven. The proclamation, usually reserved for those in public service, stated that the longtime chronicler of the day-to-day activities of the communities served by The Register "made the time, no matter what the pressures, for deep loyalty and solid friendships."

Mr. McQueeney was born Aug. 21, 1909 in New Haven, the son of the late Patrick J. and Margaret Cooney McQueeney. He attended the old Skinner School, St. Boniface School and was graduated from Commercial High School in 1927, starting the same year as a proofreader with The Register.

He was to serve the newspaper as a reporter, state editor in charge of suburban coverage, telegraph editor handling world news, city editor, and starting in 1953, managing editor. He became assistant secretary of The Register Publishing Co. in 1971, and a member of the company's executive committee.

As a trustee of the Register Fresh Air Fund he dedicated himself to annually increasing funds to provide as many campership as possible for underprivileged children of the area.

Mr. McQueeney held office in several journalistic organizations, including presidency of the Connecticut Circuit of the Associated Press from 1963 to 1965.

He was a charter member of Carmel Council, Knights of Columbus.

His civic affiliations included the board of directors of Albertus Magnus College, Highland Heights, New Haven Area Rehabilitation Center, United Fund of Great New Haven, Farnam Neighborhood House, and the advisory board of the Hospital of St. Raphael.

Mr. McQueeney also served as a member of the Citizens Welfare Advisory Committee of the State Welfare Commission and with the State Tuberculosis Appeals Board.

Mr. McQueeney through the years enjoyed the friendship of many members of both the New Haven Police and Fire Departments. He was recipient of honorary chief badges from both departments.

He served as chairman of the sponsoring committee for Handicapped Scout Troop No. 3, under the direction of Mr. and Mrs. Anthony Basilicato of North Haven. A patrol unit is named in his honor.

Among his honors were the 1957 Animal Welfare League Certificate of Merit; the first New Haven County Bar Association Liberty Bell Award in 1965; the 1966 Hibernian's Distinguished Friendship Award; the Governor's Horse Guard "Man of the Year" award in 1968; the 1969 New Haven Club of Providence College Veritas Award; the 1969 American Legion Department of Connecticut Award; the 1970 citizenship award of the Sgt. Stanley Fishman Post, Jewish War Veterans.

Also, the 1971 Jimmy Fund Award—a trophy inscribed "To a Man With a Million Friends"; the 1972 Eagle Man of the Year Award; the 1972 Americanism Award of the American Legion Department of Connecticut; and the Horace Hayden Award of the Connecticut Dental Association.

Besides his wife, Mr. McQueeney is survived by a son, Charles T. McQueeney Jr., and a daughter, Miss Mary Beth McQueeney, both of North Haven; a sister, Mrs. Thomas O'Keefe, of New Haven; a brother, John McQueeney, of Branford, and a granddaughter, Krista. He was predeceased by two brothers, Joseph McQueeney and William M. McQueeney.

MAYOR DECLARES SATURDAY OFFICIAL DAY OF MOURNING

Mayor Bartholomew F. Guida today declared Saturday an official day of municipal mourning in honor or Charles T. McQueeney, retired managing editor of The Register, who died Wednesday afternoon in Yale-New Haven Hospital.

The Board of Aldermen, during a special meeting Wednesday, passed a resolution hailing Mr. McQueeney's many years of service to the community. The resolution said New Haven had "lost from its midst a truly outstanding citizen."

Guida said he was personally grieved at

the death of Mr. McQueeney. "He was a dear friend both to my father and to myself. Our personal friendship goes back over 50 years and my father knew him from the day he gave Charlie his first haircut.

"My father and Charlie's father were in politics together in what was then the old 8th Ward. Our families were close friends and I'll miss him, not only as a friend, but as mayor of the City of New Haven."

Guida expressed a feeling of deep loss for the entire community because of Mr. McQueeney's "involvements in so many humanitarian and charitable causes. Charlie always gave unstintingly of himself to help his fellow man."

He noted that many inner-city youngsters owe him a debt of grattiude for his untiring efforts in behalf of The Register Fresh Air Fund.

Mayor Guida said, "because Charlie always represented the father's image in shepherding his flock—which included everyone he came in contact with—because he contributed so much towards a better way of life for the people of the New Haven area, I hereby declare Saturday, an official day of mourning in our city in memory of this great humanitarian."

An official escort of firemen, policemen and city officials will attend the funeral service.

CHARLES T. McQUEENEY

In his final "Saturday Journal" column on this page, which appeared last Sept. 1, Charles T. McQueeney said of himself after graduation from high school: "We went looking for a job but found a home."

It was a remark that in its self-deprecating way symbolized a lifetime of extraordinary dedication and devotion to the mistress that is journalism. It was a "home" only in the sense that his love for the profession knew no bounds. In a full working career of 46 years, he gave unstintingly of his time; night and day he was at the beck and call of his mistress.

Charlie's love and zeal for the business of gathering and printing news was revealed especially in his unswerving loyalty to The Register as the voice of the press in the community—to many, Charlie was The Register and The Register was Charlie.

To Charlie, getting the story was important, but so was the good of the community as a whole. Sensationalism needed to be balanced against a story's impact on the community or on an individual's life. He was ever aware of the newspaper's role as a forger of attitudes, a rallying point, a salient for the good cause, as well as a bearer of good and bad tidings. Charles, through his many civic social and religious undertakings, forged a unique bond between The Register and the community—and was its personification.

Unrelentingly harsh with the green reporter or errant veteran, Charlie had an often irrepressible compassion for others that led the more discerning to realize that underneath the stern exterior was a deeply-feeling heart. His concern for people and causes had led to a shower of awards and other recognition, throughout his career, from a grateful public.

Charlie's acts of generosity and kindness were seldom on a grand, attention-drawing scale. He preferred the deeds to be small and unnoticed. But his beneficiaries numbered in the hundreds, perhaps thousands. They, as well as those who knew the man under the crusty exterior of a managing editor, will miss him.

OH IT'S WONDERFUL TO BE AN AMERICAN

HON. ROBERT P. HANRAHAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. HANRAHAN. Mr. Speaker, Mrs. B. R. Fitzgerald of Riverdale, Ill., wrote a song in 1955 which tells of her great love for America. I wish to insert her recent letter to me and her lovely song:

RIVERDALE, ILL.

DEAR CONGRESSMAN HANRAHAN: Enclosed you will find a copy of a song that I wrote in 1955. Please place it where all in Congress may read it. For there is no greater country than our beloved America. I enjoy reading all your answers which appears in our local paper (The Pointer).

Sincerely,

Mrs. B. R. FITZGERALD.

OH IT'S WONDERFUL TO BE AN AMERICAN

(Copyrighted 1955 B. R. Fitzgerald)

Oh its wonderful to be an American
and live in a land thats free
To have free speech is a blessing to humanity.
Oh its wonderful its wonderful to look up in the sky
and watch Old Glory flying her colors high.
Each nite I pray God keep our flag flying always
and if the need may ever be
America dear America you can count on me
For I am proud to be an American
and live in a land of opportunity
Bless you America the land of the free
Bless Bless dear America my Country.

INVENTORY OF FREEDOM

HON. TOM STEED

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. STEED. Mr. Speaker, in an editorial observing the 198th anniversary of the United States, the Daily Oklahoman of Oklahoma City had some things to say that are worthy of consideration.

It serves to remind us that eternal vigilance is still the price of liberty, and that our country, in spite of scandals and misfortunes, is still one of the great achievements. As one of the citizens of my district, Mr. Seward E. Robb, commented:

It reminds us of the true value of being an American in 1974.

The text of the editorial follows:

[From the Daily Oklahoman, July 4, 1974]

INVENTORY OF FREEDOM

On this 198th anniversary of the signing of the Declaration of Independence, it seems to be appropriate to note that our country has some of just about everything in the world, good and bad, and to give credit to those responsible for all of it.

We have a great deal of freedom. We may go where we please, work at jobs of our choice, worship as we believe, speak our minds, vote for candidates we favor, and give our children opportunities for education and success in life. We have these freedoms because far-sighted leaders wrote them into our form of government, and millions of Americans have fought to preserve them in peace and in war.

We also have many restrictions, put upon us by those who want to dominate their fellow men, or who demand more than their fair shares of wealth, privileges and power.

The backbone of this nation still is the character of the majority of the people who have faith in God, who uphold moral principles, who support freedom of enterprise, who practice honesty in their dealings, and who vote for integrity in government.

This character is tarnished by a sizable minority who hold to no religion, who practice and advocate spread of immorality, and whose way of life is to cheat in business and steal from the government.

We have a great deal of patriotism, love for country and concern for people. Many flags are flying today because Americans want the world to know that they stand for peace, but are willing to give their lives, if necessary, in the cause of freedom.

Not all of those who benefit from our freedoms hold our country in this esteem. They will desecrate our flag, jeer at patriotic celebrations, and violently abuse law-abiding citizens. They can do these things because lawmakers and courts have lost sight of the rights of the majority in overly-zealous concern for lawbreakers and riotous fanatics.

Millions of Americans will enthusiastically sing "The Star Spangled Banner" and thankfully recite the pledge of allegiance to the flag of the United States of America. Others will deride our anthem, even though none of them has ever composed a finer song or helped to build a better nation. Others may refuse to salute our flag because they are selfishly seeking their own welfare, not appreciating what others have given that they might have.

Our nation has weaknesses and imperfections, but it still has more to offer than other countries. As we take inventory of our freedoms, let us remember that the true seat of government is in the heart of each citizen, rather than in stone buildings in Washington, D.C. It is here that the good things of our country will be preserved and it is here that determination must be made to correct those things that are wrong.

VOTE ON STRIP MINING

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. FRENZEL. Mr. Speaker, because I had to return to my district today, I was not present for the final vote on the strip mining bill, H.R. 11500. Had I been present, I would have voted for the bill and against the motion to recommit.

THE GREAT PAYCHECK RAID

HON. MICHAEL HARRINGTON
OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. HARRINGTON. Mr. Speaker, today I would like to bring a third article in Bill Duncliffe's series, "The Great Paycheck Raid," which appeared in the July 9 Boston Herald-American, to the attention of my colleagues. The following text explores the tax burden on the typical white-collar, middle-income, working family in this country—amply demonstrating that the weight of this burden is something which all of us should seriously consider. Clearly, the conclusion follows that reform is needed desperately—and now.

The text follows:

THE GREAT PAYCHECK RAID—HUSBAND, WIFE CONTRIBUTORS TO SOCIAL SECURITY A "RIPOFF"

(NOTE—Each week your livelihood—and that of every other person in Massachusetts—is being picked apart by a multitude of national, state and local taxes.

But while everyone is aware of how much is taken in withholding and Social Security taxes, few realize how large a slice of their income is being consumed by the many other levies to which they are subjected.

Two typical wage earners opened up their financial records and family budgets to the Herald American in order to explore just how these indirect and hidden taxes hurt them.

What was found—and what it all means, to you as well as to them—is told in this series, "The Great Paycheck Raid.")

(By Bill Duncliffe)

What greatly disturbs a 35-year-old white-collar worker about the inroads which a whole horde of direct and hidden taxes are making on his money each week is the conviction that he and his wife are being overcharged and under-served by their federal and state governments.

But what rankles him still more is the growing suspicion that in one specific tax—Social Security—they may even be getting gypped.

Legally.

And this is how:

Last year, SS took 5.85 percent of the first $10,800 a worker earned. The maximum tax any one wage earner could be hit with was $631.80. He earned $14,475.64—and so he paid the full amount.

Fine.

But his wife worked too, and made $4,552.57—out of which the government took $266.36 in Social Security. Added together, that meant they were dunned $898.16, well above the maximum, on that particular levy.

Yet when they filed their joint income tax return for 1973 they were unable to claim a refund on the overpayment, and the unusually short IRS explanation for that was:

"The tax is computed separately for individuals and not by couples. Therefore, filing a joint return has no effect."

The white-collar worker's reaction to that was even shorter.

"I think we're being ripped off," he declared.

Those with a paragraph-by-paragraph knowledge of the Social Security law say he's wrong—but if he's right he and his wife are being victimized by an even more maddening ripoff right now.

That results from the fact that while the rate for the SS tax remains at 5.85 percent the salary limit is now $13,200. That means his paycheck will be whacked for a new maximum of $772.20, his wife will pay as before—and there's absolutely nothing they can do about it.

What makes the whole deal worse in his eyes is that if he should drop dead tomorrow his widow and infant son would receive benefits only on what he paid into the Social Security Fund.

They'd get nothing of what she contributed—and that, he said, is but one of the reasons why he believes he's being short-changed by those who govern him.

And he just might be right.

Last year, 38 cents of every dollar of personal income in Massachusetts was gobbled up by federal, state, and local taxes, and every working man and woman in the Commonwealth had to work from Jan. 1 to May 1 to meet the dollar demands of government.

The effects of some taxes—like the withholding, Social Security, property, and auto excise levies, for example—were painfully apparent in that all one had to do to see how large a hunk they were taking out of every person's income was to glance at a check stub or a bill.

Both federal and state governments inflict a multitude of other, more subtle, assessments on their citizens and businesses. There are taxes on tires, tubes, and motor oil; on transportation, telephones, and telegrams; on liquor, tobacco, corporations, farmers, producers, distributors, and retailers; on meals, deeds, hotel rooms and racing.

Most of them are paid—eventually—by the ordinary citizen, and their impact is hard to measure.

In an effort to do so, the Herald American asked two taxpayers—the white-collar worker and a $10,000-a-year factory hand—to make their financial records available to us and to discuss them candidly and at considerable length with a reporter.

Both agreed to do so, and what developed was this:

A breakdown of the big bites and little nibbles which all manner of taxes took out of the factory man's $201 paycheck revealed that he was left with slightly more than $100 a week with which to provide for his wife and five minor children.

The white-collar worker was somewhat better off than that—primarily because his income was higher—but he, too, felt the heavy hand of government tugging at his livelihood. This is his story:

Nine years ago, after finishing a hitch in the Army and completing his college education he began working for a medium-sized firm with headquarters near the center of Boston's commercial district. He married, had a son, and gradually saw his salary rise until his check came to $278 a week.

He and his wife wanted, above all else, to own a home of their own, and she went to work in order to help save enough for a down payment. Her job, in a community on the outer fringe of the metropolitan area, paid $87.50 a week. Last year, after putting aside every spare penny for four years, they moved into a $35,000 home in one of Boston's bedroom suburbs.

Their combined salaries came to $365 a week, and ordinarily that would have made it an easy matter for them to get by—but they failed to figure just how much of that would be eaten up by taxes.

To begin with, $46.25 went to the federal government for income taxes and another $17.25 was taken for Social Security. Then the state withheld $15.45 for its income tax.

Those three tabs alone totaled $79.25—and when that was subtracted from their checks their take-home pay was reduced to $286.25.

Both need cars for their jobs; he has a two-year-old medium-price sedan and she drives a foreign car of slightly more ancient vintage. Together, they paid excise taxes of $208—or $4 a week—on them. They burned an average of 35 gallons of gas a week and that meant another $4 in taxes—which brought their income down to $278.25.

"The days of happy motoring are over for us because as far as we're concerned driving isn't a pleasure any more," the white-collar worker said. "The cars are strictly for work, for getting us back and forth from home to the job and for any business driving we might have to do during the day.

"We'll be able to live with the gas taxes (11½ cents on every gallon) as long as they don't go up, but I get upset when I read that some legislators are thinking of hiking the state tax because receipts are down. The price of gas is high enough without it being raised even more.

"And the excise tax—why is it even necessary? They're getting us with taxes on tires, gas, motor oil, and everything else that goes into a car. They belt us with a sales tax when we buy a car, and then we get hit with an excise. We're being taxed everywhere we turn."

He wasn't fully aware, though of how true that was until he took a closer look at his expenses. For example:

Last year's real estate taxes nicked him for $1,255—nearly $25 a week.

When he and his wife moved into their new home they splurged on such things as a new dining room set, color TV, a stove that had enough controls to be hydromatic, a family-sized refrigerator, a dishwasher, and the like. That cost them $143 in sales taxes—or about $2.56 a week.

Those two things took another $27.56 out of their income, and cut it to $250.69.

The white-collar worker likes to keep drinks in the house, to have on hand when visitors arrive. In an average week he bought a fifth of liquor; the federal government's cut on that was $1.68, and the state's was $2.27. He also bought a case of 12-ounce cans of beer. Washington placed a 65-cent assessment on that, and the state's share was about 25 cents.

So it cost him $4.85 in taxes to be a sociable host.

He and his wife smoke, too: each used about two packs of cigarets a day. Since the state taxed them at 16 cents a pack and the federal government added another eight, it costs them 96 cents a day—or $6.72 a week—to indulge in that diversion.

In short, smoking and drinking clipped them for $11.57 each and every week—and reduced their incomes to $239.12.

That taxes were part of his utility bills—and it should be noted that utility companies pass every dime of taxes charged to them on to their consumers—broke down to $2.00 a week for his phone, and $1.50 each for his gas and electricity.

That came to $5, and cut the income he and his wife could call their own down to $234.12—before another large and very much hidden slice was taken out of it.

The white-collar worker tried—and usually succeeded—in putting aside some money out of every paycheck into a saving program. It averaged around $14, which left him and his wife with $220.

That's what they had each week for living expenses. Experts claim that about 20 percent of the cost of anything a family buys can be charged to taxes which the manufacturer, processor, distributor, and retailer are passing along to their customers.

If that's an accurate figure, these hidden taxes took another $44, which left the white-collar worker and his wife with $176—a far cry from the $365 they earned.

That's not bad, but it's not nearly as much as they believe they should be entitled to keep. Neither one beefed about paying a reasonable level of taxes, but both are convinced they and everyone else is being dunned unreasonably hard. And they think they know who to blame for that.

"I don't have any complaint against my town government," the white-collar worker said. "I believe the people there are doing the best they can with a bad situation. But when I figure what the state and federal governments are taking from us in taxes—and when I see what they're giving us in return—I think we're being cheated."

PENDING DISTRICT OF COLUMBIA BILLS—H.R. 11108

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. LANDGREBE. Mr. Speaker, a number of very important bills will be up before the House next Monday, July 29. As a member of the D.C. Committee, I would like to call the attention of my colleagues to H.R. 11108, the extension of the District of Columbia Medical and Manpower Act of 1970. I was a cosponsor of this bill when it first was introduced last October, but my position has changed due to the enactment of the home-rule legislation late last year.

Briefly, H.R. 11108 is a direct subsidy from the U.S. Treasury to private schools in the District of Columbia.

Since enactment of the home-rule bill last year, however, I can see no justification for such direct Federal subsidies. Even though title III of Public Law 93-198 will not go into effect until January 2, 1975, there is no reason why the moneys appropriated by this bill cannot be administered by and under the authority of the D.C. government. The position of the Department of Health, Education, and Welfare as stated in hearings before this committee ought to be considered:

The critical equity issue that constantly arises with respect to proposals to support private District of Columbia medical and dental schools out of Department of Health, Education, and Welfare appropriations is whether there are overiding reasons of public policy to justify singling out, from the entire universe of private medical and dental schools in the United States, the schools in the District of Columbia for preferential funding treatment from the general revenues of the Nation. We feel that there are no such reasons.

In summary, we believe there is not sufficient justification for special preferential Federal legislation of the kind under consideration today, to assist these particular schools of medicine and dentistry.

If public support is to be provided to these District of Columbia private schools, as it is provided by some States to private schools within their jurisdictions, we would respectfully suggest that this be provided by the District of Columbia government which in this situation occupies a role analogous to that of a State government. The District government is in a position to judge whether the schools' asserted need for such support makes a compelling demand from the city's limited financial resources. . . . Therefore, Mr. Chairman, the administration recommends strongly against enactment of H.R. 11108.

At this point Mr. Speaker, I would like to include the text of a letter from Mr. Frank Carlucci, Under Secretary of Health, Education, and Welfare, to my colleague, Mr. ROMANO L. MAZZOLI. In this letter, Mr. Carlucci reiterates his opposition to the bill, H.R. 11108, and urges its defeat.

THE UNDER SECRETARY OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., July 23, 1974.

HON. ROMANO L. MAZZOLI,
Chairman, Subcommittee on Labor, Social Services and the International Community, Committee on the District of Columbia, Washington, D.C.

DEAR MR. MAZZOLI: We understand that House floor action is now expected on July 29 on H.R. 11108, the extension of the D.C. Medical and Dental Manpower Act of 1970, which provides a special program of assistance for the medical school of George Washington University and the medical and dental schools of Georgetown University.

In advance of consideration of this measure by the House, I would like to reiterate the Department's opposition to it. We have testified against the bill and its Senate companion. Our reason is simple: These schools have received substantial support under the health manpower programs of the Department on an equitable basis with other schools. There exists no special Federal interest in the schools which distinguishes them from all the other medical and dental schools in the United States and warrants the conferring of a special favor.

Moreover, we note that the peer review process which determines the eligibility of schools for funding under the financial distress program disapproved the applications of these schools, using the same criteria applied to all other financial distress applicants.

Consequently, we have recommended that no special legislation for these schools be enacted calling for HEW funding. If the Congress determines that the circumstances of the schools warrant additional support, we have recommended that such support be provided through the District of Columbia budget. We note that the House Committee report accompanying H.R. 11108 has recognized the weight of this argument and itself recommends that special funding for the schools be provided, after the expiration of H.R. 11108, through the D.C. budget. Of course, continued Federal support for all medical schools is now being considered by both Houses of Congress and the D.C. schools will share in whatever programs are finally enacted.

In summary, our position on H.R. 11108 remains unchanged, and I shall be pleased to do anything which would make plain our continued opposition to this bill.

Sincerely yours,

FRANK CARLUCCI,
Under Secretary.

There is one further consideration. The act which would be extended by this bill was enacted in 1970. In 1971 Congress passed the Comprehensive Health Manpower Training Act. Under this act in fiscal year 1973 the Georgetown University Medical School receives $1,447,563; the George Washington University Medical School, $1,047,290; and the Georgetown University Dental School, $859,571. These amounts total $3,354,424, compared with $720,500 that these institutions received under the District of Columbia Medical and Dental Manpower Act in fiscal year 1971.

If H.R. 11108 is passed, these private institutions will be singled out as deserving a double subsidy from the Federal Government, for they will receive funds under both the 1970 and 1971 Manpower Acts.

HISTORIC REENACTMENT

HON. CHARLES ROSE III

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. ROSE. Mr. Speaker, Sunday, July 21, was a historic day in the port city of Wilmington, N.C., in the eastern part of my district. The occasion was the dedication of the customhouse in that city as one of 18 in the Nation as a historic site. But it was more than that. It was the beginning of North Carolina's celebration of the Nation's Bicentennial which is to conclude on July 4, 1976—although it will really be celebrated all of that year.

Guests included Ms. Francine Neff, Treasurer of the United States, Hon. Vernon D. Acree, U.S. Commissioner of Customs, Mr. Herbert Brand, the mayor of Wilmington, Mr. L. D. Strom, regional administrator of the GSA from Atlanta, Rev. Edwin E. Kirton, rector of St. Mark's Episcopal Church, Mr. W. Douglas Powell, chairman of the New Hanover County board of commissioners, and others, including Mr. William J. O'Shea, district director of Customs.

The collection district of Wilmington was established on February 8, 1790, and included all the waters from Little River Inlet to New River Inlet to the north.

On April 16, 1819, a lot on North Water Street, between Market and Princess Streets in Wilmington, was purchased by the Federal Government for the purchase of locating a customhouse on the aforementioned lot. This building fulfilled its function until it was destroyed by fire on January 17, 1840. Additional land was then purchased, such was the flourishing nature of the port of Wilmington, and a new customhouse, designed by John Norris, a noted New York architect of that period, was erected in 1844.

This excellent example of the architecture of that period stood and served until it was demolished in 1915 to clear the land for the structure that still stands until this day. Construction was begun in 1916, but owing to the war raging in Europe it was not completed until 1919. It then functioned as the customhouse, appraiser's stores, and the Federal courthouse, making it the third known customhouse to exist on the same site overlooking the Cape Fear River.

A unique architectural feature of the building is the incorporation of the design of the front facade of the 1844 structure into the projecting wings of the present building. The details in the metal railings on the second floor, with the American eagle motif are also a replica of the earlier customhouse.

Today the building, which has undergone some modifications over the years, ironically does not house the office of the U.S. Customs; that office was relocated in 1968 at the North Carolina State Ports Authority. But it does house such Federal agencies as the Army Corps of Engineers, Federal district court, naturalization and immigration offices, and Selective Service System.

It was historically significant that the customhouse in Wilmington should be dedicated as a historic monument on July 21, 1974. For 200 years ago on that same date, July 21, 1774, marked the first overt Tar Heel act against the British crown when William Hooper as chairman headed a call by a group of Wilmington citizens for the First Provincial Congress.

The reading of that document was stirringly enacted by William Whitehead, a member of Wilmington's historic district, dressed in the garb of that era so long ago, who played the role of that distinguished patriot and signer of the Declaration of Independence, William Hooper, and read the document with all the fire and fervor of the original, I am told.

The call for the First Provincial Congress opened with this preamble:

PREAMBLE

At a General Meeting of the Inhabitants of the district of Wilmington in the province of North Carolina held at the Town of Wilmington, July 21st, 1774.

WILLIAM HOOPER, Esq.,
Chairman.

"*Resolved,* That Col. James Moore, John Ancrum, Fred Jones, Samuel Ashe, Robert Howe, Robert Hogg, Francis Clayton and Archibald Maclaine Esqrs be a Committee to prepare a circular Letter to the several Counties of this Province expressive of the sense of the Inhabitants of this district with respect to the several acts of Parliament lately made for the oppression of our Sister Colony of Massachusetts Bay for having exerted itself in defence of the constitutional Rights of America.

"*Resolved,* That it will be highly expedient that the several Counties of this Province should send deputies to attend a General Meeting at Johnston Court House on the 20th day of August next then and there to debate upon the present alarming State of British America and in concert with the other Colonies to adopt and prosecute such measures as will most effectually tend to avert the miseries which threaten us.

"*Resolved,* That we are of the opinion in order to effect an uniform Plan for the conduct of all North America that it will be necessary that a General Congress be held and that Deputies should there be present from the several Colonies fully informed of the sentiments of those in whose behalf they appear that such regulations may then be made as will tend most effectually to produce an alteration in the British Policy and to bring about a change honorable and beneficial to all America.

"*Resolved,* That we have the most grateful sence of the spirited conduct of Maryland Virginia and all the Northern Provinces and also the Province of South Carolina upon this interesting occasion and will with our Purses and Persons concur with them in all legal measures that may be conceived by the Colonies in general as most expedient in order to bring about the end which we all so earnestly wish for.

"*Resolved,* That it is the opinion of this meeting that Philadelphia will be the most proper place for holding the American Congress and the 20th of September the most suitable time; but in this we submit our own to the general convenience of the other Colonies.

"*Resolved,* That we consider the cause of the Town of Boston as the common cause of British America and as suffering in defence of the Rights of the Colonies in general; and that therefore we have in proportion to our abilities sent a supply of Provisions for the indigent Inhabitants of that place, thereby to express our sympathy in their Distress and as an earnest of our sincere Intentions to contribute by every means in our power to alleviate their distress and to enduce them to maintain with Prudence and firmness the glorious cause in which they at present suffer."

CONGRESSMAN ASPIN ON RAILROAD REHABILITATION

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. REUSS. Mr. Speaker, my colleague, LES ASPIN, recently introduced two bills, the Federal Aid Railroad Act of 1974 (H.R. 15503) and the Railroad Revenue Act of 1974 (H.R. 15504) which are designed to solve the deterioration roadbed. Tom Wicker of the New York Times in an article on Sunday, July 21, and decay of our Nation's track and 1974, discusses these two important proposals. The text of the article follows:

MAKING TRACKS

(By Tom Wicker)

The French Line has made one of the more melancholy announcements of the summer—that its great passenger liner, the France, will be withdrawn from service after Oct. 25. A veteran of several trans-Atlantic crossings in the France can hardly help wondering why something couldn't be done to preserve this leisurely and civilized means of travel. Must everything be sacrificed to speed and efficiency?

Something is being done, for example, to preserve, perhaps even restore, rail travel in America. Only a few years ago, it seemed as moribund as the France; now, while many problems remain, the vital signs are strong.

Most recently, Amtrak and several states have announced the restoration of some useful routes in the continental rail system, with several others about to be put into service. This is the result of Federal legislation providing that Amtrak must make passenger service available when states demanding it agree to assume two-thirds of any operational losses. Federal funds make up the deficit.

This ought not to be dismissed as a "subsidized" service. In the first place, if the service can be improved enough, there need be no great operating losses; but even if there are such losses, it makes sense that government should help finance a useful and desirable public service, rather than requiring that it necessarily pay for itself or make a profit. The Government does not require that Federal highways make a profit, and it pours huge sums into airport construction and other support to the airlines.

The state-Federal underwriting of operational losses has led to restoration, beginning this fall, of direct New York-Detroit service, via Albany, Buffalo, Niagara Falls and a run through Ontario. New York State also is arranging to underwrite renewed service between New York City and Montreal on the Hudson Valley route (service through Vermont has been restored), and from New York to Binghamton.

Michigan is getting ready to finance a link in a Chicago-Toronto service, Florida is proposing a turbo-train to run along the Gold Coast, and other states have various additional routes under consideration. Thus, many of the gaping holes in the original Amtrak route system may soon be filled and something like a national service provided.

But if that could be swiftly achieved and modern, new equipment provided, Amtrak passengers would still be facing a major obstacle to really good service—as any rider on the lucrative New York-Washington line could testify. On that route, even the comforts of the Metroliners, Amtrak's premier trains, cannot conceal the fact that much of the roadbed is obsolete.

From New York to Boston, the turbo-train does its best, but the roadbed is too elderly and meandering to permit a really competitive schedule. Much of the trackage over which Amtrak's trains must run is literally dangerous; most of it is old and rough, at best; many routes have duplicating tracks; and many are not as direct, as they would be if they had been built to serve contemporary needs.

The fact is that no major intercity rail line has been built in America since the nineteen-twenties. As the railroads have declined, moreover, they have not kept the existing trackage in the best condition. This is a limitation on Amtrak service that Amtrak alone cannot meet; and most of the freight carriers can't either.

Representative Les Aspin of Wisconsin has proposed a means of dealing with the roadbed-track problem that seems well worth consideration. His legislation would set up an Interstate Railroad Corporation that would take over, rehabilitate and maintain the national railroad track sysetm—but not the railroads themselves. Private carriers and Amtrak would continue to operate the trains.

Existing railroad companies could turn their trackage over to the new corporation, or continue to own and maintain it themselves. The trackage turned over to the new system would be "rehabilitated" with the proceeds of a one per cent tax on all surface freight shipments for a six-year period. Long-term maintenance would be provided by a charge of $1 per 1,000 gross ton-miles levied on freight and passenger carrier. Mr. Aspin thinks such a maintenance charge would be less than most carriers now pay for equivalent costs. Carriers retaining their own trackage would have to meet the standards set by the Interstate Railroad Corporation.

There may be other ideas, but Mr. Aspin has grasped an essential point—that Metroliners and Turbo-trains need a decent roadbed if they are to deliver their full potential to the growing numbers of railroad passengers.

LET US MATCH THE DUTCH OUT

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. GAYDOS. Mr. Speaker, the New York Times reported recently that the North Atlantic Alliance has sharply criticized the decision of the Netherlands to cut her NATO forces by 20,000 men.

A communique, the Times said, terms the reduction "unjustified," urges the Netherlands to reconsider and points out that such a "weakening" of the NATO defenses would impose added burdens on other member states.

Perhaps all this is true. But I for one am not going to get too excited about it. The Dutch may be pointing the way for us Americans to ease our own NATO burdens. If the Dutch can cut, then why cannot we? Our forces are there to protect the Dutch and other Europeans. If the Dutch are not interested, why should we be so dutiful?

Many in this Congress have sought over the months to have our NATO com-

mitment lessened on the grounds that we no longer can afford the great expense involved and also that the NATO urgency does not demand our present degree of participation. Senate Majority Leader MIKE MANSFIELD has been one of those trying to bring a sizable U.S. cutback. But the Nixon administration has continued to prevail.

Now we have the Dutch example and I would suggest this solution to our own problem. Let us match every NATO reduction made by a European number. Thus, let us answer the Netherlands 20,000 cut by bringing home that number of Americans. And let us inform the other states that if they want to lower their troop commitments, we will see it as their privilege, but that for every European withdrawn from the NATO forces, we will call home one American.

If this in time should bring about the dissolution of NATO, then the reasons would be obvious. Either the Europeans saw no true need for our being there, or they did not really want our protection. In either case, it would be well for us to be out of there and back home where an increasing number of Americans think our Forces should be kept.

PENDING DISTRICT OF COLUMBIA BILLS—H.R. 15888

HON. EARL F. LANDGREBE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. LANDGREBE. Mr. Speaker, one of the bills being brought before the House next Monday is H.R. 15888, a bill to establish a District of Columbia Community Development and Finance Corp. Briefly, this bill would establish a public corporation with its own bonding authority, its own power of eminent domain, and its own power to engage in all sorts of real estate operations. This bill would create, in effect, a city government independent of the city government established by the home-rule bill and independent of the Congress. About the only Control Congress retained over the District of Columbia government in the home-rule act was control over capital expenditures. This bill would surrender that control to an independent corporation that would rival the District of Columbia government in its authority.

In his testimony before the District of Columbia Subcommittee on Business, Commerce and Taxation, Mr. James G. Banks, assistant to the Mayor for housing programs, said:

We also do not support the provision in the bill which gives the Corporation the power to issue its own bonds. The City can use its power to issue bonds to raise funds which may be required by the Corporation.

But the bonding authority Congress would be granting to this corporation would not be the greatest power it would possess. It would also have an almost unlimited power of eminent domain, a power that can be exercised without the approval of Congress.

I consider granting such authority to an independent corporation utterly foolish. Congress would be surrendering control over the federal district to a corporation which will proceed to distrupt the economy of the District, and expropriate the private property of the residents and businesses in the District. In his testimony Mr. James Banks said:

We suggest that the power of eminent domain be deleted from the bill.

He continued:

Placing planning, programming and budgeting within the Corporation would create another orbit of policy control outside of the City Government. The bill states only that the Corporation should "consult" with District agencies in the development of its plans. This does not require the Corporation to conform with other District departments' plans and programs. The bill should clearly provide that the Mayor is responsible for community development planning and that the Corporation's activities and projects will be designated in the Mayor's plans.

The bill makes no requirement for periodic audit of the corporation's operations; it would allow the corporation to hire an unlimited number of employees without regard to Federal or D.C. salary scales; it contains no language that explains the corporation's relationship with the already existing D.C. urban renewal agencies.

In conclusion, I ask that a letter from Mr. Richard Wolf et al. be printed in the RECORD at this point, for it is an excellent and concise critique of H.R. 15888. I urge the overwhelming defeat of this bill, for the good of the people of the District of Columbia, and the Government of the United States

The letter follows:

JULY 23, 1974.

Re: H.R. 15888, D.C. Community Development and Finance Corporation.

HON. MEMBER OF CONGRESS,
U.S. House of Representatives,
Washington, D.C.

DEAR MEMBER OF CONGRESS: We wish to bring to your attention our views regarding proposed legislation to create a District of Columbia Community Development and Finance Corporation which has been recently reported out by the House District Committee. We are a group of citizens and citizen organizations who have taken active roles in zoning and planning issues in the District over the past few years. Our names and organizational affiliations appear at the end of this letter.

Let us say at the outset that we are most concerned regarding the limited extent of citizen participation in the development of this legislation. The hearings before the Stuckey subcommittee were announced on such short notice that many civic groups and individual citizens who would have wished to testify never learned of them until after they were held, and others who did attempt to appear were told that the witness list was closed. As a result, the committee heard a very one-sided and, we believe, misleading series of representations concerning the state of economic health and development patterns in D.C.

Nevertheless, we made an effort through a letter similar to this one to inform members of the District Committee of our concerns, and several of our suggestions were adopted. Accordingly, the statement in the Committee report that "No testimony was received, nor statements filed, in opposition to the bill" is not accurate.

Despite these changes in the legislation there still remain a number of problems, some of which were not reviewed thoroughly in our first letter. Therefore, we would like to bring to your attention those issues in this revised bill which we think are of major concern:

This Bill Pre-empts and Complicates the Tasks of the New City Government.

We believe that consideration of this bill at this time is premature. Consideration by the Congress of legislation such as this which can so affect planning and zoning in the District of Columbia as well as touching on crucial questions concerning the effectiveness of such agencies as the Redevelopment Land Agency and the National Capital Housing Authority is inappropriate in view of the home rule legislation recently enacted by the Congress, which gives a newly elected District Government responsibility for these agencies and a mandate to develop comprehensive plans and zoning for the District.

The report on this bill recognizes that the District's past efforts to deal with planning, zoning, and housing in a comprehensive and integrated manner have been either nonexistent or fragmented. Enactment of this bill at this time would further fragment the District's approach to these problems, and thus further complicate the situation for the newly elected city government. In a real sense this bill is putting the cart before the horse because it is creating a solution before the nature and extent of the problem is known.

The Bill Creates Opportunities For Circumvention of Regular Approval and Budgetary Processes

The Corporation is very likely to become a vehicle for back door creation and funding of capital improvements for the District of Columbia. The opportunity to by-pass normal approval procedures for such projects lies in the very broad charter of authority established for the Corporation. It can engage in an unlimited variety of real estate-related and mortgage banking activities using both public and private money. Even though lip service is given in the bill to the development of low and moderate income housing, the Corporation also has the authority to build such projects as convention centers, schoolhouses, office buildings, industrial plants, warehouses, towns, and even streets and highways. And it has specific authority to "construct, manage, or operate any public facility for the District of Columbia government, at its request, and to construct or manage any public facility for any other public body at the request of such body." Sec. 201(a)(18).

For example, a convention center could be approved through the project approval procedure required in the bill and yet not have to go through the budgetary approval cycle because funding was being supplied by the Corporation and private investors—utilizing the Corporation's powers of land assembly, condemnation, and construction to accomplish the task. In turn, the District could end up purchasing the facility through a series of lease-option arrangements and block grants.

Even less visibility for such a project could be gained by the expedient of avoiding project approvals altogether. This could be accomplished by structuring the deal so that the convention center were treated as "physical improvements in which the corporation's primary action is the provision of financial assistance"—an activity which is specifically excluded by the bill's terms from the project approval requirement.

We also believe that such a large scale public facility project would become a natural cooperative venture for the Corporation and the proposed District of Columbia Development Bank (H.R. 7414), particularly where the risks of such a venture for private capital are high.

Another approach to back door public funding and avoidance of any approval requirements is through the authority of the Corporation to acquire land for future development and if "*use or uses programmed for that land are not immediately feasible of attainment to utilize such land for interim use as would not be inconsistent with the objectives of this Act.*" (Italics supplied) Sec. 201(a)(2). There is no definition of "uses programmed" or limitations of time on "interim uses" in the bill.

CONFLICTS OF INTEREST

The bill does not adequately cover the potential conflicts of interest of its directors who will consist of persons in "planning, real estate development, construction property management, finance, and community organization." Sec. 105(b). The bill, in fact, seems to contemplate self-dealing as an integral part of the Corporation's activities. The Directors are merely subject to a requirement that their financial interest in a transaction with the Corporation "shall be disclosed in the minutes of the Corporation and no director having such an interest may participate in any decision affecting such dealing." Sec. 108.

Further, the only detriment incurred by the Director for failure to disclose is that he is subject to personal liability for "any damage to the Corporation resulting therefrom," and the transaction may be declared void. There is no concept in the bill that such self-dealing may be a violation of public trust even though the Corporation may have benefitted financially from the conflict.

Moreover, there is no prohibition against trading to one's financial benefit on the basis of inside information. The opportunities for unscrupulous use of inside knowledge of future activities of a real estate development corporation operating in a limited area like the District of Columbia is, we believe, very real.

We find the bill's sketchy treatment of these potentially explosive problems inconsistent with the Corporation's stated purpose to exercise "public powers" for "public uses" on which "public funds may be expended." Sec. 102(b)(4).

Other Problems

There are many more problems in this bill relating to such matters as condemnation powers, adequacy of relocation provisions, lack of required audits, limited access to corporate information, contracting out of governmental functions and so forth which also deserve your attention but our time and resources do not permit us to analyze them in detail.

In summary, as we said in our first letter, the possible enactment of this bill with the problems described gives many of us, who fought over the years to assure sound planning and adherence to proper legal procedures in connection with development, great concern. The bill would grant great power and very limited accountability to the Corporation. Before making a grant of such broad authority, we would like to know what are the problems that require this kind of approach and why existing agencies can't do the job. We believe these questions need to be thoroughly reviewed by a locally elected D.C. Government before this bill, or anything like it, is enacted.

This statement is endorsed by the following persons (organizational affiliations are for identification purposes only):

John P. Barry.

Mary C. Barry.

Grosvenor Chapman, President, Citizens Association of Georgetown.

Charles J. Clinton, Chairman, Wisconsin Avenue Corridor Committee.

J. George Frain, Secretary, Adams-Morgan Federation.

Christine E. Garner, concerned citizen.

Harriet B. Hubbard, Executive Committee, D.C. Federation of Citizens Associations, Adams-Morgan Organization, Dupont Circle Citizens Association, North Dupont Circle Community Association.

Helen Leavitt, Chairman, Committee on Community Environmental Concerns, North Cleveland Park Citizens Association.

Rosamond E. Mack, Chairman, Zoning Committee, Burleith Citizens Association.

C. N. Mason, Executive Committee and Former President, Chevy Chase Citizens Association, Treasurer, Wisconsin Avenue Corridor Committee.

Catherine H. McCarron, Dupont Circle Citizens Association.

Kay Campbell McGrath, President, Citizens for City Living.

Lawrence A. Monaco, Jr., Chairman, Zoning Committee and Former President, Capitol Hill Restoration Society.

Franz M. Oppenheimer, Chairman, Zoning Committee, Committee of 100 on the Federal City.

Peter G. Powers, Immediate Past President, Capitol Hill Restoration Society.

Thomas P. Rooney and Angela Rooney, Upper Northeast Coordinating Council.

Carol M. C. Santos, President and Former Chairman of Zoning Committee, Capitol Hill Restoration Society.

Richard N. Wolf, Vice President and Chairman, City Planning Committee, Capitol Hill Restoration Society.

This statement is endorsed by the following organizations: Businessmen Severely Affected by the Yearly Action Plan (BSAYAP); North Cleveland Park Citizens Association; Upper Northeast Coordinating Counsel; Washington Circle-West End Associates.

CITIZENS FORUM OF INDIANAPOLIS

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. BRAY. Mr. Speaker, the following editorial from the July 9, 1974, Indianapolis Star speaks for itself:

MAKING BETTER NEIGHBORS

Ten years ago today a small group of people founded Citizens Forum Inc., which has proved to be a remarkably energetic and effective organization for the betterment of Indianapolis neighborhoods and hence of the community at large.

At its top were Mattie Coney and her husband Elmo. They knew where they wanted Citizens Forum to go, and that the way to get there lay through desire and determination.

A brochure published a few years ago describes the organization as a "Better Neighbor" program, "planned basically as an educational effort to encourage good citizenship, individual responsibility, self-improvement, simplicity, truth and Americanism."

"It is biracial, interfaith, nonpolitical in character and aims to work for the good of all."

And that it has done.

Best known of Citizens Forum activities has been the organization of block clubs, whose purposes are to keep neighborhoods clean and orderly and imbue their residents with the spirit of individual responsibility and good citizenship. There are now more than 2,000 of these. Their impact has been tremendous in all kinds of neighborhoods—Negro, white and integrated.

There has been a strong emphasis on work with children. There is a program for "improving the citizenship of children," operating through parent-teacher groups. The "helping hand" project promoted through city and township schools encourages adults to work with children to reduce loitering, vandalism and street crime.

Other projects have ranged from planting flowers and trees to getting rid of rats.

Common threads running through all the programs include down-to-earth practicality and emphasis on voluntary effort and individual responsibility. Citizens Forum has demonstrated over and over again that a neighborhood is what its people make it.

The organization emphasizes that membership and participation in its activities are open to all. "There is only the requirement of a desire for improvement, and everyone is urged to become involved."

We salute Citizens Forum, Mattie and Elmo Coney who have been its sparkplugs, and the thousands of people who have indeed become involved, to the incalculable good of the community.

CALM APPROACH TO IMPEACHMENT INQUIRY

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. ASHBROOK. Mr. Speaker, I received the following resolution from the Crawford County Republican Committees of the State of Ohio. I believe it expresses a calm and fair approach to the impeachment controversy which is on everybody's mind at the present time. I congratulate them for the clarity of their thought. Following is the text of their resolution.

RESOLUTION

We, the members of the Crawford County Republican Committees, State of Ohio, believe the proceedings now before the Judiciary Committee, of the U.S. House of Representatives, relative to the possible impeachment of the President of the United States, calls for an expression of views, constructive thought, objective conclusions and deep feelings.

We believe that the entire situation demands an evaluation of the constitutional process involved, and a constructive attitude which all Americans should take with respect to it.

Impeachment, both by term and interpretation constitutes the most serious step which the Government can take against the Chief Executive Office of our land, the Commander-in-Chief of our Armed and Naval Forces and the unquestioned exponent of United States foreign policy throughout the world. It demands grave and responsible judgment on the part of all Congressmen, as well as sober, judicious and cautious restraint on the part of every American.

We believe all should be concerned, not only with the question of guilt or innocence, but also, whether this question is resolved in a responsible, dignified and fearless manner by those charged with making decisions without partisanship bitterness, rancor or political advantage.

We believe all members of the Judiciary Committee and the House of Representatives should be sure that the basic rules of fair play and justice prevail, that the constitutional concept of innocence, until proven guilty, be rigidly respected and that decisions be made completely free from any and all personal prejudices, and political passions, and that the welfare of the United States of America be the first and primary consideration in all deliberations which are conducted in which the result will be finally concluded.

To that end, we call upon you, all members of the Judiciary Committee and the House of Representatives, to meet your responsibilities with a full realization that only within the framework of fairness, justice and freedom from the pressures and passions of the moment, can a just decision be made.

We further urge, that all Americans, irrespective of party affiliation, to fully comprehend that it is morally wrong to attempt to influence the members of the Judiciary Committee as well as all members of Congress with hasty conclusions, based on the bias of a partisan press, false, misleading, pernicious, libelous, and malicious propaganda, flaming headlines and the biased judgment of zealous partisans.

We must all realize that the decision reached relative to impeachment must be made by our elected representatives, and be based solely on the evidence of record, and within the constitutional definition of impeachment.

We believe that future of our country, the strength of our Government, as well as the survival of our two-party system, which for two centuries has served all Americans of every political faith so well, depends on a rigid adherence to the principles herein enunciated.

CRAWFORD COUNTY REPUBLICAN COMMITTEES.

SALUTE TO PIONEER VOLUNTEERS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. DERWINSKI. Mr. Speaker, I insert into the RECORD at this point an article by Harry "Scoop" Sklenar, editor of the Desplaines Valley News of Argo, Ill. Mr. Sklenar is a veteran reporter in the weekly newspaper field.

As a strong supporter of home rule and local responsibility, I found this editorial one with which I can strongly identify. The article follows:

[From the Desplains (Ill.) Valley News, July 18, 1974]

SALUTE TO PIONEER VOLUNTEERS

(By Harry Sklenar)

There were no revenue sharing funds then.

There were no income tax funds.

There were no sales tax funds.

There were no powerful appeals, merely a need which the Bridgeview residents felt when they pitched in to construct their own village hall with their modest contributions and effort, not with any portion of the estimated $1 million revenue sharing fund which it will take to remodel the structure.

What should hurt the early pioneers who had spent their effort in funds for material, and labor in pouring cement, and willingly put up the building, little by little, is that the plaque which was affixed to the front entrance, giving tribute to that effort has been removed.

The previous village hall, known better as the community building, was also constructed by volunteer effort and resident funds. The people than were proud of their community.

They constructed a third building, the firehouse in Bridgeview Gardens.

The morale was so high in the volunteer fire department that when they needed money for more equipment or pay necessary bills, dances were held and the hat was passed among members for contributions. The bills were paid.

Today, the fire department has a 17 man full time force. That cooperative service, dedication and volunteer effort dropped a bit no doubt, since when the volunteers constructed their own quarters, they took pride in fire service.

The first Bridgeview Fire Chief still lives in the person of Merrille Miller, now township auditor and head of the Bridgeview Friends of the Library unit. Perhaps Merrille can find out just what happened to that plaque which gave tribute to the pioneer resident builders of the first hall and fire station. It could be put on display in the Bridgeview Library as a relic of the past when residents put in hours of effort after their regular jobs to give Bridgeview a monument.

But as time goes on, that monument had to give way for expansion.

When Bridgeview was first incorporated over 25 years ago, it barely reached 79th street. Today it extends into three townships. It had less population than Summit. Today, it is fast exceeding Summit's population.

Building a municipal structure with a $1 million revenue sharing fund is a simple matter. Think of the effort given to build that first hall before all those additions were made.

The determination, patience, and willingness to aid the village without compensation is lost as the population expands with town houses, condominiums, and high rises. Outside of the municipal offices, there are few residents that can name every person living in their block.

What was lost? The neighborliness that went with lending a hand to one goal. What similar volunteer effort is there constructing like structures today? It takes pride in the community to volunteer such effort, and this writer believes that with growth, paved streets, services at a price, that pride loses since seldom one volunteers his own effort to cut weeds in an adjacent vacant lot.

Now, where did you say that memorial plaque was put?

THE 22D ANNIVERSARY OF PUERTO RICAN CONSTITUTION DAY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. BIAGGI. Mr. Speaker, today we mark a most momentous occasion, the 22d anniversary of Puerto Rico's attainment of commonwealth status within the United States. It is a fine opportunity to pay tribute to this great nation who since 1952 has grown enormously in stature and stability irrespective of the turmoil and unrest which has plagued her neighbors in Latin America.

Under her present Constitution which was designed entirely by her citizenry, Puerto Rico has consistently worked to strengthen her bonds of freedom, and maintain her close ties with the United States. Her citizens, who are also citizens of the United States, have benefited from many of the privileges of statehood while maintaining the fundamental right of self-government for their own local affairs. One might say that Puerto Rico has attained the status of an "Associated Free State."

While we recognize Puerto Rico's internal success as a nation, let us not forget the numerous achievements and contributions which the large Puerto Rican community in the United States has made to bettering our Nation. Their accomplishments have been felt in all aspects of our society, Government, business, sports, and entertainment.

Particularly significant have been their contributions to the fields of politics and government. In my home city of New York which has the largest Puerto Rican community outside the homeland, a number of Puerto Ricans have held prominent offices in both municipal and State government. An example of one Puerto Rico's finer public servants is my colleague from New York, Mr. BADILLO whom I salute and congratulate on this day.

The business world has felt the enormous contributions of the Puerto Rican community as after struggling have established numerous businesses assisted by such groups as the Puerto Rican Merchants Association as well as the Small Business Administration.

Puerto Rico has had their share of stars in the sports and entertainment worlds. They have done much to enhance the quality of cultural and visual enjoyment associated with our growing entertainment industry.

Mr. Speaker, it has been my privilege to join with my colleagues in marking this important day on the world calendar. We owe much to the Puerto Ricans in this Nation and salute them on 22 years of unparalleled progress.

At this time I would like to pay a special tribute to my good friend, and colleague, Mr. BENITEZ, to whom the people of Puerto Rico have been so ably served here in the Congress. I salute him, and I wish him years more success in service to the great people of Puerto Rico.

EPA: WHERE ARE YOU?

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. VANIK. Mr. Speaker, Last week I outlined my objections to a report on waste oil recovery which was recently submitted to Congress by the Environmental Protection Agency. I am concerned that the EPA—for reasons I have not been able to understand—has decided to duck the waste oil problem. Essentially, the EPA's report recommends only a reexamination of administrative rulings by the Internal Revenue Service and the Federal Trade Commission which discriminate against re-refined oil. The report contains no coherent EPA policy statement on waste oil recovery.

Mr. Speaker, there is ample evidence to support action to reverse—immediately—both of these rulings. I would like to remind EPA of just a few of these facts.

Item. IRS revenue ruling 68–108—which is the source of the re-refiners tax problem—was issued under a dubious legislative history. Despite the confusion that this ruling has created, the stated

intent of Congress was to protect the re-refining industry. According to the report of the Ways and Means Committee to the Excise Tax Reduction Act of 1965:

For reasons indicated above, your committee concluded that generally the lubricating oil tax was an undesireable tax to continue . . . However . . . your committee also recognized that outright repeal of this tax might also present problems for re-refiners of oil who are not subject to the lubricating oil tax and whose profit margin is generally smaller than the amount of the tax. *Therefore, to repeal this tax outright would drive the re-refiners out of business. This would have the effect of encouraging the dumping of used oil in our streams rather than salvaging it through re-refining* (emphasis added).

Despite this clear statement in support of rerefining, the impact of the tax law has not fulfilled the intent of Congress. One lawyer who has examined the situation in detail has observed:

Even though this legislative history indicates that Congress intended to provide rerefiners with at least a partial incentive, Congress may not have been aware of the disincentive it was actually providing to re-refiners with respect to nonhighway use.

Reversal of IRS ruling 68-108 would restore some measure of the original intent of Congress.

Item. On July 26, 1968, Senator J. Caleb Boggs introduced, with Senators MUSKIE and RANDOLPH as cosponsors, legislation to revise the FTC labeling requirement for used oil. At that time, Senator Boggs outlined the two-pronged obstacle to recycling waste oil: Federal labeling requirements and the excise tax treatment of lubricating oil. Senator Boggs stated, in words that could be used today:

Mr. President, it is the feeling of the cosponsors of this legislation that the situation is so serious that we cannot wait another 18 months before getting a solution to this problem.

Well, we have waited—not 18 months, but 6 years.

Item. In January 1969, Arthur D. Little, a noted research and consulting firm, issued a report entitled: "Study of Waste Oil Disposal Practices in Massachusetts." This is the first comprehensive report on waste oil conducted in the United States. The report stated:

Reprocessing of automotive waste oil for reuse as a lubricating oil is no longer practiced in New England and does not represent an outlet for waste oil generated in the Commonwealth. *Once the major outlet for waste automotive oil, reprocessing to a lube oil has become less competitive and less economically viable because of . . . disadvantageous tax situation as compared to virgin oils; (and) labeling requirements to indicate that the oil was "previously used"* (emphasis added).

Item. Both IRS and FTC rulings were drafted without an analysis of environmental impact. In view of the mandate of the National Environmental Policy Act, these policies should be reversed to facilitate the recycling of lubricating oil. According to section 101(b) of NEPA, it is the continuing responsibility of the Federal Government:

to use all practicable means, consistent with other considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the nation may . . . (6) enhance the quality of renewable resources and *approach the maximum attainable recycling of depletable resources* (emphasis added).

Item. In April, 1971 the State of Maryland issued a study entitled: "Used Oils: A Waste or a Resource?" This report states:

Two factors brought about the decline in the waste oil market. These are summarized below:

(1) In 1964, the Federal Trade Commission enacted a general trade regulation requiring that all lubricating oils sold in interstate commerce which are composed in whole or in part from previously used oils must bear a label disclosing such prior use . . . the labeling requirement of the Federal Trade Commission knocked the bottom out of the re-refined oil market . . .

(2) The *coup de grace* of the oil re-refining industry was administered in 1966. Beginning in that year, the excise tax of 6¢ a gallon imposed on new (so-called "virgin") oil was removed for all oil used in non-highway purposes . . . *These two Federal policy decisions resulted in a significant reduction in the amount of re-refined waste oil* (emphasis added).

Item. On October 6, 1971, I received a letter from Mr. Graham W. McGowan, Director of Congressional Affairs at EPA. Mr. McGowan's letter was in response to my inquiry on the impact of the FTC labeling requirement on waste oil recycling efforts. Mr. McGowan wrote:

Discharges of waste lubricating oil constitute a chronic environmental problem * * * Changes in the Federal Trade Commission's labeling requirements, coupled with other actions, would assist in alleviating the waste oil problem.

Item. In December 1972 the Defense Supply Agency released a report entitled: "Waste Oil Recycling Study." The study states:

The rerefining industry grew steadily after the war and reached an actual capacity of about 300 million gallons by 1960. Since that time, various factors have made it increasingly difficult for the rerefiner to operate in an efficient and profitable manner. Rulings by the Federal Trade Commission and the Internal Revenue Service have contributed to the rerefiners' problem (emphasis added).

Item. An unpublished study of the waste oil problem, prepared for the public interest law firm Tax Advocates and Analyst, has put the problem as follows:

At a time when the disposal of waste oil has become a serious environmental problem, U.S. Government policies, and particularly those of the Internal Revenue Service, are frustrating the technology and industry which can solve it. Instead of of encouraging recycling of used oil, the Government is placing the rerefiner and the consumer of re-refined oil at a decided disadvantage in the marketplace.

Item. Environmental Action in January 1973, published an article by Albert Fritsch's article, "Waste Oil Disposal: Time for a Change," states in part:

Tax policies are considered highly unfair. The Excise Tax Reduction Act of 1965 allowed nonhighway users to claim a 6-cents-per-gallon refund on lubricating oil. The oil re-refiners pay a 6-cent excise tax on virgin oil purchased to be blended with their own stock and cannot claim a credit, nor can their customers. This has placed the re-refiners at an economic disadvantage when selling their processed oil to railroads and other customers.

Dr. Fritsch goes on to point out—

To compound these difficulties, the oil re-refiners have not been able to get their product labeled "recycled" by the Federal Trade Commission (FTC). A stigma is attached to products labeled "reused" or "previously used" which is not connected with "recycled" products.

Item. Senator STROM THURMOND introduced comprehensive waste oil legislation (S. 409) on January 16, 1973. This legislation followed a similar, but less comprehensive bill, introduced by the senior Senator from South Carolina in the 92d Congress. In introducing S. 409, Senator Thurmond stated:

Mr. President, even in view of this problem, very little of this valuable and potentially dangerous oil is re-refined and recycled. The reason is that the Federal government has imposed obstacles and restrictions that actually prevent the petroleum re-refiners from marketing their products in competition with the major oil companies. GSA will not buy it for use in government vehicles; IRS makes off-highway users pay more for it; FTC insists that every can be labeled so that few motorists will buy it; and no one will set oil quality standards and performance requirements that will give the re-refiners a chance to prove that their product can be just as good as the original. This is an incredible series of discriminatory practices which came into existence through a series of unfortunate circumstances.

Item. The Association of Petroleum Rerefiners testified before the Ways and Means Committee in March of 1973.

Mr. Belton Williams, president of the association, offered these comments on the state of his industry:

In 1965, in connection with final consideration of what ultimately became the Excise Tax Reduction Act of 1965, this association again urged the then existing tax not be altered. However, the final bill removed the tax with respect to oils used for off-highway purposes and thereby removed at least one-half the cost differential umbrella for the re-refining industry.

In 1967 the association testified before the Senate Public Works Committee in connection with consideration of anti-pollution legislation. The association pointed out that in substantial parts, because of the partial elimination of its excise tax cost advantage, nearly half of the small businesses in the rerefining industry had been forced to terminate their operations.

In 1971 the association advised all members of Congress that the number of operating plants had again been reduced very sharply by reason of the now inadequate cost advantage. In a survey made only two weeks ago, the association determined that of the 150 rerefining businesses in operation prior to 1965, fewer than 40 still remain operative.

Item. Governor Malcolm Wilson of New York, who is interested in establishing a waste oil recovery program for his State, recently wrote to members of his congressional delegation. Governor Wilson wrote, in part:

I am convinced that restoration of the uniform 6 cents per gallon tax on motor oil, with the continuation of the blanket exemption for rerefined oil, will help significantly to stimulate the rebirth of the rerefining industry in New York State and throughout the country . . .

Item. The Environmental Law Institute, on contract to EPA in connection with the recently published waste oil re-

port, submitted an analysis of the Federal excise tax treatment of lubricating oil—appendix E of the waste oil report. In its analysis, ELI states:

Reversal of Revenue Ruling 68-108 is suggested because, on its face, it places the rerefiners at a disadvantage in the nonhighway lubricating oil market.

Item. The EPA staff which prepared the waste oil report recommended reversal of IRS ruling 68-108. This recommendation did not, however, survive the internal review process at EPA. Nonetheless, on page 87 of the report, we are offered this candid assessment—

The IRS ruling 68-108 should be reversed to permit the non-highway user of re-refined oil to obtain refunds of taxes paid on virgin oils blended with rerefined lubes.

Mr. Speaker, several pieces of legislation have been introduced over the years to deal with the waste oil problem. Aside from the first legislation introduced by Senator Boggs, I introduced legislation on December 2, 1971. This bill was followed by a more comprehensive measure, The National Oil Recycling Act. This measure is cosponsored by over 40 Members of the House.

In the Senate, aside from the efforts of Senator THURMOND, Senator DOMENICI, joined by Senators STAFFORD, MCCLURE, RANDOLPH, and BAKER, introduced S. 3625, the National Oil Recycling Act. In addition, Senator HART has introduced S. 3723, the Resource Conservation and Energy Recovery Act of 1974. This legislation, which has been reported out of the Environment Subcommittee of the Senate Commerce Committee, contains language to revise both the tax treatment and the labeling requirement for re-refined oil.

In view of all this evidence, why has EPA chosen not to act?

SUPPORT FOR CONSUMER REFORM

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. RANGEL. Mr. Speaker, clearly, the issue of consumer protection and reform is one of the most compelling facing us today. At their 68th annual meeting held during the first week of July, the National Association of Attorneys General dealt with this matter in the form of two resolutions. The full text of these statements are now submitted for the consideration of my colleagues.

RESOLUTION ADOPTED BY THE 68TH ANNUAL MEETING OF THE NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

CONCERNING PRIMARY CONSUMER ENFORCEMENT RESPONSIBILITY

Whereas, the Attorneys General of the individual states of the United States of America are in the forefront in the vital area of consumer law enforcement; and

Whereas, the experience and the cooperative efforts of the National Association of Attorneys General in state-to-state, state-to-federal, and state-to-local communications have resulted in authoritative support for upgrading our legislative, investigative, and enforcement procedures; and

Whereas, any diminution of the enforcement authority of state Attorneys General can only result in fragmentation and dilution of efforts to protect the consumer; and

Therefore, the National Association of Attorneys General meeting at Coeur d'Alene, Idaho, on this 26th day of June, 1974, resolves that while the Attorneys General of the States do welcome the cooperation and need the support of all consumer advocate agencies—city, county, regional, and federal, the Association reemphasizes its long standing commitment to the principle that consumer law will be served best if primary enforcement responsibility remains entrusted with the Attorney General for the States.

RESOLUTION ADOPTED BY THE 68TH ANNUAL MEETING OF THE NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

CONCERNING FEDERAL CONSUMER ADVOCACY

Whereas, the National Association of Attorneys General, whose members have provided leadership for consumer protection law enforcement in their respective States, wholeheartedly support the creation of an independent and effective Consumer Protection Agency to afford consumer advocacy at the Federal level; and

Whereas, it is the Association's firm belief that the consumer should be afforded adequate protection through the coordinated efforts of local, state and federal enforcement agencies; and

Whereas, this goal can best be achieved through insuring adequate funding to strengthen each agency's ability to respond quickly to consumer needs,

Therefore, be it resolved, that the National Association of Attorneys General urge the United States Congress to pass legislation which establishes an independent and effective Federal Consumer Protection Agency to afford consumer advocacy involving only interstate transactions and designed to strengthen State and local consumer programs through Federal grants-in-aid, and which would recognize the necessity for maintaining effective control of our consumer protection laws on a state and local level.

Signed this the 26th day of June, 1974, at the Annual Meeting of the National Association of Attorneys General at Coeur d'Alene, Idaho.

U.S. REPRESENTATIVE JOHN D. DINGELL INTRODUCES LEGISLATION TO HALT COURT DECISION POWERS ON ABORTION MATTERS AND TO RETURN SUCH POWERS TO THE STATES

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. DINGELL. Mr. Speaker, the question of the legality or morality of abortions is not an issue to be decided by the Federal Government. Historically, this authority has been reserved to the States under their police power. Nine men on the U.S. Supreme Court have recently determined, most erroneously, that the Federal Government may override State law.

Abortion is a question which quite properly belongs in the State legislative process where the peoples of the States have most immediate access to comment, review, and readily participate in the decision making process. The Constitution gives the Federal Government no power in this area.

I have many times stated my opposition to abortion. I strongly oppose it on moral grounds. I cannot differentiate between abortion and any other taking of human life.

The U.S. Supreme Court decision of January 1973, usurped the States' rights on the abortion issue by overturning all State criminal abortion statutes. In some States, such as Michigan, the U.S. Supreme Court overruled the majority vote of the States' citizens who overwhelmingly agreed by ballot to make abortion illegal in Michigan.

I therefore believe that the U.S. Supreme Court exceeded its jurisdiction, entered into matters properly under the jurisdiction of the States acting under their police power, and injected the Federal Government into matters where it does not properly belong.

I therefore am introducing two pieces of legislation today on the subject of abortion. One is an amendment to the Constitution of the United States which would restore the power of the States to legislate abortion matters. The States, territories, and the District of Columbia would be enabled to allow, to regulate, or to prohibit the practice of abortion.

The second measure is a jurisdictional limitation bill designed to remove from the U.S. Supreme Court and the district courts the power to make any decisions on the abortion issue in any form. It withdraws appellate jurisdiction of the courts to hear appeals regarding "any case arising out of any State statute, ordinance, rule, regulations," relating to abortion.

The text of the two bills follows:

H.J. RES. 1098

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years after the date of final passage of this joint resolution:

"ARTICLE —

"SECTION 1. Nothing in this Constitution shall bar any State or territory or the District of Columbia, with regard to any area over which it has jurisdiction, from allowing, regulating, or prohibiting the practice of abortion."

H.R. 14337

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1259. Appellate jurisdiction; limitations

"(a) Notwithstanding the provisions of sections 1253, 1254, and 1257 of this Chapter the Supreme Court shall not have jurisdiction to review, by appeal, writ of certiorari, or otherwise, any case arising out of any State statute, ordinance, rule, regulation, or any part thereof, or arising out of any Act interpreting, applying, or enforcing a State statute, ordinance, rule, or regulation, which relates to abortion.".

(b) The section analysis at the beginning of chapter 81 of such title 28 is amended by

adding at the end thereof the following new item:

"1259. Appellate jurisdiction; limitations.".

SEC. 2. (a) Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1363. Limitations on jurisdiction

"Notwithstanding any other provision of law, the district courts shall not have jurisdiction of any case or question which the Supreme Court does not have jurisdiction to review under section 1259 of this title.".

(b) The section analysis at the beginning of the chapter 85 of such title 28 is amended by adding at the end thereof the following new item:

"1363. Limitations on jurisdiction.".

SEC. 3. The amendments made by the first two sections of this Act shall take effect on the date of the enactment of this Act, except that such amendments shall not apply with respect to any case which, on such date of enactment, was pending in any court of the United States.

PUERTO RICO CONSTITUTION DAY

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. ROONEY of New York. Mr. Speaker, 22 years ago today I had the great privilege of presiding over this body at the historic session which gave the people of Puerto Rico their status as a Commonwealth of the United States. I shall always be grateful to my dear friend the late Speaker Sam Rayburn for granting me this opportunity. I thought at that time that I had reached the apex of my interest in serving the fine people of Puerto Rico, but today I recognize that that significant event was only the beginning of many years of rewarding association with the esteemed leaders of the Commonwealth. Each year, as I have watched Puerto Rico develop with almost miraculous attainments I have taken personal satisfaction in those successes. I have had the temerity to believe that I have had some share in the expansion of Puerto Rico's future.

Today on this, the Puerto Rico Constitution Day, we can truly rejoice with the hundreds of thousands of Puerto Ricans living here and with millions who now enjoy a greatly improved standard of living on their enchanting island.

As I get closer and closer to the termination of my membership in this body I begin to look less and less at the future and more and more to the past wherein so many rich and rewarding events took place.

One of those great highlights of yesteryear was the successful achievement of Commonwealth status for the people of Puerto Rico. It was the gratifying culmination of months and months of hard work with the fine Puerto Rican leaders who are now revered as Puerto Rican heroes. Such leaders as former Gov. Luis Marin Munoz, the mayoress of San Juan, Dona Felicia Rincon, and his equally dedicated colleagues impressed me as having heroic characteristics even then—long before their adoring countrymen put them on a pedestal. No true observance of this great anniversary would be complete without due recognition of these stalwart mentors of Puerto Rico's destiny.

So, Mr. Speaker, as I join my many friends and constituents in celebrating this important anniversary, I do so with great thanksgiving. I am grateful for the cooperation extended to me and for the inspiration given me by Puerto Rico's magnificent statesmen, all of whom I have known in the past 30 years. I am grateful for the role which I was permitted to play in the birth of a new Commonwealth. I shall treasure always the privilege of helping to assist this young government both as a toddler and through its tricky teenage years. Now I can truly rejoice because it has reached its majority in a remarkable show of mature judgment and dedicated zeal.

I congratulate all those who have guided the Commonwealth of Puerto Rico to its present heights of achievement. I congratulate even more the people of Puerto Rico for their choice and loyal backing of their chosen leaders, all of whom reside on the island of Puerto Rico.

PENDING DISTRICT OF COLUMBIA BILLS—H.R. 15643

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. LANDGREBE. Mr. Speaker, next Monday, July 29, the House will be considering H.R. 15643, a bill to create a land grant University of the District of Columbia. I have already filed a lengthy statement of my views on this bill in the District of Columbia Committee Report. I do not intend to repeat my entire statement here, but I would like to make some of my same criticisms again and to call the attention of my colleagues to the committee report and my full statement against this bill.

I believe that H.R. 15643 ought to be defeated when it comes before the House. I say this not only as a Member of the District of Columbia Committee, but also as a member of the Committee on Education and Labor.

FEDERAL COMMITMENT

Congressional action at this time on H.R. 15643 establishing such a university on the eve of "home rule" implies to me a continuing, specific and larger Federal financial commitment. Section 205 of the bill refers to "the several schools, colleges, campuses, and units of the University of the District of Columbia, which shall include but not be limited to colleges of science and technology, liberal and fine arts, education and professional studies, including graduate programs, and postgraduate programs." Accordingly, it would appear quite clear that in voting favorably on this bill, the House would be committing itself to a broadening of programs, financial aid, and generally to a capital expansion program as the needs are determined by the local government and the Board of Trustees of the University of the District of Columbia. Currently, the proposed capital program for the existing institutions for the next 4 years already exceeds $240 million. A large part of this is provided by the Federal Government.

BUDGET PREPARATION

The budget process is unclear as set forth in this bill, particularly with respect to the role of the Mayor, City Council, and the Congress as compared to the procedure originally set forth in the District of Columbia Self-Government and Governmental Reorganization Act of 1973. But I view it as a "hands off" provision to the Mayor and City Council, such that they are not authorized to make recommendations or comment on the university's budget during the course of the congressional budget cycle. This goes far beyond the authority given the third arm of the District government, the District of Columbia court system, in the Self-Determination Act, section 445, wherein the Mayor and City Council have authority to make recommendations as to the court's budget.

REPROGRAMING AUTHORITY

Reprograming is the transfer of funds from one line item to some other line item or end use as determined by a Federal agency or in this case the University of the District of Columbia.

The reprograming authority in the amount of $200,000 provided for in this bill is excessive in view of the fact that the reprograming authority provided the Mayor and the Council of the District of Columbia under the Self-Determination Act is in the amount of $25,000. In other words, the Board of Trustees of the University of the District of Columbia will have 8 times the reprograming authority that the Mayor and the City Council themselves will have under "home rule." It would appear to me that this would be of major concern to members of the Appropriations Committee who would see this expanded reprograming authority for the University of the District of Columbia as an opening wedge to expand the reprograming authority for the Mayor and the City Council.

The reprograming authority authorized for the University of the District of Columbia should, at a minimum, require prior approval of the Mayor and City Council in the event that Congress is willing to relinquish its prior approval authority as it relates to the reprograming of the University of the District of Columbia's funding.

PERSONNEL SYSTEM

The bill as drafted would allow establishment of a completely independent personnel system for all university employees. What we would be establishing is another government within a government as it relates to personnel policies and procedures for the University of the District of Columbia. Salary levels, retirement benefits, et cetera, could be increased without the approval of the Mayor or the City Council, and inasmuch as this would be done by regulation, it is questionable whether Congress itself would have any review other than to originate legislation to undo what the University of the District of Columbia might adopt by way of regulation. Such

a broad grant of authority would jeopardize the city government's ability to live within a balanced budget, since one part of it, that is, the University of the District of Columbia, would in effect be outside the budget that would have to be balanced. Moreover, the broad grant of authority to the university would create inequities for other city employees, whose agencies are not granted this very special authority.

LABOR-MANAGEMENT RELATIONS

The provisions of this bill, section 206 (b), provide that the board of trustees shall incorporate the provisions of Executive Order No. 70-229 of the Commissioner of the District of Columbia "or similar policies developed by the trustees to guarantee collective bargaining rights of employees subject to this section." In my view this is the broadest kind of delegaton of authority for the board of trustees to engage in collective bargaining with respect to paying salaries fringe benefits such as retirement, et cetera. Also, in my view, it could be interpreted as authorizing the Board of Trustees to engage in binding arbitration between management and employees of the University of the District of Columbia.

Obviously, there would be controversial questions involved if the Board of Trustees were to adopt a regulation that would provide for binding arbitration such that they may or may not try to bind the Council of the District of Columbia. However, as a practical matter, any regulation that they passed which provided for binding arbitration would make it difficult, if not impossible, for the Council of the District of Columbia to refuse to adopt the recommendation or decision of the binding arbitration procedure. Carrying this a bit further, if the Council of the District of Columbia felt it was bound or at least went along with the binding arbitration, it would appear that in effect they would be binding Congress, inasmuch as the District is required to submit a balanced budget to Congress. The question inevitably would be whether the increase in salaries which occurred through possible binding arbitration would be paid out of revenues raised by the District itself or whether they would be paid primarily out of the Federal payment. In any case, if the City Council were bound as a practical matter—Congress would also be bound.

OFFICIAL EXPENSES

The amount proposed in this bill, section 301(b), for expenditure by the president of the University of the District of Columbia in the amount of $25,000 with only a signed certificate as a voucher is, in my opinion, excessive.

The Self-Determination Act allows the level of such allowances for the Mayor to spend to be established by the Council of the District of Columbia. If the Congress is going to set the amount at $25,000 for the president of the University of the District of Columbia, it appears to me we are setting a very poor example for the City Council.

LAND GRANT FUNDS

The amount provided for in section 208 under the act of July 2, 1862, is apparently unlimited since no amount appeared in my copy of this subsection 208(b) of H.R. 15643.

FEES AND TUITION

Under the provision of section 205(h), it appears that the University of the District of Columbia will be able to use the receipts from "fixed fees, in addition to tuition," such that they shall be deposited in a revolving fund and shall be available to the trustees for any purposes which the trustees shall approve without fiscal year limitation. This would appear to me to give unprecedented authority to the trustees of the university.

GIFTS AND ENDOWMENTS

The trustees of the University of the District of Columbia are authorized to accept gifts and endowments and such money is authorized to be disbursed in "such amounts and in such manner as the trustees may determine." It does not appear to me that there is any limitation to this whatsoever. I would consider this to be an excessive grant of authority to the trustees of any university.

Mr. Speaker, I urge anyone who is interested in more informaiton of this bill to consult the committee report and read my dissenting views. I would also urge my colleagues to defeat this bill next Monday.

OUR CRIMINAL LAWS MUST BE ENFORCED

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. BIAGGI. Mr. Speaker, lawmakers, local, State and Federal, have in recent years, attempted to fulfill their responsibilities to their constituents by enacting strong criminal laws designed to help allay citizen fears about the ever-surging crime rate in this country.

Those responsible for law enforcement, particularly the judiciary, have on the other hand systematically destroyed these efforts through lax and lenient methods of imposing and enforcing these laws.

In recent years, this Nation has mourned the deaths of a number of prominent and beloved public figures, including President John F. Kennedy, Martin Luther King, Jr., and Robert F. Kennedy, and most recently, Mrs. Martin Luther King, all of whom died needlessly and prematurely at the hands of depraved criminals in possession of illegal firearms.

New York State currently has one of the strongest gun control laws in the United States which was brought about largely to attempt to combat the dramatic increases in homicides by handgun in that State. Included among the provisions of this law is a penalty of up to 7 years in prison for the first conviction. Yet as good as this law is in theory, thanks to the judicial system in New York State, it has been virtually ineffective in practice.

According to a recent study conducted by the New York City Police Department, only about 1 in 10 cases involving individuals arrested for illegal firearm possession has resulted in the criminal being put behind bars. A further look at this study indicates the virtual ineffectiveness of this law, due to a systematic failure to enforce the law.

Out of 300 cases affecting 342 defendants, who were in possession of a concealed, loaded handgun, a felony, only 182 were convicted, either at a trial or by pleading guilty. Ninety-five, or almost 30 percent of these individuals were acquitted. 8 never faced criminal charges, and some 57 were awaiting trial.

Out of the convictions which were achieved, many of them were garnered through the use of plea bargaining which resulted in these charges being reduced to misdemeanors.

Yet, when examining the penalties which were dealt out in these cases, here we find the most staggering statistics. Less than 20 percent of the convictees received jail sentences. Of those who did almost 80 percent received 1 year or less. Almost 60 percent were merely slapped with fines, or placed on probation.

One must ask? What is the sense of a town council or a State legislature, or even the U.S. Congress enacting strong criminal laws, when the enforcers of these laws are so lax and reluctant to enforce them? The American judicial system has for years religiously upheld the rights of the criminal, at the expense of their obligations to the law-abiding citizens of this Nation who look to the judiciary to use every method at their disposal to get the lawless elements in our society off the streets and behind bars.

Murder, the single biggest crime in this Nation has increased dramatically in recent years. It has affected all segments of the society, rich and poor, powerful and weak. No one group has felt the brunt of these increases more than the brave men who man our police forces across this Nation. In the last 10 years, the numbers of policemen killed in the line of duty has risen by over 200 percent.

How have the judicial systems responded to this? Merely by eliminating the strongest deterrent we have against committing murder, capital punishment which the highest judicial board in the land, the Supreme Court ruled unconstitutional in 1968. By employing such travesties of justice as plea bargaining the most heinous of crimes have been punished by virtual slaps on the wrists.

How long do we as a nation have to wait before we act to curb the growth of crime? Who else, or how many more people, must be killed before we act to change our judicial priorities and begin to fully enforce the laws against those who violate them. We are a nation of laws and not of men, our judges and prosecutors are obligated to enforce and impose the law, and not interpret it to their liking. The laws of this Nation are designed to be applied equally to all, and so are the penalties for those who violate them.

As a former policeman, for 23 years, I have seen firsthand how efforts to uphold and enforce the law have been devastated at the hands of soft judges who

would rather coddle a criminal than punish him.

We must as national legislators continue to enact strong criminal laws. We must also work to insure that equally as strong men and women enforce these laws. Inherent to a strong democracy is strong law enforcement, without it our democracy is indeed in danger.

TRIBUTE TO WAYNE MORSE

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Ms. ABZUG. Mr. Speaker, it is with great sadness that I rise to pay tribute to the late Wayne Morse. It seems as though an era has come to an end with the passing this week of Wayne Morse and the death last month of Ernest Gruening.

The death of Wayne Morse in the middle of a hard-fought campaign is a fitting tribute to his life. He was a battler, a conscientious legislator, and a man who recognized the need for leadership, clear thinking, and clear speaking.

He was prophetically far ahead of his times on the most important issue for the 1960's, the war in Indochina. It was during his struggle to educate other Members of the Congress about the war that I first met Wayne Morse and I always considered him a valuable friend and ally.

But during his career prior to his election to the Senate and in his distinguished 24 years of service to that body, he was much more than a one issue man.

Born on October 20, 1900, Wayne Morse was raised a farmer's son in La-Follette, Wis. He graduated from the University of Wisconsin and received law degrees from both the University of Minnesota and Columbia University. He taught law at Columbia and later at the University of Oregon, where he became dean of its law school in 1931. Morse had developed a thorough knowledge of labor matters and had established a reputation for arbitrating labor disputes with skill and justice. President Franklin D. Roosevelt named him a public member of the War Labor Board in 1942.

In 1944, Mr. Morse was first elected to the Senate, as a Republican, with strong labor support. He was a hard-working outspoken Senator who took his job seriously. He was reelected to the Senate term after term from both parties and, in 1952, as an independent. His election in 1956 was on the Democratic ticket, after vigorous disagreement with the Republican position on the Korean war settlement. A man of integrity, he would never compromise principle for party line.

Wayne Morse openly critcized President Johnson's war policies long before others even questioned them. He was only one of two Senators who opposed the Gulf of Tonkin resolution on August 7, 1964. This was an act of great courage and forthrightness. From that time on, he voted against every piece of legislation, including appropriations bills, that would maintain any American troops in Vietnam. He tirelessly traveled throughout the country speaking out against the war and he vigorously supported Senator Eugene J. McCarthy's candidacy for President in 1968 because of his antiwar platform. Mr. Morse's outspokenness and activism on subjects before they were commonly acceptable exhibited his courage and independence. Senator MARK HATFIELD of Oregon, once said of Mr. Morse:

> His early prophecies and warnings about Vietnam were such that we all owe him a great debt.

Wayne Morse described his own philosophy as one of "constitutional liberalism." He was a strong supporter of the civil rights movement in the early 1950's when to do so was not only unfashionable but sometimes dangerous. He was a firm believer in civil liberties and worked hard on civil rights legislation. He fought for home rule for Washington, D.C., trade unionism, and Federal support for education. In short, he was a fierce fighter for the common people.

Although blunt and outspoken for his beliefs, Morse was well respected by his colleagues as brilliant and conscientious. He was an accomplished legislator with expertise in foreign policy, education, and labor legislation. He managed President Johnson's land-mark aid-to-education bill on the Senate floor and when it passed, Johnson said of Morse:

> No one else could have done it.

Wayne Morse's defeat in 1968 by Mr. BOB PACKWOOD for the Senate was very close. His chances for returning to the Senate this election were considered quite good; he was vigorously campaigning last week when he became suddenly ill. Wayne Morse will be long remembered for his honesty and integrity as a man who truly served the American people. His forthrightness and perspective will be sorely missed.

ONE VIEWPOINT ON OUR CRIMINAL JUSTICE SYSTEM

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. ROYBAL. Mr. Speaker, at the request of one of my constituents, I am inserting the remarks of Justice Macklin Fleming of the California District Court of Appeals, delivered before the Wilshire Bar Association of Los Angeles on July 23, 1974. Even though I do not share all the views expressed in his speech, I find Justice Fleming presented thoughtful arguments for his position.

The remarks follow:

THE PRICE OF PERFECT JUSTICE

(By Justice Macklin Fleming)

The inference of my title, "The Price of Perfect Justice," is not that the price of justice is too high, but that perfect justice is a mirage. In the pursuit of the illusion of perfect justice, we jeopardize and endanger the attainable justice that lies within our grasp. Voltaire made the same point more gracefully when he said, "The best is the enemy of the good." In the field of criminal procedure we see the validity of his observation demonstrated daily.

Viewed as a whole, our system of criminal procedure amounts to a chronic scandal, a scandal which has existed for so many decades its inevitability is assumed. Not so plain are the reasons why this should be so. In my view one basic cause of the scandal is found in our enchantment with the vision of perfectability—our belief that perfect criminal law and perfect criminal procedure lie within reach, and our conclusion that perfection may be attained mechanically through the creation of additional legal machinery. As a consequence of this vision the machinery of criminal procedure tends to proliferate like some blob from outer space dropped into a favorable environment.

Let me illustrate. We have long insisted on the best and most elaborate techniques possible to ensure the perfectability of a criminal *trial*, since the trial puts the defendant's life or liberty at risk. For almost as long a time we have insisted upon the best possible *preliminary examination*, in which everything to be presented at trial is first presented in advance of trial. on the theory that unjustly forcing a man to defend himself in a criminal trial is a terrible thing. In the past few years we have extended the same elaborate methods to the issuance of a *warrant* for arrest, and we require nearly the same procedures and showing for the issuance of a warrant as for a trial, on the theory that an unjust arrest is a terrible thing that should not happen.

Recently, the same ideal of perfectability has been extended to the opening of an *investigation*, and the law has sought to bring interrogation, issuance of subpenas, temporary detention, even surveillance, within the perfection of all possible safeguards, on the theory that to unjustly initiate a criminal investigation into a person's affairs is an intolerable intrusion. Each step in this process appears good in itself. But the net result is that legal procedures appropriate for trial have multiplied themselves into similar requirements for preliminary examinations, for issuance of warrants, and for opening of investigations—with the consequence that a showing of criminal liability in a given matter may be required over and over again. This proliferation of safeguards leads not to perfectability of criminal procedure but to paralysis of criminal legal procedure.

Consider another aspect of criminal procedure—multiple review. As you know, our system of criminal review after trial encompasses possible review by the appellate court, the state supreme court, and the United States Supreme Court. Thus four courts may pass on a given cause. But in addition to a system of appellate review after trial we have what amounts to a system of appellate review before trial and even during the trial itself. We also have a system of constitutional law under which state and federal courts operate concurrently and/or sequentially, upon the same subject matter. The result of this proliferation of legal machinery is that a contested cause of any consequence will—not may, but will—take years for its resolution. The main product of the unresolved cause is the frustration of criminal justice.

Those who believe in perfect justice argue that all this machinery is essential in order to achieve due process of law. They are satisfied with the present system and assume it inevitable to spend in some cases four to five weeks to select a jury, to spend four to five years to resolve a criminal cause, to try the same cause three, four, as many as five times, to indulge a system that permits twelve or more judicial examinations of the

same issue (our machinery has so multiplied that in theory 50 examinations of the same issue are possible). But is this inevitable? We cannot, of course, accurately compare our present system of criminal law with what it might be under other circumstances but it is possible to compare it with the system used in England, the country that invented due process of law and whose fairness of judicial procedure is admired throughout the world. For this purpose I have selected like causes in England and America and compared their disposition. First, the causes of Lord Haw-Haw and Tokyo Rose.

During World War II Lord Haw-Haw (William Joyce) and Tokyo Rosa (Iva D'Aquino) made repeated radio propaganda broadcasts on behalf of Germany and Japan respectively. At the end of the war each was arrested and each was charged with treason. The defense in both cases was similar—at the time of the broadcasts the defendant did not owe allegiance to the prosecuting country. Both defendants were ultimately convicted. But their cases followed quite different chronologies.

1. Joyce was arrested in Austria in May 1945 and the following month he was flown to England and charged with treason. Trial was set for July but was continued to September in order to allow defense counsel further time to prepare. Trial started in September 1945 and lasted about three days, at the conclusion of which the jury found Joyce guilty of treason. In October Joyce's appeal was heard by the Court of Criminal Appeal, and in November that court dismissed the appeal. In December 1945 the House of Lords affirmed the decision of the Court of Criminal Appeal and dismissed the appeal. On 3 January 1946 Joyce was hanged.

2. D'Aquino was arrested and interned in Japan in October 1945, released in October, 1946, and rearrested in Tokyo in August 1948. She was flown to San Francisco and indicted for treason in October 1948. Her trial began on 6 July 1949 and lasted until 30 September 1949, when the jury found her guilty of treason. In October 1949 she was sentenced to 10 years in prison and fined $10,000. She began her sentence in November 1949, but in February 1950 she was granted bail pending appeal by Supreme Court Justice Douglas sitting as a circuit justice. The court of appeals heard her appeal in March 1951 and affirmed the judgment of conviction in October 1951. Her petition for rehearing in the court of appeals was denied in December 1951, her petition for certiorari to the United States Supreme Court was denied in April 1952, and her motion for leave to file a second petition for rehearing was denied on 6 April 1953.

The disposition of Joyce's case from time of arrest to final judgment took less than seven months. The disposition of D'Aquino's case from time of arrest to final judgment took 90 months, a period roughly 13 times as long. If we compare time periods from initial accusations to final judgment the period for Joyce was six months while that for D'Aquino was 54 months, a period nine times as long.

Consider the Great Mail Train Robbery, England's most celebrated cause of the century and the longest criminal trial in English history. That trial lasted 48 trial days. Until very recently the longest murder trial in England was that of Dr. Adams, whose trial lasted 21 trial days. When we examine the disposition of causes of similar notoriety in this country we find such causes as that of the Manson group in Los Angeles, whose trial took 9 months, or the murder trial of Bobby Seale in Connecticut, where selection of the jury alone took 5 months. Selection of a jury to try an English criminal cause normally takes only a few minutes.

You all remember the Sirhan Sirhan case, the assassination of Robert Kennedy and the wounding of five other persons on 5 June 1968 in full view of a dozen or more witnesses, where the principal issue concerned the mental state of the defendant. Sirhan was not brought to trial in a California state court until seven months after the assassination, and in a trial that lasted 46 trial days he was convicted of murder and assault with intent to murder over a principal defense of insanity. Until February 1973 Sirhan's appeal remained pending in the appellate courts. A case involving comparable publicity and comparable issues occurred in England this year, when on March 20, Ian Ball sought to kidnap for ransom Princess Anne and was captured and subdued after a gun battle. On May 23 of this year, some two months after the event, Ball pleaded guilty to attempted kidnapping and attempted murder and was ordered confined to a mental institution for an indefinite period. Disposition of the Sirhan case took 4½ years. Disposition of Ball's case took 2 months and 3 days.

It can, of course, be argued that English law is something special and that because of that country's long tranquility comparisons with England are unfair. Consider Ireland. Last April 26, as a result of an armed robbery committed by four men and one woman, paintings valued at 20 million dollars were stolen from a private house near Dublin. Thereafter demands were made for £500,000 ransom and the transfer of Irish terrorists from British prisons to jails in Northern Ireland. On May 4 Bridget Rose Dugdale, 33-year-old daughter of a British millionaire, was arrested in County Cork in possession of the stolen paintings. On June 25 she pleaded guilty in Dublin to a charge of receiving stolen property and was sentenced to 9 years imprisonment.

Thus, Miss Dugdale's cause was disposed of within 52 days of the date of her arrest. Two other factors caught my attention in this case. First, while it seems highly probable that Miss Dugdale was one of the robbers proof of that charge was apparently not certain and the robbery charge was dismissed in favor of the charge of receiving stolen property. Second, Miss Dugdale enjoyed the opportunity to berate the government that had prosecuted her, and to present IRA propaganda. But her opportunity was not unlimited, for the entire court proceedings were concluded in 2 hours, and Miss Dugdale's oration lasted only 10 minutes. It staggers the imagination to contemplate the length of time it would take in this country to resolve criminal charges involving a millionaire's daughter purportedly acting in a revolutionary cause. In Ireland, the time was less than 2 months.

The relevancy of these comparisons is distressingly simple but one we tend to put out of mind. Justice delayed is justice denied. Long delay in the resolution of a criminal cause frustrates the criminal law function, whose principal purpose is to deter others from future criminal conduct. With loss of speed in the punishment of the guilty person, at least one who has been caught, goes loss of the deterrent effect of the criminal law on the conduct of others. The relationship of crime to punishment as one of cause and effect becomes blurred. Ultimate punishment years later is seen at that time as mere vindictiveness.

How can matters be improved?

I have four suggestions, two relating to state of mind, and two to mechanics of criminal justice.

First, we must try to eliminate procrastination as a way of life in the criminal law. Procrastination is a sin of lawyers, trial judges, clerks, reporters, appellate judges, in brief everyone connected with the machinery of criminal law. When I first went on the bench I was shocked to discover that some lawyers routinely scheduled two to three matters for the same hour, knowing in advance they would be able to fulfill only one of their commitments. Not uncommonly, 12 jurors, several other lawyers, the trial judge, and court attaches, found themselves awaiting the pleasure of a single lawyer tending to other business elsewhere. But I was even more shocked to find the high degree of tolerance for such conduct.

For example, under the rules a felony charge should proceed to trial within 60 days. In Los Angeles County less than half the criminal cases do. A criminal appeal should be resolved within 5 to 7 months of the time of sentence. In this district last year the average time period for criminal appeals from notice of appeal to appellate disposition ran from 12 to 15 months. Procrastination must be recognized for the sin that it is. Once we cease to tolerate procrastination, its use will fall into disfavor and in time acquire the character of unprofessional conduct.

Yet all is not unrelieved gloom. Consider the case of Arthur Bremer, who wounded Governor George Wallace and three other persons in May 1972 and was immediately arrested. Bremer was brought to trial in a Maryland state court within 2½ months of the shooting, and in a trial that lasted 4 days, he was convicted of assault with intent to murder over a principal defense of insanity. His conviction was affirmed on appeal and the Maryland Court of Appeals denied a hearing in October 1973, about 1½ years after the assassination. Thus a case practically identical with that of Sirhan Sirhan went to final disposition in about a third of the 4½ years the later case took.

My second suggestion concerns retroactivity. Under retroactivity when a new rule of law is established, courts decree that everything that has been done before contrary to the new rule has to be done over again. Nothing is more disruptive of an orderly system than to have it regularly torn down because blueprints for a new structure have just come off the drawing board. Undoubtedly in the year 2004 many procedures we use today will be thought primitive by a successor generation and will have been improved upon, but this is no good reason to deny the validity of dispositions of criminal causes made today under the rules now in effect. Unlimited retroactivity means that no judgment is ever final, and nothing is ever adjudicated. It should have no place in the criminal law.

My third suggestion is that a defendant be tried only once to judgment. If on appeal after judgment of conviction the trial is found substantially defective or unfair the judgment should be reversed and the defendant go free. If defects are found in the trial but the defects have not substantially influenced the result, the judgment should stand and become immune from further judicial examination. The occasional mistakes and mishaps discovered after judgment can be cured through executive action and the pardoning power without infringing upon the integrity of the court's judgment. To some of you this proposal may sound revolutionary, but it is actually a return to first principles. The English have always had a system of only one trial to final judgment. Justice Story in 1834 thought the same rule applicable in this country, and it was not until 1896 in the case of *United States* v. *Ball* that multiple trials were sanctioned in the federal courts. One trial would certainly sharpen the responsibility of everyone connected with a criminal cause, trial judge, counsel, witnesses, appellate court, to whom the seriousness of what they were doing would be brought home by realization of its finality.

My last suggestion is that this country adopt a unified system of courts for all criminal and related causes. The past 22 years experience of state and federal courts operating as courts of general jurisdiction on the

same subject matter, either simultaneously or sequentially, has been a disastrous experience for all those connected with the criminal law except those defendants who have used this parallel jurisdiction to frustrate the operation of the law. It seems to me this country has reached a point in its development where serious consideration must be given to the creation of a unified system of courts.

This could be accomplished in two ways. Either the various state court systems operating up to the United States Supreme Court could be retained, and the lower federal courts phased out in the way the federal commerce court and the circuit courts were phased out; or a federal system of courts of general jurisdiction could be created to enforce both federal and state law and the state courts discontinued. A system of state courts is relied upon in Australia, where the state courts are exclusive arbiters of both state and federal law. By contrast, a federal system of courts is the basic system used in Canada, where the provincial judges are appointed by the federal government and enforce both provincial and federal law. Both systems, funnel into a federal supreme court at the apex. I hope that within the next few years legal scholars will study the possibilities of a unified system of courts in this country and propose ways and means to restructure and simplify our judicial system.

To sum up—perfect justice, no; attainable justice, yes. In criminal law, as in church, the holiness of the proceedings should not be equated with the length or repetitiveness of the services.

UNIVERSITIES' INDEPENDENCE ERODING

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. TEAGUE. Mr. Speaker, several articles of late have come to my attention that speak of the increasing infringement by the Federal Government on this Nation's institutions of higher learning.

One of those articles appeared in the Battalion, which is the student newspaper at Texas A. & M. University. That article quotes the president of Texas A. & M. University, Dr. Jack Williams, as saying that the Department of Health, Education, and Welfare's auditing methods "is something akin to harassment." The remainder of Dr. Williams' comments are also disturbing.

I include with the article about Dr. Williams, an additional article that appeared in the Houston Chronicle, Houston, Tex., on June 28.

I commend the articles to you, my fellow Members, and the general public.

The articles follow:

TAMU PRESIDENT TELLS CHAMBER OF COMMERCE: UNIVERSITIES' INDEPENDENCE ERODING

(By Gerald Oliver)

Encroachment of the federal government is resulting in steady erosion of the independence of higher education, said TAMU president Jack Williams in a speech before the Bryan-College Station Chamber of Commerce on Tuesday.

Williams said that universities have been the target for every type of control. He said that the question of which professors will receive tenure may soon be decided at the federal level. The federal government is also imposing quotas on minority groups employed by the university. Williams said no potential employe may be required to have qualifications greater than the least qualified person holding an equivalent position.

In the past the university was audited by the Defense Department. This job has been taken over by the Department of Health, Education, and Welfare. Williams said that HEW auditing "is something akin to harassment."

Williams said that due to 18-year-old rights and recent court cases, the university is losing control over student discipline.

"Bureaucracy is moving steadily to control us in a way Orwell never envisioned in '1948.' My fears are very real and I express them very seriously," said Williams.

[From the Houston Chronicle, June 28, 1974]

MINORITIES HURT FACULTY QUALITY—REPORT

(By Gene I. Maeroff)

NEW YORK.—The affirmative action program by which the federal government is compelling colleges and universities to hire more women and blacks is lowering standards and undermining faculty quality, says a report published today under the sponsorship of the Carnegie Commission on Higher Education.

Lacking an adequate pool of qualified women and blacks for tenured appointments, the 168-page report asserts, institutions are "playing musical chairs," pirating the limited number of minority and women faculty members from each other.

Moreover, it is charged that new minority and women appointees may be paid more than white male faculty members at the same level and that some do not have proper qualifications for the tenured and untenured positions to which they are appointed.

"The whole affirmative action system by which it is determined whether a university is underutilizing women and blacks in tenured positions should not really apply in choosing a medieval historian," Dr. Richard A. Lester, the author of the report, said Thursday. "It is a statistical system that deals more with the hiring of typists, bricklayers or unskilled labor."

Lester is an economic professor at Princeton University and Former Dean of the faculty. The report entitled "Anti-bias Regulations of Universities: Faculty problems and Their Solutions," was one of several projects that were under way when the Carnegie Commission in 1973 completed its six-year, $6 million study of higher education.

His findings are based on the research of others and a study he made of the way in which affirmative action programs were carried out over five years at 20 leading institutions, most of which are among the largest federal contractors in the academic world.

The report is part of a series of research studies by individual scholars or groups of scholars published by McGraw-Hill with the sponsorship of the Carnegie Commission, but separate from the 21 reports issued by the commission itself.

It is urged in the document that the stress on hiring minority members should be accompanied by a more appropriate emphasis on increasing the supply of well-prepared women and blacks with doctoral degrees.

Writing in the book's forward, Dr. Clark Kerr, chairman of the Carnegie Commission, says that Lester warns that affirmative action programs "fail to take into consideration either the inadequate supply of qualified people among those groups currently underrepresented on our faculties or the characteristics of academic employment that distinguish it from employment in industry."

"At stake," Kerr says, "is not only an equitable system of academic employment, but also loss of financial support as government applies economic sanctions to achieve numerical hiring goals that often have little relevance to the character and mission of universities."

The federal government, through the Department of Health, Education, and Welfare, is requiring the 1,500 colleges and universities with various federal contracts to develop affirmative action programs for increasing faculty representation of minority groups and insuring their equal treatment. The groups covered are women, blacks, native Americans, Asian Americans and Spanish-surnamed Americans.

Institutions found to be in violation face a cutoff of federal funds, which run into the tens of millions of dollars for the large universities with extensive research contracts.

Lester maintains that the competition of the institutions for the limited number of qualified minority academicians—a study in "The Journal of Higher Education" estimates there are no more than 3,500 black Ph.D.s in the entire country—has at times driven up salaries "well above those for whites with equivalent or better qualifications."

Dr. Mary M. Lepper, director of the higher education division of HEW's office for civil rights, said she agreed with Lester's criticisms regarding some of the mechanics of the affirmative action program.

"But I take strong exception," she said, "with his basic premise that affirmative action is lowering the excellence of higher education. The charge that women and minorities are not prepared as potentially excellent educators as white males cannot be substantiated.

"We are only asking universities to hire based on men and using standards of merit. There is no doubt that higher education will be the richer for bringing in women and minorities to represent the pluralism that exists in American society."

Dr. Lepper, a former political science professor at California State University at Fullerton, said she was well aware of the supply shortage of minority Ph.D.s cited by Dr. Lepper and that in the future more than half the efforts of her ——— would be directed toward increasing the supply by insuring more equitable treatment of women and minority students.

HAWAII STATE SENATE HONORS DOROTHY ROSE FISHER BABINEAU, "THE BIRD LADY OF LANIKAI"

HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. MATSUNAGA. Mr. Speaker, long before the original Endangered Species Act was passed by Congress, Hawaii had its own unofficial protector of wildlife. She is Mrs. Dorothy Rose Fisher Babineau, affectionately known throughout the islands as the Bird Lady of Lanikai.

Mrs. Babineau, whose unselfish concern for wildlife has since been recognized by the U.S. Fish and Wildlife Service as well as the State of Hawaii, is the founder of a convalescent hospital for wounded birds. Her characteristic concern for living creatures extends far beyond birds, however. She is also a dedicated and highly effective volunteer at Hawaii's Suicide and Crisis Center.

Now writing a book on birds and bird care, Dorothy Babineau was recently

honored by the Hawaii State Senate for her important contributions to the people of Hawaii. I am sure that my colleagues will find of interest the text of the Senate resolution, a salute to an individual who truly cares, and whose efforts have made a real difference to the people of Hawaii. As a gesture of congratulations, I submit the resolution for inclusion in the RECORD:

SENATE RESOLUTION HONORING DOROTHY ROSE FISHER BABINEAU, "THE BIRD LADY OF LANIKAI"

Whereas, among the long list of man's best friends are the fine feathered friends—the birds who bring much joy, pleasure, color and music to the residents of Hawaii; and

Whereas, among the best friends of the birds of Hawaii has been Dorothy Babineau, whose home in Lanikai is, and has been for years, a convalescent hospital for many feathered creatures in the area; and

Whereas, baby birds, middle-aged birds and older birds have all found refuge, solace and friendship in the Babineau bird hospital over the years; and

Whereas, Mrs. Babineau has been involved in the rescue and care of many famous birds, including "Sebastian and Barney" two mynah birds raised from babies, as well as "Scooby Booby", a red-footed booby bird that had been accidentally shot at the Kaneohe Marine Corps Air Station; and

Whereas, Mrs. Babineau has permits from the State and Federal wildlife agencies to treat birds that fall under her protection and is now working on an important book on birds; and

Whereas, Mrs. Babineau has been honored for her volunteer work not only with birds, but for caring for people through the Suicide and Crisis Center; and

Whereas, Mrs. Babineau has made an important contribution directly to the people of Hawaii, by her unselfish care and recognition of the interrelationship between people and wildlife; now, therefore,

Be it resolved by the Senate of the Seventh Legislature of the State of Hawaii, Regular Session of 1974, That this body recognize Mrs. Dorothy Rose Fisher Babineau, the bird lady of Lanikai for her contributions to the State of Hawaii; and

Be it further resolved, That a certified copy of this Resolution be transmitted to Mrs. Dorothy Babineau, 143 Pauahilani Place, Lanikai.

REMARKS OF REPRESENTATIVE HENRY P. SMITH III ON IMPEACHMENT

HON. HOWARD W. ROBISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. ROBISON of New York. Mr. Speaker, I would like to call the attention of my colleagues to the remarks of our colleague, Hon. HENRY P. SMITH III, made in the general debate on impeachment by the House Judiciary Committee on the evening of July 24, 1974.

I may not, ultimately, reach the same conclusion as has my friend and colleague, Mr. SMITH. Nevertheless, his remarks are thoughtful and judicious, and fully consonant with the high standard of workmanship and service that HENRY SMITH—who is retiring from Congress at the end of this session—has brought to bear as a conscientious and valued Member of this body during his 10 years of service here.

The statement of HENRY P. SMITH III follows:

STATEMENT OF HON. HENRY P. SMITH III

Mr. Chairman, ladies and gentlemen of the Committee: I know that we all feel the weight of the historic action we are about to take, after months of diligent inquiry into the question of whether or not the President of the United States should be impeached. It is a solemn duty we have undertaken pursuant to the requirements of the Constitution of the United States. How we decide here, how the House of Representatives may decide if we recommend impeachment, how the Senate may resolve the issue if the House shall vote impeachment of the President, are decisions which will affect our nation in one way or another forever.

I take this opportunity of expressing my respect for the other 37 lawyer members of this committee who have borne the gruelling work of this inquiry for months. And I take this opportunity also to express my respect and thanks to the members of the impeachment inquiry staff and the regular staff members of this Committee for the dedicated professional jobs each and every one of them has done during this historic project. The massive amount of information, documents, testimony and legal precedents they have gathered, assimilated, organized and presented with skill during these months of this inquiry, are almost beyond belief.

The Constitutional duty of this Committee in regard to impeachment, possibly that of the House and possibly that of the Senate, always a sad duty, is a particularly sad one here in that it contemplates the possible impeachment and conviction of a President who has ended our direct participation in a better and divisive war which was not of his making, and who, history may show, has done more than any person now living to bring about peace and brotherhood in this world, through his bold initiatives in establishing communication and bases for understanding with other powerful nations and other powerful peoples, and through his initiatives, carried out by the painstaking and tireless work of dedicated aides, in creating the climate for and the support of a real cease fire in the Middle East and now in Cyprus.

But, even so, if this President has also been guilty of "Treason, Bribery, or other high Crimes and Misdemeanors", then it is the Constitutional duty of the House of Representatives to impeach him and the Constitutional duty of the Senate to convict him. To determine whether there are valid grounds for impeachment has been the duty of this Committee. We have a Resolution and Articles of Impeachment before us and we have for months examined mountains of evidence and listened to witnesses. There is here no charge of treason, so the question is, do we think the President is guilty of the charges of "Bribery or other high Crimes and Misdemeanors"? The President says he is not.

What measure or standard of evidence is necessary for this Committee to say he is or may be guilty? I think it is something more than "probable cause" which is sufficient for indictment by a Grand Jury, and something less than "satisfaction beyond a reasonable doubt" which is required for conviction of a crime. Mr. St. Clair, the President's lawyer, has suggested a standard of "clear and convincing proof," and Mr. Doar, the chief counsel of this Committee's impeachment inquiry staff, appeared to endorse this statement.

Except for one area, I am not satisfied that there has been produced before this Committee "clear and convincing proof" of the President's personal involvement in actions which would be impeachable. The testimony is generally not solid and clear. It raises inference after inference, many negative ones against the President and some positive ones in his favor. But there is precious little solid hard evidence of his personal impeachable misdeeds.

Except for the area of the secret bombing in Cambodia at the President's order between March 18, 1969 and May 1, 1970, where I have not yet made up my mind, I should have to vote against impeachment of the President on the state of the evidence which we have seen. This is why I was delighted today when the Supreme Court ruled 8 to 0 that the President must deliver the tapes and memoranda subpoenaed by Special Prosecutor Jaworski, I believe this means that this Committee will at last have this material available for inspection so we can determine once and for all whether the President is guilty of impeachable offenses or whether he is not.

I think it is absolutely imperative that this Committee make the effort to secure this evidence. I believe that any other course, in the present state of the evidence before this Committee, would be self-defeating and not worthy of the effort which has already goine into this inquiry and investigation.

Thank you, Mr. Chairman. I reserve the balance of my time.

CITY PROBLEMS WITH THE FAIR LABOR STANDARDS ACT

HON. WILLIAM L. ARMSTRONG

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. ARMSTRONG. Mr. Speaker, I would like to point out an unfortunate by-product of the recently passed Fair Labor Standards Act amendments.

The application of overtime and work hour provisions of the 1974 Fair Labor Standards Amendments to State and local governments has created an unfortunate situation for many municipally-owned utilities in the United States, particularly those operating on a 24-hour continuous schedule.

One such case in point was brought to my attention by the mayor of Colorado Springs. Over a period of years, the city and the municipal employees have reached a mutually beneficial, flexible scheduling system—a system which is now against the law.

Mayor Marshall wrote to me, explaining:

The work scheduling for 24-hour operations on a 40-hour week, 8 hour day basis proves to be extremely cumbersome and is generally unacceptable to the employees involved due to the inconsistency of work periods which are felt to be detrimental to the employees' personal plans and results in a reaction of frustration and discontentment to all concerned. The employees formulated their own work scheduling, which not only meets their own personal desires, but also is compatible with operational goals as well. Modifying the 12-hour rotating schedule, previously in effect, to conform to the legal requirements of the Fair Labor Standards Act has resulted in discord and discontent among the employees affected.

In addition, 100 percent of the affected employees petitioned the Colorado Springs City Director of Utilities to avoid compliance with the new Federal law if

at all possible. The following is the text of their petition:

DEAR MR. PHILLIPS: The undersigned operations personnel presently on shift work wish to go on record as being unanimously and bitterly opposed to the proposed legislative changes in our present work schedule. We do not do this as a challenge to the authority of anyone in the City Administration, but simply to make our feelings known in a frank and straight-forward manner.

Most, but not all, Legislators have never worked shift work, and are, therefore, unfamiliar with the unique problems associated with frequent changes of shift. A person accustomed to a 9-to-5 day, five days a week, has no conception of what is entailed in a shift change, and we are not discussing an isolated instance or two. We are referring to the month-to-month and year-to-year schedule that most of us have worked for many years.

We consider the present shift changes as ideal for this plant. Much thought and midnight oil went into its preparation, it covers all shifts fairly and equitably, and is satisfactory to everyone.

The problem of frequent shift changes is one of human body chemistry. It takes several days to adjust your sleeping and eating habits both at the beginning and end of a shift change. After a long run of graveyard, for example, it may take three or four days before a man can sleep at night, and to adjust his meal times. If we are to be expected to change to five-day work week with two days off, serious health and fatigue problems will result, without even considering morale problems.

We urge very strongly that every consideration be given to our request that such changes not be made if at all possible, and we solicit your understanding, support and cooperation in what we view as a very serious matter.

Very Respectfully,

(Signatures.)

Because of these developments, the city of Colorado Springs suggested a modification to the Fair Labor Standards Act which would allow overtime to be computed on the basis of a 4-week period of 160 hours, rather than the present 40-hour, 1-week period.

The bill I have introduced today would amend the Fair Labor Standards Act to allow overtime provisions computed on the 160-hour, 4-week basis—provided the State or local authority and the affected employees both agree on such a system of compensation.

This legislation will allow cities such as Colorado Springs the necessary flexibility in public utility work scheduling while still protecting the rights of the employees.

PENTAGON SEES SAIGON AID CUT TO AMMUNITION, FUEL, AND PARTS

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. SPENCE. Mr. Speaker, last week our colleague from Wisconsin (Mr. ASPIN) expressed alarm at the possibility which he raised that jet fighters sent to Vietnam as military aid are being illegally dismantled and sold for scrap. I am happy to reassure him that the story is without foundation, and that the two reports from Saigon which he inserted in the RECORD are gross distortions of the facts.

An investigation under the direction of our Embassy staff on the scrap pile seizure in the Hac Mon district on May 20 has revealed that all of the items were unserviceable, and were properly demilitarized scrap. This includes the A–37 wings about which such concern was raised. They were legally acquired by the owner from the MACV property disposal office in 1972. A team, including American members of the DAO staff, inspected the items only last week, and has confirmed this.

In showing our colleague that his fears are without foundation, deriving as they do from a totally false story, I hope I am acting in time to prevent the myth of the A–37's from joining the equally untrue stories of the so-called "tiger cages" and the alleged "200,000 political prisoners" in the lexicon of leftwing propaganda.

Far from abusing our military aid, the facts show that the Vietnamese are desperate for it. Faced with a brutal campaign of terrorism and aggression from the Communist forces, in complete violation of the cease-fire agreement, the people of South Vietnam need all possible assistance to defend themselves. I insert the following article by John W. Finney from the New York Times of July 3, 1974, to show that Vietnam will be desperately short of defense equipment in the coming year. The article shows that this may well be limited to fuel and spares, and may place in jeopardy our commitment to replace their losses on a one-for-one basis.

I insert the article in order that my colleagues may appreciate the very real possibility which exists that we might abandon not only our ally, but our honor. The South Vietnamese are in no position to waste our military aid, and in disposing of these untrue stories about the A–37's, we should not forget the very real and continuing need of the Vietnamese people for the means of their self-defense.

The article follows:

[From the New York Times, July 3, 1974]

PENTAGON SEES SAIGON AID CUT TO AMMUNITION, FUEL, AND PARTS

(By John W. Finney)

WASHINGTON, July 2.—United States military aid to South Vietnam in the current fiscal year will probably be limited by Congressional budget cuts largely to ammunition, petroleum and spare parts, Pentagon officials said today.

The State and Defense Departments, according to Pentagon sources, are discussing with the American Embassy in Saigon a sharp curtailment in planned military aid to South Vietnam in the fiscal year that began yesterday.

Based on Congressional actions thus far, Defense Department planners are assuming that Congress will authorize $900-million to $1-billion in military aid for South Vietnam. The Administration had requested a $1.6-billion ceiling on the aid program.

ESTIMATE ON AMMUNITION

The House cut the request to $1.126-billion, the same level authorized for the last fiscal year, and the Senate reduced the amount to $900-million. In an action not yet announced, a House-Senate conference committee has set the ceiling at $1-billion. According to Congressional sources, the House Appropriations Committee, in acting on the defense appropriations bill, is prepared to set the level at $900-million.

The $900-million, according to Pentagon officials, would just about meet requirements of the South Vietnamese for ammunition, petroleum and spare parts. On the basis of the current level of military activity in South Vietnam, for example, the Defense Department had budgeted nearly $500-million for ammunition alone.

The anticipated Congressional cuts, Pentagon officials said, would leave little for the planned new equipment for the South Vietnamese forces, such as tanks, armored personnel carriers, weapons and airplanes.

One of the possibilities, officials said, is that the Administration will have to scrap or defer plans to provide 128 F–5E fighters at a cost of about $200-million. If so, a controversy over whether the United States is complying with the letter of the Paris cease-fire agreements will have been pushed aside by Congressional budget cuts.

Under the agreements, the United States is limited to one-for-one replacement of South Vietnamese weapons that have been destroyed, worn out or damaged. The Defense Department has maintained that the supply of the advanced models of the F–5E fighters represented a replacement of F–5A's provided earlier to South Vietnam and did not represent the introduction of a new weapon into South Vietnam.

Defense officials said that $900-million would be insufficient to finance a one-for-one replacement of weapons losses by South Vietnam.

"AID" VERSUS "INTERVENTION" IN CHILE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. BROWN of California. Mr. Speaker, no American cares to admit that his country, his Government, has contributed to the destruction of another nation's democratically elected government; namely, the Allende government of Chile. Many of us tend to shrink from our responsibility, as representatives of the people, to investigate the extent to which the United States, whether by military or carefully manipulated economic aid, supported the military coup which took place in Chile on September 11, 1973.

Gary MacEoin, the author of many contemporary studies on Latin America, summarizes the current actions being taken by various committees on this problem in the following article which was published in American Report on July 22, 1974:

QUESTION. DID U.S. AID CHILEAN COUP?

ANSWER. GOBBLEDYGOOK—UNINTELLIGIBLE!

(By Gary MacEoin)

NEW YORK.—The strength of U.S. ties to the military junta ruling Chile is getting embarrassingly blatant, thanks to clashes over proposed restrictive amendments to the 1974 foreign aid bill (S. 3394). A movement led by groups concerned over violations of human rights in Chile seeks to cut off military aid to governments which violate generally accepted international standards in their treatment of their own citizens.

One instance of the clash occurred in a June hearing of a House committee in which a probing Congressman elicited a series of extremely revealing non-answers from a State department hard-liner.

HATCHET MAN

The administration spokesman was Harry W. Shlaudeman, Deputy Assistant Secretary of State and a man with a reputation as a hatchet man. He was chief political officer in Santo Domingo from 1962 to 1965, playing a major role in negotiations with Dominicans which led to the ouster of President Juan Bosch, the U.S. invasion and the restoration of the dictatorship. From 1969 to 1973 Shlaudeman was deputy chief of mission in Chile.

Shlaudeman testified the day after the committee heard a statement by Ramsey Clark in which the former U.S. Attorney General had established that the Chilean junta's declaration of a "state of siege" is illegal under the Chilean constitution. Shlaudeman said the State Department position is that the state of siege is legal.

Then Congressman Donald Fraser of Minnesota zeroed in on a portion of Shlaudeman's opening statement asserting that the U.S. government had "adhered to a policy of non-intervention in Chile's affairs during the Allende period."

FRASER. "If it turned out to be a fact that the U.S. channelled money covertly to opposition political parties, would that be at variance with the policy of non-intervention?"

SHLAUDEMAN. "Well, I am not sure. I am not sure that it would be. I would like to think about that. . . ."

FRASER. "Did the U.S. government covertly supply money to opposition political parties following the 1970 election?"

SHLAUDEMAN. "Well, I would like to postpone that question. . . ."

FRASER. "Are you prepared today to deny an assertion that the U.S. funneled money covertly to opposition political parties following the 1970 elections in Chile?"

SHLAUDEMAN. "I am not. . . ."

FRASER. "You do agree that you have some knowledge of the facts?"

SHLAUDEMAN. "Of course I do."

FRASER. "You do know the facts?"

SHLAUDEMAN. "Yes."

FRASER. "On the basis of that knowledge you are not prepare to deny that the U.S. funneled money covertly to opposition political parties after the 1970 election in Chile?"

SHLAUDEMAN. "I would like to be careful about what I say. . . ."

FRASER. "If money went through other political parties such as in Europe and came back to Chile, you would conclude that is a direct form of aid?"

SHLAUDEMAN. "This is getting in a very complicated situation. . . . I would prefer to have the opportunity to make sure that I am precisely correct when I answer."

FRASER. "Would you then be agreeable to returning to the subcommittee after you have rechecked the facts and responding as fully as you can to the question which I have put you?"

SHLAUDEMAN. "I would have to check that, too."

It began to seem that if Fraser asked Shlaudeman the time of day, the witness would defer his answer for clearance by the department. But in further testimony, Shlaudeman did acknowledge that the executive branch is ignoring Section 35 of the Foreign Assistance Act of 1973.

The section called on the President to urge the Chilean junta to protect the human rights of Chileans and foreigners. It also urged the President to support international initiatives, for the protection and resettlement of political refugees and to ask the Inter-American Commission on Human Rights to inquire into recent events in Chile.

"PRISONERS OF CONSCIENCE"

The reason for ignoring this section, Shlaudeman testified, is that the junta has assured the U.S. government that there are no "political prisoners of conscience" in Chile, that all prisoners are being held either for reasons of public security or to be charged with crimes under statutes dating from before the military seizure of power.

At almost the same moment, the several hundred prisoners still being held in the stadium in Santiago were being told by General Bradanovic, Minister of the Interior, that they would soon be moved to quarters more appropriate to the status as "prisoners of war."

LIMITS TO ARMS AID

Proposed amendments to the new foreign aid bill would block aid to Brazil and Bolivia as well as to Chile. The administration wants to increase total military credit sales from $325 million to $555 million.

Sen. James Abourezk (South Dakota) has formulated in two amendments the minimum ingredients for a foreign policy that values human rights. They would make military aid contingent on a government's providing access to international humanitarian agencies; and they would end support for foreign police, paramilitary, internal surveillance, and prison systems.

Congressmen Fraser and Michael Harrington (Massachusetts) are preparing similar amendments in the House, Fraser seeking a general restriction on all violators of human rights, Harrington concentrating on Chile.

Sen. Abourezk is also considering an amendment obligating the President to report to Congress on the status of human rights in any country requesting military aid, a report comparable to an "environmental impact statement."

Congressional investigative units have been concerned with human rights in Chile ever since the junta seized power last September. First was a Senate investigation headed by Edward Kennedy, of refugee and humanitarian issues. Then came a House study of human rights, under Donald Fraser, which established the fact of "widespread torture" in Chile and found "the response of the U.S. government to be lacking in view of the magnitude of the violations committed."

More recently, in May and June, an impressive roster of witnesses gave testimony, most of them just back from on-the-spot investigations. They were unanimous in their condemnation of the junta's continuing violations of human rights.

Several witnesses, including Ramsey Clark, reported on the "show trials" now being conducted, the first trials in the military courts since the junta seized power. They included Charles Porter and Ira Lowe (Fair Trial Committee for Chilean Political Prisoners), Covey T. Oliver, former Asst. Sec. of State for Latin America (International Commission of Jurists), and Judge William Booth of New York. The Clark-Booth study was funded by the National Council of Churches.

In other areas, Richard Fagen, incoming president of the Latin America Studies Association, testified on the violations of academic freedom in Chile, and Professor of Law Newman (Berkeley) reported on the efforts of the UN Commission on Human Rights on behalf of refugees and political prisoners in Chile.

The foreign aid bill is still in committee in both the Senate and the House. The bill may be called on the floor of the House during the last week of July, and in the Senate probably early in August.

I urge my colleagues on the Foreign Affairs Committee to broaden and continue this line of questioning concerning the involvement of the State Department in Chilean activities, and I commend their past efforts.

CONGRESSMAN FRASER'S STATEMENT SUPPORTING ADMISSION OF WOMEN TO SERVICE ACADEMIES

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. FRENZEL. Mr. Speaker, my colleague and neighbor, Congressman DONALD M. FRASER, of Minneapolis, recently testified before Subcommittee No. 2 of the Armed Services Committee in favor of H.R. 10705, permitting admission of women to the service academies.

I have also testified before that subcommittee in support of the same bill and the same cause, and share Mr. FRASER's enthusiasm for equal rights in our service academies.

I commend his statement and invite the attention of all Members to it. Like DON FRASER, I hope the subcommittee and the full committee will speedily pass H.R. 10705 or a similar bill imposing the same concept, so we can provide equality in our armed services.

Congressman FRASER's statement follows:

STATEMENT OF DONALD M. FRASER

Much excellent testimony has already been given on the admission of women to the service academies. It has dealt with many of the issues far more thoroughly than I can. Therefore I am simply going to present a case—something that happened in my district—in the hope that it will make the problem more real to you and speed serious consideration of the question before us.

We were fortunate in Minneapolis this year that four of our first five nominees for an opening to the Air Force Academy were accepted: the principal candidate and the first, third and fourth alternates. Of all the applicants interviewed, our interviewer said that two had the outstanding characteristics he looks for in the people he recommends for the academies. The first, our principal candidate, had excellent college board scores, four years of football, letters in track and wrestling, National Honor Society, boy and eagle scouts, president of the student council . . . the list goes on and on.

The other outstanding candidate was in the top 25% of the class, captain of the tennis team, had three years of swimming, was a racing skiier with a score of gold medals; had participated in debate and forensics, in an institute for talented youth, and a camp to learn how to survive alone in the wilderness living entirely off the land, and had been an exchange student. This was also the only applicant with a background in flying. This applicant, who became our second alternate, had a private sailplane license (and recognition as the youngest sailplane pilot in the State of Minnesota), and several hours of duo in a T-34. Along with this excellent preparation came a very specific ambition: to become a fighter pilot and to qualify for future aerospace programs.

We recommended both these outstanding applicants highly; the first was accepted; the second, the one with flying experience and the only one of our first five applicants to be so, was rejected. Evidently this nominee had reason to write "Please don't disregard this letter and throw it in the trash simply because I am a girl." Her nomination was "returned without action" with a letter saying, "Present Air Force policy restricts admission to males only, and we do not foresee a change in this policy for the class entering the Academy in July '74."

I cannot concur in the Air Force's casual dismissal of our candidate's—we shall call her Mary's—application. I think that this decision would better have been made on individual merit than on blanket characterizations of one sex by the other.

Mary is thus far the best trained of all our candidates. She has prepared herself at her own time and expense specifically for this curriculum. She is also the best motivated of our applicants. Well aware of the difficulties a woman would face, our interviewer questioned Mary closely on her plans: "What would you do," he asked, "if you aren't accepted to the Academy?"

Her answer: She would enroll in the Force ROTC program of the University of Minnesota and work towards a four year nursing degree. Next year she would re-apply to the academy. If denied admission again, she would complete the four year program.

Why nursing? With nursing and ROTC in her background, Mary said, "I can get in the Air Force as a nurse, and if they decide to open up space travel to women, I'll be in the right spot." The interviewer's conclusion: "Mary was the most mature person I interviewed."

I am not here to demand Mary's automatic acceptance into the Academy. I am only here to say it is unreasonable that she was not even given a hearing, that the Academy would not even take action on her application. How unfair it is that General Clark, Superintendent of the Air Force Academy should say that she is "incapable of competition, combative and contact sports, rugged field training, use of weapons, flying and parachuting, strict disciplines and demands to perform to the limit of endurance mentally, physically and emotionally."

He has never met Mary; how does he know this?

I believe it is very possible that Mary could do between three and twenty pull ups, jump between 5.3 and 9.6 feet, make between 35% and 95% of her basketball throws, and run the 300 yard shuttle in less than 67 seconds to satisfy the phylsical aptitude exam for admission to the Air Force Academy. Many women are not capable of the Academy's rigorous physical program; many men also are not. Academy applicants are an exceptional group of young people; the average—regardless of sex—cannot expect admission to these elite institutions.

How particularly unfair that General Clark could say that Mary and women like her will "erode the (Academy's) vital atmosphere." I am offended on Mary's behalf. I think it an insult to any American to assume capabilities inferior to those they possess, and deny privileges and opportunities on the basis of that false assumption.

Many instances from our history belie his remarks: During our war for independence, Mary Hayes was recognized by General Washington at the Battle of Monmouth. Her heroism has come down to us under a generic name, "Molly Pitcher." Another revolutionary soldier, Margaret "Captain Molly" Corbin, was cited for her courage by the Continental Congress after being wounded at Fort Washington. She is buried at West Point.

Testimony before this committee has shown the courage and ability of women under a variety of adverse conditions, such as war correspondents, nurses captured in the Pacific during World War II, etc. Since weaponry progressed beyond the club, the strong have possessed no necessary advantage over the weak. Since the development of the sword, the advantage has gone to the quick and well-coordinated; since the development of the rifle, to the best eye. With the development of a sobering technology of destruction, it is our responsibility to place the capability in the hands of the most stable and most intelligent decisionmakers at every level; neither sex has a monopoly on qualities of that kind.

The armed forces themselves tacitly admit the value of women in their recruiting of women into the services. An article on women in *Occupational Outlook Quarterly* states that—

"Servicewomen are now able to train for many jobs that have not been available to them in the past. While only 35% of all job specialties were open to women in early 1972, the number jumped to 81% in 1973. Women can now train for jobs as construction equipment operators, boiler technicians, military intelligence analysts and missile maintenance mechanics."

The services hope to quadruple the total number of women by 1977, indicating that far from being the near-useless appendages sometimes implied in debate on combat roles, women are important contributors in this profession, despite the restrictive regulations they now face.

Therefore, it seems that the issue before us is not whether women can serve in combat, nor whether they shall be admitted to the armed forces—they already are admitted in ever increasing numbers. The issue is one of sex discrimination: will women be admitted to the ranks, but not the higher ranks?; will men and women hold positions of equal responsibility in the services, or will men monopolize the positions of leadership and prestige to which academy graduation admits them, while women in the military—as in civilian life—continue in jobs that are less attractive, less prestigious and lower paying? You may argue that women have been upgraded, that there are even women generals now, but it is still true that until women are admitted to the academies, the most important route to advancement is denied them.

As I said earlier, I am not here today to demand the Academy accept Mary, only that it consider qualified applicants regardless of sex. Mary recognizes this in her letter of application when she says, "I realize there is a considerable amount of competition, however with my qualifications and the changing of the times, I feel I deserve an equal chance." And that's what I ask here today—for an equal chance—that well-qualified candidates be considered on their merits, not turned down on the basis of arbitrary factors over which they have no control: religion, race, or sex. We ask of the academies that they become blind to the distinction of sex as they have already become color blind.

Not to do so is wasteful to all of us:

It is wasteful to Mary. Her application has already been returned without action once. She is applying to the University of Minnesota, to the nursing program and to A.F. ROTC. She is only willing to re-apply once more; after that the loss of college credits becomes prohibitive and she will lose her chance of attending the Academy. Be very clear: as our interviewer said, "Mary will never be a waste; she will be productive whatever she does."

But women a few years younger will rise faster, accomplish more, find their way easier than Mary because they came to college age when prejudice against women in the academies was overcome, while Mary left high school before we were willing to admit the justice of her case.

Non-admission of women is wasteful not only to Mary, but to the Academy as well. It is losing a valuable cadet, and if lost it can never regain her particular capability, intelligence, dedication and fine training.

Such discriminatory policy is also a loss to Mary's fellow soldiers—both women and men. We are denying them the finest in leadership by automatically excluding half the potential participants in our top leadership program.

An Air Force recruiting billboard in the Midwest anounces in large letters: "Come as You Are", and in the middle of the group of young people is an attractive young woman with an ironic resemblance to Mary. How cynical that while we make an effort to recruit women into the forces—to quadruple their number by 1977—we are denying them access to the best educational program of their profession. We are squandering our human resources.

And finally, non-admission of women is a shameful waste to the country. We are currently searching for recruits for a volunteer army. We need the Aviation Career Incentive Act to attract volunteers for aviation crewmember duties, yet we are disqualifying potential fliers on the basis of sex alone, without considering the merits for each case. As Susan Wells, herself an applicant to Annapolis, testified here on Tuesday, "I believe the country should utilize qualified people disregarding sex." I add to that, how can we obtain 100% results using only 50% of our people?

The Air Force wrote that Mary "Is to be commended for her desire to become a career officer in the U.S.A.F." The letter went on to suggest that I could pass along a pamphlet on Air Force ROTC for women.

But I do not wish to pass it along. Mary is far more knowledgeable than I in the routes through which she may obtain a commission. I wish instead to pass along a letter that says:

"We have carefully considered the letter of applicant Mary Jones and are pleased to—or regret to— inform you that Ms. Jones has been accepted—or rejected—as a cadet in the U.S.A.F. Academy in Colorado Springs."

Until I can give that letter to her, I believe we do a disservice to Mary, to her fellow soldiers, and to the country.

SUPPORT FOR PRESIDENT NIXON

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. LANDGREBE. Mr. Speaker, it is with great pride that I submit for the record two documents which I think accurately reflect the feelings of my constituents and the vast majority of Americans. The first is a resolution which passed unanimously at a meeting last week of the Second Congressional District Republican Central Committee praising President Nixon and recognizing the many good things he has done for America.

The second document is a letter which was sent to President Nixon, again signed by every member of the Second District Central Committee, inviting the President to visit the second district at his earliest convenience.

At a time when the media says such actions of support for the President are not popular, I think that these sincere expressions by prominent Republicans and loyal Americans are of national significance.

Although none of those who signed these documents has ever been contacted for their opinion in the much-quoted "national polls," and although none of them have been quoted in the eastern liberal press, and although none of them have been asked to appear on national radio or television to express their views on President Nixon, in Indiana they are each recognized as community leaders who care about their area, about their

State and about their Nation. These are great Americans in the truest sense of that term—and I believe that their sentiments are closer to the real America than all of the liberal press ramblings will ever be. I submit these historic documents for the RECORD:

A RESOLUTION OF AND BY THE SECOND CONGRESSIONAL DISTRICT REPUBLICAN CENTRAL COMMITTEE OF THE STATE OF INDIANA

Whereas, President Nixon kept his promise of an honorable peace in Viet Nam; and,

Whereas, President Nixon stopped the killing of our American men in Viet Nam and brought home over 543,000 American troops and prisoner's of war; and,

Whereas, President Nixon ended the military draft after a third of a century; and,

Whereas, President Nixon has drastically reduced crime in our cities; and,

Whereas, President Nixon is combating inflation by working toward a balanced budget and supporting the American free enterprise system; and,

Whereas, President Nixon has made far reaching and unprecedented accomplishments in the field of foreign affairs; and,

Whereas, President Nixon has delivered on his promise of peace with prosperity; Therefore,

Be it resolved by the Second Congressional District Republican Central Committee of the State of Indiana that: Richard M. Nixon, be commended for his many accomplishments as President of the United States. Let it further be known that we, pledge our continued support and dedication to this great American President.

JULY 18, 1974.

President RICHARD M. NIXON,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The Second Congressional District of Indiana has long been considered Republican territory and "Nixon Country".

We further appreciate very much the many good things that have taken place in the Congressional District because of your long standing friendship with our Congressman, Earl Landgrebe. We deeply appreciate your policy of ending the war in Viet Nam and securing a peace with honor. We particularly appreciate your fighting inflation by supporting the free enterprise system and advocating a balanced budget. Also appreciated is the great friendship and loyalty developed between our Congressman and our President.

We have specifically seen this team effort applied to several problems affecting the District, perhaps the most dramatic situation was the proposed C-Selm sewage plan, a project you both opposed and blocked. The latest in a long line of benefits this District has enjoyed from by the Nixon-Landgrebe team is the National Dune Lakeshore completion compromise.

To show our great appreciation for the many things you have done for this Congressional District and this Nation, we wish to honor you by hosting a rally and reception for you and Congressman Landgrebe. Through this rally we wish to show the people of the Second District and the nation the sincere and loyal support you have here in the "Heartland of America". We further feel that your campaign appearance for Congressman Langrebe will assist him in tallying the largest plurality ever accumulated in this Congressional District!

Loyally we remain,

Donald H. Heckard, 2nd District Chairman, Cass County Chairman; Pat Northacker, Tippecanoe Co., Vice Chairman, 2nd District Vice Chairman; E. Dewey Anderson, Starke Co., Chairman; Bill Gee, Marshall Co., Chairman; Helen Johnson, Marshall Co., Vice Chairman; Ed Pratt, Kosciusko Co., Chairman; Pauline Jordan, Kosciusko Co., Vice Chairman.

Annalou Rasborshek, Pulaski Co., Vice Chairman; John Kruger, Pulaski Co., Chairman; Milton D. Storey, Newton Co., Chairman; Lucille Davidson, Newton Co., Vice Chairman; Sandra Culp, Jasper Co., Vice Chairman; Joe A. Vaughn, Benton Co., Chairman; Lillian Goetz, Benton Co., Vice Chairman.

Quentin Blachly, Porter Co., Chairman; Margaret Buchanan, Porter Co., Vice Chairman; Syd Garner, 2nd District Representative, Lake County; Martha Collins, 2nd District Representative, Lake County; William L. Altherr, White Co., Chairman; Leona Wright, White Co., Vice Chairman; Clyde Lewis, Tippecanoe Co., Chairman.

Louise Van Horn, Starke Co., Vice Chairman; James Beaver, Jasper Co., Chairman; Lois Wright, 2nd District Representative, LaPorte Co.; Ray Sheely, 2nd District Representative, LaPorte Co.; Joni Wilson, 2nd District Representative, Cass Co.; Thom Wertenberger, Wabash Co., Chairman; Mrs. Bette Reed, Wabash Co., Vice Chairman.

IMPEACHMENT

HON. ROBERT P. HANRAHAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. HANRAHAN. Mr. Speaker, the impeachment issue is getting hotter and hotter every day. Now television coverage has begun and all citizens can observe the Judiciary Committee in its investigation. For the interest of my colleagues, I would like to insert the following articles from the Washington Post and Wall Street Journal respectively:

[From the Washington Post, July 19, 1974]

BROADCASTING THE IMPEACHMENT DEBATES

By approving Rep. Wayne Owens' resolution to permit broadcast coverage of open committee meetings in the House, the House Rules Committee has taken the first important step toward letting the entire nation witness first-hand the momentous impeachment debates which begin next week. The full House must still approve the Owens measure, and then the Judiciary Committee itself must agree to let the cameras in. But both hurdles can be cleared easily if enough members recognize the utility of providing direct, complete nationwide coverage of these historic events.

The key question is how much the nation should be able to learn about congressional deliberations on the impeachment of the President—the committee's actions, the House floor debates and, if the House votes for impeachment, the Senate trial. If tradition prevails and broadcasting is barred, the only direct observers of these proceedings would be the few members of the press and public who can squeeze into the chambers. The rest of the nation would be blacked out. Fortunately, more and more legislators are coming to realize how unwise such restrictions on communications would be. In addition to the Rules Committee's 10–3 vote, Rep. Sidney R. Yates (D.-Ill.) now has at least 87 cosponsors of his resolution to authorize live broadcasting of the House impeachment debates. So far, however, Speaker Carl Albert and Majority Leader Thomas P. O'Neill have failed to exercise any leadership toward enlarging public understanding of the actions of the House.

There is still some congressional uneasiness about the possible effects of full coverage. Some feel, for instance, that the presence of the cameras is inherently disruptive, but this is not necessarily the case. The major networks, including public broadcasting, have pledged that, if permitted to cover the sessions, they will do so in decorous and unobtrusive ways. This would probably mean continuous coverage without any arbitrary interruptions, using relatively soft lights and fixed cameras. There need not be any reporters cluttering the chamber, any panning of the audience, or any of the other techniques which could create an unseemly convention-like atmosphere.

The next question is whether, no matter how well the broadcasters behave, the fact of being televised would alter the legislators' demeanor. Some suspect that, with the cameras on, some representatives might be tempted to grandstand, to engage in histrionics, or otherwise trifle with the solemn undertakings. That danger always exists. But continuous broadcasting could well be a steadying, restraining force, since all members would know that their constituents are watching how they carry out the most important duty of their political careers.

Another problem of possible distortion has been raised, especially by Republicans such as Rep. Delbert Latta (D-Ohio) who worry that the networks might not be "fair." But this is really an argument for more comprehensive coverage, not less, since the dangers of distortion or over-simplification by the media would be greatest, one would think, when the public is forced to rely entirely on compressed, selective reporting through the printed press and broadcast summaries. The more voluminous the evidence, the more intricate the debate, the more ambiguous a few particulars may be, the more important it becomes for the entire nation to have every opportunity to watch the arguments, to hear the tapes, and to weigh for themselves the presidential conduct which is being judged—and the conduct of the Congress sitting in judgment.

The notion that the nation should be watching these events continues to trouble some, mostly lawyers and mostly outside Congress, who equate impeachment debates with criminal proceedings from which broadcasting has traditionally been barred. That analogy does not stand up. However judicious impeachment ought to be in its procedures and findings, it is not, strictly speaking a judicial process. It is a political process in the most basic constitutional sense, it is the means by which the people's elected representatives assess alleged abuses of the public trust. Public opinion as reflected in the mail or polls should not be the decisive influence on any member's vote. But in the long run popular opinion will provide the ultimate judgments on the outcome and the way in which it is reached. Thus it is in the best interest of everyone for Congress to give the public every opportunity to be fully informed at every stage of the process, by permitting the full, nationwide airing of the debates ahead.

[From the Wall Street Journal, July 22, 1974]

IMPEACHMENT POLITICS

Not the least of President Nixon's problems stemming from Watergate is that it has colored his critics' way of looking at just about every move he makes. Everything from trips to the Middle East and Russia to his visit to the Grand Ole Opry is interpreted as largely a bid to stave off impeachment.

The most notable recent example occurred after the House of Representatives killed a land-use bill last month. Sponsor Morris Udall wasted no time denouncing White House withdrawal of promised support for the bill. "The President is grandstanding for

the right wing," he declared. "He's giving in to them on every major issue. This was straight impeachment politics."

Almost immediately, commentators echoed the "impeachment politics" theme. Almost no one bothered with the White House explanation that the bill provided too strong a role for the federal government. And none bothered to speculate whether Mr. Udall's pique may have had anything to do with the fact that the bill was killed largely through efforts of Representative Sam Steiger, a fellow Arizonan and a potential Udall rival for higher political office. Interestingly, when Congressman Udall was asked by The New York Times for evidence that impeachment politics led to the death of his bill, he was unable to produce any.

As a matter of fact, the Times survey turned up almost no one who could cite evidence that President Nixon has been tailoring legislative tactics and dealings with individual Congressmen to win support against impeachment. Neither the Democratic leadership nor rank-and-file congressional critics could cite any examples of impeachment lobbying, although some—apparently through intuition—continue to insist that Mr. Nixon is playing impeachment politics for all it's worth.

In a very general sense, of course, the claim is not without plausibility. Politicians are playing some sort of politics almost all of the time and "impeachment politics" is as good a description as any of the President's efforts to mend fences in Congress. There would be some cause to worry over a politician who wasn't trying to prevent himself from being impeached.

But it is something else to contend that the President is reversing his own positions and violating his own principles to buy votes in Congress and save his skin. A decision to leave land use to the states is not exactly contrary to the principles of a President who has made a motto of "The New Federalism." Unless the President's critics can come up with more plausible evidence, someone might get the idea that it is they, not the President, who are more involved in impeachment politics.

A CHICAGO POLICEMAN'S VIEWS ON HANDGUNS

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. ROSTENKOWSKI. Mr. Speaker, a basic freedom of the citizens of the United States should be the right to enjoy public streets, parks, and transportation facilities without the constant fear of bodily harm. In recent years this freedom has been increasingly threatened by the unlimited supply of handguns. I have in this Congress again introduced my bill, H.R. 3167, which would sharply curtail the availability of handguns by banning their importation, manufacture, sale, or transportation with a few minor exceptions.

An article appeared in the June 23, 1974, Chicago Tribune written by Richard Rae, a lieutenant in the Chicago Police Department that, in my opinion, reinforces the need for handgun legislation. I hope that the reading of Lieutenant Rae's article will help to convince my colleagues that further delay on this matter can only deepen the fears of those of us who are living in a handgun dominated urban society.

The text of Lieutenant Rae's article is as follows:

THE REAL VILLAIN IN URBAN CRIME: GUNS

(By Richard Rae)

It was just a small article in the back pages of one our major newspapers. It described the arrest of two men who had been charged with murdering a 24-year-old man as an outgrowth of a dispute. The victim had been shot down by a .22-caliber automatic pistol.

Fortunately, the police were able to take the alleged offenders into custody. The "front line infantry" had comported itself effectively and even valorously. It could take credit for success in what would have to be, in the broad overview of criminality and its containment, a "minor" skirmish.

Meanwhile, the County Morgue had garnered another "statistic" and our public laws which permit dangerous psychotics, drug addicts, juveniles, alcoholics, terrorists and assassins, to acquire handguns with relative ease—or complete ease, depending upon which part of the country one is in—had remained absolutely unchanged.

The gun-lobby continues to dictate policy to the American people rather than the other way around.

After 22 years of active police service, most of this time spent in the city's highest crime rate areas. I can state flatly and unequivocally that the mere availability of firearms, and especially handguns, is a crucially significant factor in the genesis of most of the gore and terror that has stained our city and has made mere urban existence a nightmare for millions of innocent people.

I've been there as have thousands of other police officers:

The 13-year-old with the "Saturday Night Special."

The woman whose face was blown away by a shotgun fired by her irate lover.

The shopkeeper gunned down by the nervous stickup man.

The homeowner who shoots down his next door neighbor because he was a "burglar." He wasn't. Only drunk.

Sorry about that. We Americans do have the "right to keep and bear arms" don't we?

What the guns-or-everybody crowd carefully refrains from mentioning is that the Constitution *does not* contain a legal guarantee to "keep and bear arms." The Supreme Court has already ruled that this "right" refers merely to the authority granted to the states to maintain armed militia organizations. What connection is there between the Illinois National Guard and a couple of street gangs having a wild shootout on some street corner, with innocent bystanders cut down in the process? It eludes me.

A great many gun owners will never use their weapons unlawfully. But their mere presence can escalate a verbal dispute into a murder indictment. It is true that we shall probably never be able to completely disarm the professional "hit" men and other hardened criminals.

But most gun-related violence is caused by hotheads and amateurs. Not the experienced, hardened pros.

I am totally convinced that the handgun must be abolished altogether. No more stalling. No more grovelling before National Rifle Association manipulators. No more buck passing. The expungement of the handgun from American life is an idea whose time has come.

The supreme paradox of the American experience is that we carved a great nation out of the wilderness, educated the immigrants and their sons and daughters by the millions, provided the many with unparalled abundance and astonished a skeptical world with our scientific and artistic accomplishments. Nor did we do so poorly in the justice department. After all, we did fashion a Bill of Rights, free the slaves, initiate social reforms and pass compassionate civil right laws.

In spite of all this, we are still not civilized enough to demand an end to handgun pollution that compels scores of millions of people in this country to live in dread. Time and time again public figures such as Mayor Daley have spoken out against this gun insanity that threatens the very mental balance of our country.

Superintendent Rochford, an experienced field commander, denounces this madness with equal intensity. More recently, First Deputy Superintendent Spiotto had expressed the hope, that ultimately, the police themselves will someday be unarmed as they are in England and a number of other foreign countries.

I urge all citizens and police officers who also feel that the anarchy of uncontrolled possession, sale, and manufacturing of handguns should now come to an end to contact the Committee for Handgun Control, 111 E. Wacker Dr., Chicago, Ill. 60601.

The committee was organized in September, 1973, and is registered in the state of Illinois as a not-for-profit corporation and as a lobbyist body with Congress.

We must act now. We dare not delay this desperately needed reform by even one unnecessary day.

WILLIS EMERSON STONE

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. ROUSSELOT. Mr. Speaker, Willis Emerson Stone is a man who believes that the supreme law of the land is the Constitution of the United States. In the finest tradition of American greatness, he has dedicated his life to this great cause.

Willis E. Stone was born in Denver, Colo., on July 20, 1899. He served in the U.S. Army during World War I. After the war, he helped organize the first American Legion post in Colorado.

This great patriot enjoyed meteoric business success until the great depression. Mr. Stone, however, is a man who cannot be kept down for long. He soon became prosperous again.

Willis Stone had been irked with the manipulations of money by the Federal Reserve System, which he felt had triggered the depression. He also was concerned with the increasing power and scope of the Federal Government.

When this great American heard Attorney General Francis Biddle remark that "The Government can do anything not specifically prohibited by the Constitution," he launched into action. Stone knew that the language, philosophy, and intent of the Constitution were exactly the opposite.

Willis Stone knew that something had to be done to stop the increase of Federal power. After years of research study and sacrifice, he came up with the Liberty amendment.

But Willis Stone's deep love for his country precluded him from being content with merely suggesting an idea, he has persevered in the effort to seek acceptance of this concept.

The amendment was introduced in Congress in the 1950's. Today, it is in Congress as House Joint Resolution 23.

Seven States have adopted it, and passage narrowly failed in others.

Only complete dedication has kept Willis Stone fighting without compromise for the principle that the American people should be allowed to say how they feel about the tyranny of the Federal Government, especially in the area of its confiscatory, Marxist "progressive" income tax. Politicians have used every trick in the book to prevent the Liberty Amendment from becoming an issue to be decided by the voter.

The IRS knew a fighter when they saw one, and they decided to battle Stone. They declared Stone's Liberty Amendment Committee should not be tax-exempt. The Supreme Court upheld IRS, thus, in effect, sustaining the contention of the IRS employee who said:

It doesn't make any difference what the Constitution of the United States or the statutes say. So far as we in the Internal Revenue Service are concerned, this (their own regulation) is the supreme law of the land.

Lesser men would have given up. Not Willis Stone.

He has logged over a million air miles, speaking, being interviewed, explaining, educating people on how the Liberty Amendment will restore lost liberties. This task has consumed his own fortune and 25 years of his life. Does Willis Stone have any regrets? Yes. Such is the measure of this man's greatness that he regrets he has not done more.

Why does Willis Stone continue to dedicate his life toward passage of the Liberty Amendment? Willis Stone knows that the Liberty Amendment is the right thing. The truth is a powerful weapon; so is knowledge that one's cause is right and just.

At an age when most men are idly living out their days, Willis Stone is a human dynamo who travels to spread the word of the Liberty Amendment where anyone will listen. He has just finished a book, another book will be out shortly, his letters and writings are being preserved as historic documents in the archives of the library at the University of Oregon, and he is listed in "Who's Who." His many honors include awards from the Congress of Freedom, the George Washington Medal from the Freedom Foundation, and the Patriot's Award from the American Coalition of Patriotic Societies.

Willis Stone is a very great American. I thank him for what he is, and may God continue to bless him.

REPUBLICAN CONGRESSMAN ROBERT McCLORY DISCUSSES IMPEACHMENT

HON. HENRY P. SMITH III

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. SMITH of New York. Mr. Speaker, our Republican colleague, Congressman ROBERT MCCLORY, presented signficant and challenging remarks in his discussion of proposed articles of impeachment against President Nixon in the televised Judiciary Committee meeting yesterday.

While these remarks may be of particular interest to citizens who are affiliated or favorable to the Republican Party—and to Mr. MCCLORY's position as a Republican member of the House Judiciary Committee in its difficult role inquiring into possible impeachment of a Republican President, his statement is both responsible and illuminating.

Mr. Speaker, I am attaching a copy of Mr. MCCLORY's remarks for the benefit of those who may not have seen and heard the second ranking Republican on the House Judiciary Committee in the opening debate on this issue:

REMARKS OF CONGRESSMAN ROBERT MCCLORY AT OPENING DEBATE ON PROPOSED ARTICLES OF IMPEACHMENT

Mr. Chairman: Let me, first of all, express the view that the impeachment inquiry undertaken by our House Judiciary Committee has been both historic and honorable.

Impeachment is, of course, a political process, both political in the sense of governmental action—and political in that it involves partisan interests and views.

It would be the grossest understatement to suggest that Watergate and all that the word implies has not caused serious injury to my party, the Republican Party. And this is so—despite the facts that no element of our established Republican Party organization was involved and no Republican Member of the Congress has been in any way implicated in this whole affair.

Let me assert on the contrary, that Republicans, even more than Democrats, are anxious to erase this blemish on our Party.

I have heard it said by some that they cannot understand how a "Republican could vote to impeach a Republican President."

Let me hasten to assert that that argument demeans my role here. It would infer that no matter what high crimes or misdemeanors might have been committed, and if attributable to a Republican President, then I, as a Republican, am foreclosed from judging the merits of the case.

I cannot, and do not view my role in that dim light.

As a purely partisan matter, would it enhance our Republican Party if, despite the evidence and the weight of Constitutional law, we as Republicans decide to exonerate a Republican President accused of high crimes and misdemeanors, simply because he—and we—are Republicans?

I see that line as leading only to Republican Party disaster.

A viable two-party system is—to my mind—an institution worthy of preserving second only to our Constitutional system of checks and balances.

Preserving our Republican Party does not to my mind imply that we must preserve and justify a man in office who would deliberately and arbitrarily defy the legal processes of the Congress. Nor can our Party be enhanced if we as Republican Members of the United States House of Representatives tolerate the flouting of our laws by a President who is constitutionally charged with "seeing to the faithful execution of the laws."

We will enhance our Republican Party and assure a viable two-party system only if we are courageous enough—and wise enough—to reject such conduct, even if attributed to a Republican President.

The essential question which we must answer is not what is best for the Party but what is best for the Nation.

While the investigation has been far reaching and has, in my opinion, delved into some peripheral areas, I cannot help but recognize that on the major subjects which have been investigated, the work of the Committee and our Committee staff has been objective and bipartisan.

I would like, particularly, to observe that we have been assisted by able counsel, and to make a general observation that the members of the minority staff have contributed substantially to the overall work product of our inquiry. Despite our partisan differences, I would add that you, Mr. Chairman, have in general been fair with the minority. The American public need have no fear that the Republican interests have not been ably and appropriately served by our ranking Member, Mr. Hutchinson, and my other able colleagues who sit on the Republican side in this committee room.

I shall turn at once to the main subject of our inquiry; namely, the numerous allegations of wrongdoing charged against the President of the United States—all of which allegations we have investigated over a period of many months for the purpose of ascertaining whether or not President Nixon should be charged with the commission of an impeachable offense.

The most serious allegations—and those upon which the President's accusers have placed principal reliance—go under the general title of "Watergate—and Cover-Up."

Our majority counsel, Mr. Doar, in interpreting the information before us, has expounded the thesis that the President organized and managed the Watergate cover-up from the time the break-in on June 17, 1972, to the present time.

While serious questions exist regarding the President's authorization or acquiescence in an obstruction of justice—a conclusion which might be reached from examining the transcripts of tape conversations and other evidence—the thesis advanced by Mr. Doar that the President was in charge of a cover-up from the time of the break-in is, in my opinion, unjustified in light of the evidence presented to this Committee.

Our chief minority counsel, Sam Garrison, made an important and extremely significant point in his final summation of the Watergate evidence. He said:

"Mr. Doar's case of circumstances showing presidential involvement from the beginning is a very, very weak one . . . because you cannot simply aggregate suspicions. You cannot aggregate inferences upon inferences. You can only aggregate facts . . ."

Watergate is a serious matter. Many in and out of the White House were involved in this tragic episode. But while voluminous evidence has been produced, I question seriously that it is of the clear and convincing nature that should impel us to indict the President on a charge of cover-up or obstruction of justice. Instead, the case against the President rests upon circumstantial evidence, inferences, innuendoes and a generous measure of wishful thinking on the part of some who would indicate the President even without adequate proof of wrongdoing in the Watergate affair.

In light of today's Supreme Court decision, there may, indeed, be available to this Committee within the next few days or weeks, substantial additional evidence in the form of White House tapes, upon which this Committee can better judge the guilt or innocence of the President in the whole Watergate affair.

The doctrine of absolute "Executive privilege" upon which the President and his counsel have consistently declined to respect our subpoenaes and requests for taped conversations and other relevant materials has been effectively rejected by the Supreme Court.

The President and his counsel should make these materials available to our Committee at once—and without equivocation—on the assurance that any irrelevant materials, particularly those which might relate to national security or other sensitive subjects, would be excised under established procedures

Although, on the basis of evidence thus far

received, the case involving Watergate has been less than convincing, there are other subjects in which the facts are virtually undisputed—and where the only unsettled question is whether an "impeachable offense" under the Constitution has been committed.

If the extremely serious subject of Watergate results, nevertheless, in a weak case against direct involvement by the President, this should not be construed to mean that there has been no wrongdoing at the White House

Watergate—and the alleged cover-up—involves the offense of obstruction of justice: for instance, payments of hush money, inducing witnesses to commit perjury, or withholding evidence from a prosecutor.

These offenses have all been committed—at the White House—or by the President's most intimate and trusted aides.

But if the President is not personally and criminally liable—because the evidence does not directly and personally implicate him—nevertheless, we may appropriately ask:

"Has the President fulfilled h obligation to see to a faithful execution of the laws—a solemn obligation imposed on him by Article II of the United States Constitution?"

This obligation is above and beyond that of other citizens—all of whom are required to obey the laws. We may ask further:

"Is the office of the presidency being operated in the manner intended by the Constitution—when under the guise of national security, dissatisfaction with the head of the FBI on personal animosities for enemies—and "friends"—we experience burglaries, unlawful wiretaps and bugging, shredding and concealment of evidence, misus of the CIA, FBI, IRS—and a host of misdeeds?"

It should not be hard for my solid, Midwest constituents—Republicans, Democrats, and Independents alike—to see, and understand, what is troubling me.

Believe me, it is also troubling them. The question remains whether these acts and omissions of Richard Nixon—as President—are to be approved—or denounced.

If—in these respects—the President is to be denounced—and if this President is to be called to account for such acts—and omissions—impeachment is the appropriate—and constitutionally designated vehicle for delineating specific charges—against him.

What about the offenses committed by—or charged against Haldeman, Ehrlichman, Colson, LaRue, Dean, Liddy, Hunt, Magruder, Chapin, Mardian, Strachan, Kalmbach, Mitchell and Kleindienst?

There is substantial authority for attributing their misconduct to the President in a strictly legal sense—and require him to account for their offenses.

But there is the higher constitutional obligation to see that such criminal acts are not committed—or condoned—a constitutional demand to see that the laws are obeyed—particularly, in the President's own house—which we call, the White House.

After receiving evidence for weeks and weeks—evidence which has been frequently peripheral, as it relates to direct involvement of the President in Watergate and other crimes—I ask myself—is this any way to run a White House—or a country?

Finally, the clearest and most convincing issue before us, and one which is perhaps more fundamental to our inquiry, is that of the Committee's subpoenaes requesting information from the President.

Fundamental to this entire impeachment inquiry is the obligation on the part of the House Judiciary Committee and the President to serve our respective roles, as delineated in the Constitution. The President, through his counsel, as well as through his public announcements, has asserted the need for a strong Chief Executive. That is implicit in our Constitution, and is entitled to full recognition by the Congress, as well as by the courts.

Likewise, it is essential that the President respect that part of Article I of the United States Constitution which vests in the House of Representatives "the sole power of impeachment." The House Judiciary Committee, as a designated unit of the House of Representatives, is endeavoring to fulfill that role with honor and with dignity, consistent with the responsibility reposed in us at this critical hour of our history.

This particular time in our history demands a Congress capable of exercising its full powers of law-making, and, in addition, a Congress able to conduct the extraordinary function of impeachment which, indeed, enables the Congress on those occasions when acts of treason, bribery or high crimes and misdemeanors are committed to assert this dominant power granted by the Constitution which neither the Executive nor the Judicial branch possesses.

Earlier this year, the President promised full cooperation with our inquiry, consistent with his responsibilities to the office of the presidency. Despite this pledge, the Committee has not received any of the 147 tape recordings which it has subpoenaed, and it has received very few of the documents and materials it has sought. The bulk of material before the Committee has been received from the Special Prosecutor and not through any cooperation from the White House.

On May 30, the Committee sent a letter to the President informing him of the possible consequences of his failure to comply with our subpoenaes. We write—and I quote:

"In meeting their constitutional responsibility, Committee members will be free to consider whether your refusals in and of themselves might constitute a ground for impeachment."

The Committee has taken this stand because the President's noncompliance with the Committee's subpoenaes is a defiance of the power of the House of Representatives, and a serious breach of his duty to "preserve, protect and defend the Constitution of the United States." Our subpoenaes have been narrowly drawn and strictly limited to material directly relevant to our inquiry. They seek only those tapes, and other materials necessary to conduct a full and complete inquiry into the existence of possible impeachable offenses.

In this sense, the President's failure to comply—threatens the integrity of the impeachment process itself. His action is a direct challenge to the Congress in the exercise of its solemn constitutional duty to act by way of impeachment as the ultimate check on presidential conduct, with all relevant facts as its disposal.

These, then, are the issues which are disturbing me, as we approach this final phase of our assignment under the House Resolution authorizing and directing the comprehensive impeachment inquiry which my colleagues and I have been conducting and which we must resolve deliberately and responsibly within the next few days.

Thank you, Mr. Chairman.

PUERTO RICO CELEBRATES CONSTITUTION DAY

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. BADILLO. Mr. Speaker, on this date 22 years ago Puerto Rico became a commonwealth when the U.S. Congress voted to approve the constitution which had been drafted by the people of that island nation. This historic event climaxed a long struggle by the Puerto Rican people to achieve both economic and political progress and an element of self-determination.

On July 22, 1952, the citizens of the island were able to look back on nearly 5 centuries of recorded history—from the discovery by Columbus in 1493, through the long period of colonization to a degree of autonomy in the 20th century, the struggle for economic development in the 30's, 40's and 50's, in the face of tremendous obstacles—and forward to even greater progress which their new political status promised.

During this long period of history many individuals emerged as great leaders, two of the best-known and most important of whom were Luis Muñoz Rivera and his son, Luis Muñoz Marin. It was the latter who guided Puerto Rico through the program of economic development popularly known as Operation Bootstrap and eventually served as one of the principal authors of the constitution. It is significant to note, I think, that Luis Muñoz Marin recognized the need for political status for the island long before he made the matter a public issue. His greatest concern was for the well-being of the people, and he dedicated himself in his earlier years in public life to transforming the island from an agricultural to an industrial society.

In 1949, almost 10 years after he had set out to revolutionize the economy, Muñoz Marin finally decided that the time for political reform had arrived, and the movement to establish Puerto Rico as a "free, associated state" was created. By 1952 the movement had succeeded—Puerto Ricans won the right to govern the island themselves, and the United States agreed to defend it; while the inhabitants of the island would remain U.S. citizens, they would pay no taxes and thus have no vote in the national government. In the elections of that year, Puerto Ricans approved the new constitution and chose Luis Muñoz Marin as the first popularly elected Governor of the Commonwealth.

Today almost a quarter of a century later, the Commonwealth status remains and the island's economic development continues. Though much has been accomplished much still remains to be done. Puerto Ricans, both those on the island and those on the mainland, continue to struggle for that equality of opportunity which will eventually bring them into the mainstream of American life.

Although the Puerto Rican community in both the island and mainland has been confronted with enormous obstacles and handicaps, our goals and aspirations are no greater than those of other ethnic and nationality groups. Puerto Ricans seek economic security and independence; full access to our educational, social and political institutions; and the enjoyment of human rights and freedoms. We desire to stand on an equal basis with other ethnic groups and to actively participate in the progress of this country. However, until the island and mainland Puerto Ricans achieve their full and fair share of Federal aid and are assisted and encouraged to the fullest possible extent, this goal will not be achieved. The Congress bears

a special responsibility and must take the initiative in bringing equity to the treatment of Puerto Rico and to our fellow citizens on the island and mainland.

Mr. Speaker, I take great personal pride in my Puerto Rican heritage and birth. As many of our colleagues will recall, when I first joined this body 4 years ago, I pledged that I would work to insure that Puerto Rico is included on an equitable and just basis in every piece of legislation which we consider. I will continue this effort in cooperation with the distinguished and able Resident Commissioner. I hope that our colleagues will join in promoting meaningful and substantive programs so that Puerto Ricans may achieve their full potential and realize our community's aspirations.

NEW YORK STATE AUTOMOBILE ASSOCIATION

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. WALSH. Mr. Speaker, I recently received a letter from the New York State Automobile Association setting forth resolutions on ambient air quality standards, the energy crisis, and the Federal income tax deduction for State gasoline taxes, which were adopted at the association's 71st annual convention.

Because of the worthwhile contributions this organization has made to the American motorist and their active participation in Federal and State matters, I feel that my colleagues in the House will find their resolutions of interest:

RESOLUTION ON AMBIENT AIR QUALITY STANDARDS

Despite compelling evidence of serious shortcomings in the 1970 Clean Air Act, Congress has failed to suspend or amend the controversial ambient air quality standards mandated by this legislation.

Consequently, in adherence to deadlines set by that act, the U.S. Environmental Protection Agency had been attempting to force New York State to begin implementation of controversial features of the New York City Metropolitan Area Air Quality Plan's Transportation Controls. Although it subsequently modified its alarming demands, at one time EPA had threatened to take enforcement action against state or local officials who failed to implement onerous measures such as imposition of restrictive tolls on 13 presently toll-free East River and Harlem River Bridges.

Commendably, Governor Wilson and the State's Department of Environmental Conservation have resisted the precipitous action demanded by the federal government. They are re-evaluating whether implementation strategies are really needed and their studies have already found that anticipated emission problems in the Rochester area will not materialize because older model vehicles there are being replaced at a rate faster than had been expected. As a result, New York State has rescinded the plan that would have imposed new vehicle inspection requirements on Rochester motorists. The state has also submitted other scientific studies to the National Academy of Sciences for its forthcoming report to the Congress, indicating that existing standards exceed what is necessary for the public health. And in recent testimony before a Senate subcommittee, the state has urged Congress to extend the present statutory deadlines to provide sufficient time to evaluate new scientific data and investigative alternative strategies.

The New York State Automobile Association, which endorses these actions by the state, believes that implementation of the ambient air standards at this time, in adherence to the deadlines set by Congress in the Clean Air Act would be unwarranted and unjustified because—

The existing primary standards are no longer accepted as valid by the scientific community;

Improved ambient air quality, attributable to the consequences of the gasoline shortage, may have rendered additional stringent controls unnecessary;

There is no proof that ambient air quality would improve if restrictive strategies such as the bridge toll proposal are implemented—in fact, air pollution might be increased.

Therefore, the New York State Automobile Association calls upon Congress to act promptly to suspend the statutory deadlines for achieving ambient air quality standards, just as it has already suspended the automobile emissions deadlines. Congress should also reexamine the Clean Air Act of 1970 in light of the forthcoming National Academy of Sciences findings, and amend the law to avoid ill-conceived schemes that will abruptly and needlessly alter life-styles, commerce and transportation.

It is directed that copies of this resolution be sent to the Governor, all members of Congress from New York State and other interested agencies and officials.

NEW YORK STATE AUTOMOBILE ASSOCIATION,
July 11, 1974.

RESOLUTION ON THE ENERGY CRISIS

Faced with an energy crisis of unprecedented proportions, the motoring public earlier this year achieved commendable results in its efforts to conserve gasoline through such measures as reduced driving speeds, decreased auto use and increase use of car pools.

Although these and other efforts helped to alleviate the energy crisis, it is possible that the situation could worsen again during the last half of the year.

Meanwhile, as a means of conserving fuel, various government officials and agencies continue to recommend that the cost of automobile use be increased by raising registration fees and gasoline taxes, or imposing new or increased bridge and tunnel tolls.

Such proposals overlook the fact that the automobile is the primary mode of transportation for the vast majority of people and a mainstay of economy. Unreasonably harsh restrictions on automobile use would make it extremely difficult for people to get to work, maintain a household and make other essential trips.

Therefore, the New York State Automobile Association calls upon officials at all levels of government to reject regressive proposals that discourage automotive transportation and develop plans that will minimize the effect of possible future fuel shortages and assure the motorist an equitable share of gasoline supplies.

It is directed that copies of this resolution be sent to the Governor, the State's Congressional delegation, the Legislature and other interested agencies and officials.

NEW YORK STATE AUTOMOBILE ASSOCIATION,
July 11, 1974.

RESOLUTION OF FEDERAL INCOME TAX DEDUCTION FOR STATE GASOLINE TAXES

In Congress, the House Ways and Means Committee has given preliminary approval to the elimination of the federal income tax deduction currently permitted for state-imposed gasoline taxes. If enacted, this would mean a substantial federal tax increase for motorists at a time when gasoline prices—and indeed, all auto related costs—have climbed to unprecedented levels and when federal spending for highways is being reduced by diversion of highway funds to mass transit.

Enactment would also increase motorists' liability for New York State and New York City income taxes which are based upon the federal return. On a nationwide basis, the cumulative effect would be to soak the motorist with about $1 billion annually in additional income taxes.

Such a double or triple tax increase would place an unjustified burden on the country's primary mode of transportation. The fact that nationally 82 per cent of all commuters use the automobile for their journey to work is evidence that the automobile is the backbone of the nation's transportation system. Ownership and operation of an automobile is already over-taxed—highway user taxes paid in New York alone to state and federal governments amount to more than $1 billion annually.

Therefore, the New York State Automobile Association urges Congress to reject this onerous and discriminatory proposal and calls upon the New York State Congressional delegation to take the initiative in defeating this unwarranted and unjustified tax increase.

It is directed that copies of this resolution be sent to all members of the House Ways and Means Committee and all members of Congress from New York State.

NEW YORK STATE AUTOMOBILE ASSOCIATION,
July 11, 1974.

DAIRY PRODUCTION AND IMPORTS

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1974

Mr. ZWACH. Mr. Speaker, while I was pleased that President Nixon signed the emergency livestock loan bill into law and while I am pleased that the guaranteed loans will be available to beef, pork, poultry, and dairy producers, I know that this legislation is not enough.

What is needed is a good, strong, free market system, not one that is depressed by imports.

The dairy industry is a prime example. Milk production in America is down for the 21st consecutive month. Yet U.S. imports of dairy products totaled 1.7 billion pounds milk equivalent in January through May of this year, more than doubling the volume of .7 billion pounds a year ago.

On July 23 I received a letter from Pat Healy, secretary of the National Milk Producers Federation, concerning the plight of our dairy industry. As an agricultural producer and consumer, I share Mr. Healy's concern. If our milk and dairy product demand becomes dependent on foreign supplies the ultimate and biggest loser will be the American consumer.

Mr. Speaker, with your permission I would like to submit for the RECORD Mr. Healy's letter, as well as the statement jointly released by the National Milk Producers Federation, the American National Cattlemen's Association, and the

National Association of Wheat Growers. I urge my fellow colleagues to read and consider the following:

NATIONAL MILK PRODUCERS FEDERATION,
Washington, D.C., July 22, 1974.

HON. JOHN M. ZWACH,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. ZWACH: We are enclosing for your information a copy of a statement adopted jointly by the National Milk Producers Federation, the American National Cattlemen's Association and the National Association of Wheat Growers questioning current international trade policies of the United States and the implications of these actions for American farmers and ranchers and for consumers.

Actions expanding the import of dairy products for the express purpose of depressing domestic price levels have had a severe, adverse effect over the last year and a half. These moves have been major factors in the decline in milk production from about 120 billion pounds in 1972 to a current annual rate of 114 billion pounds.

In the last 90 days, basic milk prices at the farm have fallen $1.84 per hundredweight, well over 20 percent. In the face of rapidly rising costs of production, this precipitous price drop can only result in a further exodus of dairy farmers. This, in turn, will further shorten supplies and result in greatly increased prices as the shortened milk supply makes itself felt in the market this fall and winter.

In 1974, imports of 100 million pounds of cheddar cheese and 150 million pounds of nonfat dry milk disrupted the normal marketing patterns and clogged inventory channels prior to the seasonal peak of domestic production. Since April 1, the Commodity Credit Corporation has purchased 72 million pounds of nonfat dry milk. During the second quarter of the year, 114 million pounds of nonfat dry milk was imported into this market.

The inevitable result has been to reduce prices for manufactured dairy products and for milk at the farm. The Congress has, through the dairy price support program and the Federal milk market order program, directed the production of an adequate supply of milk for the markets of this country. This is not being accomplished under current policies and the situation can only worsen if they continue to be pursued.

Sincerely,

PATRICK B. HEALY,
Secretary.

JOINT STATEMENT OF THE NATIONAL MILK PRODUCERS FEDERATION, THE NATIONAL ASSOCIATION OF WHEAT GROWERS, AND THE AMERICAN NATIONAL CATTLEMEN'S ASSOCIATION ON NATIONAL IMPORT POLICY

The National Milk Producers Federation, the American National Cattlemen's Association, and the National Association of Wheat Growers have joint concerns over policies presently being pursued with respect to international trade by our government and the adverse impact these actions have had and can have for major segments of our agricultural economy.

The Congress has long sought to provide the basis for the development and maintenance of a strong agriculture. The success of such efforts is evident in the fact that the productive capacity of U.S. agriculture has permitted our people to be the best fed and the best clothed of those in any nation at any time in history. This has been accomplished at a lower cost in absolute terms than ever before. In addition to meeting the needs of this market, agriculture has made irreplaceable contributions to the foreign trade posture of this nation and has provided food for markets around the world.

In the course of providing the basis and environment in which domestic agriculture could advance, the Congress has found it necessary to adopt measures to effectively prevent the American market from becoming a dumping ground for excess production of other nations. To this end, Section 22 of the Agricultural Adjustment Act and the Meat Import Act of 1964 have been adopted.

While some have depicted these enactments as measures aimed at the restraint of free international trade, they have a far more basic purpose. They have been designed to further the national policy of promoting a strong agriculture and assuring abundant supplies of domestically produced agricultural products at reasonable prices. The necessity for these measures has been created, not in the United States, but in other countries that have closed their borders or which have sought to remove their surplus production through subsidized exports. The Meat Import Act of 1964, for example, is written in such a way that access to the U.S. market by exporting nations is guaranteed, as contrasted to the embargoes on meat imports that recently were put into effect by the European Economic Community and Japan.

It is disheartening, therefore, to witness the development and execution of a philosophy that runs totally counter to the stated intent of the Congress. Today, significant elements of these measures lie unused or have largely been abandoned. Agricultural interests seeking their enforcement or application have been told that, to do so, would be counter to our interest of seeking expanded trade. They are told that it would be counter to our policy of seeking lower consumer prices and restraining domestic inflation.

At a time when there is growing concern, both in this country and abroad, over the adequacy of food production and the cost of food, there can be no justification for policies which tend to discourage agricultural production. This is the direction which these actions point us toward. American farmers and ranchers are independent businessmen. Their decisions are, and must be, based on economic facts and their assessment of the future as it applies to their industry.

Expanded international trade, if it is truly beneficial to all parties, is a goal to be sought. What has been or is being pursued under our present policies, however, cannot lead in this direction. The United States is today refusing to utilize needed authorities to maintain its domestic industries. By administrative action, the United States is unilaterally granting as much or more than could be expected through the trade talks that would be authorized under the Trade Reform Act. With this in mind, we cannot realistically expect our trading partners to relent in their use of trade limiting techniques.

As an effort to counter inflation, these actions are equally faulty. No action that reduces or limits the incentive or ability to produce can result in the production of adequate supplies of a commodity.

PATRICK B. HEALEY,
Secretary, National Milk Producers Federation.

RAY DAVIS,
President, National Association of Wheat Growers.

C. W. MCMILLIAN,
Executive Vice President, American National Cattlemen's Association.

SENATE—*Monday, July 29, 1974*

The Senate met at 12 o'clock noon and was called to order by Hon. JAMES ABOUREZK, a Senator from the State of South Dakota.

PRAYER

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

O Thou who withholds no good gift from those who walk uprightly and call upon Thee with sincere hearts, help us this day to think upon what is true and just and righteous in Thy sight. Grant us grace to speak prudently when we must speak; to remain silent when we have nothing to say; to learn by listening and by study; to be unafraid of the hard decision; to act according to Thy will, and to leave the consequences to Thy Providence. Reward our faithfulness by souls at peace with Thee.

We pray in His name who is the Way, the Truth, and the Life. 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., July 29, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES ABOUREZK, a Senator from the State of South Dakota, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

REPORT SUBMITTED DURING THE ADJOURNMENT OF THE SENATE

Under authority of the order of the Senate of July 25, 1974, Mr. STENNIS, from the Committee on Appropriations, submitted a report on the bill (H.R. 15155) making appropriations for water and power development, including the Corps of Engineers—Civil, the Bureau of Reclamation, the Bonneville Power Administration, and other power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions for the fiscal year ending June 30, 1975, and for other purposes, with amend-