craftsmanship were very much more commonly found than they are today.

It isn't that those qualities don't exist in 1975 at all. They do exist. It's just that it's so hard to find them anymore. In the past they were common. In the present they are scarce. They are a true "endangered species" that when found should be acknowledged and protected.

It is my belief that those qualities are exemplified by this audience and our labor movement. So be careful! All of you—you're endangered!

There is a second quality that again I find present here today. It stems from love of craft and is still worth noting in 1975. Love and pride in craft will lead to love of the people in your craft and the desire to serve them beyond the companionship of the workplace.

As important as the craft is, it must be seen simply as the vehicle to a union man or woman can use to help people, the people of his union, the people and families of his community, and the entire fabric of his nation.

I know that somewhere along the line all of us here discovered that attitude. We have served with it, and tried daily to maintain it as we have seen firsthand the many changes and difficulties affecting the labor movement in recent years. And certainly, there have been many and they have been complicated.

Yet it is this ability to cope with the enormous changes in craft, employment, community and the people you serve, which to me represents the third leg of a real labor leader. Respect for your craft and the stronge desire to help people must be always sustained by that third leg, the ability to accept positive change, to struggle with all your resources against negative change and, more important of all, to be able to distinguish between the two.

Certainly in no era since the Great Depression has the entire labor movement been more in need of the benefits of those type of qualities than it is today.

For the situation has developed today where the President of the United States and all of his top advisers are telling us that the recession is over at the very same time that the two most important industries in America, construction and autos, are absolutely devastated.

Administration officials are actually saying and what's worse, I'm afraid, actually believing that you can have some kind of genuine recovery to the body of our economy at the same time that you have enormous levels of unemployment.

These unbelievable utterings are almost bizarrely laughable. I mean, how can you possibly be at the end of a recession if millions are unemployed and whole industries devastated? It might be laughable were it not for the awful human toll that unemployment takes.

What this administration is trying to do is nothing less than to separate the human factor of unemployment from playing any major role in economic policy. It began as subtle talk of so-called "acceptable unemployment," and it has now reached the point where the administration has no special plans whatsoever beyond the normal recovery built into each industry to aid unemployment. These people are actually succeeding in divorcing "people" right out of the economic planning. This is unprecedented in modern economic history.

George Meany has said that this attitude of the Ford administration "adds up to a callous disregard for the misery and suffering experienced by our nation's unemployed." He is right, but it is happening.

It is evident in every action of this administration from vetoes on down. Perhaps we should have seen it coming.

I'm sure all of you remember the great economic summit convened by President Ford shortly after he took office. At that time the only song the administration wanted to sing was about the dangers of inflation.

Unemployment and recession were slid to the back burner; it was all inflation.

Many statements were made at that time by many people, but George Meany made a statement, as only he can, that has stuck with me to this day. He said that inflation is indeed a terrible thing, a cancer eating away at us all. But that "a worker's only hedge against inflation is his job."

A simple enough statement you might think. It's almost silly. I mean, of course, a worker's job is his only hedge against inflation. Heck, your job is really your only hedge against any disaster—economic or personal. Workers have no stocks to sell off. We have no excess property to let go, no works of art or jewels to sacrifice on a rainy day, and certainly no tax shelters to hide under. A worker has his job. That is all he has.

You and I know that. George Meany knows that. Yet, I firmly believe that the Ford administration to this day does not even understand that basic a creed.

The cruel vetoes of the emergency jobs bill and, most recently, the housing bill are proof positive that we are on our own.

During 1975 alone, President Ford vetoed legislation creating 1,800,000 jobs. Subsequently-enacted compromise legislation brought the net total down to 638,500. This means that at least 638,500 Americans were deprived of work this year because of the President's actions.

The American labor movement has suffered through this country's worst and most protracted recession since the 1930's. And during this same period the working population has had to cope with the most serious upward spiral in prices since the Civil War.

During the past year the worker has stood in a giant vise of bad news. Each report of increasing unemployment, materials shortages, higher interest rates, costlier oil and steeper food prices has only tightened the screws.

Nearly 8,000,000 workers are presently unemployed. Another 1,053,000 workers are not even included in these figures because they have become too discouraged to look for work. Moreover, 3,179,000 workers are working part-time, not because they chose to but because of economic reasons.

The workers of this country are wrongfully being asked to pay the economic costs of inflation. The American worker is concerned with inflation. Inflation strikes most severely those of the middle and lower income classes in our society. The American worker is prepared to make his sacrifice and pay his share to control inflation, but not needlessly and not senselessly.

Those are the sad facts of life on Labor Day 1975. Between now and next year's Labor Day our task is formidable.

The challenge to our leadership will be severe. We will need all benefits that love of craft, love of people, and the sure struggle for positive change can possibly bring to us.

Nevertheless, I still believe on this Labor Day that we are up to that challenge just as we have been in the past.

In closing, please remember that if those you meet do take this day for granted, say to them that—"Oh! it's just another day—but it's our day!"

Thank you.

IT TAKES A LOT OF COURAGE

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 15, 1975

Mr. SYMMS. Mr. Speaker, another of our congressional cliches has been explored by the people and found phoney. I commend to my colleagues an editorial from the St. Maries Gazette Record concerning that old myth about Congress and the White House not being able to get a handle on "uncontrollable spending." There is not a whole lot I can add to this editor's comments. His point is abundantly clear and well-taken.

The editorial follows:

WHAT IT TAKES IS A LOT OF COURAGE

No modern presidents have deplored federal spending more than Richard Nixon and Gerald Ford.

So what has that gotten the country?

The biggest peacetime deficits and the largest budgets ever. The last budget of that wheeler-dealer, free-spending Great Society President Lyndon Johnson called for tossing federal tax dollars around at the rate of $180 billion per year.

So now, under cut-the-budget, deficits-are-horrible President Gerald Ford, we have a $360 billion per year budget—just double Lyndon Johnson in seven years.

An excuse, used by Democrats as well as Republicans, is that these budgets are "uncontrollable." They point to laws passed by previous Congresses which set up programs, committed funds and expanded the government spending. "There is really nothing we can do about it," is their alibi.

Nothing, that is, except have the current Congress change the laws which set up the spending in the first place. It wouldn't be easy and it would take a lot of courage. It could be done.

But it won't be.

SENATE—*Tuesday, September 16, 1975*

(Legislative day of Thursday, September 11, 1975)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by Hon. SAM NUNN, a Senator from the State of Georgia.

PRAYER

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

O God, our Father, in whom we live and move and have our being, may the hush of this moment lead us to Thee, and in Thy presence may we find strength and wisdom. May we see life steadily and see it whole, and therein discern Thy purpose for the Nation and the world. By Thy spirit make us masters of ourselves that we may be servants of others.

Lord God, be within us to refresh us, around us to protect us, before us to guide us, above us to bless us, beneath us to hold us up.

And to Thee shall be all praise and thanksgiving. 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., September 16, 1975.

To the Senate:

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

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Monday, September 15, 1975, be approved.

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.

CONSIDERATION OF CERTAIN ITEMS ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 362 and 363.

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

PAROLE COMMISSION ACT

The Senate proceeded to consider the bill (H.R. 5727) to establish an independent and regionalized U.S. Parole Commission, to provide fair and equitable parole procedures, and for other purposes, which had been reported from the Committee on the Judiciary, with an amendment, to strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Parole Commission Act".

SEC. 2. Chapter 311 of title 18, United States Code, is amended to read as follows:

"Chapter 311—PAROLE

"Sec.
"4201. Definitions.
"4202. Parole Commission created.
"4203. Powers and duties of the Commission.
"4204. Powers and duties of the Chairman.
"4205. Persons eligible.
"4206. Release on parole.
"4207. Conditions of parole.
"4208. Parole interview procedures.
"4209. Aliens.
"4210. Retaking parole violator under warrant.
"4211. Officer executing warrant to retake parole violator.
"4212. Parole modification and revocation.
"4213. Reconsideration and appeal.
"4214. Original jurisdiction cases.
"4215. Applicability of Administrative Procedure Act.
"4216. Young adult offenders.
"4217. Warrants to retake Canal Zone parole violators.

"§ 4201. Definitions

"As used in this chapter—

"(1) 'Commission' means the United States Parole Commission;

"(2) 'Commissioner' means any member of the United States Parole Commission;

"(3) 'Director' means the Director of the Bureau of Prisons;

"(4) 'Eligible person' means any Federal prisoner who is eligible for parole pursuant to this title or any other law including any Federal prisoner whose parole has been revoked and who is not otherwise ineligible for parole;

"(5) 'Parolee' means any eligible person who has been released on parole or deemed as if released on parole under section 4164 or section 4205(d) of this title; and

"(6) 'Rules and regulations' means rules and regulations promulgated by the Commission pursuant to section 4203(b)(1) of this title and section 553 of title 5, United States Code.

"§ 4202. Parole Commission created

"There is hereby established as an independent agency of the Department of Justice a United States Parole Commission which shall be comprised of nine members appointed by the President, by and with the advice and consent of the Senate. At no time shall more than six members be of the same political party. The Attorney General shall designate from among the commissioners one to serve as Chairman. The term of office of a commissioner shall be six years, except that the term of a person appointed as a commissioner to fill a vacancy shall expire six years from the date upon which such person was appointed and qualified. Upon the expiration of a term of office of a commissioner, the commissioner shall continue to act until a successor has been appointed and qualified. Commissioners shall be compensated at the highest rate now or hereafter prescribed for grade 17 of the General Schedule pay rates (5 U.S.C. 5332).

"§ 4203. Powers and duties of the Commission

"(a) The Commission, by majority vote, shall have the power to—

"(1) grant or deny any application or recommendation to parole any eligible person;

"(2) impose reasonable conditions on any order granting parole;

"(3) modify or revoke any order paroling any eligible person; and

"(4) establish the maximum length of time which any person whose parole has been revoked shall be required to serve, but in no case shall such time, together with such time as he previously served in connection with the offense for which he was paroled, be longer than the maximum term for which he was sentenced in connection with such offense; and where such revocation is based upon a subsequent conviction of the parolee of any Federal, State or local crime committed subsequent to his release on parole, determine whether all or any part of the unexpired term being served at time of such parole shall run concurrently or consecutively with the sentence imposed for such subsequent offense.

"(b) The Commission shall meet at least quarterly, and by majority vote shall—

"(1) promulgate rules and regulations establishing guidelines for the powers enumerated in subsection (a) of this section and such other rules and regulations as are necessary to carry out a national parole policy and the purposes of this chapter;

"(2) create such regions as are necessary to carry out the provisions of this chapter, but in no event less than five; and

"(3) ratify, revise, or deny any request for regular, supplemental, or deficiency appropriations, prior to the submission of the requests to the Office of Management and Budget by the Chairman, which requests shall be separate from those of any other agency of the Department of Justice.

A record of the final vote of each commissioner on any action pursuant to this subsection shall be maintained and made available for public inspection.

"(c) The Commission, by majority vote, and pursuant to rules and regulations—

"(1) may delegate to any commissioner or commissioners any powers enumerated in subsection (a) of this section;

"(2) may delegate to any panel of hearing examiners any powers necessary to conduct hearings and interviews, take sworn testimony, obtain and make a record of pertinent information, make findings of probable cause and issue subpenas for witnesses or evidence in parole revocation proceedings, and recommend disposition of any matters enumerated in subsection (a) of this section, except that any such findings or recommendations of any panel of hearing examiners shall be based upon the concurrence of not less than two members of such a panel; and

"(3) may review, or may delegate to the National Appeals Board the power to review, any decision made pursuant to subparagraph (1) of this subsection except that any such decision so reviewed must be reaffirmed, modified, or reversed within thirty days of the date the decision is rendered, and, in case of such review, the individual to whom the decision applies shall be informed in writing of the Commission's actions with respect thereto and the reasons for such actions.

"(d) Except to the extent otherwise herein provided, in every decision or action made by the Commission pursuant to the powers enumerated in this section, each commissioner shall have equal responsibility and authority, shall have full access to all information relating to the performance of such duties and responsibilities, and shall have one vote.

"§ 4204. Powers and duties of the Chairman

"(a) The Chairman shall—

"(1) convene and preside at meetings of the Commission pursuant to section 4203 of this title and such additional meetings of the Commission as the Chairman may call or as may be requested in writing by at least three commissioners;

"(2) appoint, fix the compensation of, assign, and supervise all personnel employed by the Commission except that—

"(A) the appointment of any hearing examiner shall be subject to approval of the Commission within the first year of such hearing examiner's employment; and

"(B) regional commissioners shall appoint and supervise such personnel employed regularly and full time in their respective regions as are compensated at a rate up to and including grade 9 of the General Schedule pay rates (5 U.S.C. 5332);

"(3) assign duties among officers and employees of the Commission, including commissioners, so as to balance the workload and provide for orderly administration;

"(4) designate three commissioners to serve on the National Appeals Board of whom one shall be so designated to serve as Vice Chairman, and designate, for each such region established pursuant to section 4203(b)(2) of this title, one commissioner to serve as regional commissioner in each such region; except that in each such designation the Chairman shall consider years of service, preference and fitness, and no such designation shall take effect unless concurred in by the Attorney General;

"(5) direct the preparation of requests for appropriations and the use and expenditure of funds;

"(6) make reports on the position and policies of the Commission to the Attorney General, the Administrative Office of the United States Courts, and the Congress;

"(7) provide for research and training, including, but not limited to—

"(A) collecting data obtained from studies, research, and the empirical experience of public and private agencies concerning the parole process and parolees;

"(B) disseminating pertinent data and studies, to individuals, agencies, and organizations concerned with the parole process and parolees;

"(C) publishing data concerning the parole process and parolees; and

"(D) conducting seminars, workshops, and training programs on methods of parole personnel and other persons connected with the parole process;

"(8) accept voluntary and uncompensated services;

"(9) utilize, on a cost-reimbursable basis, the services of officers or employees of the executive or judicial branches of Federal or State government, for the purpose of carrying out the provisions of section 10 of this title; and

"(10) perform such administrative and other duties and responsibilities as may be necessary to carry out the provisions of this chapter.

"(b) In carrying out his functions under this section, the Chairman shall be governed by the national parole policies promulgated by the Commission.

"§ 4205. Persons eligible

"(a) An eligible person, other than a juvenile delinquent or committed youth offender, wherever confined and serving a definite term or terms of more than one year, may be released on parole after serving one-third of such term or terms or after serving fifteen years of a life sentence or of a sentence in excess of forty-five years, except to the extent otherwise provided by law.

"(b) Upon entering a judgment of conviction, the court having jurisdiction to impose sentence, when in its opinion the ends of justice and best interest of the public require that the defendant be sentenced to imprisonment for a term exceeding one year, may (1) designate in the sentence of imprisonment imposed a minimum term at the expiration of which the person shall become eligible for parole, which term may be less than but shall not be more than one-third of the maximum sentence imposed by the court, or (2) the court may fix the maximum sentence of imprisonment to be served in which event the court may specify that the person may be released on parole at such time as the Commission may determine.

"(c) If the court desires more detailed information as a basis for determining the sentence to be imposed, the court may, for purposes of study, commit the defendant to the custody of the Attorney General, which commitment shall be deemed to be for the maximum sentence of imprisonment prescribed by law. The results of such study, together with any recommendations which the Director believes would be helpful in determining the disposition of the case, shall be furnished to the court within sixty days, or such additional period, but not to exceed sixty days, as the court may grant. After receiving such reports and recommendations, the court may in its discretion—

"(1) place the person on probation as authorized by section 3651 of this title; or

"(2) affirm the sentence of imprisonment originally imposed, or reduce the sentence of imprisonment, and commit the offender under any applicable provision of law. The term of the sentence shall run from date of original commitment under this section.

"(d) Any person sentenced to imprisonment for a term or terms of one year or less, who after one hundred and eighty days has not served his term or terms less good time deductions, shall be released as if on parole, notwithstanding the provisions of section 4164 of this title, unless the court which imposed sentence, shall, at the time of sentencing, find that such release is not in accord with the ends of justice and the best interest of the public and sets another time for such release. This subsection shall not prevent delivery of any person released on parole to the authorities of any State otherwise entitled to his custody.

"(e) At any time upon motion of the Bureau of Prisons and upon notice to the attorney for the government, the court may reduce any minimum term to the time the defendant has served.

"(f) Except to the extent otherwise herein specifically provided, nothing in this section shall be construed to affect or otherwise alter, amend, modify, or repeal any provision of law relating to eligibility for release on parole, or any other provision of law which empowers the court to suspend the imposition or execution of any sentence, to place any person on probation, or to correct, reduce, or otherwise modify any sentence.

"§ 4206. Release on parole

"(a) If it appears from a report or recommendation by the proper institution officers or upon application by a person eligible for release on parole, that such person has substantially observed the rules of the institution to which he is confined, that there is a reasonable probability that such person will live and remain at liberty without violating the law, and if in the opinion of the Commission such release is not incompatible with the welfare of society, the Commission may authorize release of such person on parole.

"(b) Upon commitment of any person sentenced to imprisonment under any law for a definite term or terms of more than one year, the Director, under such regulations as the Attorney General may prescribe, shall cause a complete study to be made of the person and shall furnish to the Commission a summary report, together with any recommendations which in the Director's opinion would be helpful in determining the suitability of the prisoner for parole. Such report may include, but shall not be limited to, data regarding the eligible person's previous delinquency or criminal experience, pertinent circumstances of his social background, his capabilities, his mental and physical health, and such other factors as may be considered pertinent. The Commission may make such other investigations as it may deem necessary. Such report and recommendations shall be made not less than ninety days prior to the date upon which such person becomes eligible for parole, except where such person may become eligible for parole less than one hundred and twenty days following commitment the Director, in the absence of exceptional circumstances, shall have not less than thirty days, but not more than sixty days, to make such report and recommendations.

"(c) Upon request of the Commission, it shall be the duty of the various probation officers and government bureaus and agencies to furnish the Commission information available to such officer, bureau, or agency, concerning any eligible person or parole and whenever not incompatible with the public interest, their views and recommendations with respect to any matter within the jurisdiction of the Commission.

"§ 4207. Conditions of parole

"(a) A parolee shall remain in the legal custody and under the control of the Attorney General, until the expiration of the maximum term or terms for which such parolee was sentenced.

"(b) In every case, the Commission shall impose as a condition of parole that the parolee not commit another Federal, State, or local crime during the term of his parole. In imposing any other condition or conditions of parole the Commission shall consider the following:

"(1) there should be a reasonable relationship between the conditions imposed and the person's conduct and present situation;

"(2) the conditions may provide for such deprivations of liberty as are reasonably necessary for the protection of the public welfare; and

"(3) the conditions should be sufficiently specific to serve as a guide to supervision and conduct.

Upon release on parole, a parolee shall be given a written statement setting forth the conditions of such parole.

"(c) An order of parole or release as if on parole may as a condition of such order require—

"(1) a parolee to reside in or participate in the program of a residential community treatment center, or both, for all or part of the period of such parole or release. A person residing in a community treatment center may be required to pay such costs incident to residence as the Attorney General deems appropriate;

"(2) a parolee, who is an addict within the meaning of section 4251(a) of this title, or a drug dependent person within the meaning of section 2(q) of the Public Health Service Act, as amended (42 U.S.C. 201), to participate in the community supervision programs authorized by section 4255 of this title for all or part of the period of parole.

"(d) The Commission may discharge any parolee from parole supervision or release him from one or more conditions of parole at any time after release on parole. In addition, the Commission shall—

"(1) review, at least annually, the status of any parolee who has two years of continuous parole supervision, to determine the need for continued parole supervision; and

"(2) discharge from parole supervision any parolee who has had five years of continuous parole supervision unless it is determined, after a hearing, that he should not be so discharged because there is a likelihood that he will either engage in conduct violating any criminal law or would jeopardize the public welfare. In any case in which parole supervision is continued pursuant to this subparagraph, the parolee shall receive a hearing at least every two years for the purpose of determining need for further parole supervision. Any hearing held pursuant to this subparagraph shall be in accordance with the procedures set out in section 4210 (b) (2) of this title at a time and location determined by the Commission.

"§ 4208. Parole interview procedures

"(a) Any person eligible for parole shall promptly be given a parole interview and such additional parole interviews as the Commission deems necessary, but in no case shall there be less than one additional parole interview every three years, except that an eligible person may waive any interview.

"(b) Any interview of an eligible person by the Commission in connection with the consideration of a parole application or recommendation shall be conducted in accordance with the following procedure—

"(1) an eligible person shall be given written notice of the time, place, and purpose of such interview; and

"(2) an eligible person shall be allowed to select a representative to aid him in such interview. The representative may be any person who qualifies under rules and regulations promulgated by the Commission. Such rules shall not exclude attorneys as a class.

"(c) Following notification that a parole interview is pending, an eligible person shall have reasonable access to progress reports and such other materials as are prepared by or for the use of the Commission in making

any determinations, except that the following materials may be excluded from inspection—

"(1) diagnostic opinions which, if made known to the eligible person, would lead to a serious disruption of his institutional program of rehabilitation;

"(2) any document which contains information which was obtained on the basis of a pledge of confidentiality made by or in behalf of a public official in the performance of his official duties if such official has substantial reason to believe that such information would place any person in jeopardy of life or limb; or

"(3) any other information that would place any person in jeopardy of life or limb.

If any document is deemed by either the Commission, the Bureau of Prisons, or any other agency to fall within the exclusionary provisions of subparagraph 1, 2, or 3 of this subsection, then it shall become the duty of the Commission, the Bureau, or such other agency, as the case may be, to summarize the basic contents of the material withheld, bearing in mind the need for confidentiality or the impact on the inmate, or both, and furnish such summary to the inmate.

"(d) A full and complete record of every interview shall be retained by the Commission. For good cause shown, the Commission may make a transcript of such record available to any eligible person.

"(e) Not later than fifteen working days after the date of the interview, the Commission shall notify the eligible person in writing of its determination. In any case in which parole release is denied or parole conditions are imposed other than those commonly imposed, the Commission shall include the reasons for such determination, and, if possible, a personal conference to explain such reasons shall be held between the eligible person and the Commission or examiners conducting the interview.

"§ 4209. Aliens

"When an alien prisoner subject to deportation becomes eligible for parole, the Commission may authorize the release of such person on condition that such person be deported and remain outside the United States.

"Such person, when his parole becomes effective, shall be delivered to the duly authorized immigration official for deportation.

§ 4210. Retaking parole violater under warrant

"(a) A warrant for the taking of any person who is alleged to have violated his parole may be issued by the Commission within the maximum term or terms for which such person was sentenced.

"(b)(1) Except as provided in subsection (c), any alleged parole violator retaken upon a warrant under this section shall be accorded the opportunity to have—

"(A) a preliminary hearing at or reasonably near the place of the alleged parole violation or arrest, without unnecessary delay, to determine if there is probable cause to believe that he has violated a condition of his parole; and upon a finding of probable cause a digest shall be prepared by the Commission setting forth in writing the factors considered and the reasons for the decision, a copy of which shall be given to the parolee within a reasonable period of time;

"(B) upon a finding of probable cause under subparagraph (1)(A), a revocation hearing at or reasonably near the place of the alleged parole violation or arrest within sixty days of such determination of probable cause except that a revocation hearing may be held at the same time and place set for the preliminary hearings.

"(2) Hearings held pursuant to subparagraph (1) of this subsection shall be conducted by the Commission in accordance with the following procedures:

"(A) notice to the parolee of the conditions of parole alleged to have been violated, and the time, place, and purposes of the scheduled hearing;

"(B) opportunity for the parolee to appear and testify, and present witnesses and documentary evidence on his own behalf;

"(C) opportunity for the parolee to be represented by retained counsel, or if he is unable to retain counsel, counsel may be provided pursuant to section 3006A of this title, and

"(D) opportunity for the parolee to be apprised of the evidence against him and, if he so requests, to confront and cross-examine adverse witnesses, unless the Commission specifically finds good cause for not allowing confrontation. The Commission may subpena witnesses and evidence, and pay witness fees as established for the courts of the United States. If a person refuses to obey such a subpena, the Commission may petition a court of the United States for the judicial district in which such parole proceeding is being conducted, or in which such person may be found, to request such person to attend, testify, and produce evidence. The court may issue an order requiring such person to appear before the Commission, when the court finds such information, thing, or testimony directly related to a matter with respect to which the Commission is empowered to make a determination under this section. Failure to obey such an order is punishable by such court as a contempt. All process in such a case may be served in the judicial district in which such a parole proceeding is being conducted, in which such person may be found.

"(c)(1) Any parolee convicted of any Federal, State, or local crime committed subsequent to his release on parole and sentenced for such crime to a term or terms of imprisonment who has a detainer for a warrant issued under this section placed against him shall receive a revocation hearing within one hundred and eighty days of such placement, or promptly upon release from such commitment, whichever comes first.

"(2) Any alleged parole violator, who waives his right to any hearing under subsection (b), shall receive an institutional revocation hearing within ninety days of the date of retaking.

"(3) Hearings held pursuant to subparagraphs (1) and (2) of this subsection shall be conducted by the Commission. The alleged parole violator shall have notice of such hearing, be allowed to appear and testify on his own behalf, and to select a representative, in accordance with the procedures of section 4208(b)(2) of this title, to aid him in such appearance.

"(d) Following any revocation hearing held pursuant to this section, the Commission may discuss the warrant or take any action provided under section 4212 of this title: *Provided, however,* That in any case in which parole is modified or revoked, a digest shall be prepared by the Commission setting forth in writing the factors considered and the reasons for such action, a copy of which shall be given to the parolee.

"(e) The Commission, pursuant to rules and regulations, may delegate authority to conduct hearings held pursuant to this section to any officer or employee of the executive or judicial branches of Federal or State Government.

"§ 4211. Officer executing warrant to retake parole violator

"Any officer of any Federal penal or correctional institutions, or any Federal officer authorized to serve criminal process within the United States, to whom a warrant for the retaking of a parole violator is delivered, shall execute such warrant by taking such parolee and returning him to the custody of the Attorney General.

"§ 4212. Parole modification and revocation

"When a warrant has been executed pursuant to section 4210 of this title, and such warrant is not dismissed, the decision of the Commission may include—

"(1) a reprimand;

"(2) an alteration of parole condition;

"(3) referral to a residential community treatment center for all or part of the remainder of the original sentence;

"(4) formal revocation of parole or release as if on parole pursuant to this title; or

"(5) any other action deemed necessary for successful rehabilitation of the violator, or which promotes the ends of justice.

"The Commission may take any action pursuant to this section it deems appropriate taking into consideration whether or not the parolee has been convicted of any Federal, State, or local crime subsequent to his release on parole or whether such action is warranted by the frequency or seriousness of the parolee's violation of any other condition or conditions of his parole.

"§ 4213. Reconsideration and appeal

"(a) Whenever parole release is denied under section 4206 of this title, parole conditions are imposed other than those commonly imposed under section 4207 of this title, parole discharge is denied under section 4207(d)(2) of this title, or parole is modified or revoked under section 4212 of this title, the individual to whom any such decision applies may have the decision reconsidered by submitting a written application to the regional commissioner not later than thirty days following the date on which the decision is rendered. The regional commissioner, upon receipt of such application, must act pursuant to rules and regulations within sixty days to reaffirm, modify or reverse his original decision and shall inform the applicant in writing of the decision and the reasons therefor.

"(b) Any decision made pursuant to subsection (a) of this section which is adverse to the applicant for reconsideration may be appealed by such individual to the National Appeals Board by submitting a written notice of appeal not later than thirty days following the date on which such decision is rendered. The National Appeals Board, upon receipt of the appellant's papers, must act pursuant to rules and regulations within sixty days to reaffirm, modify, or reverse the decision and shall inform the appellant in writing of the decision and reasons therefor.

"(c) The National Appeals Board shall review any decision of a regional commissioner upon the written request of the Attorney General filed not later than thirty days following the decision and, by majority vote, shall reaffirm, modify, or reverse the decision within sixty days of the receipt of the Attorney General's request. The Board shall inform the Attorney General and the individual to whom the decision applies in writing of its decision and the reasons therefor.

"§ 4214. Original jurisdiction cases

"The regional commissioner, pursuant to rules and regulations, may designate certain cases as original jurisdiction cases, and shall forward any case so designated to the National Appeals Board with his vote and the reasons therefor. Decisions shall be based upon the concurrence of three votes with the appropriate regional director and the members of the National Appeals Board each having one vote. In case of a tie vote, and pursuant to rules and regulations, an additional vote shall be cast by one of the other regional commissioners. The individual to whom such decision applies, or any commissioner who

voted in the decision, may appeal such decision directly to the Commission by submitting a written notice of appeal not later than thirty days following the date on which such decision is rendered. The Commission, by majority vote, shall decide the appeal at its next regularly scheduled meeting and shall inform the individual to which such decision applies of the decision and the reasons therefor.

"§ 4215. Applicability of the Administrative Procedure Act

"Except as otherwise provided in this chapter, the provisions of section 551 and sections 553 through 559 and sections 701 through 706 of title 5, United States Code, shall not apply to the making of any determination, decision, or order made by the Commission pursuant to this chapter or any other law.".

SEC. 3. Sections 4209 and 4210 of title 18, United States Code, are renumbered to appear as sections 4216 and 4217 of such title.

SEC. 4. Section 5002 of title 18, United States Code, is repealed.

SEC. 5. Section 5005 of title 18, United States Code, is amended to read as follows:

"§ 5005. Youth correction decisions

"The Commission and, where appropriate, its authorized representatives as provided in sections 420(c) and 4210(e) of this title, may grant or deny any application or recommendation for conditional release, or modify or revoke any order of conditional release, of any person sentenced pursuant to this chapter, and perform such other duties and responsibilities as may be required by law. Except as otherwise provided, decisions of the Commission shall be made in accordance with the procedures set out in chapter 311 of this title."

SEC. 6. Section 5006 of title 18, United States Code, is amended to read as follows:

"§ 5006. Definitions

"As used in this chapter—

"(a) 'Commission' means the United States Parole Commission;

"(b) 'Bureau' means the Bureau of Prisons;

"(c) 'Director' means the Director of the Bureau of Prisons;

"(d) 'youth offender' means a person under the age of twenty-two years at the time of conviction;

"(e) 'committed youth offender' is one committed for treatment hereunder to the custody of the Attorney General pursuant to sections 5010(b) and 5010(c) of this chapter;

"(f) 'treatment' means corrective and preventive guidance and training designed to protect the public by correcting the antisocial tendencies of youth offenders; and

"(g) 'conviction' means the judgment on a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere.".

SEC. 7. Sections 5007, 5008, and 5009 of title 18, United States Code, are repealed.

SEC. 8. Section 5014 of title 18, United States Code, is amended to read as follows:

"§ 5014. Classification studies and reports

"The Director shall provide classification centers and agencies. Every committed youth offender shall first be sent to a classification center or agency. The classification center or agency shall make a complete study of each committed youth offender, including a mental and physical examination, to ascertain his personal traits, his capabilities, pertinent circumstances of his school, family life, any previous delinquency or criminal experience, and any mental or physical defect or other factor contributing to his delinquency. In the absence of exceptional circumstances, such study shall be completed within a period of thirty days. The agency shall promptly forward to the Director and to the Commission a report of its findings with respect to the youth offender and its recommendations as to his treatment. As soon as practicable after commitment, the youth offender shall receive a parole interview.".

SEC. 9. Section 5017(a) of title 18, United States Code, is amended to read as follows:

"(a) The Commission may at any time after reasonable notice to the Director release conditionally under supervision a committed youth offender when it appears that such person has substantially observed the rules of the institution to which he is confined, that there is a reasonable probability that such person will live and remain at liberty without violating the law, and if in the opinion of the Commission such release is not incompatible with the welfare of society. When in the judgment of the Director, a committed youth offender should be released conditionally under supervision he shall so report and recommend to the Commission.".

SEC. 10. Section 5020 of title 18, United States Code, is amended to read as follows:

"§ 5020. Apprehension of released offenders

"If, at any time before the unconditional discharge of a committed youth offender, the Commission is of the opinion that such youth offender will be benefited by further treatment in an institution or other facility the Commission may direct his return to custody or if necessary may issue a warrant for the apprehension and return to custody of such youthful offender and cause such warrant to be executed by a United States probation officer, an appointed supervisory agent, a United States marshal, or any officer of a Federal penal or correctional institution. Upon return to custody, such youth offender shall be given a revocation hearing by the Commission.".

SEC. 11. Chapter 402 of title 18, United States Code, is amended by deleting the term "division" whenever it appears therein and inserting in lieu thereof the word "Commission.".

SEC. 12. The table of sections for chapter 402 of title 18, United States Code, is amended to read as follows:

"Sec.
"5005. Youth correction decisions.
"5006. Definitions.
"5010. Sentence.
"5011. Treatment.
"5012. Certificate as to availability of facilities.
"5013. Provision of facilities.
"5014. Classification studies and reports.
"5015. Powers of Director as to placement of youth offenders.
"5016. Reports concerning offenders.
"5017. Release of youth offenders.
"5018. Revocation of Commission orders.
"5019. Supervision of released youth offenders.
"5020. Apprehension for released offenders.
"5021. Certificate setting aside conviction.
"5022. Applicable date.
"5023. Relationship to Probation and Juvenile Delinquency Acts.
"5024. Where applicable.
"5025. Applicability to the District of Columbia.
"5026. Parole of other offenders not affected."

SEC. 13. Section 5041 of title 18, United States Code, is amended to read as follows:

"§ 5041. Parole

"A juvenile delinquent who has been committed and who, by his conduct, has given sufficient evidence that he has reformed may be released on parole at any time under such conditions and regulations as the United States Parole Commission deems proper if it shall appear to the satisfaction of such Commission that the Juvenile has substantially observed the rules of the institution to which he is confined, that there is a reasonable probability that such person will live and remain at liberty without violating the law, and if in the opinion of the Commission such release is not incompatible with the welfare of society.".

SEC. 14. Whenever in any of the laws of the United States or the District of Columbia the term "United States Parole Board", or any other term referring thereto, is used, such term or terms, on and after the expiration of the one-year period following the date of the enactment of this Act, shall be deemed to refer to the United States Parole Commission as established by the amendments made by this Act.

SEC. 15. The parole of any person sentenced before June 29, 1932, shall be for the remainder of the term or terms specified in his sentence, less good time allowances provided by law.

SEC. 16. Section 5108(c)(7) of title 5, United States Code, is amended to read as follows:

"(7) the Attorney General, without regard to any other provision of this section, may place a total of ten positions of warden in the Bureau of Prisons in GS–16".

SEC. 17. There is hereby authorized to be appropriated such sums as are necessary to carry out the purposes of the amendments made by this Act.

SEC. 18. (a) The foregoing amendments made by this Act shall take effect upon the expiration of the thirty-day period following the date of the enactment of this Act.

(b) Upon the effective date of the amendments made by this Act, each person holding office as a member of the Board of Parole on the date immediately preceding such effective date shall be deemed to be a Commissioner and shall be entitled to serve as such for the remainder of the term for which such person was appointed as a member of such Board of Parole.

(c) All powers, duties, and functions of the aforementioned Board of Parole shall, on and after such effective date, be deemed to be vested in the Commission, and shall, on and after such date, be carried out by the Commission in accordance with the provisions of applicable law, except that the Commission may make such transitional rules as are necessary to be in effect for not to exceed one year following such effective date.

Mr. BURDICK. Mr. President, the legislation before the Senate today, to reorganize the U.S. Board of Parole, has been 3 years in the making. The bill was developed by the Subcommittee on National Penitentiaries in cooperation with the Board and the Department of Justice.

At the midpoint of the work in developing this legislation, the Board began experimenting with the provisions of the bill to better provide the subcommittee with information and advice on its effect. This experiment was continuously expanded so that today the parole system authorized by this legislation is virtually intact. In the opinion of those who have studied this system, it is working well.

I recite the history of this legislation as a way of pointing out several things. First, the cooperation between the subcommittee and the Parole Board is an excellent example of Government working as it should—of people working together to solve problems and improve government performance.

Second, the changes in the system have gradually been taking place over the past year and a half, and Members may

be assured that their support of this legislation will bring no radical changes in prison release policies that would further threaten the safety of our citizens.

And third, this cooperative development of parole legislation has moved the Federal criminal justice system a long way toward a more definite and objective system for determining the length of time sentenced offenders will serve in prison.

The "rules and regulations" which are repeatedly cited in the legislation include a set of guidelines adopted by the Parole Board and made available to not only the members and employees of the Board, but also judges, prosecutors, and prisoners.

These guidelines are based on the seriousness of each criminal offense, and upon those elements of the offender's background that are the best predictors as to whether or not the person is likely to commit another crime. Significantly, the record of previous criminal activity is the best predictor of future criminality available today.

The guidelines serve two important purposes: They carefully structure the vast discretion presently entrusted to the Federal Parole Authority and decrease uncertainty as to how much time the inmate must serve. This structuring of discretion prevents arbitrary and ill-considered decisionmaking and injects a sense of fair play in every aspect of the parole process.

Because most release criteria are based upon data available at the time of conviction, an inmate can calculate with great accuracy the time he is likely to serve.

The increasing degree of definiteness in the length of time which an offender will serve in prison also recognizes the elements of punishment and protection of society. The subcommittee has recognized this for some time as it considered this legislation.

A flurry of recent books and studies have popularized the idea that the degree of discretion in sentencing should be reduced, and great credit should be given for the contributions that they have made. However, we must not lose sight of the fact that accountability for the seriousness of the criminal offense, and the likelihood that the individual will return to the criminal path have been the principal criteria for parole consideration, and will remain so under the bill before us.

This bill provides a rational means for determining the length of prison time appropriated for each individual, and an orderly means to carry out this public policy.

Under the reorganized procedures provided by this legislation, hearing examiners will hear individual prisoners and recommend decisions based upon the guidelines. Members of the Parole Commission at regional and national levels can evaluate these recommendations and approve or modify the recommendations. Decisions can be made outside these guidelines when they are justified by the facts before the Parole Commission.

I urge adoption of this legislation, which will go a long ways to shed the light of public scrutiny on the parole process to make it fair to the criminal justice system, to the victim and to society. This bill will not end crime. It is no panacea. But it makes a significant step toward making the Federal parole system accountable to the people it serves—the citizens of our Nation.

Mr. HRUSKA. Mr. President, I rise in support of the pending measure, H.R. 5727, a bill entitled the Parole Commission Act of 1975.

I first want to commend the Senator from North Dakota for his dedication as chairman of the Subcommittee on National Penitentiaries in pursuing legislation to reform the Federal parole system. His tireless efforts over the past several years have resulted in the legislation being considered today. A nearly identical version of this measure was pending befor the Judiciary Committee at the close of the 93d Congress.

Parole is not a new concept in the field of corrections. The views about its use, have significantly changed and expanded in the recent past. It is well, therefore, that Congress undertake consideration of a measure that proposes reform and modernization of our Federal parole system in many particulars.

PURPOSE OF BILL

The purpose of this bill is to create a Parole Commission which will replace the existing Board of Parole. Additionally, it would revise many aspects of the decisionmaking process currently used in parole cases.

I am pleased to note that representatives of the Department of Justice and members of the Board of Parole have worked to the maximum extent with the Subcommittee on National Penitentiaries in the original drafting of this bill. Many issues regarding parole reform produced differing opinions. I understand, however, that compromises were reached on these points and the Department now supports this measure.

It should be noted that the Board of Parole has already undertaken changes in its basic structure and decisionmaking process. Much of this legislation, therefore, would merely codify what has already been done by administrative regulation.

Substantially all of this bill is incorporated into S. 1, the bill which seeks to revise the entire Federal Criminal Code. I believe, however, that revision of the Federal Parole System is so vital and timely that it deserves separate and prompt consideration.

BALANCED SYSTEM

The parole legislation being proposed today is a balanced system which continues the range of sentencing alternatives which Congress has previously enacted.

It gives the paroling authority neither too little discretion, nor too much, because either extreme involves dangers to the orderly administration of justice.

Too much discretion enables a parole agency to grant an early release to a dangerous offender, or to arbitrarily hold an inmate who represents no risk to society far beyond the period of just punishment for the offense. Too little discretion fails to take into account aggravating or mitigating circumstances of an offense, as well as the personal and family considerations which are the strongest predictors of whether or not the individual will return to a life of crime, or will be able to live a law-abiding lifestyle following his release from incarceration.

Mr. President, the bill we are considering today incorporates these factors and places upon the Board of Parole sufficient oversight authority to protect the interests of criminal offenders, while at the same time, preserving the interests of society in having hardcore offenders off the streets.

I believe this is good legislation. It is timely. I urge its passage in the Senate.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read:

An Act to amend title 18, United States Code, relating to parole, and for other purposes.

AGRICULTURAL PEST CONTROL

The Senate proceeded to consider the bill (S. 1617) to clarify the authority of the Secretary of Agriculture to control and eradicate plant pests, which had been reported from the Committee on Agriculture and Forestry with an amendment to strike out all after the enacting clause and insert the following:

That section 102 of the Act of September 21, 1944 (58 Stat. 735, as amended; 7 U.S.C. 147a), is amended to read as follows:

"SEC. 102. (a) The Secretary of Agriculture, either independently or in cooperation with States or political subdivisions thereof, farmers' associations and similar organizations, and individuals, is authorized to carry out operations or measures to detect, eradicate, suppress, control, or to prevent or retard the spread of plant pests.

"(b) The Secretary of Agriculture is further authorized to cooperate with the governments of all countries of the Western Hemisphere, or the local authorities thereof, in carrying out necessary surveys and control operations in those countries in connection with the detection, eradication, suppression, control, and prevention or retardation of the spread of plant pests.

"(c) In performing the operations or measures herein authorized, the cooperating foreign country, State, or local agency shall be responsible for the authority necessary to carry out the operations or measures on all lands and properties within the foreign country or State other than those owned or controlled by the Federal Government and for such other facilities and means as in the discretion of the Secretary of Agriculture are necessary.

"(d) As used in this section—

"(1) 'plant pest' means any living stage of any insects, mites, nematodes, slugs,

snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants;

"(2) 'living stage' includes the egg, pupal, and larval stages as well as any other living stage; and

"(3) 'State' includes the District of Columbia and the Territories and possessions of the United States.

"(e) The Secretary of Agriculture is authorized to promulgate such rules and regulations and use such means as he may deem necessary to provide for the inspection of plants and plant products offered for export or transiting the United States and to certify to shippers and interested parties as to the freedom of such products from plant pests according to the phytosanitary requirements of the foreign countries to which such products may be exported, or to the freedom from exposure to plant pests while in transit through the United States.

"(f) There are hereby authorized to be appropriated such sums as the Congress may annually determine to be necessary to enable the Secretary of Agriculture to carry out the provisions of this section. Unless otherwise specifically authorized, or provided for in appropriations, no part of such sums shall be used to pay the cost or value of property injured or destroyed.".

SEC. 2. The material appearing under the head "FEDERAL HORTICULTURAL BOARD" in section 1 of the Act of October 6, 1917 (40 Stat. 374; 7 U.S.C. 145), is hereby repealed.

SEC. 3. Section 1 of the Act of February 28, 1947, as amended (61 Stat 7, as amended; 21 U.S.C. 114b), is amended by inserting in the first sentence after the words "and communicable disease of animals" the words "or vector thereof".

The amendment was agreed to.

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

The title was amended so as to read:

A bill to clarify the authority of the Secretary of Agriculture to control and eradicate plant pests, and for other purposes.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the Senator from Pennsylvania (Mr. HUGH SCOTT) seek recognition?

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

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

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time for the quorum call be taken out of my 5 minutes.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. 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.

ORDER FOR ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the special orders are completed, there be a period for the transaction of morning business, with a time limit of 30 minutes attached thereto, and with statements therein limited to 5 minutes each.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

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. HARRY F. BYRD, JR. 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. MANSFIELD. Mr. President, despite the fact that special orders have been granted, I ask unanimous consent, because of unusual circumstances, that the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) be recognized for not to exceed 5 minutes.

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

DEATH OF JACK BELL

Mr. HARRY F. BYRD, JR. Mr. President, the Senate, I know, is saddened by the death yesterday of Jack Bell. Although Jack Bell never was an elected Member of the Senate of the United States, he had a close and intimate association with the Senate for nearly 30 years.

Jack Bell was the chief political writer for the Associated Press until retirement in 1969. Following his retirement, he became a columnist for the Gannett newspapers. Most of the time Jack Bell served the Associated Press, he was in the Press Gallery of the Senate daily. He reported the deliberations of the Senate—a very difficult job, I know.

Jack Bell was the type of newspaperman who had the confidence of the Members of the Senate. He had the confidence of the political leaders, including Presidents, with whom he had much contact over the years. I think one of the finest tributes paid to Jack Bell came from a longtime associate, who some years ago was chief of bureau for the Associated Press in Washington; namely, Paul Miller, now chairman of the Associated Press and chairman of the Gannett newspapers.

Mr. Miller, in a tribute yesterday, made this comment:

Jack Bell, my life-long friend and coworker, landed on the Washington scene from Oklahoma before World War II and from the first and throughout his brilliant career was recognized as one of the most able newsmen ever.

He knew politics as well as most of those actively involved and was trusted and respected by all. As a columnist for Gannett News Service after his retirement from the Associated Press, he drew on his background and wide acquaintanceship for comment that was admired for depth and incisiveness as his reporting had been admired for completeness and balance.

COAL CONVERSION ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT AMENDMENTS OF 1975

Mr. RANDOLPH. Mr. President, I ask unanimous consent that a bill I am introducing be considered as having been read twice and placed on the calendar.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

QUORUM CALL

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

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

Under the previous order, the Senator from Pennsylvania (Mr. HUGH SCOTT) is recognized for not to exceed 15 minutes.

THE CRIMINAL JUSTICE REFORM ACT OF 1975

Mr. HUGH SCOTT. Mr. President, I have requested this time to discuss the Criminal Justice Reform Act of 1975 (S. 1) of which I am a cosponsor, along with numerous other Senators.

Several weeks ago I supported the chairman of the Judiciary Subcommittee on Criminal Laws and Procedures (Mr. MCCLELLAN) when he urged that the bill be reported to the full committee. In doing so, however, I reserved my right to revise several controversial aspects of the bill that I found troublesome. In particular, I am concerned about several portions of the bill that seemingly impinge upon our constitutionally protected freedom of the press.

Following these remarks, I would expect certain comments to be made by the distinguished Senator from Indiana (Mr. BAYH) who shares my concern over these vital matters and who has announced his intention to offer certain amendments, which I intend to support.

We are not alone in our desire to amend the proposed legislation in order to remove the portions that offend the first amendment to the Constitution. My distinguished colleague from Nebraska (Mr. HRUSKA) has also recently introduced far-reaching amendments that seek to remedy these shortcomings. His

amendments—thoughtfully considered and skillfully drafted—reflect a statesman's sensitivity to, and appreciation of, the constitutional issues at stake. I know that his proposed amendments will be given the closest attention by the Committee on the Judiciary when it hammers out the final version of the legislation.

I understand that other Senators on the committee also plan to offer amendments in addition to those of Senator BAYH, Senator HRUSKA, and myself, that will further safeguard the constitutionally protected freedoms that we value so highly in this country. The Senator from Massachusetts (Mr. KENNEDY) and the Senator from Maryland (Mr. MATHIAS) will address themselves to the wiretap provisions, Senator TUNNEY insanity defense, Senator BURDICK sentencing and parole, and Senator PHILIP A. HART drug abuse. With such careful scrutiny, I expect that the final version of the proposed legislation will avoid the constitutional pitfalls contained in the earlier draft.

I hope that either now or subsequently, today, we will have the comments of the Senator from Indiana (Mr. BAYH). Meanwhile, I wish to recount briefly the major areas relating to the proper functioning of a free press in which I find amendment necessary. Though other changes are necessary, time limitations preclude a discussion of them at this time.

DISCLOSURE OF NATIONAL DEFENSE INFORMATION

This section relates to the control of information held by the Government. The bill as originally drafted creates a new offense that punishes the disclosure of classified information held by a Government employee or Government contractor to anyone not authorized to receive it. Senator BAYH proposes that the bill limit the offense to the transfer of classified information to a foreign power or agent of this foreign power with an intent that it be used to the injury of the United States or the advantage of any foreign power. Senator HRUSKA would seemingly narrow the ambit of the provision still further, by requiring only an intent to prejudice the safety of the United States or its Armed Forces.

As drafted, this section also fails to define with precision the type of information that falls within the meaning of "national defense information." Senator BAYH would require that the information pertain to "vital defense secrets," those that if revealed would pose a "direct, immediate, and irreparable harm to the security of the United States." These would be limited to four categories: Code or cryptographic information, specific information on war plans, specific information on weapon systems, and certain specific atomic secrets. Otherwise the penalties for disclosure are substantially lower, often only job-related.

In effect, Senator BAYH's amendment adopts for the criminal law the same constitutional standard that the Supreme Court requires before it allows the President to impose a prior restraint on the publication of national defense information.

This draft of S. 1 specifically exempts journalists from prosecution if they receive classified information from persons authorized to have it. However, this exemption does not specifically extend to the disclosure of the above-mentioned "national defense information." I consider this a major oversight, and one that the Senate must correct. Although Senator BAYH does not specifically exclude the press from liability as an accomplice, conspirator, or solicitor to offenses under this section, he would do so by implication unless the disclosure caused direct, immediate, and irreparable harm to the security of the United States. Senator HRUSKA would also exempt the press unless it has actual intent to imperil the safety of the United States or its Armed Forces.

THE DISCLOSURE OF OTHER CLASSIFIED INFORMATION

Senator BAYH and I are in total agreement that the press and media must be specifically exempted from liability for crimes under these provisions.

OTHER FIRST AMENDMENT CONSIDERATION

A number of other sections of the proposed legislation require revision to eliminate the possibility that in enforcing the law an overzealous official will not intrude on the media's first amendment prerogatives. Briefly, these are the sections that deal with theft, obstructing the Government by fraud, tampering with a Government record, obstructing a Government function by physical interference, instigating the overthrow of the Government, obstructing military recruitment, or induction and interception of mail.

Senator BAYH has addressed several of these issues, as has Senator HRUSKA.

To summarize, I think that the Committee on the Judiciary has a great deal more work to do on this bill. Under no circumstances will I support legislation that runs counter to the first amendment or interferes with freedom of the press.

My own office has been considering revisions similar to those of Senators BAYH and HRUSKA for some time, but since the proposed language of the BAYH and Hruska amendments has met with the approval of various concerned groups, I believe that I would best promote the adoption of these needed changes by supporting the Bayh amendments, the Hruska amendments, or a combination of the two.

Out of an abundance of caution, we on the Judiciary Committee must be certain that two interests are served—the preservation of the rights of our free press and the protection of our national security. I know that Senator BAYH and Senator HRUSKA have similar concerns, and their amendments, which I generally support, or a combination of them, achieve this proper balance.

I repeat that I hope that Senator BAYH will have an opportunity to comment later in the session.

I would be glad to yield to the Senator from Montana.

Mr. MANSFIELD. Mr. President, there has been a good deal of misconception about S. 1, and I merely wish to take this means to aline myself with the remarks made by the distinguished Republican leader.

There are two sections of that bill in which I am vitally interested. One has to do with compensation for the victims of crime, which passed this Chamber five separate times, and which has not even as yet been considered in the House.

Another section has to do with the carrying of a gun during the commission of a crime and the strengthened penalties for such an offense which also passed this Chamber on at least one occasion, I believe, but received no action in the other body.

What this latter provision would do would be to make the penalty for carrying a gun in the commission of a crime absolute and so severe as to deter the gun offender. The act of carrying a gun would be truly treated as a separate offense for which there would be a separate and distinct sentence. That sentence would not run concurrently but would be meted out in addition to the sentence imposed for the underlying crime. In addition the sentence for carrying the gun would be a true mandatory sentence. I think this is one way to get at the gun people—those who use that weapon in carrying out their crimes of violence. I think it would be most salutary and an effective way to deal with and deter the use of such weapons of violence.

As far as the other parts of S. 1 are concerned, it should be pointed out that the major thrust of the measure concerns the revision of the entire criminal code to eliminate inconsistencies—a reform which is long overdue. However, as the distinguished Republican leader has pointed out, it was my understanding that there would be a good deal of amending by the committee; that the proposal, S. 1, would not come out in its original form simply because as introduced it contained certain items that unless modified strike at the heart of rights and protections safeguarded by the Constitution. As far as I am concerned, for example, I am opposed to those provisions which affect freedom of the press and so-called national defense issues. I am also concerned about the wiretap provisions, the insanity defense provision, and other matters, and I do not intend to support them nor have I ever intended to do so. In our modifying and perfecting efforts, however, we should not lose sight of the basic purpose of this measure or of its other meritorious features.

I am deeply interested in compensation for victims of crimes. The President has now exhibited similar interest in such a program. I am interested as well in strengthening penalties against gun criminals. The act of carrying a gun in the commission of a crime is a separate offense; courts must be compelled to treat it separately, to improve the sepa-

rate sentence, to make it mandatory and to let the gun offenders know that there is no escape from his wanton act of violence in choosing such a weapon to perpetrate his wrongful acts.

I am delighted that the Republican leader has on this occasion made his position clear and I concur with him completely.

Mr. HUGH SCOTT. I thank the distinguished Senator. I also support, as the Senator knows, both of the provisions to which he has referred.

I yield now to the distinguished senior Senator from Nebraska.

Mr. HRUSKA. I thank the Senator from Pennsylvania.

I take this opportunity to say the statement he has made on this bill well describes the issues and the procedures to which resort will be had in processing S. 1 to final enactment.

There is general agreement, Mr. President, between the amendments which I have proposed and those referred to by the Senator from Pennsylvania, as well as the amendments proposed by the Senator from Indiana.

On June 27 of this year I stood on the floor of the Senate to expound in that same direction and with those same issues in mind.

Then, on August 15, I made an announcement and released specific amendments which were followed later by those from the Senator from Indiana and by the Senator from Pennsylvania, with the same thoughts in mind, that there would be in the final processing, consideration given to changes along these lines, insuring freedom of expression in this country. Mr. President, I ask unanimous consent that my remarks of June 27 and my August 15 release with the attached appendix of specific amendments be inserted in full at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HRUSKA. May I also say to the Senator from Montana that I am in favor of both of the sections in which he has expressed interest. He knows of my support on previous occasions and that support will be constantly forthcoming.

Mr. MANSFIELD. Mr. President, if the Senator will yield, I do certainly know of his support, and he has been one of the most ardent supporters of those two sections of the bill.

Mr. HRUSKA. Mr. President, this entire and encyclopedic bill will be processed by considering and carefully examining competing positions in intensive committee sessions. It has over 750 pages, and this method has been successfully used in other bulky and controversial bills. It is a matter of a constant forming and reforming and reamending.

In June 1973, the Senator from Arkansas, in introducing the original S. 1, said:

S. 1 is far from a final penal code, but I am satisfied that its structure, form and general outlines are sound. We view it only as a preliminary and immediate work product.

He goes on to say:

I know that some provisions will be controversial. Indeed, there is much room for debate on this bill. I have not reached firm judgments on a number of the provisions as they are now drafted. There is much that I wish to study further. My mind is not made up definitely on everything the bill contained.

The Senator from Pennsylvania referred to several issues that will be in the controversial area such as the matter of wiretapping, the matter of parole and sentencing, and other matters.

We have already engaged in that process, Mr. President, on one portion of S. 1. I refer to one of the more controversial points in the bill, capital punishment in certain cases. There was great controversy about it and, by agreement between the Senator from Arkansas and this Senator, there was a separate bill, S. 1401, introduced on the subject in the last Congress. It was thoroughly and vigorously debated on the floor here, as it had been on various occasions, and the vote was in favor of the reinstatement of the death penalty as limited. The vote was 54 in favor and 33 against it. There are 30 some odd States that have done the same thing.

The Senate and the country-at-large can be assured that in the main some 80 to 85 percent of the text and the body of S. 1 is a reenactment, recodification, a restatement, of present law.

I thank the Senator for having yielded.

EXHIBIT 1

FLOOR STATEMENT, JUNE 27, 1975, OF ROMAN L. HRUSKA

Mr. President, in President Ford's Message on Crime to Congress on June 19, 1975, laudatory reference is made to pending Senate Bill S. 1, the Criminal Justice Reform Act of 1975, a bill with which I have been connected for the past ten years, and which is a massive effort to codify and revise the criminal laws of the United States.

In view of its broad purposes, S. 1 necessarily touches upon many areas of the Federal criminal law which are of great concern to the people of this country. In any attempt to deal with such volatile issues as capital punishment, the insanity defense, appropriate lengths of sentences, increased sentences for special dangerous or repeat offenders, new sentencing treatment of certain marijuana offenses, and parole and probation, to mention just a few, some opposition to any position taken is to be expected. Indeed, it is even welcomed in the interests of informed debate so that the crucible of Congress, representing the people, may decide. It should be remembered that in addition to the controversial provisions, there are also dozens and dozens that are unquestionably advances: expanded recognition of civil rights; compensation for victims of violent crimes; increased fines for regulatory offenses currently inadequately deterred; prohibition of "dirty tricks" and other political tactics of Watergate fame; and a tighter crackdown on organized crime, to name only some.

The controversial provisions must not be considered in a vacuum: for example, the increased sentences for some crimes must be considered together with the lowered sentences for others (including the lowered sentence for non-commercial possession of small amounts of marijuana) and together with S. 1's innovative concept of appellate review of sentences.

One particular area of controversy needs special mention, as it has been the area of some press criticism. I mention it to avoid the impression of intractability on my part. That is the area of punishing those who "leak" secret government information. Let me hasten to assure the press and others, that this is still an area open to change in the bill. We are still attempting to define that area where disclosure of government information may be made permissibly without undue harm to the nation—indeed, perhaps with benefit to the nation—and to differentiate that area from the area where disclosure would be unduly injurious in terms of the national defense. I am sure all will recognize what a difficult endeavor this is. We have been receiving much helpful information from many sources in this regard, and hope to continue to receive it. Already since May of this year, a new tentative draft of these provisions has been under consideration, which strikes the balance in a way more favorable to disclosure than the preceding draft against which much of the criticism seems to be directed.

Similarly in the process of being worked out in the bill, with changes already in the process of drafting, is the difficult problem of when interference with government functions, and conduct or exhortations presenting a risk of violence, should and should not be permitted, having due regard for considerations of free speech and the benefits and dangers that may flow from the conduct.

On these and other matters in the bill, I wish to make it clear that I retain an open and receptive mind. The arguments brought out in the hearings over the preceding four years, and in the extensive work of the National Commission on the Reform of the Federal Criminal Laws, upon which S. 1 builds, and by others, have been, and will continue to be, enormously helpful in this regard.

S. 1 has several hundred provisions. Several, as I mentioned, are still in flux. Several may still need improvement. Most, however, are unquestionably sound. We should not lose sight of the fact that stating the federal criminal laws all in one place, in a rational fashion, for the first time, is beyond doubt something that is long overdue. S. 1 will accomplish that objective, to the immeasurable benefit of all in the criminal justice system and the country generally.

PRESS RELEASE, AUGUST 15, 1975, FROM THE OFFICE OF SENATOR ROMAN L. HRUSKA

Senator Roman L. Hruska (R-Neb) said today he would propose changes to controversial sections of a Senate criminal law codification bill, "in order to spell out more particularly some of the guarantees of free expression that, while perhaps inherent in the bill, did not clearly emerge in the text read by a non-expert."

Hruska, one of the principal sponsors of the bill, S. 1, which would codify virtually all federal criminal laws, noted that in June he made a statement in the Senate which indicated the bill is "open to change."

That statement, he said today, "recognized the need for tempering some of the provisions in the interest of giving greater recognition to the freedom to report governmental information and to engage in certain forms of non-violent conduct against actions of the government, while at the same time protecting the functioning of government, safeguarding the valid interests of other individuals, and affording protection to those state and military secrets that are vital to the survival of this nation."

The Nebraska Senator said his remarks in June "were framed with reference to a set of amendments to S. 1 along these lines, already drafted and awaiting only detailed consideration and perfecting.

"With the advent of the August recess, I have now had the opportunity to consider them in detail and I intend to urge their consideration by the Senate Judiciary Committee."

Hruska said he intended to press for moving the bill, which contains more than 1,000 other provisions, forward "so that the legal system will not have to wait too long to benefit from this desirable codification."

Hruska, as he had in earlier statements, noted that "it should be remembered that in addition to the controversial provisions in this extensive bill, there are hundreds that are unquestionably advances, for example expanded recognition of civil rights; compensation of victims of violent crimes; increased fines for regulatory offenses which are currently inadequately deterred; prohibition of 'dirty tricks' and other political tactics of Watergate fame, to name only a few."

Referring to the endorsement "in principle" of S. 1 by the American Bar Association's House of Delegates meeting this week in Montreal, Hruska said "The ABA reached some of the same decisions I had when it withheld its approval of those provisions which I am seeking to amend."

A summary of the Hruska changes:

Espionage; and Disclosing National Defense Information: These provisions are narrowed to require intention to prejudice the safety of the U.S. or its armed forces. The amendment also narrows the conduct that may be called espionage, and excludes the recipient of the information from criminal liability as an accomplice, conspirator, etc., unless he, too, has the intention to prejudice U.S. safety. In addition, the definition of "National Defense Information", which it is a crime to disclose, is narrowed so as to cover only critical or vital sensitive information.

Tampering with a Government Record: This provision is redrafted to exclude mere leaks of government information, and include only cases where the physical absence or alteration of a document demonstrably interferes with a government function.

Obstructing a Government Function by Fraud: This section is narrowed to include only substantial interference, and to exclude conduct which involves the release of national defense or classified information.

Obstructing a Government Function by Physical Interference: This provision is narrowed to exclude indirect interferences and insubstantial ones.

Instigating Overthrow of the Government: This provision is narrowed so that conduct which is meant to express a point of view and presents no serious threat, is not made criminal.

Sabotage: This provision is narrowed to exclude indirect, insubstantial, or nonphysical obstructions, and obstructions resulting from advocacy alone.

Obstructing Military Recruitment and Induction: This provision is modified in accord with the principles above.

In addition to the above, there are several more technical corrections the Senator will propose to S. 1.

He is also considering whether the classified information provisions should draw a distinction between classified information the disclosure of which should have only job-related consequences, and classified information the disclosure of which should bear criminal sanctions.

NOTE TO EDITORS AND CORRESPONDENTS

Attached is the precise language of the amendments to be proposed by Senator Hruska. They should be viewed against the May 16, 1975 draft of S. 1.

APPENDIX (AUG. 15, 1975)

NATIONAL SECURITY AND RELATED OFFENSES

Amendments to the May 16, 1975 Draft of S. 1; proposed by Senator Roman Hruska:

A. § 1103—INSTIGATING OVERTHROW ETC. OF GOVERNMENT

Amendment:

1. Define "incites" up front in § 111 (definitions) or in a new section to mean "directly urges, with success".

2. Subsection (a)(1) of § 1103: change "would facilitate" to "calculated to facilitate".

Comment: Senator Hruska's purpose is to narrow the scope because of considerations akin to free speech—to get at only dangerous conduct. In fact, his definition of incite is inherent in the cases, but we should strive to make the bill somewhat self-explanatory, he believes.

B. § 1111—SABOTAGE

Amendment: Subsection (a)(3): change "delays or obstructs" to "physically, directly and materially delays or obstructs, other than by mere advocacy".

Comment: Same type of considerations as A above.

C. § 1116—OBSTRUCTING MILITARY RECRUITMENT OR INDUCTION

Amendment: Subsection (a)(3): definition of "incites" as discussed under § 1103 above.

Comment: Same.

D. § 1121—ESPIONAGE

Amendment: Recast (a) and add new (b) as follows (move present (b) to become (c)):

(a) Offense—A person is guilty of an offense if, with the intention to prejudice the safety of the United States or its armed forces, he

(1) communicates national defense information to a foreign power;

(2) obtains or collects such information knowing of a substantial risk it may be communicated to a foreign power; or

(3) enters a restricted area with intent to obtain or collect such information, knowing of a substantial risk that it may be communicated to a foreign power.

(b) Liability as accomplice, conspirator, or solicitor—A person to whom information is communicated or to be communicated in the circumstances set forth in subsection (a), other than one acting for a foreign power, is not subject to prosecution as an accomplice to an offense under this section, and is not subject to prosecution for conspiracy to commit or for solicitation to commit an offense under this section, unless he acts with the intention required of the principal in order to commit the offense.

Definition change relevant to § 1121: Also, change definition of "National Defense Information" in section 1128 (f), by adding, at the end of the definition, as applicable to all 9 categories, the following:

"in such a degree or fashion as to indicate (without exploration of material that would itself present such danger) a substantial danger to the safety of the United States or the armed forces thereof."

Comment: The changes are designed to suppress leaks only where sensitive information is being leaked, as opposed to information respecting cost overruns, abuses, crimes, or inefficiencies having little impact on national safety; without, however, getting the court into all sorts of secrets in deciding whether it is sensitive. The changes respond to criticism that some leaks may be more beneficial than harmful. The narrowing takes place by (1) narrowing the definition of the protected "national defense information"; (2) striking out "prejudice to the interests" of the U.S., requiring instead "prejudice to the safety of the U.S. or armed forces" in subsection (a); (3) requiring intention (desire) to so prejudice, rather than mere knowledge it would so prejudice (knowledge would sweep into the prohibition, newspapers and others motivated by public interest in disclosing abuses); (4) in (a)(2) and (3) requiring knowledge of a "substantial risk" it may be communicated to a foreign power, rather than just knowledge that it "may"; (and (5) exempting the media from accomplice and conspirator liability unless the media has the intent (desire) to prejudice U.S. safety as opposed to a motive to inform. This exemption is similar to the one already appearing in 1124 (classified information) and should appear here in modified form. Otherwise a newspaper would be guilty of aiding and abetting if its source in fact had the bad intent, regardless of whether the newspaper knew of that intent, and even thought the newspaper was motivated by a motive to inform.

The change in the definition of "national defense information" requires the court to ascertain if there is national danger without, however, the court getting into secret material. (This is similar to the court's task in another field: when the self incrimination privilege is raised, the court must decide if there is a danger of incrimination, without getting into the allegedly privileged material itself. See McCormick, Evidence, under Self-Incrimination.)

E. § 1122—DISCLOSING NATIONAL DEFENSE INFORMATION

Amendment: Subsection (a): strike "or interest". Strike "or to the advantage of a foreign power" and substitute "or the armed forces thereof".

Comment: Analogous to same change above under § 1121.

F. § 1301—OBSTRUCTING A GOVERNMENT FUNCTION BY FRAUD

Amendment: Subsection (a): change "intentionally obstructs or impairs" to "intentionally and materially obstructs or impairs."

Add new (b) and move present (b) and (c) down to form (c) and (d) respectively.

New (b):

Bar to prosecution. It is a bar to prosecution under this section that the defrauding that is the subject of the offense consists solely of the unauthorized obtaining, copying, or release, of national defense information or classified information as those terms are defined in Section 1128, whether or not in the form of a record, document, or other data compilation.

Comment: The new subsection (b) is analogous to the bar to prosecution that was previously added to the theft provisions (§ 1738(e)) to be certain that theft of governmental information would be governed by the careful provisions of Chapter 11 respecting unauthorized disclosure (provisions designed to balance the need for public information against the dangers of unauthorized disclosure of secret governmental information), rather than the meat-axe treatment that would result if handled under theft. For the same reasons, an anti-overlap provision is needed here. The notion of "defraud" is a vague term and could encompass the kinds of things dealt with in Chapter 11 respecting unauthorized disclosure. Senator Hruska suggests also that we require some material obstruction or impairment. As "defraud" could cover all sorts of things from the trivial to the consequential, as could "obstruct or impair," it seems to him it should be limited to sizeable matters. To have a bill that punishes trivia invites selective enforcement based on other criteria.

G. § 1302—OBSTRUCTING A GOVERNMENT FUNCTION BY PHYSICAL INTERFERENCE

Amendment: Subsection (a): change "intentionally obstructs or impairs" to "intentionally and materially obstructs or impairs". Also change "by means of physical interference or obstacle" to "by means of direct physical interference or obstacle".

Comment: The first change above is analogous to the same changes suggested for 1301 above. The second change arises from fears that physical interference with some governmental function may result as an indirect by-product of some essentially harmless or even beneficial activity (say giving a speech, or carrying a sign, and a modest crowd gathers, interfering somewhat with access to a building by some government workers). A fact-finder could possibly find the requisite intention. Such conduct should be prohibited only if the casual connection is direct and the obstruction is serious or substantial.

H. § 1344—TAMPERING WITH A GOVERNMENT RECORD

Amendment: Subsection (a): change "alters, destroys, mutilates, conceals, removes, or otherwise impairs the integrity or availability of a government record" to "alters, destroys, or mutilates, or conceals or removes during a period when it is sought to be used, or otherwise impairs, or impairs the availability of, a government record."

Comment: What does "impairs the integrity of" mean? This, and the use of the word "removes," present the possibility that this provision, rather than the carefully balanced provisions of Chapter 11 respecting unauthorized disclosures, might be used to prosecute government leaks. It seems that the separate and distinct evil this section is designed to hit, is where the physical absence of the document, or its alteration, gets in the way of someone doing his job, rather than the evil of government secrets getting out. It is redrafted accordingly.

I. § 1345—GENERAL PROVISIONS FOR THE SUBCHAPTER

Amendment: Omit (b)(2) (definition of and proof of materiality)—leave it to courts.

Comment: The whole purpose of a "materiality" requirement in crimes of false statement, is to avoid punishing the trivial; and avoid the burdens on resources and courts, and the invitation to selective enforcement, that punishing the trivial would entail. Yet S. 1's definition of materiality makes practically anything material, even if it has trivial effect.

J. INTERRELATIONSHIP OF § 330(p)(1)(A) (KNOWLEDGE OR OTHER STATE OF MIND NOT REQUIRED AS TO EXISTENCE OF STATUTE OR REGULATION) AND §§ 122–23 (OFFENSES RELATING TO DISCLOSING DEFENSE INFORMATION).

There is a potential conflict between § 303 (d)(1)(A) and §§ 1122–23. § 303(d)(1)(A) states that no knowledge or other state of mind is required as respects the fact that something contravenes a statute or regulation. Yet §§ 122 requires knowledge that the disclosure of national defense information is to an "unauthorized" person ("unauthorized" means in violation of or without express statutory or regulatory authority—see § 1129(a) defining "authorized"). § 1123 requires recklessness with regard to the same thing. There are also other provisions in S. 1 like this).

To avoid this conflict, Hruska adds to § 303 (d)(1), just after its heading, the words "Unless otherwise required by the context." (While the opening sentence of entire § 303 states "Except as otherwise expressly required," the word expressly is the problem: § 1123 does not *expressly* otherwise require. It implicitly otherwise requires. This is so because the element of "unauthorized" is an element as to which no culpability is specified in 1123, and therefore, pursuant to 303 (b), recklessness is the applicable culpability.)

Mr. HUGH SCOTT. I thank the distinguished Senator.

I am most pleased by his summary of the situation. Too much jumping of the gun has been involved in regard to S. 1; too many wild allegations; too much hysteria and too much unauthorized concern.

I now yield to the distinguished Senator from Indiana.

Mr. BAYH. Mr. President, I appreciate the courtesy of my colleague from Pennsylvania in yielding to me, as well as the support he has offered for the amendments which I will introduce.

In listening to the remarks of the able minority leader, the distinguished Senator from Nebraska and our distinguished majority leader, it appears there is a great deal of willingness in this body to move toward reconciliation of some of the really important differences on S. 1. In a measure as critical as code fraction of those laws which bear on the freedom of each individual to talk and to walk on the streets, or the threat of incarceration for talking and saying the wrong things, we have to tread very carefully.

Our individual rights guaranteed in the Bill of Rights must be inviolate. That is the reason why I feel, despite my desire to take an active part in codification of our criminal laws, that certain provisions of S. 1 must be changed. I said some time ago, these provisions would be so repressive, along with others that, very frankly, have either intentionally or unintentionally been misrepresented to be even more repressive, that they must be removed from the bill. The Senator from Indiana, as one who has tried his very best to stand up and be counted in defense of our individual liberties, did not want to associate himself in any way with a measure that had become such a symbol of repression.

Working together, I hope we can accomplish the goal of codification. But, in the meantime, I think it is very important for us to be on guard and to be winning to stand up and fight those efforts that, indeed, erode those basic individual liberties for which so many Americans have made the supreme sacrifice. Again, I appreciate the willingness of the Senator from Pennsylvania to join in this effort.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from West Virginia (Mr. ROBERT C. BYRD) is recognized for not to exceed 15 minutes.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 o'clock tomorrow.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, there be a period for the transaction of routine morning business for the purpose only of introduction of statements into the RECORD, bills, resolutions, petitions and memorials, such period not to extend beyond 30 minutes, with statements limited therein to 15 minutes each.

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

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

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 30 minutes, with statements therein limited to 5 minutes each.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. NUNN) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON RESCISSIONS AND DEFERRALS, SEPTEMBER 1975

A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals, September 1975 (with an accompanying report); to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture and Forestry, the Committee on Labor and Public Welfare, the Committee on Interior and Insular Affairs, the Committee on Commerce, the Committee on Finance, the Committee on Armed Services, the Committee on Public Works, the Committee on Banking, Housing and Urban Affairs, the Committee on Foreign Relations, and the Committee on the Judiciary, jointly, pursuant to the order of January 30, 1975.

REPORT OF LOAN TO MINNKOTA POWER COOPERATIVE, INC., GRAND FORKS, N. DAK.

A letter from the Administrator, Rural Electrification Administration, Department

of Agriculture, reporting, pursuant to law, on approval of an REA insured loan to Minnkota Power Cooperative of Grand Forks, N. Dak., in the amount of $15,400,000 for the financing of certain transmission facilities (with accompanying papers); to the Committee on Appropriations.

REPORT OF TRANSFER OF SUBMARINE BY THE NAVY

A letter from the Assistant Secretary of the Navy (Installations and Logistics), reporting, pursuant to law, the proposed transfer by the Department of the Navy of the submarine EX-COD (ex-DD 224) to the Cleveland Coordinating Committee for COD, Inc., 1089 East 9th Street, Cleveland, Ohio 44114; to the Committee on Armed Services.

PROPOSED LEGISLATION BY THE DEPARTMENT OF DEFENSE CONCERNING FREQUENCY OF INSPECTIONS

A letter from the Acting General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 32, United States Code, to authorize the Secretary concerned to prescribe the frequency of inspections, and for other purposes (with accompanying papers); to the Committee on Armed Services.

PROPOSED CONSTRUCTION PROJECTS FOR THE NAVAL AND MARINE CORPS RESERVE

A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on construction projects proposed to be undertaken for the Naval and Marine Corps Reserve; to the Committee on Armed Services.

REPORT OF EXIMBANK TRANSACTIONS WITH COMMUNIST COUNTRIES, JULY 1975

A letter from the President and Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, a report on loan, guarantee and insurance transactions supported by Eximbank during July 1975 to Communist countries (as defined in Section 620(f) of the Foreign Assistance Act of 1961, as amended) (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

PROPOSED LEGISLATION TO AMEND THE COMMUNICATIONS ACT

A letter from the Chairman, Federal Communications Commission, transmitting a draft of proposed legislation to amend section 318 of the Communications Act of 1934, as amended, to enable the Federal Communications Commission to authorize translator broadcast stations to originate limited amounts of local programming, and to authorize FM radio translator stations to operate unattended in the same manner as is now permitted for television broadcast translator stations (with accompanying papers); to the Committee on Commerce.

PROPOSED LEGISLATION WITH RESPECT TO COMMISSIONERS AND EMPLOYEES OF THE FEDERAL COMMUNICATIONS COMMISSION

A letter from the Chairman, Federal Communications Commission, transmitting a draft of proposed legislation to amend the Communications Act of 1934, as amended, with respect to commissioners and Commission employees (with accompanying papers); to the Committee on Commerce.

REPORT OF COMMITTEES OF THE DISTRICT OF COLUMBIA COUNCIL

A letter from the Secretary, Legislative Services, Council of the District of Columbia, transmitting, pursuant to law, committee reports of the District of Columbia Council which may have been omitted inadvertently from the August 11th transmittal of Acts 1-37, 1-28 and 1-39 for congressional review (with accompanying reports); to the Committee on the District of Columbia.

REPORT OF THE METRORAIL CONSTRUCTION PROGRAM

A letter from the Geneal Manager, Washington Metropolitan Area Transit Authority, transmitting, pursuant to law, the sixth quaterly report on the Metrorail construction program, dated August 1975 (with an accompanying report); to the Committee on the District of Columbia.

REPORT OF GRANTS MADE BY THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report concerning grants approved by the Department which are financed wholly with Federal funds and subject to the reporting requirements of section 1120(b) of the Social Security Act (with an accompanying report); to the Committee on Finance.

REPORT ON MEDICARE VIOLATION SAMPLE SURVEYS

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report and analysis of the findings of 105 medicare validation sample surveys of the Joint Commission on Accreditation of Hospitals accredited hospitals conducted in 1974 (with an accompanying report); to the Committee on Finance.

PROPOSED LEGILATION TO RELIEVE RESTRICTIONS ON IMPORTATION OF CERTAIN MEAT

A letter from the Deputy Under Secretary of Agriculture, transmitting a draft of proposed legislation to amend section 306 of the Tariff Act of 1930 (46 Stat. 689; 19 U.S.C. 1306), to relieve restrictions on the importation of certain meat (with accompanying papers); to the Committee on Finance.

AGREEMENTS OTHER THAN TREATIES ENTERED INTO BY THE UNITED STATES

A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States (with accompanying papers); to the Committee on Foreign Relations.

REPORT ON PROPOSED REPLENISHMENT OF RESOURCES OF THE INTER-AMERICAN DEVELOPMENT BANK (IDB)

A letter from the Secretary of the Treasury and Chairman, National Advisory Council on International Monetary and Financial Policies, transmitting a special report on the proposed replenishment of the resources of the Inter-American Development Bank (IDB) (with an accompanying report); to the Committee on Foreign Relations.

AGREEMENTS WITH POLAND AND JAPAN—BACKGROUND INFORMATION

A letter from the Assistant Legal Adviser for Treaty Affairs, transmitting a statement providing background information on the agreement with Poland of May 15, 1975, deferring purchases by the United States of dollar exchange for zlotys accrued under certain agricultural commodities agreements and terminating the agreement of August 6, 1968, relating to U.S. Government pensions, and a statement concerning the agreement of May 8, 1975, with Japan relating to air traffic control (with accompanying papers); to the Committee on Foreign Relations.

REPORTS OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on examination of financial statements of Federal Prison Industries, Inc., fiscal year 1974, Department of Justice (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Revenue Sharing: An Opportunity for Improved Public Awareness of State and Local Government Operations," Department of the Treasury (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on some of the issues involved in maintaining U.S. forces in Europe, Departments of Defense and State (with an accompanying report); to the Committee on Government Operations.

REPORT CONCERNING TV FACTS AGAINST UNITED STATES

A letter from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report and recommendations concerning the claim of TV Facts against the United States (with accompanying papers); to the Committtee on Government Operations.

REPORT OF DISPOSAL OF FOREIGN EXCESS PROPERTY

A letter from the Secretary of Transportation, transmitting, pursuant to law, the annual report of disposal of foreign excess property for the Department of Transportation (with an accompanying report); to the Committee on Government Operations.

PROPOSED PLAN FOR USE AND DISTRIBUTION OF JUDGMENT FUNDS TO THE SAMISH TRIBE OF INDIANS

A letter from the Acting Secretary of the Interior, transmitting, pursuant to law, a proposed plan for use and distribution of judgment funds awarded to the Samish Tribe of Indians in Docket 261 before the Indian Claims Commission (with accompanying papers); to the Committee on Interior and Insular Affairs.

PROPOSED PLAN FOR USE AND DISTRIBUTION OF JUDGMENT FUNDS AWARDED TO THE SWINOMISH TRIBE OF INDIANS

A letter from the Acting Secretary of the Interior, transmitting, pursuant to law, a proposed plan for use and distribution of judgment funds awarded to the Swinomish Tribe of Indians in Docket 233 before the Indian Claims Commission (with accompanying papers); to the Committee on Interior and Insular Affairs.

PROPOSED AMENDMENT OF THE MINERAL LEASING ACT

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to amend section 21 of the Mineral Leasing Act (41 Stat. 445), as amended (30 U.S.C. 241) (with accompanying papers); to the Committee on Interior and Insular Affairs.

THIRD PREFERENCE AND SIXTH PREFERENCE CLASSIFICATIONS FOR CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports relating to third preference and sixth preference classifications for certain aliens (with accompanying papers); to the Committee on the Judiciary.

REPORT ON O'BRIEN DIESELECTRIC CORP. AGAINST UNITED STATES

A letter from the Chief Commissioner, United States Court of Claims, transmitting, pursuant to law, opinion and findings of fact of the Review Panel in O'Brien Dieselectric Corp. against The United States, Congressional Reference No. 4-70 (with accompanying papers); to the Committee on the Judiciary.

REPORT ON STANDARDS FOR THE ADMINISTRATION OF JUVENILE JUSTICE

A letter from the Administrator, Law Enforcement Assistance Administration, Department of Justice, transmitting, pursuant

to law, a report of the Advisory Committee to the Administrator on Standards for the Administration of Juvenile Justice (with an accompanying report); to the Committee on the Judiciary.

REPORT OF ORDERS ON ADMISSION OF CERTAIN ALIENS

Two letters from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act (with accompanying papers); to the Committee on the Judiciary.

REPORT ON PRESIDENTIAL ADVISORY COMMITTEE RECOMMENDATIONS, AUGUST 1975

A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President transmitting, pursuant to law, a report with respect to the recommendations contained in the report entitled "Report for the President of the United States on Federal Civilian Personnel Management," March 26, 1973, from the President's Advisory Council on Management Improvement (with an accompanying report); to the Committee on Post Office and Civil Service.

PROPOSED ALTERATIONS OF FEDERAL BUILDINGS

Three letters from the Administrator, General Service Administrator, transmitting, pursuant to law, prospectuses for alterations at the Washington, D.C., 101 Indiana Avenue Building; the Washington, D.C., Federal Trade Commission Building; and the Albany, New York, Post Office, Courthouse, and Customhouse(with accompanying papers); to the Committee on Public Works.

REPORT OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION

A letter from the Chairman of the Foreign Claims Settlement Commission transmitting, pursuant to law, the annual report of its activities for the year ending December 31, 1974 (with an accompanying report); jointly, to the Committee on Foreign Relations and the Committee on Interior and Insular Affairs, by unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that an annual report of activities submitted by the Chairman of the Foreign Claims Settlement Commission pursuant to Public Law 348 be referred jointly to the Committees on Foreign Relations and Interior and Insular Affairs.

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

PETITIONS

The ACTING PRESIDENT pro tempore laid before the Senate the following petitions which were referred as indicated:

Senate Joint Resolution No. 10 adopted by the Legislature of the State of California; to the Committee on Finance:

SENATE JOINT RESOLUTION NO. 10

Adopted in Senate September 4, 1975

Adopted in Assembly September 2, 1975

Senate Joint Resolution No. 10—relative to social security.

LEGISLATIVE COUNCIL'S DIGEST

SJR 10, Rains. Social security: income disregards.

This resolution memorializes the Congress of the United States to amend federal law to permit recipients of social security benefits to earn $7,500 annually without any loss of such benefits.

Whereas, There is an urgent need to assist retired people on fixed incomes in maintaining themselves in the midst of an atmosphere of rising inflation; and

Whereas, This rising inflation in the nation's economy has placed the cost of food and other necessities of life beyond the reach of the nation's retired persons; and

Whereas, It is essential that those aged and retired persons who have previously contributed so much to this nation be remembered at a time when circumstances affecting the economy make their present survival in a dignified manner extremely arduous; and

Whereas, An adjustment of the present federal provisions governing the maximum amount of earnings which social security recipients may realize without the loss of benefits is most appropriate in view of present economic conditions; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to amend federal law to permit social security recipients to earn $7,500 per year without any loss of social security benefits; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

A resolution adopted by the National Sorority of Phi Delta Kappa relating to adequate health care; to the Committee on Labor and PUBLIC Welfare.

A resolution adopted by the Polish Legion of American Veterans, State Department of Illinois.

Seventeen resolutions adopted by the Department of Illinois Polish Legion of American Veterans, as follows:

One, relating to the purposes of the Legion of American Veterans; ordered to lie on the table;

Two, in support of the Veterans' Administration; to the Committee on Veterans' Affairs.

Three, in support of the Illinois Veterans Commission; to the Committee on Veterans' Affairs.

Four, in support of strict law enforcement; to the Committee on the Judiciary.

Five, in support of law enforcement efforts to fight drug abuse; to the Committee on Labor and Public Welfare.

Six, supporting programs at Veterans' hospitals; to the Committee on Veterans' Affairs.

Seven, relating to respect for the American flag; to the Committee on the Judiciary.

Eight, relating to elections and voting; to the Committee on the Judiciary.

Nine, relating to Veterans' Day; ordered to lie on the table.

Ten, relating to Veterans' preference; to the Committee on Post Office and Civil Service.

Eleven, relating to local veterans' benefits; to the Committee on Veterans' Affairs.

Twelve, relating to military superiority; to the Committee on Armed Services.

Thirteen, relating to career incentives for VA medical personnel; to the Committee on Veterans' Affairs.

Fourteen, relating to federal tax exempt status of certain veterans; to the Committee on Finance.

Fifteen, relating to mortgage life insurance for veterans; to the Committee on Veterans' Affairs.

Sixteen, relating to veterans' benefits; to the Committee on Labor and Public Welfare.

Seventeen, relating to the situation in the Middle East; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McGEE, from the Committee on Post Office and Civil Service, without amendment:

S. Res. 239. A resolution disapproving the alternative plan for pay adjustments for Federal employees (Rept. No. 94-371).

EXECUTIVE REPORTS OF COMMITTEES

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

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

Austin N. Heller, of New York, to be an Assistant Administrator of Energy Research and Development.

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

Mr. MAGNUSON. Mr. President, as in executive session, I report favorably from the Committee on Commerce sundry nominations in the National Oceanic and Atmospheric Administration which have previously appeared in the CONGRESSIONAL RECORD and to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of September 3, 1975, at the end of the Senate proceedings.)

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. RANDOLPH:

S. 2337. A bill to extend the Energy Supply and Environmental Coordination Act of 1974. Ordered placed on the calendar.

By Mr. STAFFORD:

S. 2338. A bill to amend section 1448 of title 10, United States Code, to provide survivor benefits in case of death of certain members or former members of the Armed Forces who die before becoming entitled to retired pay for non-Regular service, and for other purposes. Referred to the Committee on Armed Services.

By Mr. BEALL:

S. 2339. A bill to amend section 321(b) of the Consolidated Farm and Rural Development Act to eliminate the credit elsewhere requirement. Referred to the Committee on Agriculture and Forestry.

By Mr. BENTSEN:

S. 2340. A bill to amend section 174 of the Internal Revenue Code of 1954 to make clear that product development and improvement

costs of publishers are research or experimental expenditures, and to prohibit the retroactive application of revenue ruling numbered 73-395. Referred to the Committee on Finance.

By Mr. MAGNUSON (for himself and Mr. PEARSON) (by request):

S. 2341. A bill to empower the Secretary of Commerce to permit certain personnel to carry firearms and to make arrests. Referred to the Committee on Commerce.

By Mr. MAGNUSON (for himself, Mr. HUMPHREY, Mr. HASKELL, Mr. HATFIELD, Mr. INOUYE, Mr. JACKSON, Mr. JAVITS, Mr. KENNEDY, Mr. MANSFIELD, Mr. MONTOYA, Mr. RIBICOFF, Mr. ROTH, and Mr. TUNNEY):

S. 2342. A bill to provide for the safeguarding of taxpayer rights, to restrict the authority for inspection of Federal tax returns and the disclosure of information derived from such returns, to clarify the authority of the Comptroller General to oversee the administration of the internal revenue laws, and for other purposes. Referred to the Committee on Finance.

By Mr. MAGNUSON (for himself and Mr. PEARSON) (by request):

S. 2343. A bill to amend the Communications Act of 1934, as amended, with respect to penalties and forfeitures. Referred to the Committee on Commerce.

By Mr. BENTSEN (for himself and Mr. NELSON):

S. 2344. A bill to amend the Employee Retirement Income Security Act of 1974 with respect to reporting requirements for small plans. Referred to the Committee on Finance and the Committee on Public Works, jointly, by unanimous consent.

By Mr. KENNEDY:

S. 2345. A bill to impose income tax on capital gains at death and for other purposes. Referred to the Committee on Finance.

By Mr. MONTOYA:

S. 2346. A bill to amend the Internal Revenue Code of 1954 to provide a credit against tax with respect to State and local property taxes, and for other purposes. Referred to the Committee on Finance.

By Mr. PROXMIRE (for himself and Mr. BROOKE):

S. 2347. A bill to regulate standby letters of credit, guaranties, surety agreements, and certain acceptances issued by commercial banks. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. HARTKE (for himself, Mr. BENTSEN, Mr. CURTIS, Mr. FANNIN, Mr. HANSEN, Mr. MONDALE, Mr. ROTH, and Mr. THURMOND):

S. 2348. A bill to amend section 4940 of the Internal Revenue Code of 1954 to change the excise tax on the investment income of private foundations from 4 percent to 2 percent. Referred to the Committee on Finance.

By Mr. PROXMIRE:

S. 2349. A bill to amend the Real Estate Settlement Procedures Act of 1974 to prohibit sellers or lenders from requiring that title insurance or title searches be obtained from specific title companies or attorneys, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

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

S.J. Res. 127. A joint resolution to restore posthumously full rights of citizenship to Eugene Victor Debs. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BEALL:

S. 2339. A bill to amend section 321(b) of the Consolidated Farm and Rural Development Act to eliminate the credit-elsewhere requirement. Referred to the Committee on Agriculture and Forestry.

Mr. BEALL. Mr. President, today I am sending to the desk a bill which would eliminate the recently enacted requirement under the Consolidated Farm and Rural Development Act which denies Federal low-interest loans to farmers victimized by natural disasters where they are able to obtain sufficient credit elsewhere. My bill would strike the so-called credit-elsewhere provision from the act and in its place include a provision which would provide for emergency loan assistance to farm disaster victims without regard to whether the required assistance is otherwise available from private, cooperative, or other responsible sources.

Although similar in other respects, the disaster loan provisions of the Small Business Act has no comparable provision to the credit-elsewhere clause found in the Consolidated Farm and Rural Development Act. This double standard is patently unfair to many of our Nation's farmers. Under the present laws, where a natural disaster strikes an area consisting of both agricultural and urban communities, SBA disaster loans can be made to "creditworthy" homeowners and small business concerns. On the other hand, nearby farmers who may be equally affected by the disaster are forced to compete in the fluctuating commercial loan market for money with which to repair their farms—at exceedingly higher interest rates.

Low interest loans are just as important to farmers located in an area affected by a natural disaster as they are to individuals and small business concerns.

Mr. President, I believe the differences which exist between the disaster loan provisions of the Small Business Act and the Consolidated Farm and Rural Development Act have resulted in the inequitable discrimination against the farmers of our great Nation. The legislation I am introducing today is designed to give all natural disaster victims an equal chance to recoup their losses.

By Mr. BENTSEN:

S. 2340. A bill to amend section 174 of the Internal Revenue Code of 1954 to make clear that product development and improvement costs of publishers are research or experimental expenditures, and to prohibit the retroactive application of revenue ruling numbered 73-395. Referred to the Committee on Finance.

EQUAL TAX TREATMENT FOR PUBLISHERS OF TEXTBOOKS AND OTHER TEACHING AIDS

Mr. BENTSEN. Mr. President, I am today introducing a bill to amend section 174 of the Internal Revenue Code to insure that publishers are allowed to take a current deduction for prepublication expenditures incurred for the writing and editing of textbooks and the design and art work for visual teaching aids. My legislation would simply insure that the existing tax incentive to encourage greater research and experimentation will be available to publishers just as it is available to other businesses. My legislation would give equal tax treatment with respect to section 174 to publishers of textbooks and similar products which are so important to our Nation's educational system. I do not believe that Congress ever intended that the tax incentive for research and experimentation would be interpreted so as to impose a discriminatory tax burden on those businesses that can make substantial contributions to achievement of our Nation's educational goals.

Mr. President, section 174 of the Internal Revenue Code, as enacted by Congress, grants all business taxpayers the option to currently deduct research or experimental expenditures instead of amortizing these expenses over the useful life of the product. However, in September 1973 the Internal Revenue Service published revenue ruling 73-395. This ruling interprets section 174 so as to deny publishers—even for all years beginning prior to publication of the ruling—the option to deduct prepublication expenditures incurred for the writing and editing of textbooks and the design and art work of visual teaching aids. This ruling held, for the first time, that such costs do not constitute research or experimental expenditures under section 174 of our tax law.

The ruling retroactively denies to publishers the right to deduct currently their prepublication expenses despite their long-continued use of this accounting method which had not been previously challenged, and was thus tacitly approved by the IRS. Serious inequities can result when an administrative agency reverses its position on an issue and then applies the new policy retroactively.

My legislation would make it clear that the IRS ruling does not reflect the intent of Congress when it enacted section 174. The reports of the House Ways and Means Committee and of the Senate Finance Committee explain that the purpose of section 174 was to eliminate uncertainty and to encourage taxpayers to carry on research and experimentation. There was no suggestion that section 174 would not apply to the costs of research and experimentation necessary to develop such products as textbooks, reference books, visual aids, and other teaching aids, merely because the taxpayer's business is publishing or because the teaching aid or other product of a publisher is in the form of a printed book rather than in the form of a mechanical device.

The expenditures which would be entitled to a current deduction under my proposal, include the costs of writing, editing, compiling, illustrating, designing and other costs of developing and improving books, teaching aids, and similar products, such as texts published in microfilm. These costs do not include the taxpayer's cost of printing or manufacturing books, teaching aids, or similar products.

Although Treasury Department regulations now provide that the term "research and experimental expenditures" does not include expenditures "for re-

search in connection with literary, historical, or similar projects," there is no sound reason for discriminating against publishers. This regulatory exclusion should be confined to its proper scope, for example, to preclude the amateur novelist from deducting his essentially personal expenses in the guise of business research expenses.

It should also be pointed out that for nontax financial statement purposes, publishing companies generally charge these publication expenditures against current income and do not capitalize or otherwise defer such charges. In revenue ruling 73-395, therefore, the IRS has imposed tax accounting concepts on the publishing industry that are at variance with sound financial accounting concepts.

For taxable years ending before the date of enactment, this bill would merely apply a "do not disturb rule." The Internal Revenue Service would be prohibited from compelling a change in the method of tax accounting for these prepublication expenditures. The bill will also make clear that prepublication expenses in the future can be taken as a current deduction.

Mr. President, my proposal will remedy an existing inequity is the implementation of our tax laws. It will insure that the intent of Congress in enacting section 174 of the tax law will be carried out. I urge swift congressional approval of my proposal.

By Mr. MAGNUSON (for himself and Mr. PEARSON) (by request):

S. 2341. A bill to empower the Secretary of Commerce to permit certain personnel to carry firearms and to make arrests. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce, by request, for appropriate reference, a bill to empower the Secretary of Commerce to permit certain personnel to carry firearms and to make arrests, and I ask unanimous consent that the letter of transmittal and statement of purpose and need be printed in the RECORD together with the text of the bill.

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

S. 2341

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Commerce may authorize duly qualified employees of the Department of Commerce, whose assigned duties are to protect, guard, patrol, or provide physical security to premises under the statutory responsibilities of the Secretary (but not including premises under the statutory responsibilities of the Administrator of General Services) and persons and property located thereon, while engaged in the performance of their duties to carry fire-arms and to make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States, if they have reasonable grounds to believe that the person to be arrested has committed or is committing such a felony.

SEC. 2. The Secretary is authorized to promulgate rules necessary for the protection of premises under his statutory control and authority and persons and property thereon.

THE SECRETARY OF COMMERCE,
Washington, D.C., July 18, 1975.

Hon. NELSON A. ROCKEFELLER,
President of the Senate, U.S. Senate, Washington, D.C.

DEAR MR. PRESIDENT: Enclosed are six copies of a draft bill "To empower the Secretary of Commerce to permit certain personnel to carry firearms and to make arrests," together with a statement of purpose and need in support thereof.

This proposed legislation has been reviewed by the Department in the light of Executive Order No. 11821 and has been determined not to be a major proposal requiring evaluation and certification as to its inflationary impact.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our draft bill to the Congress.

Sincerely,

ROGERS MORTON,
Secretary of Commerce.

STATEMENT OF PURPOSE AND NEED

The purpose of this legislation is to vest in the Secretary of Commerce specific legal authority to authorize and empower personnel under his jurisdiction to carry out certain security functions in physical areas under his statutory protection and control.

Title 15 U.S.C. 278e, as amended, and 46 U.S.C. 1126(b)(1), authorize the Secretary to protect and maintain physical installations of the National Bureau of Standards and the Merchant Marine Academy. Neither of these statutes, however, specifically provides that qualified security personnel of the Department shall carry firearms and otherwise act to enforce the laws of the United States on property under the statutory authority and control of the Secretary. Specific authority to the Secretary to designate security personnel of the Department to make arrests and carry weapons on these premises is desirable to make clear the legislative intent of the Congress that the Secretary has the powers clearly necessary to provide such protection.

This legislation will have no effect upon other investigative agencies or the statutory responsibilities of the Administrator of General Services. It is not contemplated that additional funds will be required.

By Mr. MAGNUSON (for himself, Mr. HUMPHREY, Mr. HASKELL, Mr. HATFIELD, Mr. INOUYE, Mr. JACKSON, Mr. JAVITS, Mr. KENNEDY, Mr. MANSFIELD, Mr. MONTOYA, Mr. RIBICOFF, Mr. ROTH, and Mr. TUNNEY):

S. 2342. A bill to provide for the safeguarding of taxpayer rights, to restrict the authority for inspection of Federal tax returns and the disclosure of information derived from such returns, to clarify the authority of the Comptroller General to oversee the administration of the internal revenue laws, and for other purposes. Referred to the Committee on Finance.

FEDERAL TAXPAYERS' BILL OF RIGHTS ACT OF 1975

Mr. MAGNUSON. Mr. President, today I am introducing the Federal Taxpayers' Bill of Rights Act of 1975—legislation designed to correct the flagrant abuses which have recently been revealed within the Internal Revenue Service. The same legislation is being introduced today in the House of Representatives by the distinguished Congressman CHARLES A. VANIK, of Ohio.

The United States collects personal and corporate income tax through a self-assessment mechanism. This assumes that individuals and businesses are familiar with the law, conscious of their rights, and willing to comply with the tax mechanism.

More importantly, the Internal Revenue Service is the one governmental agency which touches every employed citizen every year. It is the face of the Federal Government to most citizens. If it has no credibility or if it is arbitrary and capricious, or if it favors the rich over the poor, or if it is insensitive to reasonable complaints of which it is aware, or if it is inefficient or bureaucratic, the entire U.S. Government stands indicted. Congress cannot tolerate any of these problems in any bureaucracy. But no agency is more important in this regard than the Internal Revenue Service. Also, if too many people question the basic integrity and fairness of their Government and the self-assessment mechanism, the fiscal integrity of the United States may be endangered. The Congress must take every reasonable action to insure fairness and equity in the tax mechanisms. Otherwise, self-assessment cannot work.

The Senate has become fully aware of a whole range of abuses in each of these areas within the Internal Revenue Service through the hard work of Senators MONTOYA, WEICKER, HASKELL, the Watergate Select Committee, and other Members of this body who have acted on complaints from their constituents.

The bill which we are introducing today is an effort to build a consensus for comprehensive procedural reform of the Internal Revenue Service taxation system. It is my hope that my distinguished colleague, the chairman of the Finance Committee, will take this bill promptly to the other members of his committee, discuss it fully and frankly, and make reasonable changes that he believes are necessary. In any event, it is extremely important that the Senate act this year, before the end of the first session of Congress, to correct the flagrant abuses which have been exposed in the last 2 years. The taxpayers of the United States should not be expected to subject themselves to an unreformed Internal Revenue system in April 1976.

The bill which I am introducing with Congressman VANIK contains seven major provisions:

First. The bill provides for significant new limitations on disclosure of tax return information. It permits taxpayers to recover civil damages for unauthorized disclosure of personal tax data.

Second. The bill establishes safeguards against the political misuse of the Internal Revenue Service. It limits nontax related surveillance activities of the IRS and provides criminal penalties for illegal surveillance.

Third. The bill protects taxpayers from arbitrary procedures. It places reasonable limits on the power of jeopardy assessment and termination of a tax year by IRS agents. It increases the amount of personal property exempt from tax levy for living expenses.

Fourth. It establishes a taxpayer Service and Complaint Assistance Office: a sort of ombudsman within the IRS. This new office will monitor improper behavior by IRS agents. It has the power to provide temporary relief in special cases of IRS abuse.

Fifth. It requires the IRS fully inform the taxpayer of his rights during any audit or tax appeal procedure.

Sixth. It authorizes a pilot project of independent legal assistance to taxpayers in audits and appeals. The project would be limited to four cities over a 3-year period. The legal assistance would be available to both middle- and low-income taxpayers.

Seventh. The bill provides the General Accounting Office oversight authority over the IRS. GAO is required to report annually on the entire scope of IRS activities.

Mr. President, this is not a complete list of every possible administrative amendment to the Internal Revenue Service mechanism. More needs to be done if we are to eliminate occasional abuses in IRS procedures. Other areas that could constructively be reviewed are: John Doe summonses, declaratory judgments for tax-exempt applications, and clearer lines of congressional oversight over IRS activities. Nevertheless, I and the other cosponsors of this legislation believe that this is the first necessary and major step which will restore the public's confidence in the tax assessment system.

PROHIBITIONS AGAINST DISCLOSURES OF FEDERAL TAX RETURN INFORMATION

The bill provides an essential tightening of the taxpayers right to privacy. It places realistic limitations on the disclosure of private Federal tax return information. Commissioner Alexander testified before the House Treasury Appropriations Subcommittee this spring:

> We have a gold mine of information in our tax system. We have more information about more people than any other agency in this country. We must have this. People file tax returns with us and tax returns contain a great deal of private information which we must safeguard.

Citizens reasonably expect that their tax return information will be held private by the Federal Government. In fact, tax returns are anything but private. Citizens' reasonable expectations of confidentiality must be insured. The present law does not do that. This bill provides that returns will be open for inspection only by the taxpayer or by "an officer or employee of the Department of the Treasury, or the Department of Justice, or by the President personally, if such inspection is solely in connection with the administration or enforcement of this title."

Under this provision, the President would have to sign personally for the use of tax returns. There would be no more unrecorded flow of tax information to White House aides. In addition, the stronger antidisclosure penalties in this bill will begin to adequately recognize people's reasonable expectations of privacy of tax return information.

In the past, the Justice Department has been able to obtain tax returns on individuals under investigation for criminal but nontax related matters. This is in contravention of the Constitution, which states 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 . . .

The prohibition on tax return disclosures provides that the Justice Department must obtain a search warrant filed by a competent judicial authority before the Department can have access to an individual's tax return held by the Internal Revenue Service. By requiring court review, we hope that improper use of tax data by the Justice Department can be limited.

In the area of sharing tax information between Federal and State tax authorities, I hope the Finance Committee will look carefully at our bill. It may not be strong enough. An increasing number of States are requiring that a copy of an individual's Federal tax return be included with the individual State tax return. There is a massive flow of tax data to the States and from there to the local units of government. It is simply not realistic to say that Federal tax returns today are confidential. It is not possible to maintain Federal tax return confidentiality at the local level. I personally have come to learn of cases where individual's tax returns have been stored in waste baskets at State and local tax offices while being processed. We all have heard of instances of tax return information being sold to credit agencies and other businesses interested in accumulating tax data on individuals.

The Congress may desire to completely eliminate the flow of Federal tax information to State and local governments. If so, this bill and its consideration by the appropriate committee is the proper vehicle for that proposal. If the States want help with their collection of taxes, then they can "piggyback" under title II of the Revenue Sharing Act. This allows the IRS to collect State taxes. We certainly should protect State interests in the tax mechanism without unnecessarily endangering persons' personal privacy.

SAFEGUARDS AGAINST POLITICAL MISUSE OF THE INTERNAL REVENUE SERVICE

It is now evident that the IRS has been collecting and maintaining information on individuals and organizations over the last several years for purposes other than enforcement of the tax law. Most of the files maintained by the special services staff had no relation at all to tax information needed by the IRS. Similar nontax related data has been maintained in the intelligence-gathering and retrieval systems, a new computer system designed to help the IRS' intelligence division keep track of organized crime cases.

The bill introduced today would make it illegal to "investigate into, maintain surveillance over, and maintain records regarding the beliefs, associations, or activities of an individual or organization which are not directly related to the Revenue laws."

An individual or organization would have standing to bring suit for damages against any official who violates this provision.

LIMITATIONS ON ARBITRARY IRS BEHAVIOR

Jeopardy assessment is a power given to the IRS to take suddenly the assets of a taxpayer if there is reason to believe the taxpayer is not going to meet his tax obligations. Historically, it has been used in cases where the taxpayer has been preparing to flee the country or otherwise hide or dissipate his assets. Termination of assessment provisions in the code have been used in the past 4 years in the drive against narcotics dealers. Generally, when a person is discovered to be a drug dealer, his tax year is immediately terminated and he is assessed for the value of his assets—generally the value of the drugs or the proceeds from the drug sale as estimated by the IRS.

These are extremely powerful tools for law enforcement. At the same time, they have been misused on occasion. More importantly, there are currently no adequate restraints on how these powers could be used if persons in authority in the Internal Revenue Service or the Department of the Treasury should decide to use these mechanisms for narrow political or personal reasons.

This bill attempts to give taxpayers certain limited recourses in cases of jeopardy or termination of assessment which are reasonable, do not conflict with lawful law enforcement purposes of the Internal Revenue Service, and effectively restrain the arbitrariness of the mechanisms. Commissioner Alexander has expressed his own personal concerns about the use of this assessment power and administratively has ordered tighter controls on the use of these tools. In fiscal year 1973, there were 3,090 jeopardy termination of assessments. In fiscal year 1975, the number of assessments declined to about 500. But we cannot rely solely upon the discretion of administrators for restraint of the totally arbitrary powers currently residing in the Internal Revenue Service.

As former IRS Commissioner Sheldon Cohen testified on June 24 before the House Ways and Means Committee:

> The power of the jeopardy assessment or the power to close a taxable year is an awesome power. It is not often used by the Internal Revenue Service, but it is used. When it is used, the judicial remedy is down the road. There is no immediate action to report. A number of us involved in the Administrative Conference Study, I can't say unanimously, but I can say most people I believe, believe that there should be some access after the fact to a court. Perhaps within ten days after the jeopardy assessment or the close of a taxable year, the Commissioner should be bound at least to come into a court, if the

taxpayer so chooses, to show prima facie that what he did had good reason.

This bill allows for court review within 10 days of the jeopardy or termination assessment at which the Secretary of the Treasury would have to appear and show reasonable cause for making the jeopardy assessment or termination of taxable period.

No one can argue that court review of IRS actions after the fact will unfairly inhibit legitimate IRS enforcement purposes. It is remarkable that Congress has not insisted that citizens receive their minimum due process.

The second major mechanism of the bill to restore fairness and eliminate arbitrariness from the tax system is the creation of a new assistant commissioner for taxpayer assistance within the Internal Revenue Service.

The new Assistant Commissioner and his office will be responsible for providing responses to questions by taxpayers and assistance in filling out tax returns. In addition, he will serve as the ombudsman for taxpayers' complaints concerning the Service.

I would like to refer again to the testimony by IRS Commissioner Sheldon Cohen before the Ways and Means Committee on June 24. He stressed the need for a complaint office within the IRS:

We are, I think, of the opinion that the Service does not have an adequate handle on tracking taxpayer complaints.

It has too many different places where complaints can be handled and no organized system of maintaining records as to whether they have been serviced or not.

Now we are attempting to address a proposed solution to the service and centralize that office somewhat, whether it is called ombudsman or office of complaints, or whatever, that there would be people in every region or district, depending on its size, who would track complaints and report solutions to the taxpayer and report to the administrative people on the kinds of problems that people are having to attempt to point out methods of solution.

If the Internal Revenue Service knew the areas where it was getting the most complaints, it might be able to design techniques to be able to overcome them.

In addition to dealing with problems such as lost checks and computation questions, the Office of Taxpayer Services would be available to hear complaints of improper or abusive treatment by IRS employees. The Assistant Commissioner would have to provide an annual report to the Ways and Means Committee, the Finance Committee, and the Joint Committee on Internal Revenue Taxation on his activities. He would be given a special power to issue a "taxpayer order" if he determined "the taxpayer is suffering from an unusual, unnecessary, or irreparable loss as a result of the manner in which the Internal Revenue laws are being administered by the Secretary or his delegate."

DISCLOSURE OF INFORMATION TO TAXPAYERS IN AUDIT AND APPEAL PROCEDURES

The bill requires that the IRS develop a series of pamphlets describing, in clear and easily understandable language, the rights of taxpayers in audits, assessments, and the appeals process. These statements of taxpayer rights must be provided to the citizen at the time of the first communication from the IRS. The amendment provides for a review and comment on the pamphlets by the tax committees of the Congress.

The IRS already has a series of very helpful pamphlets describing the appeals process, et cetera. As a result of a series of hearings by Senator MONTOYA, the quality of these pamphlets has been improved dramatically by recent years. This bill simply provides for a regular system by which the taxpayer is automatically advised of all his rights in all his dealings with the IRS.

PILOT PROJECT FOR INDEPENDENT LEGAL ASSISTANCE TO TAXPAYERS

The bill would provide for a 3-year pilot project to be conducted in four cities by the Legal Services Corporation. Taxpayers would be provided with legal services in their dealings with the IRS. The service would be free for lower-income individuals with a sliding fee schedule for taxpayers in other income brackets.

Most taxpayers must deal with the IRS without the advantage of legal counsel. Only the wealthiest have been able to obtain adequate legal representation in tax proceedings. Therefore, there has been a record of inequitable enforcement settlements between income groups. A pilot project of legal representation will be extremely helpful in determining whether the general treatment of lower- and middle-income taxpayers can be improved through making tax legal assistance more readily available to all.

GAO OVERSIGHT OF THE IRS

The IRS has consistently refused to allow the General Accounting Office to examine its operations. This bill provides, once and for all, that it is the law of the land that GAO may audit and investigate the IRS. It specifies that GAO is required to review a number of IRS activities and provide an annual report to the Congress. Language providing for GAO access is drawn largely from a letter of May 14, 1975, from the Comptroller General to the chairman of the Ways and Means Committee.

Mr. President, there are many areas of controversy in the procedural administration of the internal revenue laws of the United States. This bill is not a cure-all. But it is a critical first step. We must act on these proposals before the next tax year. It is time that people's reasonable expectations of the tax mechanism more closely parallel the reality of the law.

Mr. MONTOYA. Mr. President, today I am proud to join Senator MAGNUSON and several other distinguished Members of the Senate and House in introducing the Federal Taxpayers' Rights Act of 1975. This legislation represent, I believe, a continuation of the struggle many of us have undertaken, here in the Congress, to make the Internal Revenue Service a responsive servant of the people.

Mr. President, over the last few years, much attention has been focused on the Internal Revenue Service and the methods it utilizes as the chief collector of Federal revenues. As chairman of the Senate Appropriations Subcommittee which has jurisdiction over the IRS, I have attempted to focus the attention of the Congress on several abuses which came to light during hearings I held in 1973 and 1974. My subcommittee has been contacted by thousands of citizens who related their experiences with the IRS. A clear picture began to emerge from this correspondence, Mr. President, a picture of the average American taxpayers, uncertain of their rights, standing in fear before the IRS. Our subcommittee found that, instead of being a servant of the people, IRS was perceived as the enemy—a tyrant who conjured up visions of a secret police group more commonly associated with authoritarian governments.

Mr. President, this situation cannot be allowed to continue. Taxpayers—all taxpayers, not just those able to pay tax consultants and lawyers—are entitled to full information and knowledge of our tax laws, and a full explanation of their rights as taxpayers. Nothing less than that is acceptable in a nation which prides itself on self-assessment and self-government.

The people are not only the ultimate consumers of Government service; they are the employers of all civil servants. It is essential that they feel confidence in the system, that they believe in its fairness, and that their interests are protected in the taxpayer/tax collector relationship.

Mr. President, I believe that this bill, drafted as an omnibus IRS reform package, establishes certain procedures which will meet the goals I have discussed above. This bill which—

Provides GAO authority to oversee the IRS and report annually on IRS activities;

Makes information available to the public concerning taxpayer rights in audits and appeals,

Establishes a taxpayer service and complaint assistance office;

Will act as an ombudsman to deal with improper actions by IRS officials and provide relief in special cases;

Provides a pilot project for independent legal assistance to taxpayers in audits and appeals;

Provides reasonable restraints on IRS power to arbitrarily terminate a taxpayer's tax year and seize property without court review. It will also increase slightly the amount of property immune from seizure for living expenses;

Establishes safeguards against political misuse of the IRS on nontax related surveillance and establishes penalties for such misuse;

Provides major improvements in protecting the privacy of tax return information. Places new limits on disclosure of tax information to States and other Federal agencies and permits the taxpayer to collect civil penalties for unauthorized disclosure of tax return information; and represents a coordinated

attack on many of the problems identified by my hearings and by others, like Congressman VANIK, who have pursued this subject.

Mr. President, I urge that the Finance Committee act on this bill and others before it, which have been pending since the 94th Congress convened, so that the full Senate can address these issues at the earliest possible time.

Mr. KENNEDY. Mr. President, I am pleased to join the distinguished senior Senator from Washington (Mr. MAGNUSON) and the other distinguished sponsors of the Federal Taxpayers' Rights Act of 1975.

The taxpayers' bill of rights is a landmark package of procedural tax reforms. For the first time in a generation, Congress is remembering the forgotten taxpayer.

These reforms will be a major step toward dispelling the fog and confusion and complexity surrounding the tax laws. The message is getting through. At last Congress hears the distress call of the average taxpayer—the senior citizen, the working men and women, and many others who have no lawyers or accountants or tax advisers to handle their problems.

With this bill, we are sending out a Saint Bernard to rescue millions of ordinary citizens from the avalanche of redtape, confusion, forms, audits—and too often the outright bureaucratic hostility of the IRS—as they try to cope with the complexity and demands of the Nation's tax laws.

The bill will also end an even darker side of IRS activities—the gross violations of the privacy of tax information, the unauthorized IRS surveillance of private citizens, and the political abuses of the IRS that were all too common in the Watergate years.

I see this bill as a keystone of overall tax reform. These procedural changes must go hand in hand with the substantive tax reforms now being developed in the House and Senate. Too often in the past, in the constant struggle to close tax loopholes, Congress has ignored the goal of simplifying the tax laws and easing their burden on the average citizen.

There is a real chance that, before Congress adjourns next year, we can send the President the most far reaching and most comprehensive tax reform legislation in the Nation's history. The taxpayers' bill of rights must be part of that law. If we succeed, we can make the Internal Revenue Service a genuine and responsible servant of the American people, not just a tax collector.

The legislation we are introducing contains the following principal provisions:

First. It provides the General Accounting Office, an investigative arm of Congress, with authority to oversee IRS and report annually on IRS activities. Legal experts believe that GAO already has authority to carry out audits and investigations of IRS, but IRS refuses to accept such a role for GAO. The bill would settle the controversy and provide an important new avenue of oversight over IRS and its operations.

Second. It provides clear information to the public on taxpayer rights in audits, assessments, appeals, and other steps in the tax process. In this way, adequate notice of all rights and opportunities will be given to taxpayers in their dealings with IRS. In particular, the bill will require the IRS to advise a taxpayer of his rights at the time he is first contacted by the agency.

Third. It establishes a new "Taxpayer Service and Complaint Assistance Office," which will be headed by an assistant IRS commissioner and which will function as an ombudsman for the taxpayer. The new office will hear complaints, reduce delays in tracking lost refund checks, deal with improper or abusive treatment by IRS officials, and provide relief in special cases where IRS actions result in unnecessary injury to a taxpayer.

Fourth. It provides a pilot project of legal assistance for taxpayers involved in conferences, audits, and appeals with IRS. The project will be limited to four cities over a 3-year period, and will be conducted by the Legal Services Corporation. The assistance will be free for low-income taxpayers, but will be provided on a sliding fee scale for other taxpayers, based on income. Too often, faced with the complexity of the tax laws and the obstinacy of IRS, taxpayers are confused and forced to give up their rights. The pilot project is an effort to redress the balance by providing the sort of expert assistance that lawyers and accountants now provide for wealthy taxpayers.

Fifth. It limits the IRS power of seizure of property without court review—jeopardy assessment. It also limits the IRS power to terminate a tax year arbitrarily—termination assessment. In addition, it increases the amount of a taxpayer's living expenses which are immune from such assessments. The jeopardy assessment power is designed for cases where a taxpayer is trying to escape taxes by flight from the country, or is concealing or otherwise dissipating assets that may be needed to pay his taxes. The termination assessment power is used in drug enforcement and other crime control programs; it enables the IRS to make tax assessments against violators apprehended with large amounts of drugs or large cash proceeds from illegal transactions. In such cases, the person's tax year can be terminated immediately, and taxes can be assessed. Although these powers are useful law enforcement tools, they are drastic weapons, since they can result in a taxpayer's being deprived of the funds he needs to defend himself. The bill provides protection for taxpayers by requiring immediate court review of such assessments.

Sixth. It establishes safeguards against the political misuse of the Internal Revenue Service by prohibiting IRS investigations, surveillance, or recordkeeping with respect to the beliefs, associations, or actions of individuals and organizations in areas not directly related to enforcement of the tax laws.

Seventh. It protects the privacy of tax returns by limiting the disclosure of tax information to State and Federal agencies and by permitting taxpayers to collect damages for unauthorized disclosure of tax data. The second article of impeachment, adopted by the House Judiciary Committee in 1974, charged President Nixon with violating the constitutional rights of citizens by obtaining confidential tax information and using it for political purposes. The bill would allow disclosure of tax information only for tax purposes. It would require the Justice Department to obtain a search warrant if it seeks tax information for criminal, nontax investigations. A taxpayer is given the right to seek civil damages against officials who violate the antidisclosure provisions.

By Mr. MAGNUSON (for himself and Mr. PEARSON) (by request):

S. 2343. A bill to amend the Communications Act of 1934, as amended, with respect to penalties and forfeitures. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, by request, I send to the desk on behalf of myself and Senator PEARSON a bill to amend the Communications Act of 1934, as amended, with respect to penalties and forfeitures.

I ask unanimous consent that the letter of transmittal from Chairman Wiley of the Federal Communications Commission as well as the text of the bill be printed in the RECORD immediately following my remarks.

The Committee on Commerce has scheduled hearings on this legislation on September 23, 1975 at 10 a.m. in room 1318.

The purpose of this legislation is to unify and simplify the enforcement powers of the FCC. The FCC currently has inadequate authority to enforce effectively the provisions of the Communications Act. This bill expands FCC authority to impose and to collect fines for improper behavior. It establishes uniform treatment for behavior subject to regulation by the FCC. It ends the current anomaly which often times gives the FCC stronger enforcement powers over persons attempting to comply with the Communications Act than it has over persons operating purposely in contravention of the act.

The committee will look closely at this bill to insure it achieves its stated goals and protects the interests of all persons subject to regulation as well as the public.

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

S. 2343

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 503(b) of the Communications Act of 1934 as amended (47 U.S.C. section 503(b)), is amended to read as follows:

"(b)(1) Any person who—

"(A) willfully or repeatedly fails to operate a radio station substantially as set forth in

a license, permit or other instrument or authorization;

"(B) willfully or repeatedly fails to observe any of the provisions of this Act or of any certificate, rule, regulation, or order of the Commission prescribed under authority of this Act or under authority of any agreement, treaty, or convention binding on the United States;

"(C) violates section 317(c) or section 509 (a) (4) of this Act; or

"(D) violates sections 1304, 1343, or 1464 of title 18 of the United States Code;

shall forfeit to the United States a sum not to exceed $2,000. Each act or omission constituting a violation shall be a separate offense for each day during which such act or omission occurs. Such forfeiture shall be in addition to any other penalty provided by this Act; *provided, however,* That such forfeiture shall not apply to conduct which is subject to forfeiture under title II of this Act; *and provided further,* That such forfeiture shall not apply to conduct which is subject to forfeiture under part II or part III of title III or section 507 of this Act.

"(2) No forfeiture liability under paragraph (1) of this subsection (b) shall attach to any person unless a written notice of apparent liability shall have been issued by the Commission, and such notice has been received by such person or the Commission shall have sent such notice by registered or certified mail to the last known address of such person. A notice issued under this paragraph shall not be valid unless it sets forth the date, facts and nature of the act or omission with which the person is charged, and specifically identifies the particular provision or provisions of the law, rule, regulation, agreement, treaty, convention, license, permit, certificate, other authorization, or order involved. Any person so notified shall be granted an opportuntiy to show in writing, within such reasonable period as the Commission shall by rule or regulation prescribe, why he should not be held liable.

"(3) No forfeiture liability under paragraph (1) of this subsection (b) shall attach to any person who does not hold a license, permit, certificate, or other authorization from the Commission unless prior to the written notice of apparent liability required by paragraph (2) above, such person has been sent a notice of the violation, has been given reasonable opportunity for a personal interview with an official of the Commission at the field office of the Commission nearest to the person's place of residence and thereafter has engaged in the conduct for which notice of the violation was sent; *provided, however,* That the requirement of this subsection for a notice of the violation and opportunity for a personal interview shall not apply if the person is engaging in activities for which a license, permit, certificate, or other authorization is required or is providing any service by wire subject to the Commission's jurisdiction; *and provided further,* That any person who has been sent a notice of the violation, has been given a reasonable opportunity for a personal interview and thereafter engages in the conduct for which the notice was sent shall not be entitled to a further notice for the same conduct and may be subject to forfeiture for the initial and all subsequent violations.

"(4) No forfeiture liability under paragraph (1) of this subsection (b) shall attach for any violation—

"(A) by any person holding a broadcast station license under title III of this Act if the violation occurred (i) more than one year prior to the date of the issuance of the notice of apparent liability or (ii) prior to the date beginning the current license term, whichever date is earlier, or

"(B) by any other person if the violation occurred more than one year prior to the date of issuance of the notice of apparent liability.

"(5) In no event shall the total forfeiture imposed for the acts or omissions set forth in any notice of apparent liability issued hereunder exceed—

"(A) in the case of (i) a common carrier subject to this Act, (ii) a broadcast station licensee or permittee, or (iii) a person engaged in distributing to the public broadcast signals by wire or engaged in distributing to the public other program services by wire if such activity is the subject of Commission regulation, $20,000;

"(B) in the case of any other person, $5,000.

SEC. 2. Section 510 of the Communications Act of 1934, as amended (47 U.S.C. § 510), is hereby repealed.

SEC. 3. Section 504(b) of the Communications Act of 1934, as amended (47 U.S.C. § 504 (b)), is amended by deleting the words "parts II and III of title III and section 503(b), section 507, and section 510" and substituting the words "title II and parts II and III of title III and sections 503(b) and 507", and by deleting the phrase ", upon application therefor,".

SEC. 4. Any act or omission which occurs prior to the effective date of this Act and which incurs liability under the provisions of sections 503(b) or 510 as then in effect will continue to be subject to forfeiture under the provisions of sections 503(b) and 510 as then in effect.

SEC. 5. The amendments made by this Act shall take effect on the thirtieth day after the date of its enactment.

FEDERAL COMMUNICATIONS COMMISSION,
Washington, September 15, 1975.

The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: The Commission has adopted as part of its legislative program for the 94th Congress a proposal to amend the Communications Act of 1934, as amended, with respect to forfeitures.

The proposal, which bears the reference 94-2, would unify and simplify the forfeiture provisions as well as enlarge their scope to cover persons subject to the Act, but not subject to forfeitures, such as community antenna (CATV) systems.

The proposal would also provide for more effective enforcement of the forfeiture provisions. The limitation period for issuance of a notice of apparent liability would be extended from ninety days to one year for nonbroadcast licensees and from one year for broadcast station licensees to one year or the remainder of the current license term, whichever is greater. All other persons would be subject to a one year statute of limitations. The maximum amount of forfeiture that could be imposed for a single offense would be $2,000, and the maximum for multiple offensee would be $20,000 for broadcast licensees, permittees and common carriers, and, CATV systems. The maximum forfeiture for all other persons would be $5,000.

The Commission's draft bill to accomplish these revisions and the explanation of the draft bill have been submitted to the Office of Management and Budget for their consideration. We have now been advised that from the standpoint of the Administration's program, there is no objection to our submitting the draft bill to Congress for its consideration.

The Commission would appreciate consideration of the proposed amendments to the Communications Act of 1934 by the Senate. If the Senate or the Committee to which this bill may be referred would like any further information on it, the Commission will be glad to provide it upon request.

Sincerely yours,

RICHARD E. WILEY,
Chairman.

Enclosures.

EXPLANATION OF PROPOSED AMENDMENTS TO THE COMMUNICATIONS ACT OF 1934 TO UNIFY AND STRENGTHEN CERTAIN PROVISIONS FOR THE USE OF FORFEITURES AND PENALTIES

The Federal Communications Commission recommends the amendment of the Communications Act of 1934, as amended, to unify, simplify and make more effective the forfeiture provisions of sections 503(b) and 510. Section 503 provides for forfeitures where a broadcast licensee or permittee violates the terms of his license, the Communications Act, a Commission regulation, a cease and desist order issued by the Commission, or specified provisions of title 18 of the United States Code. Section 510 provides separately for forfeitures applicable to nonbroadcast radio stations where any one of twelve specified offenses occurs. It also provides for the imposition of a forfeiture upon the operator of the station in particular cases. It is proposed to amend section 503 (b) and repeal section 510 to place all of these classes of forfeiture under section 503 (b), which would be expanded to apply to all persons (other than where ship or common carrier forfeitures are otherwise provided for) who violate the Communications Act, a Commission rule or order prescribed under the Communications Act or a treaty, the terms of a license permit, certificate, or other instrument of authorization, or the obscenity, lottery, or fraud provisions of title 18 of the United States Code.

The principal objective of the proposed legislation is to unify and simplify the forfeiture provisions; to enlarge their scope to cover persons subject to the Act but not now under the forfeiture provisions—such as cable systems (CATV), users of Part 15 or Part 18 devices, communications equipment manufacturers, and others also subject to Commission regulations who do not hold licenses issued by the Commission; and to provide for more effective enforcement.

Prior to 1960 the Commission was empowered to revoke station licenses or station construction permits and to issue cease and desist orders to any person violating the Communications Act or a Commission rule (see section 312 of the Act) and to suspend operator licenses (see section 303(m) of the Act). There was no provision for a penalty of lesser magnitude than revocation or denial of renewal of station licenses. Because a penalty affecting the license was not warranted for all violations, the Commission needed an alternative for dealing with those who should continue to hold licenses.

Therefore, in 1960 section 503(b), 74 Stat. 889, was enacted to give the Commission the enforcement alternative of imposing forfeitures in the case of broadcast licensees or permittees; and in 1962, section 510, 76 Stat. 68, was added to permit the Commission to impose forfeitures on non-broadcast radio licensees for twelve specific kinds of misconduct. These forfeitures have proved to be useful enforcement tools.

However, after 13 years of experience and reevaluation under this enforcement scheme, the Commission has concluded that common procedures with uniform sanctions for common carriers, broadcast entities, and other electronic communications businesses subject to our jurisdiction are required to deal effectively with the many forms of misconduct that impede the policy and purposes of the Communications Act. Moreover, there is a need in addition to make forfeitures applicable to the many forms of non-broadcast radio licensee misconduct that are not now covered by the twelve categories in section 510. In light of these problems, the Commission recommends that non-broadcast radio licensees no longer be governed by section 510, which should be repealed, and that they be governed instead according to the provisions of section 503(b), which should be expanded. This comprehensive and uniform treatment would mean that the

misconduct which is now subject to forfeiture under section 510 would become subject to forfeiture under the proposed section 503(b).

The proposed amendment would make three additional material alterations in the Communications Act's existing forfeiture provisions. First, the forfeiture sanction would be made available against all persons who have engaged in proscribed conduct. Therefore, the amended section 503(b) would reach not only the broadcast station licensees and permittees now covered by section 503(b) and the other station licensees and operators now covered by section 510, but also any person subject to any provisions of the Communications Act[1] or the Commission's rules as well as those persons operating without a valid station or operator's license, those operators not required to have a license, and those licensed radio operators who are now subject only to suspension under section 303(m).

Second, the limitations period for the issuance of notices of apparent liability would be extended for broadcast station licensees from the present one year to one year or the current license term, whichever is greater, and for non-broadcast radio station licensees from the present ninety days to one year. For all other persons subject to forfeiture under the proposal, the limitations period would be one year.

Third, the maximum amount of forfeiture that could be imposed for the acts or omissions set forth in any single notice of apparent liability would be modified as follows: (1) the maximum forfeiture that could be imposed for a single offense would be $2,000; and (2) the maximum forfeiture that could be imposed for multiple offenses would be (a) $20,000 in the case of a common carrier, a broadcast station licensee or permittee, or a person engaged in distributing to the public broadcast signals by wire or engaged in distributing to the public other program services by wire if such activity is the subject of Commission regulation, and (b) $5,000 in the case of all other persons. Existing section 503(b) provides for a maximum of only $1,000 for single offenses by a broadcast station and $10,000 for multiple offenses. Those persons subject to existing section 510(a) are liable only for $100 for single offenses and a maximum of $500 for multiple offenses.

The proposed amendments to broaden the Commission's forfeiture authority would alleviate the difficulties caused by the lack of forfeiture authority against CATV systems (or other communications businesses that may become subject to our jurisdiction), users of incidental and restricted radiation devices, users of devices which contain radio frequency oscillators[2], communications equipment manufacturers, persons operating without holding a required license, and others subject to Commission regulations. Except for the Commission's cease and desist authority, which is not an effective deterrent to misconduct, enforcement of the Act or Commission rules or orders against such persons now must be by judicial action under section 401 or criminal prosecution under sections 501 and 502.

In extending the forfeiture procedures to licensed operators, the proposed amendment would provide an administrative alternative to the sometimes unduly harsh penalty of license suspension now authorized in section 303(m). License suspension may be unduly harsh if it denies the offender his customary means of livelihood for the suspension period. License suspension may also cost the offender permanent loss of his job, or of his customers if he operates a mobile radio service maintenance business. The proposed extension of the section 503(b) forfeiture provisions to licensed operators would afford the Commission an effective medium for obtaining compliance by operators, but would not cause the secondary detriments which often stem from license suspension. The administrative penalty of forfeiture would also provide a more feasible alternative to cease and desist orders or judicial enforcement under sections 401, 501 or 502, against operators who are not required to hold a license and against whom, therefore, a license suspension is not an available penalty.

Under the proposal, forfeiture liability would arise only after (1) a person has been served personally with or been sent by certified or registered mail to his last known address a notice of apparent liability; (2) he has been given an opportunity to show in writing why he should not be held liable; and (3) if he has submitted a written response, the Commission has considered his response and issued an order of forfeiture liability.

In addition to these procedural protections applicable to all persons subject to our jurisdiction, we have provided special procedural protection for members of the public at large who may be unaware of the Commission's regulation of equipment they may be operating. For example, there may be concern that a person would be subject to forfeiture for willful maloperation of an electronic device such as a garage door opener, an electronic water heater, or electronic oven, when he may be unaware of the applicability of the Communications Act or the Commission's rules and regulations.[3]

In these circumstances, no forfeiture could attach unless prior to the notice of apparent liability the Commission has sent such person a notice of the violation and has provided him an opportunity for a personal interview and the person has thereafter engaged in the conduct for which notice of the violation was sent. It should be noted that the special protection provisions do not apply to persons engaged in an activity that require the holding of a license, permit, certificate, or other authorization from the Commission or to one providing any service by wire subject to the Commission's jurisdiction.

It should be noted that this special procedure would not have to be accorded a second time to a person who subsequently engaged in the same conduct; and such person may be liable to a forfeiture not only for the conduct occurring subsequently but also for the conduct for which notice of a violation was sent and opportunity for a personal interview given.

Under existing provisions of the statute, which would not be changed, any person against whom a forfeiture order runs may challenge the order by refusing to pay. If the United States institutes a collection action, the issue of forfeiture liability would be reheard in a trial *de novo* in a U.S. District Court.

The second major modification in the Commission's proposal, the extension of the present time limitations for the issuance of notices of apparent liability is necessary if the Commission's forfeiture authority is to be an effective sanction. Because of increasing workloads and personnel shortages the ninety-day limitation in the non-broadcast services and the one-year limitation in the broadcast services are often substantial impediments to the use of the forfeiture sanction in appropriate cases. The Commission proposes that the statute of limitations for all persons holding broadcast radio station licenses under title III be extended to one year or the current license term, whichever is greater; for all other persons, the statute of limitations would be one year.

With over 32,000 authorizations in the broadcast services, more than 15,000 authorizations in the common carrier services, and over 2,000,000 authorizations in the safety and special services, it is impossible for Commission field office personnel to make regular inspections in all these services. Violations of the Communications Act or of the Commission's rules in the non-broadcast services are sometimes detected by station inspection but more generally through our field office monitoring. Monitoring usually requires transcription of tapes which in itself is a time-consuming process. Thereafter, as a matter of practice, the field office issues a notice of violation to the licensee and offers an opportunity to him to comment on or explain the alleged misconduct. In the overwhelming majority of cases, the nature and extent of the violation or the licensee's explanation thereof are such as to require no further action and the matter is closed. However, these notices of violation are also checked through the Commission's office in Washington and against licensee records, and in those instances where the licensee has a history of repeated misconduct or where the instant misconduct is willful and sufficiently serious, it may be determined that the imposition of a forfeiture is called for as an appropriate deterrent against future violations.

Our experience since the enactment of the Commission's forfeiture authority in the non-broadcast services demonstrates that with the imbalance betwen the number of violation cases and the number of staff personnel to review them, it is often impossible to issue the notice of apparent liability for forfeitures within the ninety-day period provided in the present statute. Considering the very great number of authorizations in the non-broadcast services, plus the great number of persons who are permitted to operate radio frequency equipment in accordance with our regulations but without holding an instrument of authorization, we believe a one year statute of limitations for notices of apparent liability is entirely reasonable and necessary to enable the Commission to invoke more frequently the forfeiture provisions Congress has provided and thus to secure greater compliance with the Act.

Similarly, a longer statute of limitations is necessary in the broadcast field in order to enable the Commission to reach violations of the Act. The existing one-year limitations period is usually sufficient in cases arising from regular station inspection by field office personnel. However, personnel shortages do not permit more than one inspection during a three-year license term. Although violations may be disclosed and considered by the Commission during its review of license renewal applications, the comparatively minor character of such violations does not warrant denial of renewal and often the one-year period has elapsed before a notice of apparent liability can be issued. Further, in many instances, misconduct by broadcast licensees is not uncovered in regular station inspections by field office personnel, but comes to light as the result of complaints

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[1] A person subject to a forfeiture under title II or parts II or III of title III or section 507 of the Act would not, however, be subject to a forfeiture under the proposed section 503(b) for the same violation. This provision in the proposal is similar to a provision now in section 510.

[2] Part 15 of the Commission's rules governs the use of devices which only incidentally emit radio frequency energy and restricted radio devices such as radio receivers. Part 18 of the Comimssion's rules governs the use of industrial, scientific and medical equipment, such as industrial heating equipment, all of which incorporate radio frequency oscillators. Such devices are permitted to operate without issuance of an individual license provided that they are operated in accordance with the provisions in the rules designed to minimize interference to regular radio communications services.

[3] Should the maloperation of any such device create hazards to life or property, the Commission would still have authority under section 312 to issue a cease and desist order.

and other information received by the Commission staff in Washington. These complaints and other information may require detailed and time-consuming investigation of station operations before a determination can be made that there may have been misconduct.

Subsequent to the investigation the licensee has an opportunity to comment on or explain the alleged misconduct. Thus, it is often impossible for the Commission to consider questions as to apparent culpability and appropriateness of a forfeiture sanction and then to issue the required notice of apparent liability within the one-year limitation period now provided in section 503(b). Here again the legislative objective in vesting forfeiture authority in the Commission is often frustrated by the present time limitations.

Further, the one-year limitation for the issuance of notices of apparent liability in the broadcast field sometimes produces results which are self-defeating. Thus, in one instance the Commission received information that a radio station broadcast an allegedly rigged contest. Field investigation of the station initiating the program was begun as promptly as possible. The intricacies of the alleged misconduct required a time-consuming inquiry. During the course of the inquiry Commission investigators unearthed information revealing an earlier broadcast of another rigged contest concerning which there was extensive and conclusive evidence. However, upon completion of the field investigation, the Commission was able to impose a forfeiture for only the most recent misconduct because the earlier violation had occurred more than one year before. In such a case it is still possible of course to designate the license renewal application for hearing. We stress, nevertheless, that because refusal to renew the license was the only sanction available because of the short statute of limitations, the legislative purpose of section 503(b) of the Act could not be fully implemented. The Commission needs to be able to exercise its forfeiture authority during the entire span of a broadcast license term for minor violations occurring during that license term.

The Commission is therefore proposing for broadcast licensees a statute of limitations of one year or its current license term, whichever is greater. The proposal would permit the Commission to issue notices of apparent liability to broadcast station licensees (1) for any misconduct which occurs during a current license term and (2) for any misconduct which occurs during the last part of the prior license term if the notice of apparent liability is issued within a year of the time of the alleged misconduct.

The third major amendment the Commission is proposing is an increase in the maximum forfeitures. The currently available forfeitures are unrealistic and inadequate. In many situations the maximums are too low to permit the Commission to fashion an effective deterrent against large communications businesses. For example, the current maximum forfeiture available against a multimillion dollar broadcast licensee is $1,000 for a single violation up to a maximum of $10,000 for multiple violations. The proposal would provide more realistic forfeiture maximums for large broadcast interests, large common carriers, and other large communications businesses. Other persons would be subject to lower maximums. With the proposed maximums, the Commission would still retain the discretion to impose smaller forfeitures for offenses of lesser gravity. The Commission fully recognizes the necessity of tailoring forfeitures to the nature of the offense and the offender and has done so within the present statutory authority. Furthermore, the Commission would still have the authority to mitigate or remit forfeitures after considering a request for such relief.

One relatively minor amendment is also being proposed. By deleting section 510 as proposed, the Commission would be relieved of the obligation to provide a personal interview at the request of a non-broadcast station licensee or operator who receives a notice of apparent liability. Proposed section 503(b)(2), which incorporates much of the substance of section 510, does not include the interview provision. The Commission's experience is that only ten to fifteen percent of the persons to whom a notice of apparent liability has been issued avail themselves of the interview opportunity. Furthermore, seldom does an interview elicit any data which the licensee has not already furnished to the Commission, either in response to the notice of a violation or to the notice of apparent liability.

On the other hand, interviews in only ten to fifteen percent of these instances impose substantial burdens upon field offices. Critical engineering personnel must be diverted from regular pressing duties to interview the suspected violator and must then submit detailed reports to the Commission's main office in Washington, D.C. Commission personnel at the Washington, D.C. office then must coordinate all of the documents relevant to a given notice of apparent liability that may have been accumulated in several field offices and transmit the documents to the field office where the interview is scheduled. On balance, the Commission believes that the public, and the non-broadcast licensees and operators themselves, would best be served by the deletion of the field office interview provision from the forfeiture section.

Furthermore, it would be impossible for the Commission to continue interviews with non-broadcast licensees and at the same time provide personal interviews to members of that group who would now be subject to forfeitures for the first time and for whom special procedural protections are being proposed in section 503(b)(3). As between the two groups the Commission believes the public interest would be better served by the interviews that would be required under proposed section 503(b)(3).

Lastly, the Commission is seeking authority to mitigate or remit forfeitures imposed under title II of the Communications Act concerning common carriers. The Commission now has no express authority to remit, mitigate, or otherwise reduce a forfeiture imposed under these common carrier provisions, although section 504(b) provides express authority to mitigate or remit forfeitures under parts II and III of title III, and sections 504(b), 507 and 510. Since the Commission has this authority with respect to all other forfeitures which it can summarily impose, there is no reason not to include within this authority the common carrier forfeitures in title II. Moreover, it is reasonable to permit the Commission to exercise its authority to mitigate or remit on its own motion rather than awaiting an application. The Commission should be able to exercise its judgment before imposing a fine if the circumstances warrant a reduction or cancellation of a forfeiture.

In conclusion, the more uniform, comprehensive, and higher forfeiture provisions and the related modifications which the Commission now seeks should contribute substantially to greater compliance with the law and better administrative enforcement of the law.

Adopted: October 9, 1974.

By Mr. BENTSEN (for himself and Mr. NELSON):

S. 2344. A bill to amend the Employee Retirement Income Security Act of 1974 with respect to reporting requirements for small plans. Referred to the Committee on Finance and the Committee on Public Works, jointly, by unanimous consent.

PENSION PAPERWORK REDUCTION ACT

Mr. BENTSEN. Mr. President, I am today introducing legislation, together with Senator NELSON, to amend the new pension law—the Employee Retirement Income Security Act of 1974—to specifically require the Secretary of Labor to issue simplified reporting and disclosure requirements for small pension plans. I am pleased to have Senator NELSON join me as a cosponsor of this bill. Senator NELSON is chairman of both the Senate Small Business Committee and the Subcommittee on Private Pension Plans of the Senate Committee on Finance.

This proposal will relieve thousands of small businessmen across our Nation from unreasonably burdensome and costly paperwork. Detailed reporting requirements that may be applicable to our Nation's largest private pension plans are simply not needed for the smallest pension plans. In fact, many small businessmen may be forced to terminate their retirement plans if the paperwork burden becomes too costly and overwhelming.

Mr. President, I was one of the principal Senate sponsors of the landmark pension bill. This law will guarantee that earned pension benefits become a reality for millions of American workers upon retirement. This law will strengthen our private retirement system by eliminating the small number of abuses and aberrations. The amendment I am introducing today is entirely consistent with the intent of the new pension act. The new law gives the Secretary of Labor the authority to issue simplified reporting requirements for small plans. It was the clear intent of the congressional sponsors of this legislation that this authority be exercised. My amendment would simply direct the Secretary of Labor to issue simplified forms for retirement plans with less than 100 participants.

Americans too often forget the indispensable role of small business in promoting healthy competition in our economy creating jobs for a growing work force and developing innovative ideas and products. Small business, in many ways, is the essence of our country's promise.

However, this promise will never be fulfilled unless Congress prevents needless redtape and paperwork from strangling small businesses.

In terms of dollars and cents, or frustration and irritation, the endless tangle of paperwork imposed by Government has become unbearable.

With well over 5,000 forms in use in the Federal Government, excluding all tax and banking forms, the private citizen is inundated with requests for information.

Some have referred to the endless series of forms and documents as "strangulation in triplicate." Others have referred to this as "Federal forms pollution."

The Federal bureaucracy generates more than 2 billion pieces of paper annually. That is probably enough to fill several baseball stadiums.

There are 10 forms to be filled out each year for every man, women, and child in the United States.

It is estimated that small business spends well in excess of $18 billion annually on Government paperwork.

It is particularly difficult for small firms to absorb the cost of this paperwork. Small businessmen must employ outside accountants and lawyers to fill out complex forms and keep the extra record keeping involved. Professional assistance, of course, is expensive. Having few employees, the small firms find it more difficult to spread the cost. A rise in per unit cost to cover paperwork can result in loss of sales and loss of competitive standing for small enterprises.

Small businesses, especially the mom and pop type operations, must fill out numerous reports, as many as 52 tax forms in a single year. This is not an example of a government which is concerned and responsive to the needs of its people. It is not a government which is protecting free enterprise. It is instead a government which favors only those large concerns that can satisfy repetitious requests for data, statistics, and information.

We have to cut this tangle of redtape. We have to hold back the growing number of Government forms. In an effort to do this, I introduced legislation last year establishing a Commission on Federal Paperwork.

This 14-member group would have 2 years to study the confusion of Government paperwork. At the end of this time, it would report to Congress and the President specific proposals to eliminate excessive and repetitive forms.

This legislation was approved by Congress and enacted into law by the President. In June the President finally appointed the members of the Commission. Hopefully, this Commission will soon begin plans to streamline our entire paperwork procedure. And this should bring relief to almost every American.

In the meantime, the legislation I am introducing today will reduce unnecessary paperwork burdens on small businessmen with respect to the new pension law.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that a bill introduced by Senator BENTSEN amending the pension law be referred jointly to the Committees on Finance and Labor and Public Welfare.

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

By Mr. KENNEDY:

S. 2345. A bill to impose income tax on capital gains at death and for other purposes. Referred to the Committee on Finance.

TAXATION OF CAPITAL GAINS AT DEATH

Mr. KENNEDY. Mr. President, I send to the desk a bill to amend the Internal Revenue Code to require the taxation of capital gains at death, and I ask that it may be referred to the Committee on Finance.

The purpose of this bill is to close the enormous tax loophole that now exists for capital gains at death. Under present law, capital gains escape the income tax altogether if the assets are held until death. The heirs receive a "stepped up" basis for the assets—the fair market value at the time of death becomes the new basis of the assets in the hands of the heirs, and gains realized on a subsequent sale are measured only from this basis.

The loophole for capital gains at death is, in effect, a loophole on top of a loophole. Capital gains are already taxed at favorable rates, compared to the rates applicable to "ordinary" income such as wages or salaries. But if property is held until death, no income tax is applied and not even the capital gains tax need be paid.

For example, if a person buys shares of stock in a corporation for $1,000, and the value of the shares subsequently increases to $5,000 after a period of several years, the taxpayer would pay a tax on his $4,000 gain if he sold the property. The rate of tax would be half the taxpayer's normal tax bracket, since the gain would qualify as a long-term capital gain subject to the favorable rate applicable to such gains. But if the taxpayer holds the stock until death, the income tax on the capital gain is completely avoided.

The bill I am introducing has two principal provisions intended to close this loophole:

First, it would tax the appreciation in value of property transferred at death, as if the property had been sold on the day before death. To avoid any retroactive effect on gains already accrued, and to avoid disruption of existing estate plans, the tax would apply only to appreciation in value after September 30, 1975. Property transferred to a spouse or to a charity would be exempt from the tax, and a 10-year averaging provision would be available to reduce the burden on gains subject to the new tax.

Second, to prevent avoidance of the tax on capital gains at death, a similar tax would be applied to transfers of property by gift. Thus, the appreciation in value of property after September 30, 1975, would be taxed as if the property had been sold at the time of the gift. Similar exclusions and averaging would be available, as in the case of transfers of property at death.

The revenue gain from the bill, based on 1975 income levels, would be $45 million in 1976, rising to $660 million in 1985, when the various provisions would be fully phased in.

In my view, now that the percentage depletion allowance for oil has been repealed, the tax loophole for capital gains at death has become tax reform target No. 1, as the largest and most unjustifiable loophole in the income tax laws. According to recent estimates, the absence of any income tax on capital gains at death means that $10 billion a year in gains falls completely outside the income tax. Yet there is no justification, in either economic rationale or tax equity, for the existence of the large tax windfall available for such gains.

The existing capital gains at death loophole discriminates heavily in favor of persons who pass large amounts of accumulated wealth onto others in the form of capital gains. It discriminates equally heavily against persons whose estate is accumulated out of salaries, wages and dividends, which are taxed at ordinary income tax rates each year as they are earned; the estate which these taxpayers pass on to their heirs is the remainder left after income taxes have been paid.

But a person who accumulates wealth through the increased value of property such as stock held until death avoids income tax altogether on the appreciation in value of the property. At the time of death, he is able to pass on a substantially larger estate to his heirs, because the increased value of the property has escaped income tax during his lifetime.

The unfair advantage created by the capital-gains-at-death loophole is obvious. Often, the advantage is worth tens or even hundreds of thousands of dollars to wealthy taxpayers whose assets have appreciated in value during their lifetime.

In addition, the existence of the capital-gains-at-death loophole has extremely deleterious economic consequences for the flow of capital, because of the so-called lock-in effect. The absence of a tax on capital gains at death is a strong incentive for taxpayers to hold appreciated property until death, in order to take advantage of the tax loophole. As a result, large amounts of capital are "locked in," in the sense that taxpayers, especially the elderly, are reluctant to sell their assets and thereby be required to pay an income tax on their gains. By closing this flagrant tax preference, Congress would actually begin to free up billions of dollars for future investments in the Nation, dollars that are now frozen because of the undeserved tax advantages that come into play when property is held until death.

I believe that reform in the taxation of capital gains at death is one of the most important steps Congress can take at this time to encourage capital formation in the United States and to provide new investment dollars for vital programs in many important areas of concern. Too often, in the current capital formation debate, we hear a great deal about the need for new tax subsidies for capital, such as reductions in the corporate tax rate, reductions in the tax on dividends, and even more favorable tax rates for capital gains. But we hear very little about the need to eliminate existing subsidies such as the capital-gains-at-death loophole, which clearly impairs the flow of capital and inhibits new investments.

As part of its current consideration of tax reform, the Ways and Means Committee of the House of Representatives will soon turn to capital gains and losses. My hope is that this proposal for taxation of capital gains at death will be favorably considered by the committee, and that this important reform will be part of the bill we enact.

Mr. President, I ask unanimous con-

sent that a brief factsheet explaining the bill, together with a general summary and a section-by-section analysis of the bill, and the text of the bill itself, be printed in the RECORD.

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

S. 2345

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever in this bill a reference is made (by way of amendment, repeal, or otherwise) to a section, chapter, or other provision, the reference shall be considered to be made to a section, chapter, or other provision of the Internal Revenue Code of 1954.

Sec. 2. Recognition of unrealized appreciation at death.

(a) In General.—Part I of subchapter O of chapter 1 (relating to determination and recognition of gain or loss) is amended by adding at the end thereof the following new sections:

"Sec. 1003. Recognition of unrealized appreciation at death.

"(a) In General.—In the case of the death of an individual, there shall be taken into account in computing taxable income for the taxable period in which falls the date of his death, the gains and losses which would have been realized and taken into account in computing taxable income (of the decedent or some other person) if all the property (other than property described in subsection (b)) required to be included in determining the value of the decedent's gross estate under chapter 11 had been sold immediately before his death at the estate tax fair market value to the person to whom the property passes. This subsection shall not apply unless the aggregate fair market value of property includible in the gross estate exceeds $60,000.

"(b) Excluded Property.—Subsection (a) shall not apply to—

"(1) policies of life insurance on the life of the decedent;

"(2) items of gross income in respect of a decedent described in section 691 (including amounts treated as income in respect of a decedent under section 753);

"(3) a joint and survivor annuity under which the surviing annuitant is taxable under the provisions of section 72 and payments and distributions under a deferred compensation plan described in part I of subchapter D of this chapter to the extent such payments and distributions are taxable to the decedent's beneficiary under this chapter;

"(4) property included in the decedent's gross estate solely by reason of section 2035;

"(5) property passing from the decedent to his surviving spouse to the extent such property qualifies for purposes of section 2056 (determined without regard to subsection (c) of such section);

"(6) property passing from the decedent to an organization described in section 2055 (a) if a deduction is allowable with respect to such property under section 2055;

"(7) stock or a stock option passing from the decedent to the extent income in respect of such stock or stock option is includable in gross income under section 423(c) or 424 (c)(1);

"(8) a category of property described in paragraph (1), (2), or (3) of section 6334(a) if the fair market value of such category at the applicable valuation date under subsection (d)(1) is less than $1,000; or

"(9) property passing from the decedent to an orphan who—

"(A) is related to the decedent within the meaning of section 152(a)(1),

"(B) was a dependent of the decedent for purposes of section 151(e) for the taxable year in which falls the date of the decedent's death, and

"(C) had not attained age 19 at the date of the decedent's death or was a student within the meaning of section 151(e)(4).

"(c) Exemption of Gain and Limitation of Loss.—For purposes of subsection (a), the net amount of gain or loss to be recognized (after the application of subsection (b)) shall be decreased (but not below zero) by $10,000.

"(d) Rules for Application of Subsection (a).—For purposes of subsection (a):

"(1) The estate tax fair market value of property is its value at the date of the decedent's death, or, in the case of an election under section 2032, its value at the applicable valuation date prescribed by that section.

"(2) In the case of property acquired by the decedent on or before October 1, 1975, the adjusted basis of such property for purposes of determining gain or loss under subsection (a) shall be considered to be the greater of—

"(A) the adjusted basis of such property as of the date of the decedent's death, or

"(B) the fair market value of such property as of September 30, 1975, adjusted (in accordance with regulations prescribed by the Secretary or his delegate) to reflect adjustments to basis made after such date under section 1016.

"(3) Losses shall be taken into account for purposes of subsection (a) without regard to the provisions of section 1091.

"(e) Character of Gain or Loss.—

"(1) In general.—The amounts determined under subsection (a) shall have the same character as such amounts would have had if the decedent had actually sold the property immediately before his death except that property described in section 1221 or 1231 shall be considered to have been held by the decedent for more than 6 months before the date of his death, and section 1239 shall not apply.

"(2) Allocation of exemption.—In the case where the amount determined under subsection (a) includes gain (or loss) which is treated as gain (or loss) from the sale of a capital asset and gain which is not so treated, the exemption (or limitation) provided under subsection (c) shall be allocated in proportion to the gain (or loss) attributable to the respective properties (determined without reference to subsection (c)).

"(f) Property Passing to Related Person.—Notwithstanding section 267(a), losses attributable to transfers of property to related persons (within the meaning of section 267 (b)(1)) shall be recognized under this section to the extent gains attributable to transfers of property to such persons are recognized by reason of this section.

"(g) Limitation of Tax.—

"(1) In general.—In any case where this section applies for the taxable year, the tax attributable to amounts recognized by reason of the application of this section shall not exceed 10 times the increase in tax which would result from the inclusion in the taxpayer's gross income of amounts equal to 10 percent of—

"(A) gain so recognized which is treated as net section 1201 gain (within the meaning of section 1222(11)), and

"(B) other amounts so recognized which are not treated as net section 1201 gain.

"(2) Phase-in of 10-year period for limitation of tax.—In the case of a decedent dying before January 1, 1984, paragraph (1) shall be applied by substituting the appropriate multiplier for "10" and the appropriate percent for "10 percent" according to the following table:

For decedents dying in—	The multiplier is—	The percent is—
1975 or 1976	2	50
1977	3	33⅓
1978	4	25
1979	5	20
1980	6	16⅔
1981	7	14⅔
1982	8	12½
1983	9	11⅑

"(3) Exception to application of limitation.—The provisions of this subsection shall not apply if the benefits of part I of subchapter Q (relating to income averaging) are chosen with respect to the decedent's last taxable year.

"(h) Time for Filing Return.—If subsection (a) is applicable to the taxable year, the time for filing the return for such year shall be the date nine months after the date of the decedent's death if such date is later than the time prescribed in section 6072 for filing such return.

"Sec. 1004. Recognition of unrealized appreciation on transfers by gift.

"(a) In General.—In the case of an individual, there shall be taken into account in computing taxable income for the taxable year, the gains and losses which would have been realized and taken into account in computing taxable income of such individual if the property (other than property described in subsection (b)) transferred by gift during the taxable year had been sold immediately before such transfer at its fair market value to the donee. Subsection (a) shall not apply unless the aggregate fair market value of property transferred by gift, (other than property described in subsection (b)), after September 30, 1975, exceeds $30,000.

"(b) Excluded Property.—Subsection (a) shall not apply to—

"(1) the first $3,000 of gifts to any person during the calendar year to the extent eligible for the exclusion under section 2503(b);

"(2) policies of life insurance on the life of the decedent;

"(3) a joint and survivor annuity under which the surviving annuitant is taxable under the provisions of section 72;

"(4) property transferred to the donor's spouse to the extent such property qualifies for purposes of section 2523 (determined without regard to the limitation to one-half of the value of property);

"(5) property transferred by the donor to an organization described in section 2522(a) if a deduction is allowable with respect to such property under section 2522; or

"(6) property transferred to a political party with respect to which gain is recognized by the donor under section 84.

"(c) Rules for Application of Subsection (a).—For purposes of subsection (a):

"(1) In the case of property acquired by the donor on or before October 1, 1975, the adjusted basis of such property for purposes of determining gain or loss under subsection (a) shall be considered to be the greater of—

"(A) the adjusted basis of such property as of the date of the gift, or

"(B) the fair market value of such property as of September 30, 1975, adjusted (in accordance with regulations prescribed by the Secretary or his delegate) to reflect adjustments to basis made after such date under section 1016.

"(2) In the case of a gift of less than the donor's entire interest in property, the amount of any gain or loss to be taken into account under subsection (a) shall be that portion of unrealized appreciation which bears the same ratio, to the entire unrealized appreciation as the adjusted basis of

the interest transferred bears to the adjusted basis of the entire property immediately before the transfer.

"(d) Character of Gain or Loss.—The amounts determined under subsection (a) shall have the same character as such amounts would have had if the donor had actually sold the property to the donee immediately before the gift.

"(e) Transfers to Related Persons.—Notwithstanding section 267(a), losses attributable to transfers of property to related persons (within the meaning of section 267(b)(1)) during the donor's taxable year shall be recognized under this section to the extent gain attributable to transfers of property to such persons during such year are recognized by reason of this section."

(b) Basis of Property Passing From a Decedent.—Section 1014 (relating to basis of property acquired from a decedent) is amended by adding at the end thereof the following new subsection.

"(e) Special Rule for Property Passing to Surviving Spouse, Orphan, or Charitable Organization.—In the case of property passing from a decedent to his surviving spouse, an orphan, or a charitable organization with respect to which unrealized appreciation is not recognized by reason of section 1003(b)(5), (6), or (9), whichever is applicable, the basis of such property shall be the same as it would be in the hands of the decedent immediately before his death (or, if greater, the fair market value of such property as of September 30, 1975, adjusted to reflect adjustments to basis made after such date under section 1016) increased, but not above the valuation used for estate tax purposes, by the estate tax attributable to such property."

(c) Basis of Property Acquired by Gifts.—Section 1015 (relating to basis of property acquired by gifts and transfers in trust) is amended by adding the following new subsection at the end thereof:

"(e) Special Basis Adjustment.—If the property was acquired by gift after September 30, 1975, the basis shall be the basis determined under subsection (a), increased (but not above the fair market value of the property at the time of the gift) by the amount of the income tax paid which is attributable to such gift by reason of section 1004(a) or reduced (but not below zero) by the amount of any decrease in income tax attributable to such gift by reason of section 1004(a)."

(d) Correlation with Income Averaging.—Section 1304(b) (relating to inapplicable provisions if income averaging chosen) is amended by—

(1) striking out "and" in paragraph (4),

(2) striking out the period at the end of paragraph (5) and inserting in lieu thereof ", and", and

(3) adding the following new paragraph:

"(6) section 1003(g) (relating to limitation of tax attributable to unrealized appreciation at death)."

(e) Relief Relating to Estate Liquidity Problems.—

(1) Section 6161(a)(2) (relating to extension of time for paying tax) is amended by striking out "chapter 11," and inserting in lieu thereof "chapter 11, and, to the extent attributable to income recognized by reason of application of section 1003, chapter 1,".

(2) Section 6503(d) (relating to suspension of running of period of limitation) is amended by striking out "chapter 11" and inserting in lieu thereof "chapter 11 and, to the extent attributable to income recognized by reason of application of section 1003, chapter 1".

(3) Section 6601 (relating to interest on underpayment, nonpayment, or extensions of time for payment of tax) is amended by adding the following new subsection at the end thereof:

"(k) Extension of Time for Payment of Estate Tax and Certain Income Taxes.—If the time for payment of tax imposed by chapter 11 or, to the extent attributable to income recognized by reason of application of section 1003, chapter 1 is extended as provided in section 6161(a)(2) or 6166, or if the time for payment of an amount of such tax is postponed or extended as provided by section 6163, the rate of interest determined under section 6621 for purposes of subsection (a) shall not exceed the rate of 6 percent per annum.".

(4) Section 6905(a) (relating to discharge of executor from personal liability for decedent's income and gift taxes) is amended by adding at the end thereof the following sentence: "With respect to tax imposed by chapter 1 attributable to income recognized by reason of application of section 1003, the time of payment of which has been extended under section 6161(a)(2), the executor shall not be required to make payment to obtain a release from personaly liability for such tax if any bond which may be required is furnished by him."

(f) Conforming Amendments.—

(1) Paragraphs (1) and (2) of section 1245(b) (relating to gain from disposition of certain depreciable property) are hereby repealed.

(2) Paragraphs (1) and (2) of section 1250(d) (relating to gain from dispositions of certain depreciable realty) are hereby repealed.

(3) Paragraphs (1) and (2) of section 1251(d) (relating to gain from disposition of property used in farming) are hereby repealed.

(g) Clerical Amendment.—The table of sections for part I of subchapter O of chapter 1 is amended by adding the following items at the end thereof:

"Sec. 1003. Recognition of unrealized appreciation at death.

"Sec. 1004. Recognition of unrealized appreciation on transfers by gift."

(h) Effective Date.—The amendments made by this section shall apply with respect to decedents dying and transfers by gift after September 30, 1975.

TAXATION OF CAPITAL GAINS AT DEATH—SUMMARY OF KENNEDY BILL

A. Present law—

If stocks or other assets are sold, the appreciation in value is taxed as income under the favorable rates applicable to capital gains.

If the assets are held until death, the appreciation in value is not subject to income tax, and the heirs receive a "stepped up" basis for the assets—in general, if the heirs sell the assets, the appreciation subject to tax is measured only by the increase in value of the assets since the date of death.

If the assets are transferred by gift during a taxpayer's lifetime, the appreciation in value is not subject to income tax. However, the recipient acquires a "carry over" basis for the assets—the assets retain the basis of the donor and the appreciation in value is taxed if the property is subsequently sold by the recipient.

B. Principal elements of Kennedy bill—

1. In general, appreciation in value of assets held until death is made subject to income tax. Appreciation in value of property transferred by gift is also made subject to income tax. For tax purposes, the gains and losses on the property are measured as if the property had been sold immediately before death or before the gift.

2. To avoid any retroactive impact of the proposal on assets now held and to avoid disruption of existing estate plans, the basis of property for the purpose of measuring gains or losses will be the fair market value of the property on September 30, 1975. Thus, the only capital gains made subject to income tax would be the appreciation in value occurring after September 30. Even though substantial appreciation may also have occurred before that date, especially in the case of property held for many years, such appreciation would not be taxed.

3. The capital gains at death provision would not apply unless the total value of the decedent's property is in excess of $60,000, as measured for estate tax purposes.

4. The first $10,000 of gain would also be excluded from the tax.

5. Property passing to a decedent's spouse or orphan children would be exempt from the tax, as would property passing to a charity. In such cases, the basis of the property in the hands of the recipient would be the same as the decedent's basis, so that the appreciation in value might be taxable upon a subsequent sale of the property.

6. Additional exclusions would be provided for life insurance policies, and for various categories of personal or household effects, where the value of the category is less than $1,000.

7. Gains or losses on property under these provisions will have the same character—either capital gain or ordinary income—as if an actual sale of the property had taken place. However, all capital gains will be treated as "long-term" gains, subject to the more favorable long-term capital gains tax rates.

8. To avoid excessive taxes that might be caused by "bunching" of gain in the year of the taxpayer's death, appreciation would be taxed under a ten-year "forward" averaging provision. Thus, the tax would be limited to ten times the annual increase in tax which would occur if the gain were spread over ten years, instead of being taxed in a single year at the progressive rates of the income tax.

9. Provisions are included to avoid hardship on estates by allowing a ten-year extension of time to pay the taxes and by reducing the interest rate from the present 9% to 6% during such extensions of time.

10. Under separate provisions, the appreciation in value of property transferred by gift would also be subject to income tax. Gains would be measured as if the property had been sold at the time of the gift. The provision would apply only to gifts made after September 30, 1975, and only the appreciation occurring after that date would be taken into account. Appropriate exclusions and limitations would apply in the case of gifts to a spouse or to charity. A ten year forward averaging provision would be available, to eliminate bunching of income in a single year. The character of a gain or loss as a capital gain or ordinary income would be retained, including the character of a capital gain as short-term or long-term gain.

GENERAL SUMMARY OF KENNEDY BILL ON TAXATION OF CAPITAL GAINS AT DEATH

I. RECOGNITION OF UNREALIZED APPRECIATION AT DEATH

At the present time, when a taxpayer sells an asset which has appreciated in value, the gain is subject to income tax. But if he holds an appreciated asset until he dies, the appreciation is not subject to the income tax. For example, assume that a taxpayer bought $5 million worth of stock in 1968, and the stock is now worth $15 million. If he sells the stock, he will have to pay a capital gains tax on the $10 million increase in value and, perhaps, a minimum tax. But if the taxpayer holds the stock until death, neither he nor the person to whom the stock passes will ever have to pay income tax on the amount that the stock increased in value before the

taxpayer died. The legatees or distributees would only pay income taxes upon a taxable disposition of the stock on any increase in value in excess of the estate tax valuation.

This discriminates heavily in favor of the people who pass large amounts of wealth on to others. It has been estimated that in any given year, approximately $10 billion of unrealized appreciation falls completely outside the income tax in this way.

Moreover, investors become "locked in" by the prospect of avoidng income tax completely if they hold appreciated assets until death rather than selling them. This freezing of investment positions curtails the essential mobility of capital and prevents its flow toward areas of enterprise promising the greatest rewards.

This provision would only apply if the value of the estate was more than $60,000, this being the point at which an estate tax return would have to be filed. In addition, an exemption for grains, and a disallowance of losses, of less than $10,000 is provided. Accordingly, if the value of the gross estate exceeds $60,000, only gains or losses in excess of $10,000 will be recognized.

To avoid retroactive application, any appreciation that occurred before September 30, 1975, would not be subject to tax. In addition, a special 10-year "forward" averaging provision would be provided to relieve the effect of bunching of income which is to be recognized in the decedent's last taxable year (and subject to the progressive income tax rates except to the extent the alternate capital gains rates apply). Since only the appreciation occurring after September 30, 1975, will be recognized, that 10-year period for averaging will be phased-in over 10 years.

II. RECOGNITION OF UNREALIZED APPRECIATION ON TRANSFERS BY GIFT

Under present law, a taxpayer can avoid income taxes by making lifetime gifts of appreciated property rather than selling the appreciated property. Were the appreciated property to be sold, the taxpayer would incur an income tax on the excess of the sales price over the adjusted basis.

This inequity in the law favors those individuals who can amass wealth in the form of property which appreciates in value and then give this appreciated property to the persons of their choice, most often another family member. Additionally, the fact that a gift has been made also reduces the estate of the donor to the extent of the value of the gift increased by any gift taxes paid subject to certain limitations.

This provision would subject gifts of appreciated property to the income tax as if a sale had been consummated. The donor, generally, would be entitled to exclude from gross income appreciation attributable to gifts with a fair market value of $3,000 or less to any donee. The reason for this exclusion is to conform it with the requirements for the filing of gift tax returns. Also appreciation, on a cumulative basis, amounting to $30,000 will be exempted.

These provisions are effective for gifts made after September 30, 1975. Because the making of a gift is viewed as a voluntary act on the part of the donor, no special averaging provisions are considered necessary since the taxpayer can control the timing of the gifts that he makes and avoid the "bunching" of income that may arise in the taxable year in which large amounts of gifts are made.

SECTION BY SECTION ANALYSIS OF KENNEDY BILL ON TAXATION OF CAPITAL GAINS AT DEATH

I. RECOGNITION OF UNREALIZED APPRECIATION AT DEATH (SECTION 2(a) OF THE BILL AND SECTION 1003 OF THE CODE)

(a) Section 1003(a) provides that, in the case of death of an individual, the gains and losses which would have been realized and taken into account in computing income, if all the property included in the decedent's gross estate for estate tax purposes had been sold immediately before death at the valuation used for estate tax purposes, shall be recognized. This provision would not apply unless the aggregate value of property used for estate tax purposes exceeds $60,000. Thus, the provision would not apply to a decedent whose gross estate is not large enough to require the filing of an estate tax return under present law. If the provision applies, the gains and losses would be taken into account in computing taxable income for the decedent's last taxable year. Further, the gains and losses to be recognized under this provision would be subject to certain specific exclusions and limitations provided under present law. For example, gain attributable to a residence owned by a decedent who had attained age 65 would be excludable to the same extent as if an actual sale had been made, losses attributable to personal assets would not be recognized to the same extent as under present law, and capital losses would be subject to the same limitations as provided under present law.

(b) Section 1003(b) would provide exclusions for certain types of property and for property passing to certain individuals and organizations. Policies of life insurance on the life of the decedent would be excluded. In addition, other property passing from the decedent would be excluded in certain cases where the income attributable to it is taxed to the recipient or estate under present law, i.e., income in respect of a decedent, joint and survivor annuities, amounts taxable to a beneficiary under a tax-qualified pension plan, and, to the extent includible in income as compensation under present law, certain tax-qualified stock options and stock. Property included in the decedent's gross estate as a transfer in contemplation of death would be excluded since appreciation attributable to it would have been subject to the provisions of the bill relating to gift transfers. For administrative reasons, an exclusion would be provided for categories of wearing apparel, household effects, books and tools of a trade, etc., if the value of the category for estate tax purposes is less than $1,000. For purposes of this exclusion, an art collection or a stamp collection would be treated as a single category.

Finally, exclusions would be provided for property passing to the decedent's surviving spouse, a charitable organization exempt from income tax, and certain orphans. The exclusion for property passing to a surviving spouse would apply if it qualified for the estate tax marital deduction under present law. Thus, under the terminable interest rule under present law, property would not qualify for the exclusion if the spouse received only a life interest in the property. However, all property passing to the spouse which otherwise qualifies for the estate tax marital deduction would be excluded even with respect to the value of property in excess of the 50-percent of adjusted gross estate limitation applicable under the estate tax provisions. In the case of property passing to a charitable organization, the exclusion would apply if a charitable deduction is allowable under the estate tax provisions with respect to such property. In the case of property passing to an orphan, the exclusion would apply if the person to whom the property passed was the decedent's dependent son or daughter (or descendant of either) and was younger than 19 years of age or a student at the time of the decedent's death. (In the case of excluded property passing to a surviving spouse, an orphan, or a charitable organization, a carryover basis is provided under another provision of the bill so that gain attributable to the property will be realized by them upon disposition.)

(c) Section 1003(c) provides an exemption of $10,000 from the gain which would otherwise be recognized or, in the case where losses exceed gains, a limitation upon the net loss to be recognized. The exemption will not be used to reduce any net gain or net loss below zero and is to be applied to the net gain or loss determined after application of the exclusions previously described.

(d) Section 1003(d) provides special rules for the application of the provision. Paragraph (1) provides that the value used to determine gain or loss shall be the value used for estate tax purposes, *i.e.*, the value as of the date of the decedent's death or, if elected, for estate tax purposes, the alternate valuation date.

Paragraph (2) provides that the basis for determining gain or loss of property acquired before October 1, 1975, would be the greater of the adjusted basis at the date of the decedent's death or the fair market value of such property as of September 30, 1975, adjusted to reflect adjustments to basis made after such date, i.e., depreciation allowable to the decedent after September 30, 1975, and before his death.

Paragraph (3) provides that losses will be taken into account even if the loss would be disallowed under present law as a "wash sale." Under present law, a sale is treated as a "wash sale" if a taxpayer sells shares of stock or securities at a loss and has acquired substantially identical stock or securities within a period beginning 30 days before the sale and ending 30 days after the sale. In general, disallowance is designed to prevent the recognition of loss when the taxpayer's ownership position has not actually changed. These rules will not apply to losses attributable to transfers at death.

(e) Section 1003(e) provides that gain or loss determined under the provision will have the same character as capital gain or ordinary income, as the case may be, as if an actual sale had been made. However, all capital gains are to be treated as long-term capital gains and, thus are eligible for the 50-percent long-term capital gain deduction or the alternative capital gains tax (generally, 25 percent of the first $50,000 in gains and 35 percent on the excess). In the case where the $10,000 exemption applies, the exemption would be allocated between ordinary income and capital gains in proportion to the gain attributable to each.

(f) Section 1003(f) provides that losses attributable to property passing to related persons are to be allowed to the extent they may be offset against gain attributable to property passing to related persons. Under present law, no deduction is allowed for losses from the sale or exchange of property between a taxpayer and certain members of his family (brothers and sisters, spouse, ancestors and descendents) or a controlled corporation (sec. 267). Generally, this rule prevents tax avoidance by the recognition of losses from transfers which may lack substance as the property transferred would remain within the family group or economic unit. Since death is not considered to be an act of tax avoidance, this disallowance rule would not generally apply (i.e., losses could be recognized) to the extent of the gains recognized for property passing to the related persons.

(g) Section 1003(g) provides a limitation on the tax which would be imposed upon the unrealized appreciation. This limitation would have the effect of providing a special ten-year "forward" averaging method for the unrealized appreciation recognized for the decedent's last taxable year. In general, the increase in tax would be limited to 10 times the increase in tax which would result by including 10 percent of the net long-term capital gain and 10 percent of any ordinary income or loss recognized. The result would be to treat the unrealized appreciation

approximately the same as if it had been recognized ratably in each year over a 10-year period rather than having all of the income "bunched" in a single year and subjected to the progressive income tax rates.

Since only the appreciation occurring after September 30, 1975, will be recognized, the 10-year period for averaging will be phased-in over 10 years.

Under the provision, the taxpayer's personal representative must choose either the benefits of the 10-year "forward" averaging for the unrealized appreciation or the general averaging for all taxable income, but not both.

(h) Section 1003(h) provides that if gain or loss is recognized by reason of these provisions, the time for filing the decedent's last income tax return will be nine months after the decendent's death if later than the time otherwise prescribed for filing the return.

II. RECOGNITION OF UNREALIZED APPRECIATION FOR GIFT TRANSFERS (SECTION 2(A) OF THE BILL AND SECTION 1004 OF THE CODE)

Section 1004(a) provides that gain on appreciated property transferred by gift by a taxpayer will be subject to income taxation at the time of the transfer. Under this provision, in computing taxable income, there shall be recognized the gains and losses which would have been realized and taken into account in computing income if the property transferred had been sold immediately before the gift. This provision would not apply, unless the aggregate value of gifts made after September 30, 1975, (other than gifts excluded under subsection (b)) exceeds $30,000 on a cumulative basis.

The gains and losses to be recognized under this provision would be subject to certain specific exclusions or limitations provided under present law. For example, gain attributable to a residence owned by a decedent who had attained age 65 would be excludable to the same extent that gain is presently excludable if an actual sale had been made, losses attributable to personal assets would not be recognized if they are not recognized under present law, and capital losses would be subject to the same limitations as provided under present law.

(b) Section 1004(b) provides exclusions for certain types of property and for gifts of property to certain individuals and organizations. Under this provision, the first $3,000 of gifts to any person during the calendar year would be excluded. This is to conform to the $3,000 gift tax exclusion under present law. Also, policies of life insurance on the life of the donor would be excluded. In addition, property transferred by the donor would be excluded in certain cases where the income attributable to it is taxed to the recipient under present law, *i.e.*, joint and survivor annuities, amounts taxable to a beneficiary under a tax-qualified pension plan, and, to the extent includable in income as compensation under present law, certain tax-qualified stock options and stock. Finally, exclusions would be provided for gifts of property to the donor's spouse or a charitable organization exempt from income tax.

The exclusion for gifts of property to a spouse would apply if it qualified for the gift tax marital deduction under present law. Thus, under the terminable interest rule under present law, property would not qualify for the exclusion if the spouse received only a life interest in the property. However, *all* property transferred to the spouse which otherwise qualifies for the gift tax marital deduction would be excluded under this provision. Thus, although a donor is allowed to deduct only one-half of the amount of gross gifts to his spouse for gift tax purposes he would be permitted to deduct the entire value of the gift for purposes of the income tax imposed under this bill. In the case of gifts of property to a charitable organization, the exclusion would apply if a charitable deduction is allowable under the gift tax provisions with respect to such property.

(c) Section 1004(c) provides certain special rules for the application of the provision. Paragraph (1) provides that the basis for determining gain or loss of property acquired by the donor before October 1, 1975, would be the greater of the adjusted basis at the date of the gift or the fair market value of such property as of September 30, 1975, adjusted to reflect adjustments to basis made after such date.

Paragraph (2) provides rules for the allocation of unrealized appreciation in the case of a gift of less than the donor's entire interest in property. Under this provision, unrealized appreciation will be allocated to that portion of the interest in property transferred in the same manner that the adjusted basis is allocated to the interest transferred under present law.

(d) Section 1004(d) provides that gain or loss determined under the provision will have the same character as capital gain or ordinary income, as the case may be, as if an actual sale had been made.

(e) Section 1004(e) provides that losses attributable to property transferred by the donor to related persons during the donor's taxable year are to be recognized to the extent they may be offset against gain attributable to property transferred by the donor to related persons during such year.

III. BASIS OF PROPERTY PASSING FROM A DECEDENT (SECTION 2(b) OF THE BILL AND SECTION 1014 OF THE CODE)

Section 2(b) of the bill would amend section 1014 of the code to provide that, in the case of property passing to a surviving spouse, an orphan, or a charitable organization, the basis of property will be the same as the decedent's basis, increased by the estate taxes attributable to the property, if the property had been treated as excluded property for purposes of recognizing unrealized appreciation at death. However, the carryover basis will not be less than the fair market value of the property as of September 30, 1975, adjusted to reflect adjustments to basis, such as depreciation, made after such date and before the decedent's death.

IV. BASIS OF PROPERTY TRANSFERRED BY GIFT (SECTION 2(c) OF THE BILL AND SECTION 1015 OF THE CODE)

Section 2(c) of the bill would amend section 1015 of the code to provide that the basis of property subject to income tax under the bill will be increased by the amount of tax paid which is attributable to the property and reduced by the amount of the decrease in tax which is attributable to a loss with respect to the property.

V. SPECIAL AVERAGING PROVISIONS (SECTION 2(c) OF THE BILL AND SECTION 1304 OF THE CODE)

Section 2(d) of the bill would amend section 1304 of the code to preclude general averaging if the benefits of the special 10-year forward averaging provisions for recognized appreciation are chosen.

VI. RELIEF RELATING TO ESTATE LIQUIDITY PROBLEMS (SECTION 2(C) OF THE BILL)

Section 2(e) of the bill would amend section 6161(a)(2) to permit a 10-year extension of time to pay if undue hardship would result from payment without extension.

Section 6503 would be amended to suspend the running of the period of limitation for collection of income tax attributable to the recognition of unrealized appreciation at death when an extension for payment is granted.

Section 6601 would also be amended to limit the interest rate to 6 percent per annum for extension of time to pay estate taxes (in the case of undue hardship, closely held businesses and remainder interests) and the income taxes attributable to the recognition of unrealized appreciation at death (in the case of undue hardship). Prior to amendment under Public Law 93-625, the interest rate for these extension of time to pay was 4 percent per annum. Effective July 1, 1975, the interest rate was raised to 9 percent with provision for an annual adjustment to reflect the prime rate charged by banks.

In addition, section 6905 would be amended to permit the release of an executor for personal liability if he furnished any required bond for the income tax attributable to the recognition of unrealized appreciation at death.

VII. CONFORMING AMENDMENTS (SECTION 2(f) OF THE BILL AND SECTIONS 1245, 1250, AND 1251 OF THE CODE)

Section 2(f) of the bill repeals the exception for recapture of depreciation or excess farm deductions in case of a disposition by death or gift.

By Mr. MONTOYA:

S. 2346. A bill to amend the Internal Revenue Code of 1954 to provide a credit against tax with respect to State and local property taxes, and for other purposes. Referred to the Committee on Finance.

Mr. MONTOYA. Mr. President, the bill I am introducing today will grant much needed property tax relief to the elderly. This legislation is designed to protect the elderly from further rises in property taxes which may occur after retirement. It will allow for the elderly to plan ahead for living on a reduced, fixed income without fear of unanticipated property tax increases.

The bill provides for a refundable tax credit for homeowners age 65 and older, of all income levels. The tax credit will be for property taxes in excess of what the person paid before retirement age. This will in effect place a freeze on the property tax levels of the elderly so that property taxes may rise before, but not after, the critical age of retirement.

Elderly renters will be eligible for a similar refundable tax credit. The tax credit will be available for a percentage of the rent that each State determines to be attributed to property taxes which landlords have passed on to tenants in the form of higher rents.

In addition to the tax credits, the bill also provides for an amendment to the Revenue Sharing Act. This amendment removes the existing incentive for increased tax effort by the States as it applies to a program of property tax relief for the elderly. Conflict regarding the encouragement of such property tax relief by the Federal Government will thus be avoided.

Mr. President, the need for such legislation has long been apparent. The inequity and regressivity of the property tax is a little-disputed fact. And that its most pressing burden lies heavily on the elderly is also a well-documented and scandalous fact. Statistics compiled by the Advisory Commission on Intergovernmental Relations reveal that 6.3 million homeowners over the age of 65 pay an average of 8.1 percent of their income for property taxes—a figure almost twice the 4.1 percent that the nonelderly pay. Of these homeowners over 65, 1.3 million with annual incomes of $2,000 pay prop-

erty taxes of 15.8 percent of that meager income. One in five homeowners over 65 are in this lowest income class. And two-thirds of elderly homeowners have incomes under $6,000, and pay an average of 6.2 percent of that income to property taxes.

A glance at such figures reveals that the problem of property tax relief for the elderly is not a minor one, nor does it affect only a few people. This is a problem that is widespread, and deserves special attention because of the unusual circumstances which the elderly often encounter.

Before retirement age, persons are able to plan ahead for the time when they will be living on a reduced, fixed income. Once retirement age has been reached, however, any unplanned for increases in property taxes may place excessive burdens on an income which is not flexible enough to accommodate for such increases. Circumstances such as inflation, death of the principle provider of income, and property tax rises often critically affect the fixed-income elderly. Loss of the home often results. Protection from further property tax increases after retirement for these persons as provided for in this bill is therefore necessary to maintain the economic security of the elderly.

Mr. President, it is my belief that the advantages of this bill are obvious. Direct relief to the elderly, overburdened taxpayer is of utmost importance. When you are talking about people who simply cannot generate enough income to cover their taxes, and whose budgets are already limited and severely constrained, you are talking about people who need immediate relief at a minimum of effort on their part. The refundable tax credit is the most simple mechanism for achieving such relief.

Although many States currently provide some form of property tax relief to the elderly, this bill will insure that relief is adequate. One-half of the States rely on the exemption mechanism for property tax relief to the elderly and other groups. This method involves hidden cost to the taxpayers and often results in administrative problems as well as insufficient tax relief.

In addition, most State programs do not apply to elderly renters. Such an omission eliminates many elderly persons from the benefits of property tax relief. And while many States have in recent years been moving toward more property tax relief programs such as the popular circuit breakers, the current trend has seen a decreased emphasis in this important problem area. South Dakota just recently repealed their property tax relief program. These last few years there has been much less activity in the area of property tax reform in the States. And with the current fiscal crisis in the cities and States, we can only expect a further move in this direction, and perhaps higher property taxes as well.

This bill will compensate for State programs which may be inadequate. It will insure that the elderly will receive such property tax relief without direct interference with State efforts in this area. Relief will be extended to all renters as well as homeowners. And the amendment to the Revenue Sharing Act will prevent Federal encouragement to raise State revenue from property taxes of the elderly.

In conclusion I submit that this legislation provides a solution to a serious problem by granting direct property tax relief to a deserving and long overburdened portion of our population. The simple, direct method for achieving this makes this bill an important means by which our elderly citizens can remain economically secure. It is shameful and unnecessary for the elderly to be overburdened with taxes, and to live in fear of losing their homes. It is our responsibility to see that this situation and our previous lack of action on this matter are rectified. With the introduction of this bill, there is no longer any excuse not to act.

By Mr. PROXMIRE (for himself and Mr. BROOKE):

S. 2347. A bill to regulate standby letters of credit, guaranties, surety agreements, and certain acceptances issued by commercial banks. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. PROXMIRE. Mr. President, Senator BROOKE and I today introduce legislation which would bring the use of standby letters of credit by the Nation's commercial banks under reasonable regulation.

The three regulatory agencies have had general authority to deal with the use of standby letters of credit under cease and desist powers but they have failed to stop the unsafe and unsound use of these instruments. The reasons for their failure are deeply rooted in the structure of bank regulation at the Federal level.

Time and time again we have heard the term "competition in laxity" applied to the manner in which the public interest is subverted by the fragmented regulatory structure, consisting of the Comptroller of the Currency respecting national banks, the Federal Reserve Board regarding member State banks of the Federal Reserve System and the Federal Deposit Insurance Corporation concerning insured State non-member banks. Regulatory laxity by these agencies concerning standby letters of credit abuses is yet another example of the distressing results of the structure of bank regulation at the Federal level.

Standby letters of credits are firm commitments by banks to extend credit to corporations which default on their commercial paper. The standby letter of credit guarantees the payment of commercial paper issued by a corporation. In net effect the standby letter of credit guarantees the solvency of a company in whose favor the letter has been issued.

Viewed as a guaranty, substantial authority exists for the conclusion that standby letters of credit are prohibited to be issued by banking institutions. Viewed as a guaranty to fund a bankrupt corporation which has defaulted on its commercial paper, standby letters of credit issuances are inherently unsafe or unsound banking practices.

Standby letters of credit have been used in a variety of contexts during recent years to bolster bank earnings without requiring banks to adhere to liquidity or reserve requirements and other traditional safeguards and controls which have been devised to assure the safety and soundness of extension of credit.

Ninety-one million dollars worth of standby letters of credit were involved in the U.S. National Bank of San Diego—USNB—failure which occurred a little over a year ago. Standby letters of credit were also present several years ago when a Lebanese incorporated bank with a branch in New York City collapsed, thus disclosing previously unknown liabilities under such instruments equal to $2 million or 10 times the bank's book assets.

Indeed, the use of standby or guaranty letters of credit has proliferated in recent years to the point where the aggregate amount of such instruments outstanding, as of June 30, 1974, approximated $6.1 billion with expectations for standby letters of credit and other bank guaranties to grow to approximately $60 to $100 billion in the years to come. The unfettered growth of such practices will produce serious consequences for our system.

If credit becomes scarce, the use of standby letters of credit and other similar instruments will increase because companies which encounter problems in raising necessary funds on their own will turn again to our banking system for relief in guarantying their borrowings. Some bankers will be willing to incur the risks involved with standby letters of credit leveraging practices and the potential for serious problems will recur. Thus minimal measures must be adopted now if we are to assure safe and sound banking practices in the future because the regulatory agencies will not act.

During the period of scarce credit, standy letters of credit allow banks to:

First. Earn fee income without investment of any funds by underwriting the customer's needs for funds or liquidity;

Second. Assist a customer in circumventing the Securties and Exchange Commission's curent transaction requirement for commercial paper under 3(a)3;

Third. Help the bank with a channel through which to provide financial assistance to directors, officers, large stockholders or other privileged parties;

Fourth. Provide the bank with a channel through which to provide financial assistance to directors, officers, large stockholders or other privileged parties;

Fifth. Provide a method of getting classified loans off the bank's balance sheet;

Sixth. Satisfy a customer's financial needs at lower than market rates even after the payment of a fee; and

Seventh. Provide customers with funds and the bank with a fee, without the transaction going through the usual loan committee scrutiny.

Standby letters of credit in at least three important respects may be considered contrary to the public interest in the present regulatory atmosphere.

First. Standby letters of credit enable

undercapitalized firms to issue commercial paper at market rates lower than those which they would otherwise be entitled to in a free market. Thus standby letters of credit enable such firms to compete unfairly against other firms in their market and contribute to misallocations of credit.

Second. Standby letters of credit have resulted in a loss of confidence in the commercial paper market. Where these letters of credit are issued to firms which default on their commercial paper issuances shock waves reverberate throughout the commercial paper market driving money out of the market. Worthy borrowers are denied credit in these circumstaces.

Third. Standby letters of credit affect the safety and soundness of the banking system. These letters, issued for a fee, are commitments to lend to companies in default. Normal lending safeguards are not followed in their issuance. The laxity in credit analysis may be followed by an inability to fund these commitments where the amounts of commitments are unduly large, thus straining the liquidity of banks in the financial system.

When Senator BROOKE introduced legislation relating to this subject on August 22, 1974, he dealt at length with the legality of such instruments and specific examples of how they are used by banks to circumvent existing legal restraints. A paper on this subject which is included in a recent committee print of the Committee on Banking, Housing and Urban Affairs titled, "Compendium of Major Issues in Bank Regulation," deals at length with these practices, as well as the potential for enormous abuses in this area. Accordingly, Mr. President, we refer your attention to these statements as being useful source documents for the issues at hand.

Standby letters of credit have been issued by banks to single purpose thinly capitalized dummy corporations which have attached these credits to their commercial paper issued to the public in the marketplace. In turn, the public has relied on such letters of credit or bank guaranties, in lieu of any reliance on the credit worthiness of the dummy corporations involved, since the presence of such guaranty instruments effectively removes any need to do otherwise. The proceeds of such a commercial paper sale have been used to acquire nuclear fuel by the dummy, or to discharge other obligations in the case of REIT's; however, it is clear that when the commercial paper becomes due, the bank is on the hook if the commercial paper issuer cannot fulfill its obligations to the public. Thus, the bank has assumed liabilities of very significant proportions while these liabilities are not reflected on the bank's balance sheet, nor are they subject to other requirements which have been devised as a means of assuring the safety and soundness of our financial institutions.

Federal Reserve Board Governor Robert C. Holland summarized dangers involved with the sale of commercial paper by such dummy corporations as follows:

> The great danger inherent in such a scheme is that in a period of tight monetary policy, one such "dummy" issuer of commercial paper would not be able to meet its maturities. A chain reaction might ensue, leading to the inability of the sizable number of such corporations to roll their paper over. This could in turn trigger calls on banks' guarantees at a time when loan commitments were at a peak, and some banks thus might be unable to respond effectively. At that point the Federal Reserve System could be impelled to supply reserve funds itself to the banking system to counter the threat of a partial collapse of the commercial paper market. As you will recall, the Fed was called upon to do just this in the Penn Central crisis.
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> These letters of credit function virtually as a guaranty, and therefore they are of questionable legality in some jurisdictions. Apart from their legal status, such letters of credit are sometimes not backed by adequate credit analysis nor constrained by either regulatory or management limits of the type applied to conventional loans. When that happens, they impose credit and liquidity risks upon the bank that—if realized—can be very disproportionate to the bank's willingness and ability to bear them. Furthermore, this kind of use of letters of credit is subversive of monetary policy, since it conveys the equivalent of bank credit outside the present scope of reserve requirements and other deposit regulations. . . . All told, this type of use of letters of credit—much different in safety and in purpose from the typical letter of credit—strikes me as being potentially unsound and contrary to the purpose of monetary policy.

It is readily apparent that the risks involved with the use of standby letters of credit are substantial and inordinate, absent the presence of suitable safeguards designed to protect bank depositors, investors and creditors. Banks in effect sell their credit to others in the process of issuing such instruments—and, specifically, to customers who may not otherwise be credit-worthy. Because of this there must be limits on the amount of sales which the bank may make or unlimited leveraging and exposure to risk are encouraged and undertaken by reason of such practices.

There is virtually no scrutiny or regulation of such practices by the bank regulatory agencies. Following the collapse of USNB, there was some concern evidenced on the part of these agencies with problems surrounding the use of such instruments. However, once the dust settled, it became apparent that little would be done to deal with the problem in a responsible and constructive fashion.

Specifically, the Federal Reserve, the FDIC and the Comptroller of the Currency imposed the requirement that such instruments be recognized in a "footnote" on a bank's balance sheet, even though it was suggested by Senator BROOKE and others that the agencies capitalize these instruments by showing them as assets and liabilities on bank balance sheets. While the agencies' regulations treated standby letters of credit and other similar obligations as loans for the purpose of applying the legal limit on loans to one borrower—which is 10 percent of a bank's capital and surplus—they failed to recognize that this legal limit does not operate to substantially constrain the activities of our larger banks. In addition, the legal limit can be easily circumvented by setting up a number of dummy corporate entities to which the 10-percent limit would apply, even though the dummies might all be acting for one principal or the real party in interest. The Comptroller's regulations even provide that he may determine that a particular standby letter of credit or class of standby letters of credit should not be subject to those legal lending limits.

Apparently the Federal Reserve Board advocated that standby letters of credit and other bank guaranties be banned entirely after the USNB failure. It is our information that the Comptroller of the Currency supported a more lax attitude in interagency discussions with respect to such practices. It is clear that in the present regulatory climate, the lowest common denominator often prevails; and, in fact, did prevail in this case among the bank regulators as in others. The Federal National Mortgage Association, for example, in the wake of the USNB failure banned the acceptance of standby letters of credit in their financing activities.

The three bank regulatory agencies had, and continue to have, parallel authority under the Financial Institutions Supervisory Act of 1966 to require a bank under their jurisdictions to cease and desist engaging in unsound banking practices; however, these agencies failed to abate the unsound practices involved under the Act with respect to standby letters of credit.

Senator BROOKE and I have considered an outright ban on the use of standby letters of credit. Certainly, we would be supported in this approach by a line of legal decisions which have not been overturned by the courts of this Nation, even though the bank regulatory agencies have chosen to ignore them. The Congress may yet find that the record developed on this subject by our Committee on Banking, Housing and Urban Affairs supports an outright ban on standby letters of credit. Nevertheless, we are proposing today that less stringent measures be considered to deal with the current situation.

Mr. President, I ask unanimous consent to have the text of the bill, as well as a section-by-section analysis, printed in the RECORD following these remarks, together with the ruling of the FNMA banning these instruments.

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

S. 2347

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) Section 5202 of the Revised Statutes, as amended (12 U.S.C. 82), is amended by striking "in any way liable" and inserting "incur any liability (including any liability arising from the acceptance of a time draft or from any undertakng to make or arrange a payment in the event another person fails to do so)".

(b) The clause numbered "Fifth" in such section 5202 is amended to read:

"Fifth. Liabilities incurred under the provision of the Federal Reserve Act, including liabilities arising from the acceptance of time drafts of the kinds described in section 13 of the Federal Reserve Act.".

SEC. 2. Section 5200 of the Revised Statutes (12 U.S.C. 84) is amended by inserting immediately after the second sentence the fol-

lowing new sentence: "For purposes of this section, (a) where an association accepts a time draft (other than a time draft of a kind described in section 13 of the Federal Reserve Act), the amount of the acceptance shall be deemed an obligation to the association of the person who is obliged to place the bank in funds prior to the maturity of the acceptance, (b) where an association undertakes to make or arrange a payment in the event another person fails to do so, the amount involved shall be deemed an obligation of that person to the association, and (c) where the acceptance or undertaking is made in connection with the financing of the purchase of personal property for lease or sale to a user, the amount of such acceptance or undertaking shall be deemed an obligation of the user to the association; and all such transactions shall be incorporated and disclosed fully in the balance sheets and reports of condition of the issuing bank and be subject to full extension of credit analysis".

SEC. 3. Section 19(a) of the Federal Reserve Act, as amended (12 U.S.C. 461(a)), is amended by adding at the end thereof the following sentence: "For the purposes of subsection (b) of this section, any member bank acceptance (other than an acceptance of a kind described in section 13) or any undertaking by a member bank to make or arrange a payment in the event another person fails to do so shall be deemed a deposit.".

SEC. 4. Paragraph 6 of section 9 of the Federal Reserve Act (12 U.S.C. 324) as amended by adding at the end thereof the following: "The provisions of sections 5200 and 5202 of the Revised Statutes shall apply to all State member banks and all insured nonmember State banks relative to liability on acceptances not of a kind described in section 13 or on undertakings to make or arrange payments in the event another person fails to do so".

SEC. 5. The provisions of this Act shall take effect upon the expiration of thirty days after the date of its enactment.

SECTION-BY-SECTION ANALYSIS

Section 1. This section would subject a national bank's potential liability on any standby letter of credit, ineligible bank acceptance, guaranty and surety agreement to the legal limitation on total liabilities of a national bank: 100 percent of its capital stock and 50 percent of its surplus. In this way, banks will be prevented from exposing themselves to unlimited liability on the guaranty of corporate commercial paper or other obligations.

Section 2. Under this section of the bill, the obligation of a customer to the national bank under any standby letter of credit, ineligible bank acceptance, guaranty or surety agreement would be treated as an obligation subject to the legal limitation on loans to one borrower—which is 10 percent of the bank's capital and surplus. Where a "dummy" corporation is issuing commercial paper backed by a bank guaranty—or a similar arrangement is present—and the proceeds of the issue are used to finance the purchase of personal property for lease or sale to a user of the property, the bank would be required to look through the dummy and treat the ultimate user as the borrower for purposes of applying the lending limit.

This provision of the bill would require a bank to show on its balance sheet a liability representing its obligations under any standby letter of credit, guaranty, surety agreement and ineligible bank acceptance; and an asset representing the obligation of the customer to repay the bank for its loan. Thus, a bank would be required to disclose adequately the scope of such transactions, and not merely "footnote" them. Another effect of this provision of the bill would be to require full credit analysis where such transactions are involved. For example, in the case of a dummy corporation which is issuing commercial paper backed by a bank guaranty, and the proceeds involved are employed in financing the purchase of personal property for lease or sale to a user, full credit analysis would be required with respect to the ultimate user of the property.

Section 3. This section would impose reserve requirements on such obligations of a bank that is a member of the Federal Reserve System.

Section 4. This section would apply to a State member and insured banks the same legal limitation on total liabilities that applies in the case of a national bank, and the same limitation on loans to one borrower.

FNMA/GNMA DISCONTINUES ACCEPTANCE OF LETTERS OF CREDIT

FHA LOANS

[¶ 96,616] Discontinuance of Acceptance of Letters of Credit by Federal National Mortgage Association and the Government National Mortgage Association. Federal National Mortgage Association. August 1, 1975. Letter in full text.

Letters of Credit—Acceptance—FNMA—GNMA.—Due to the increasing difficulties encountered in transactions involving letters of credit, the Federal National Mortgage Association and the Government National Mortgage Association will no longer accept letters of credit in any case where the FNMA or GNMA commitment contract is dated on or after August 15, 1975. Back reference: ¶ 25,901C.

[*FNMA letter*]

Letters of Credit will not be acceptable in any case where the Federal National Mortgage Association or Government National Mortgage Association Commitment Contract is dated on or after August 15, 1975.

There have been instances where the banks which issued letters of credit to FNMA have become insolvent. In some of these cases, the Federal Deposit Insurance Corporation has notified FNMA that FDIC was appointed receiver and letters of credit issued by the Banks and held by FNMA were terminated as of the date the insolvent bank closed. FNMA has not established procedures to evaluate in advance the likelihood of bank insolvencies.

We have also encountered adverse reaction by some banks to the issuance of our standard form of unconditional and irrevocable letter of credit.

It has become increasingly difficult to police issues relating to latent construction defects, including timely property inspections, and to obtain extensions of letters of credit, if needed.

In view of the foregoing, we have been impelled to take the action indicated above.

Appropriate revisions will be made to the FNMA Selling Agreement Supplement and the GNMA Seller's Guide in accordance with the foregoing.

By Mr. HARTKE (for himself, Mr. BENTSEN, Mr. CURTIS, Mr. FANNIN, Mr. HANSEN, Mr. MONDALE, Mr. ROTH, and Mr. THURMOND):

S. 2348. A bill to amend section 4940 of the Internal Revenue Code of 1954 to change the excise tax on the investment income of private foundations from 4 to 2 percent. Referred to the Committee on Finance.

EXCISE TAX ON PRIVATE FOUNDATIONS

Mr. HARTKE. Mr. President, today I am introducing a bill which will reduce the excise tax on investment income of private foundations from 4 to 2 percent. The reasons for introducing this bill were detailed in a statement of the Senate Subcommittee on Foundations submitted for the RECORD on October 4, last year. I ask unanimous consent that the portion of that statement referring to the excise tax on private foundations be printed in the RECORD at this point together with the text of the bill.

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

S. 2348

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4940(a) of the Internal Revenue Code of 1954 (relating to excise tax based on the investment income of private foundations) is amended by striking out "a tax equal to 4 percent" and inserting in lieu thereof "a tax equal to 2 percent".

SEC. 2. The amendment made by this Act shall apply to taxable years beginning after December 31, 1975.

[Excerpt from the CONGRESSIONAL RECORD, Oct. 4, 1974]

STATEMENT OF THE SENATE SUBCOMMITTEE ON FOUNDATIONS TOGETHER WITH ADDITIONAL VIEWS

(VANCE HARTKE, Chairman, Oct. 1, 1974)

Beginning in October of 1973, the Senate Finance Subcommittee on Foundations took both written and oral testimony on the impact of the Tax Reform Act of 1969 on private foundations and recipients of foundation grants. The Subcommittee gave special attention to the subjects of the four percent excise tax and the minimum distribution requirements of the Internal Revenue Code. It is to these two subjects which this statement is addressed.

A. FOUR PERCENT EXCISE TAX ON PRIVATE FOUNDATIONS

1. Legislative history

The Tax Reform Act of 1969 (Public Law 91-172) included several provisions which established a special status for private foundations in comparison with other charitable organizations. The imposition of a four percent excise tax on net investment was a requirement imposed on private foundations only.[1]

The Tax Reform Act of 1969 defined "private foundation" by exclusion rather than inclusion.[2] In essence, it excluded various classes of charitable organizations from private foundation status, in most cases because of the relative amount of financial support which such organizations derive from the public. The apparent theory is that organizations which derive much of their support from the public are likely to be responsive to the public, while private foundations—which derive most of their financial support from a limited number of donors—are less likely to be responsive to the public will and, thus, more in need of public supervision. This continuation has been opened to question in articles which have appeared within the past few months in major newspapers and periodicals and in hearings held by the Senate Subcommittee on Children and Youth.

Historically, private foundations in the United States have been treated as charitable organizations and have been free from Federal taxation. In 1964, the Treasury Department conducted a comprehensive review of private foundations and the laws then applicable to them. In early 1965, Treasury reported to the Senate Finance Committee and to the House Ways and Means Committee that the Federal tax laws governing foundations should be revised.[3] While the legislative recommendations of this report became the basis for most of the Tax Reform Act of 1969's regulatory provisions

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Footnotes at end of article.

for private foundations, the Treasury Department did not recommend imposition of any tax on foundation investment income.

Similarly, when the Treasury Department presented its recommendations on private foundation law in the 1969 tax reform hearings of the House Ways and Means Committee, it proposed no such tax.[4] On May 27, 1969, the Ways and Means Committee issued a press release announcing its tentative decisions with respect to private foundations. Included in those tentative decisions was one that the net investment income of private foundations be subject to an income tax of five percent. Later, when the Committee ordered its tax reform bill reported to the House, it elevated the rate of this tax to 7.5 percent.[5]

The record of the hearings before the Ways and Means Committee indicates the central importance of foundations in the tax reform bill. The hearings reflect the significant attention paid by Ways and Means to several foundation practices which the Members believed were abuses not adequately covered by existing Federal law. One of the reasons cited by the Committee in support of the imposition of a tax on investment income was the contemplation of increased enforcement efforts by the Internal Revenue Service in the exempt organization field and the belief that these costs should be underwritten by private foundations, rather than by taxpayers generally. Second, the Committee suggested that it would be appropriate for private foundations to bear a portion of the general costs of government.[6]

The House passed the "Tax Reform Act of 1969" in August, 1969, with the provision for a 7.5 percent income tax on foundations intact. An exchange between Representative Edward I. Koch of New York and Chairman Wilbur D. Mills of the Ways and Means Committee expounded on the Committee's rationale for the 7.5 percent tax.[7] Chairman Mills explained that money donated to foundations is usually not spent right away. In addition, foundations often receive stocks from their creator. If they were treated as taxable corporations, they would pay an income tax, and their stockholders would pay a tax on dividends received. In the case of foundations, however, this second level of taxation is non-existent since the dividends received from corporate stocks held by the foundation are tax exempt.

Chairman Mills also explained the justification for the 7.5 percent rate of taxation proposed in the bill:

"In the case of a corporation you get a deduction of 85 percent of the total amount of dividends received. This leaves 15 percent subject to the tax, and at a 50 percent rate the tax amounts to 7½ percent. . . . We did not want to tax the foundations to pay more than that." [8]

In the fall of 1969, the Treasury Department presented testimony to the Senate Finance Committee, which was then beginning its consideration of the Tax Reform Bill as passed by the House. The Treasury testimony recommended a reduction in the rate of the tax on foundation investment income from 7.5 percent to 2 percent.[9] The Treasury Department based its recommendation upon the argument that other provisions of the Tax Reform Bill would eliminate the abuses thought to be prevalent in the private foundation community and that, once these abuses were corrected, it would not be appropriate to limit the funds available for charitable activities by imposing a tax greater than an amount which would be sufficient to offset the enforcement efforts undertaken by the Service under the regulatory provisions of the bill.

In response to the Treasury testimony and that of other interested parties, that Finance Committee modified the tax in several respects. First, consistent with Treasury's recommendation, the committee rejected the view that the tax should be imposed at a rate which would produce revenue beyond that needed to fund IRS enforcement efforts. Second, the Committee was concerned that the form of the tax adopted by the House would lead some to believe that foundations were no longer tax exempt.

To alleviate these concerns, the Committee cast the tax as an excise tax, rather than as an income tax, and measured the tax by a percentage of the value of a private foundation's investment assets.[10]

As reported to the full Senate, the Finance Committee bill provided for an audit fee equal to one-fifth of one percent of the fair market value of foundation assets.[11] On the Senate floor, the rate of tax was reduced from one-fifth of one percent to one-tenth of one percent of the value of foundation assets.[12] As so reduced, it was anticipated that the tax would produce approximately the same amount as would be produced by a tax equal to two percent of investment income.

During the House-Senate conference on the tax reform legislation, the conflicting views of the two Houses were resolved by a compromise. The rate of the tax was set at four percent. In addition, responding to Treasury's objection to measuring the amount of the tax by reference to the value of foundation assets, the conference agreed to cast the tax as an excise tax on net investment income.[13]

2. Revenues from the 4-percent excise tax

In practice, the tax imposed at a rate of 4 percent of net investment income has produced more than twice the amount expended by the Internal Revenue Service with respect to its compliance activities for all tax exempt organizations—including such organizations as social clubs, trade associations, mutual ditch companies, labor organizations, and other non-charitable groups.

The revenue yield of the tax and Internal Revenue Service costs for all years since the effective date of the tax are as follows: [14] [15]

Fiscal year	Revenue from 4 percent tax	IRS costs (millions) Foundations	All exempt organizations
1968		$1.6	$7.1
1969		2.1	7.5
1970		3.5	11.0
1971	[1] $24,589,000	8.6	15.4
1972	56,045,000	12.9	19.3
1973	76,617,000	12.3	18.6
1975	NA	12.2	21.1

[1] Because of the interrelationship of the effective date of the tax and return-filing dates for private foundations, this figure includes only a part of the revenue yield of the tax for its 1st full year of operation. It does not include taxes paid by foundations reporting their income on the basis of fiscal years ending Feb. 28, 1971, through Dec. 31, 1971. A number of the largest foundations were in this group.

3. IRS compliance activities for all tax exempt organizations [16]

Several functions within the Internal Revenue Service are involved with tax exempt organizations. The Assistant Commissioner (Compliance) has responsibility for the audit portion of the Service's exempt organization program. The Exempt Organizations Examination Branch within the Audit Division plans, monitors, and evaluates nationwide programs for the examination of exempt organization returns and records.

Within each of the Service's seven regional offices, there is an exempt organization program manager who monitors the exempt organization program of the key districts within the particular region. Actual field operations are carried out by the Office of International Operations and sixteen key districts located throughout the country.[17] Within the audit divisions of these key districts there are exempt organization groups which process applications for recognition of exemption and conduct examinations of exempt organizations.

The current audit program has private foundations audited on a five-year cycle, with the largest, most complex ones examined every two years. Other exempt organizations are audited on a scale which is designed to provide representative coverage.

The Assistant Commissioner (Technical) is primarily responsible for providing basic principles and rules for the uniform interpretation and application of the Federal tax laws administered by the Service. The Miscellaneous and Special Provisions Tax Division, through its Exempt Organizations Branch, carries out this function in the area of exempt organizations. The Branch's activities include providing rulings to taxpayers, furnishing technical advice to IRS district offices, reviewing regulations, preparing Revenue Rulings and Procedures, and conducting in-depth studies of difficult technical issues. Also in the Technical arm of IRS, the Tax Forms and Publications Division works with the Exempt Organizations Branch in developing explanatory publications, forms, form letters, and other materials for the use and guidance of Service personnel and the public.

The Assistant Commissioner (Accounts, Collection, and Taxpayer Service) has responsibility for the computer processes necessary to administer the exempt organization program and for the collection of delinquent returns and accounts due by exempt organizations.

For the fiscal year 1974, budgeted figures for the exempt organization program within IRS were as follows:

	Audit	Technical	ACTS	Totals
Man-years	845	160	206	1,211
Man-hours	1,757,600	332,000	428,480	2,518,080
Amount	$15,198,000	$3,100,000	$2,849,000	$21,147,000

By December 31, 1974 the Service plans to have audited substantially all private foundations at least once during the previous five-year period. Audit coverage of other exempt organizations is not done on the basis of 100 percent coverage. Through a classification system, the Service selects the returns of organizations whose affairs most need to be examined. Areas which show patterns of non-compliance are stressed.

The Service's private foundation audit actively for fiscal year 1974 involves approximately 1,123,000 man-hours with a budgeted amount of $9,711,522. These figures represent 63.9 percent of the total exempt organization examination program.

4. Impact of 4-percent exercise tax on private foundations

Considerable testimony has been presented to the Subcommittee on the impact of the 4 percent exercise tax on private foundations. The thrust of most of this testimony is that the money raised by this tax is money denied, not to the private foundation, but to the charitable recipient of the foundations's money.

Of course any tax imposed is subject to a similar argument. A tax imposed on a business often means the consumer must pay higher prices for the products produced or sold by that business, and a tax imposed on an individual only means that the individual has less to spend on products, thus inhibiting the creation of new jobs and the expansion of the economy. No government can exist without adequate revenues, so taxes are imposed to raise those revenues which are necessary to operate the government and its programs.

Footnotes at end of article.

Having said this, it is important to weigh the merits of the 4 percent tax in light of its impact on both private foundations and the recipients of foundation money, as well as on the desirability of maintaining private foundations as part of the non-governmental charitable family of organizations which exists in the United States.

Private foundations have been a part of American society since colonial days. Although once confined to aiding the poor and the destitute, they have expanded their horizons to include almost every conceivable interest and concern of the American people. There are those who would contend that some of the money held by private foundations has been squandered on useless activities, but the fact remains that "useless" is a highly subjective term. History is replete with examples of ideas which appeared to be without substance or merit when first propounded, but which later came to receive broad public acceptance.

This is the very strength of private foundations. They have significant resources (although their grants in 1972 amounted to only ten percent of all private giving and only 2,000 of the 28,000 private foundations hold assets of one million dollars or more) to fund activities which are innovative. In our pluralistic society, we should never depend on government alone to support research and innovation. Foundations offer an alternative to that dependence, and—as such—they should be welcomed and encouraged.

The debate leading to passage of the Tax Reform Act of 1969 made it clear that some foundations were far more self serving than innovative. These were foundations which hoarded their money rather than spending it for charitable purposes, or foundations which used their money for the selfish, profit-seeking motives of donors.

The Tax Reform Act of 1969 changed the climate within private foundations. It is significant that the Subcommittee on Foundations has received a mere handful of comments suggesting abuses on the part of foundations. On the other hand, the Subcommittee has received a significant amount of testimony indicating the adverse impact which the 4 percent excise tax has had both on foundations and the recipients of foundation grants.

In October of 1973, the Subcommittee on Foundations held two days of hearings, receiving testimony from a variety of persons with specialized knowledge of foundations and foundation law, and from representatives of a number of private foundations. Much of this testimony stated support for reduction of the tax on foundation investment income from its present 4 percent rate to a rate appropriate to produce the amount of revenue necessary to finance Internal Revenue Service enforcement activities concerned with exempt organizations.[18] Testimony to the same effect was presented to the House Ways and Means Committee in the course of that Committee's hearings on general tax reform in April, 1973, and to the Subcommittee on Domestic Finance of the House Banking and Currency Committee.[19]

Additional hearings were held by the Subcommittee on Foundations in May and June of 1974. At the May, 1974, hearing, Senator Dewey Bartlett of Oklahoma presented testimony outlining the reasons the rate of tax should be reduced to bring the revenues produced by the tax more into line with the IRS enforcement costs. At the June 1974, hearings, Internal Revenue Service Commissioner Alexander presented a letter from the Secretary of the Treasury stating the Treasury Department's support for a reduction in the rate of tax from 4 to 2 percent, thus conforming the tax to that recommended to the Finance Committee by the Treasury Department in 1969.

5. Treasury Department position on the 4-percent excise tax

The Treasury Department's support for a reduction in the level of the excise tax from 4 to 2 percent was contained in a letter from Treasury Secretary William E. Simon to Subcommittee on Foundations Chairman, Senator Vance Hartke, dated June 3, 1974. That letter stated:

THE SECRETARY OF THE TREASURY,
Washington, June 3, 1974.

Hon. VANCE HARTKE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HARTKE: For the record of the hearing on private foundation matters, we submit the following statement of the position of the Treasury Department regarding the 4 percent tax on private foundation investment income.

The tax on private foundation investment income was enacted as part of the private foundation provisions of the Tax Reform Act of 1969. The House bill provided for a 7½ percent tax. The 7½ percent figure was justified by some as equal in amount (though unrelated in logic) to the net tax on intercorporate dividends. The legislative history indicates that the supporters of the 7½ percent tax looked upon it not as an audit fee but rather as a species of minimum tax. It was intended by them to generate tax revenue from private foundations.

The Treasury Department recommended to the Senate Finance Committee that in lieu of such a revenue-raising levy, a supervision tax be imposed to offset the cost of administering the audit program for foundations. We estimated that 2 percent of net investment income would be sufficient for that purpose. The Senate bill contained a tax based on the value of foundation assets (as distinguished from income) calculated to raise approximately half as much revenue as the House bill's 7½ percent tax. The Conference Committee compromised the divergent House and Senate positions by adopting the present 4 percent tax on income, which was expected to raise revenue roughly equivalent to the Senate bill.

While we have collection data for only a limited period, the available data indicate that the revenues raised by the 4 percent tax greatly exceed the cost of auditing private foundations. The cost of administering the tax provisions relating to all exempt organizations is about $21 million with the larger part allocable to the program for private foundations. Collections from the 4 percent tax on private foundation investment income totaled about $24.6 million in fiscal year 1971, $56 million in fiscal year 1972, and $76.6 million in fiscal year 1973. There is reason to believe that the $76.6 million is abnormally high, including a large amount of non-recurring capital gain. Further, there is some reason to expect that private foundations will contract in the aggregate with a resulting tendency for total revenues to diminish. These data suggest that a 2 percent tax might be an appropriate amount to defray the cost of the private foundation audit program, and we would support a measure to reduce the tax from 4 percent to 2 percent.

Sincerely yours,

(Signed) WILLIAM E. SIMON.

That position was fortified by Assistant Secretary of the Treasury (Tax Policy) Frederic W. Hickman in written materials provided to the Subcommittee on Foundations on July 16, 1974.[20]

6. Conclusions and recommendations

Based upon the legislative history of the excise tax on private foundations, its impact on foundations and on charitable recipients, and upon the Treasury Department's recommendations, the level of the excise tax should be reduced from 4 to 2 percent. This reduction would produce revenues of approximately twice the amount expended annually by IRS in recent years for its compliance activities.[21] It would also produce a direct, dollar-for-dollar increase in the funds distributed annually by private foundations for charitable purposes. For each dollar the tax is decreased, there would be a corresponding dollar increase in the flow of funds from private foundations to the support of charitable activities. This result follows by reason of the operation of section 4942 of the Internal Revenue Code, also added by the Tax Reform Act of 1969. Section 4942 imposes penalty taxes on those foundations which fail to make annual qualifying distributions for charitable purposes in the amount and at the time prescribed by the statute. The amount which a private foundation is otherwise required to distribtue for charitable purposes under section 4942 is reduced by the amount of the excise tax which is imposed on the private foundation by section 4940.

The effect of these statutory provisions is such that the tax is paid entirely with funds which would otherwise flow currently to the support of medical research, scholarship programs, and other charitable operations. Consequently, it is the potential recipients of foundation support, rather than the foundations themselves, which bear the real burden of the excise tax.

For example, if a private foundation is required by section 4942 to distribute $500,000 for charitable purposes, and if its tax liability under section 4940 is $20,000, the amount which section 4942 requires the private foundation to distribute for charitable purposes is reduced to $480,000. If the rate of tax were reduced from 4 to 2 percent, the foundation's tax liability under section 4940 would be $10,000 and it would be required to distribute $49,000 for charitable purposes in order to avoid liability under section 4942.

A recent study concluded that data from 1970 information returns filed by private foundations indicate that the 4 percent excise tax has a greater potential impact on the grants of larger foundations than of smaller ones. The tax was the equivalent of 1.2 percent of payout for foundations with less than $200,000 in assets, 1.5 percent of payout for foundations with $200,000 to $1 million, 1.8 percent for those with $1 million to $10 million, and 3.3 percent for those with $10 million or more in assets.[22]

The Employee Retirement Income Security Act of 1974 (Public Law 93-406) created an Assistant Commissioner for Employee Benefit Plans and Exempt Organizations, thus centralizing the myriad functions of the Internal Revenue Service pertaining to those organizations within one office. It also authorized for this office, in addition to other monies appropriated, revenues received from 2 percent of the 4 percent excise tax. A reduction in the excise tax from 4 percent to 2 percent of net investment income would mean that all revenues derived from that tax would go for the purpose of paying the costs of IRS administration of exempt organizations, which was the position adopted by both the Senate Finance Committee and the full Senate in 1969.

FOOTNOTES

[1] 26 U.S.C. 4940. See also Hearings before the Committee on Finance on H.R. 13270 (Part 6), 91st Congress, 1st Session, (1969) at 5465 *et seq.* for a discussion of the role of income tax exemption for charitable purposes in American life; hereinafter referred to as Senate Hearings (1969).

[2] 26 U.S.C. 509.

[3] Treasury Department Report on Private Foundations, February 2, 1965.

[4] See Hearings before the House Committee on Ways and Means on the Subject of Tax Reform (Part 14), 91st Congress, 1st Session, (1969) at 19–20.

[5] See H. Rep. 91–413 (Part 1), 91st Congress, 1st Session (1969) at 19–20.

[6] See *Ibid.*, at 19.

[7] *Congressional Record*, Daily Edition, August 6, 1969, pages H6987–88.

[8] *Ibid.*

[9] See statement of Edwin S. Cohen, Assistant Secretary of the Treasury for Tax Policy, Department of the Treasury, in Senate Hearings (1969) at 30, *supra* Note 1.

[10] The Treasury Department opposed the decision to measure the tax by reference to asset value.

[11] See S. Rep. 91-552, 91st Congress, 1st Session, (1969), 27.

[12] *Congressional Record*, Daily Edition, December 8, 1969, p. S16057.

[13] See H. Rept. 91-782, 91st Congress, 1st Session, (1969), 278.

[14] [15] See Hearings before Subcommittee on Domestic Finance of the House Committee on Banking and Currency, *"Tax Exempt Foundations and Charitable Trusts: Their Compliance with the Provisions of Tax Reform Act of 1969,"* 93rd Congress, 1st Session, (1973) at 222. Figures on revenue yield and 1974 IRS costs were obtained from IRS.

[16] The following material is excerpted from the statement of IRS Commissioner Donald C. Alexander contained in Background Material for Senator Hartke, May 30, 1974, reprinted in Hearings before the Subcommittee on Foundations of the Committee on Finance, May/June 1974, 93rd Congress, 2nd Session, hereinafter referred to as the Subcommittee on Foundations Hearings, 1974.

[17] Boston, Manhattan, Baltimore, Philadelphia, Atlanta, Cincinnati, Cleveland, Detroit, Chicago, St. Louis, St. Paul, Austin, Dallas, Los Angeles, San Francisco, and Seattle.

[18] See Hearings before the Senate Subcommittee on Foundations of the Committee on Finance, *"The Role of Private Foundations in Today's Society and a Review of the Impact of Charitable Provisions of the Tax Reform Act of 1969 on the Support and Operations of Private Foundations,"* October 1 and 2, 1973, 93rd Congress, 1st Session, hereinafter referred to as The Subcommittee on Foundations Hearings, 1973.

[19] See Hearings before the House Ways and Means Committee on General Tax Reform (Part 14), April 9 and 10, 1973, 93rd Congress, 1st Session; House Subcommittee on Domestic Finance of the Committee on Banking and Currency, "Tax Exempt Foundations and Charitable Trusts: Their Compliance with the Provisions of the Tax Reform Act of 1969," April 5 and 6, 1973, 93d Congress, 1st Session.

[20] Reprinted in Subcommittee on Foundations Hearings, 1974, *supra* Note 16.

[21] Secretary Hickman's letter to Subcommittee on Foundations cited rough revenue estimates from the 4% tax for fiscal years 1974 and 1975 of $80 million.

[22] Labovits, John R., "The Impact of the Private Foundation Provisions of the Tax Reform Act of 1969: Early Empirical Measurements," in the Journal of Legal Studies, Vol. 3, p. 77 (January, 1974).

Mr. CURTIS. Mr. President, I am pleased to join with Senator HARTKE and others of my colleagues as a sponsor of legislation to reduce the rate of tax on private foundation investment income from 4 to 2 percent. This legislation is long overdue and I hope that it will be acted upon by the Committee on Finance and reported to the Senate for action at the earliest possible date.

The tax which this bill would reduce was enacted as part of the Tax Reform Act of 1969. The House bill in 1969 would have imposed a 7½-percent tax on foundation investment income. At that time, I opposed the tax as an unwarranted departure from the well-established and long-standing Federal policy of exempting from tax the investment income of charitable, educational, and similar organizations. At the same time, however, I was willing to support the concept of an audit fee to raise the funds necessary to support a vigorous compliance program by the Internal Revenue Service in the private foundation field. This concept was agreed to by a majority of the Committee on Finance and the full Senate, and we adopted an audit fee measured as a percentage of the fair market value of a private foundation's investment assets.

In the Senate-House conference, however, the tax was recast as a tax on income and the rate set at 4 percent, which would raise approximately twice the revenue that would have been raised had the Senate's view prevailed. Thus, in 1969, the Congress enacted legislation imposing for the first time a general revenue tax on one class of charitable organizations. Subsequent experience has proven that the tax is in fact a general revenue tax and not merely an audit fee. I am informed that the revenues resulting from this tax are more than three times the costs incurred by the Internal Revenue Service with respect to all exempt organizations.

With this background, Mr. President, let me summarize the reasons which prompt me to pledge my active support of this bill. I continue to be opposed to the imposition of general revenue taxes on charitable, educational and similar organizations. Even in these times of unacceptable budgetary deficits, a 4-percent tax on the investment income of private foundations cannot be justified. Given the size of the Federal budget, the revenues produced by the tax are de minimis to the Federal Government. In contrast, to hospitals, private colleges and other potential recipients of private foundation grants, the loss of these diverted funds is highly significant. In 1969, I pointed out the importance of private colleges in my State of Nebraska and the dependence of these institutions on private philanthropy. The financial needs of these and similar institutions throughout the country are even greater today. We in the Congress need to encourage private philanthropy more than ever before and this bill is a step in the right direction.

A second reason which leads me to support this bill is that its enactment will in fact produce an increase in the funds distributed or expended by private foundations for active charitable purposes. This increase in foundation distributions is not hopeful speculation. It is required by law. Under other provisions of the Tax Reform Act of 1969, the amount that a private foundation is otherwise required annually to distribute or expend for active charitable purposes is reduced dollar for dollar by the amount of the excise tax on investment income. Thus, the excise tax on investment income is in reality a tax on those who depend on foundation support, and a reduction in the tax will not benefit foundations but instead will benefit schools, hospitals, and others dependent on foundation support.

For these reasons, Mr. President, I support this bill. I hope that ultimately we may either eliminate the tax completely or restructure it into a true audit fee. However, this bill, which would bring revenues more closely into line with the level of Internal Revenue Service compliance costs, is a desirable and perhaps necessary first step.

In conclusion, Mr. President, let me say that I believe we ought to be able to act on this bill on a reasonably expeditious basis. In reality, it does no more than return to the principles adopted by a majority of the Senate in 1969. We are not, therefore, plowing any new ground with this bill. Moreover, during the 93d Congress, the Finance Committee's Subcommittee on Foundations held hearings on the impact of the tax. I served as the ranking minority member of the subcommittee during the period of these hearings and am satisfied that the factual record necessary for intelligent legislative action is complete. The record of these hearings is printed and available to all.

For all of these reasons, Mr. President, I am glad to join with Senator HARTKE and others of my colleagues in sponsoring this important legislation. I shall work for its prompt enactment.

By Mr. PROXMIRE:

S. 2349. A bill to amend the Real Estate Settlement Procedures Act of 1974 to prohibit sellers or lenders from requiring that title insurance or title searches be obtained from specific title companies or attorneys, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

THE REAL ESTATE SETTLEMENT PROCEDURES

Mr. PROXMIRE. Mr. President, last year, Congress passed a law called the Real Estate Settlement Procedures Act of 1974, commonly known as RESPA. This legislation, which took effect last June 20, has resulted in a great deal of confusion, and the Banking Committee is conducting hearings this week.

RESPA was the highly unsatisfactory product of 4 years of efforts to reform real estate settlement procedures and hold down excessive closing costs. As finally enacted, however, RESPA was largely the creature of an intensive lobbying campaign by the land title industry to head off any direct limitations on excessive charges.

In its present form, RESPA masquerades as consumer legislation, but in practice it is creating delays and red-tape for lenders and consumers alike, without getting at many of the abuses.

The main problem with RESPA is section 6, which established an unnecessarily laborious system for advance disclosure of all closing costs.

Under section 6, an advance disclosure statement, which is several pages in length, must be sent to the buyer and seller at least 12 days before closing. The disclosure approach is based on the mistaken notion that if the consumer is aware of the charges he will be in a position to shop around for settlement services and thereby lower his costs. But in practice, the disclosure gives most consumers more information than they can effectively use without giving them the tools to control the charges. Many of the charges are fixed, such as prepaid taxes or insurance or registration of the deed. Others, such as points or real estate brokers' commissions have already been

incurred, and are not negotiable. When you look at all of the costs itemized on the RESPA form, the only ones which the consumer realistically might reduce by shopping around are the title insurance premium if he wants title insurance, and the attorney's fees. But in many areas the title company and the attorney are dictated by the lender, so the consumer is a captive customer.

In effect, this provision generates a lot of paperwork with little apparent benefit. In short, section 6 is the sort of requirement that gives consumer legislation a bad name. This is not consumer legislation, because the obvious costs to lenders are not balanced by significant benefits. I have received a great deal of mail from consumers, real estate brokers, and lenders, indicating that the information produced by section 6 is largely superfluous, and the 12-day waiting period which must elapse between loan commitment and settlement is causing great inconvenience.

Therefore, I am today introducing a bill that will repeal the advance disclosure requirements under section 6 of RESPA. In addition, my bill would tighten up the antikickback provisions of RESPA to insure that homebuyers are free to select their own title insurance company or settlement attorney.

As the law now reads, it prohibits a seller from dictating the choice of title company to a buyer. This was aimed at a common abuse in which a developer might steer a buyer to a particular title company in exchange for free services for himself or outright kickbacks. But RESPA does not prohibit lenders from requiring a buyer to use a particular title company or settlement attorney. That loophole renders the disclosure provision almost useless, because the consumer is often unable to act on the information which is disclosed even if he believes that the charges for insurance or attorneys fees are excessive and he wants to shop around.

My bill would close this loophole. Lenders as well as sellers could not dictate the choice of title company or attorney, and the buyer would be free to shop around. Once that is done, there is no need for RESPA's cumbersome system of advance disclosure coupled with a 12-day waiting period. So we could repeal section 6.

Now, at the same time, there is one aspect of disclosure that is obviously helpful. If the buyer has an indication of what his closing costs will be in advance of the actual closing, he knows how much money to bring and if any cost seems out of line or redundant, he can inquire about it.

One possibility would be to take advantage of the uniform statement mandated in section 4, and provide that this statement be available in advance of the actual settlement, 24 or 48 hours, for example.

Or it might be useful to provide for a simplified, good faith estimate of total closing costs to be made by the leader at the time of loan commitment. But section 6 as it now stands is overkill. Lenders have legitimately objected that the system requires that they go through the paperwork twice.

And that is the sort of regulatory excess that makes the public wonder what we are thinking here in Washington. Regulation should be selective, efficient, and aimed at specific abuses. Section 6 as it now stands fails that test. Now, at the same time, it is useful for the buyer to have some advance estimate of his closing costs, and the buyer should be free to choose whatever provider of settlement services he wishes. I do not think that is unreasonable.

There are other aspects of RESPA that need clarification: section 8, for example, prohibits kickbacks. This was a sorely needed reform, because real estate settlements in the past have been often characterized by fee-splitting, kickbacks, and similar abuses—all of which inflated costs to the consumer. However, section 8 does not specify exactly what practices are prohibited. HUD and the Justice Department still have not issued opinions regarding the legality of certain practices under section 8.

In the absence of official guidance, many lenders and brokers have been advised by their prudent attorneys that practices which Congress never intended to prohibit could be illegal under RESPA. And this has added to the confusion.

For example, some lenders take the position that waiver of prepayment penalty might be an illegal kickback. This was never our intent. If the consumer is spared an expense, this is not a kickback. Similarly, my office received a call from a title company which used to open its plant to all realtors in the county as a goodwill gesture. The title company feared this might be seen as a kind of bribe under section 8. This was certainly not the intent. Another problem involves the routine practice of multiple real estate listings in which the broker who listed a house splits the commission with the broker who sells the house. I cannot see how this would be an illegal kickback either.

I hope our hearing, at which representatives of all the trade associations, three Federal agencies and consumer groups will testify, will shed light on some of the ambiguous areas, and that the committee will amend section 8 to make it more precise. Of all the provisions of RESPA, section 8 is one with some teeth in it that provides real consumer protection, and has helped lower costs. A spokesman for the largest title company in one State told me that he was able to lower his fees by nearly 50 percent thanks to section 8, because he no longer must pay kickbacks to lenders and developers in order to get business. That is very encouraging; and I believe we should retain section 8. Nonetheless, we do have an obligation to define more precisely just what constitutes an illegal kickback under section 8.

Legislation which does not work should be modified or repealed. There are enough redundant regulations and forms without adding any more. When a law turns out to be a dud, as section 6 of RESPA apparently is, we should do something about it. And we shall remedy those abuses that still exist.

All of this indicates to me that when a regulatory measure is almost totally gutted by the affected industry, as RESPA was last year, we may be better off with nothing at all. I am looking forward to the hearings next week, where I hope the committee will learn more about how this scheme went off the track, and how to better protect the consumer from abuses connected with closing costs—which still exist—without drowning everybody concerned in redtape.

The other section of my bill introduces a more fundamental change in settlement procedures that could benefit lenders and consumers alike. It gives the lender the option of paying certain closing costs in the first instance, and passing these charges along to the borrower indirectly, through the interest rate structure. Lenders electing to pay closing costs would be exempt from State usury ceilings.

The advantage of this approach is that it shifts the incursion of cost to the lender, who has substantially more sophistication and bargaining power than the isolated home buyer, for whom purchase of a house may be a once-in-a-lifetime transaction. The ultimate cost to consumers would be reduced, because the lender is in a position to buy these settlement services wholesale. An added advantage is that the buyer would in effect be able to finance many of the closing costs rather than being required to bear the burden of several hundred dollars in cash charges over and above the down payment.

I am hopeful that the committee will also receive extensive comment on this proposal at our hearings this week.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2349

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the Real Estate Settlement Procedures Act of 1974 is repealed.

SEC. 2. Section 9 of the Real Estate Settlement Procedures Act of 1974 is amended to read as follows:

"TITLE COMPANIES; ATTORNEYS

"SEC. 9. (a)(1) A seller of property which will be purchased with the assistance of a federally related mortgage loan may not require, directly or indirectly, as a condition to selling the property, that title insurance covering the property be purchased by the buyer from any particular title company, or that a title opinion relating to such property be obtained from, or that a search of the title to such property be performed by, any particular attorney.

"(2) A lender may not require, directly or indirectly, as a condition of making a federally related mortgage loan, that title insurance covering the property to be acquired with the proceeds of the loan be purchased by the buyer from any particular title company, or that a title opinion relating to such property be obtained from, or that a search of the title to such property be performed by, any particular attorney.

"(3) Nothing in this subsection may be construed to prohibit a seller or lender from

refusing, for good cause and in accordance with regulations prescribed by the Secretary, to accept a title opinion furnished or a title search performed by a particular attorney.

"(b) Any person who violates the provisions of subsection (a) shall be liable to the buyer in an amount equal to 3 times all charges made for such title insurance, or 3 times all attorneys fees charged for such title opinion or title search, as the case may be."

SEC. 3. The Real Estate Settlement Procedures Act of 1974 is amended by adding at the end thereof the following new section:

"EXEMPTION FROM CERTAIN PROVISIONS OF LAW

"SEC. 20. (a) Any lender who elects to pay and pays for all settlement charges with respect to a Federally related mortgage loan shall be exempt from any provision of the law or constitution of any State which imposes a maximum interest rate ceiling which would otherwise apply to such loan.

"(b) As used in subsection (a), the term 'settlement charges' includes the charges for all settlement services other than the following:

"(1) A real estate broker's or agent's sales commission which compensates the real estate broker or brokers for services involved in listing and selling the property;

"(2) A prepaid interest charge covering interest which will accrue from the date of the settlement to the beginning of the period covered by the first monthly payment;

"(3) Any mortgage insurance premium prepaid by the buyer at settlement for insurance covering the lender against loss arising from the failure of the buyer to meet his mortgage obligations;

"(4) Any hazard insurance premium prepaid by the buyer at settlement for purchase from a private company of insurance against loss due to fire, windstorm, and natural hazards;

"(5) Any reserves deposited in an escrow or impound account maintained by the lender to assure an adequate accumulation of funds to meet charges for real estate taxes, hazard insurance, mortgage insurance, annual assessments, homeowners' association fees, or flood insurance when they become due;

"(6) Any charge to cover recording and transfer fees or taxes levied by a State or local government on the transfer of property or on the recording of a deed or mortgage;

"(7) That portion of any loan origination fee not in excess of one per centum of the mortgage loan; and

"(8) Charges for owner's title insurance."

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

S.J. Res. 127. A joint resolution to restore posthumously full rights of citizenship to Eugene Victor Debs. Referred to the Committee on the Judiciary.

Mr. BAYH. Mr. President, today I am introducing a resolution, cosponsored by the Senator from Indiana (Mr. HARTKE), to fully restore the rights of citizenship posthumously to Eugene Victor Debs. Next year will be the 50th anniversary of his death and it would be most appropriate for the Senate to take the necessary action, as we have already done this year for Robert E. Lee, to restore citizenship to Eugene V. Debs.

Debs was a native Hoosier, born in Terre Haute, Ind., on November 5, 1855, the son of immigrants from the Alsace region of France. At the age of 15, he went to work for the Terre Haute and Indianapolis Railroad and by February 1875 he was active in the organization of a lodge for the Brotherhood of Locomotive Firemen. This began his long career in the labor movement which was spent attempting to overcome the effects of poverty on the working men and women of America.

As part of this effort Debs campaigned for William Jennings Bryan in 1896 but by 1900 the Socialist Democratic Party was ready to nominate its own candidate for the Presidency. Eugene Debs was their first candidate. In his platform, Debs called for reforms such as national insurance of working people against accidents, unemployment and old age, a program of public works employment for the unemployed and the abolition of all laws discriminating against women. Today many of Debs' goals are a fact of American life. We now have social security, unemployment compensation, disability insurance and programs of public employment for the unemployed. When four more States ratify the proposed 27th amendment, equality under the law for women, as well as men, will become part of the Constitution.

Debs' campaign in 1900, the first of his five attempts for the Presidency as the socialist candidate, resulted in 96,116 votes. However, by 1912, his fourth attempt, he received 910,062 votes or 6 percent of the total votes cast.

His vocal opposition to both World War I and the Wilson administration's prosecution of dissenters under the Espionage Act resulted in Debs' loss of citizenship. There is some evidence that Debs' June 16, 1918 speech in Canton, Ohio was deliberately given to lead to his own prosecution for sedition. Debs had come to feel that he had no business being out of jail while others who said the things he believed went to jail. His trial lasted 4 days and Debs told the jury:

Gentlemen, I have been accused of obstructing the war. I admit it, gentlemen, I abhor war. I would oppose the war if I stood alone.

He was sentenced for 10 years on each of two counts to run consecutively.

Although a model prisoner, President Wilson refused to pardon Debs. While in the Atlanta Penitentiary, Debs made his fifth and last run for the Presidency and received nearly a million votes. On Christmas Day, 1921, President Harding commuted the sentence but did not restore Debs' citizenship.

Before Debs was sentenced he made a statement to the court which perhaps best represents what Debs believed in and that to which he dedicated his life.

Your Honor, years ago I recognized my kinship with all living beings, and I made up my mind that I was not one bit better than the meanest of the earth. I said then and I say now, that while there is a lower class, I am in it; while there is a criminal element, I am of it; while there is a soul in prison, I am not free.

While there were many in this country who were bitterly opposed to his socialist philosophy, Debs enjoyed almost universal respect as an honest, kindly, sincere, decent human being. Upon his death in 1926, the Baltimore Sun editorialized:

Debs died deprived of citizenship, but already the judgment of history is recorded, not against him but against a country that, altho inconceivably powerful, was yet too cowardly to grant civic rights to one honest dissident.

The U.S. Department of the Interior has made the Debs home in Terre Haute, Ind. a national historic landmark. It is now time for Congress to restore citizenship to this fine patriotic American, in recognition of his service to the United States and his belief in justice and equality for all Americans. By the time the 50th anniversary of his death comes in 1976, Eugene Victor Debs deserves the posthumous restoration of his citizenship. I urge the Senate to begin the necessary legislative action to achieve this end as soon as possible.

I ask unanimous consent that the text of the resolution be printed in the RECORD at this point.

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

S.J. RES. 127

Whereas Eugene V. Debs, a native son of the State of Indiana, brought lasting recognition to the goals and aspirations of the working man throughout the United States by being a founder of industrial unionism as it is known in America today; and

Whereas, among the goals and aspirations tenaciously advocated by Eugene V. Debs were the eradication of poverty and inequality through such programs as the eight hour day, the forty hour week, workmen's compensation, pension plans and social security; and,

Whereas, his tenacity in advocation of such programs led him to the honor of membership in the Indiana General Assembly in 1885 and of candidacy for President of the United States in five presidential elections; and,

Whereas, many of the programs he strove to attain are now accepted and have been adopted by the majority of the American people as weapons in the struggle to eliminate poverty and inequality; and,

Whereas, his ultimate goal in the true American tradition was the fullest and most meaningful human freedom and liberty for all citizens, as evidenced by these words: "While there is a lower class, I am in it; while there is a criminal element, I am of it; while there is a soul in prison, I am not free." and,

Whereas, Debs was convicted and sentenced to serve ten years in prison at hard labor, and disenfranchised for life, for violating the wartime espionage law after making his now-famous anti-war speech in Canton, Ohio on June 16, 1918, protesting World War I, which was then raging in Europe; and,

Whereas, no citizen of these United States has since been sentenced to prison for speaking out against war; and,

Whereas, although Debs was released from prison by President Warren G. Harding on Christmas Day, 1921, after serving two years and 258 days, his rights as a citizen of the United States were never fully restored to him: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That full rights as a citizen of the United States of America be restored posthumously to Eugene Victor Debs, retroactive to April 12, 1919, the date Debs began serving his sentence in Federal prison.

Mr. HARTKE. Mr. President, one does not have to be active as a Socialist to remember Eugene V. Debs. His immortal statement said, in a few words, something

that has echoed many times around the world:

While there is a lower class, I am in it; while there is a criminal element, I am of it; while there is a soul in prison, I am not free.

Eugene V. Debs was disenfranchised, and that stigma has never been obliterated by an act of Congress, even though the U.S. Government, through the Department of the Interior, made his home in Terre Haute, Ind., a national historic landmark. Gen. Robert E. Lee only recently had his citizenship restored after 100 years of waiting. The spirit of a great American, Eugene V. Debs, has waited 50 long years.

Mr. President, I am pleased to join with Senator BAYH in presenting to the Senate this resolution to restore citizenship to the memory of Eugene V. Debs for the Bicentennial which will be the fifth anniversary of his death.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 227

At the request of Mr. BAYH, the Senator from Iowa (Mr. CULVER) was added as a cosponsor of S. 227, a bill to amend the Internal Revenue Code to encourage the continuation of family farms, and for other purposes.

S. 2091

At the request of Mr. HARTKE, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 2091, a bill to revise the per diem allowance authorized for members of the American Battle Monuments Commission when in a travel status.

S. 2135

At the request of Mr. THURMOND, the Senator from Maine (Mr. HATHAWAY), the Senator from New Mexico (Mr. DOMENICI), the Senator from Pennsylvania (Mr. HUGH SCOTT), and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 2135, a bill to authorize the National Committee of American Airmen Rescued by Gen. Drazha Mihailovich to erect a monument in Washington, D.C.

S. 2244

At the request of Mr. MANSFIELD (for Mr. MAGNUSON), the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Kansas (Mr. PEARSON) were added as cosponsors of S. 2244, a bill to amend the Natural Gas Act.

S. 2320

At the request of Mr. BUCKLEY, the Senator from Tennessee (Mr. BROCK) and the Senator from Michigan (Mr. GRIFFIN) were added as cosponsors of S. 2320, a bill to amend the Internal Revenue Code to provide an additional personal exemption for each senior citizen whose principal place of abode is in the principal residence of the taxpayer.

SENATE JOINT RESOLUTION 124

At the request of Mr. BUCKLEY, the Senator from Ohio (Mr. TAFT) was added as a cosponsor of Senate Joint Resolution 124, to declare German-American Day.

AMENDMENTS SUBMITTED FOR PRINTING

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS, 1975—H.R. 8069

AMENDMENT NO. 880

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

Mr. DOLE. Mr. President, during our consideration of the Labor-HEW appropriation bill tomorrow, I intend to offer an amendment which would increase the availability of funds for State-administered consultation services under the Occupational Safety and Health Act.

It would do this by rechanneling the $10,000,000 added in committee for the hiring of 833 new Federal compliance officers. Thus, instead of duplicating the $5,000,000 provided for employer-requested consultations last year, a total of $15,000,000 would be earmarked for those activities.

I firmly believe that in order for the complex and highly technical OSHA program to operate effectively, we must encourage voluntary compliance and promote a better understanding and cooperation on the part of employers. The on-site consultation approach is designed to accomplish that objective, but cannot proceed very far without adequate funding.

Many States, for example—Kansas included, have taken steps to implement the recently published rules governing this advisory effort, but are reluctant to make substantial commitments in the absence of reimbursement assurances. My amendment would provide those assurances and foster even greater participation by tripling the present allocation and guaranteeing that the full amount would be utilized.

Certainly, there are those who feel that a more rigid and expanded enforcement campaign is the only way to bring the protection afforded by OSHA to every worker. If we shift our emphasis away from punitive citation-issuing, however, and toward the consultation that will enable employers to identify and correct deficiencies on their own, it seems to me we can realize a much more favorable return on our federally invested dollar.

This amendment would help achieve OSHA's goal of creating a safe and healthy place of employment without punishing employers or filling the Treasury with collected fines, and I hope it will be adopted. For the convenience of my colleagues, Mr. President, I ask unanimous consent that the language I am proposing 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. 880

On page 10, line 7, strike the words "not to exceed" and change the figure "$5,000,000" to "$15,000,000."

NATURAL GAS EMERGENCY ACT OF 1975—S. 2310

AMENDMENTS NOS. 881 AND 882

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

Mr. BARTLETT submitted two amendments intended to be proposed by him to the bill (S. 2310) to assure the availability of adequate supplies of natural gas during the period ending June 30, 1976.

AMENDMENT NO. 883

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

Mr. NELSON (for himself and Mr. CRANSTON) submitted an amendment intended to be proposed by him to the bill (H.R. 8069), supra.

NOTICE OF HEARINGS

Mr. JACKSON. Mr. President, in accordance with the rules of the Committee on Interior and Insular Affairs, I wish to advise my colleagues and the public that the following hearings and business meetings have been scheduled before the committee for the next 2 weeks:

September 17.—Full committee, 10 a.m., room 3110, business meeting, pending calendar business.

September 18.—Indian Affairs Subcommittee, 9:30 a.m., room 3110, hearing, S. 1823 and S. 1953, Sac and Fox judgment funds.

September 19.—Environment and Land Resources Subcommittee, 10 a.m., room 3110, hearings, S. 1506, to designate Missouri Breaks as part of wild and scenic rivers system.

September 23.—Full committee, 10 a.m., room 3110, hearing, nomination of Thomas S. Kleppe to be Secretary of the Interior.

September 24.—Full committee, 10 a.m., room 3110, hearing, S. 1824, to amend the Alaska Native Claims Settlement Act.

September 25.—Full committee, 10 a.m., room 3110, hearing, nomination of Thomas S. Kleppe to be Secretary of the Interior.

September 26.—Indian Affairs Subcommittee, 9:30 a.m., room 3110, hearing, S. 1334, Cowlitz judgment funds, and S. 1649, Grand River Band of Ottawa Indian judgment funds.

September 30.—Environment and Land Resources Subcommittee, 10 a.m., room 3110, hearing, S. 75, Kaiser Ridge Wilderness study, California.

NOTICE OF HEARINGS ON DIVESTITURE IN THE PETROLEUM INDUSTRY

Mr. BAYH. Mr. President, the senior Senator from Michigan (Mr. PHILIP A. HART), who chairs the Senate Antitrust and Monopoly Subcommittee, has asked me to announce that hearings on several bills dealing with vertical divestiture in the petroleum industry have been scheduled for September 23 and 26. I will have the honor of chairing those hearings. Anyone wishing additional information may contact the subcommittee.

ANNOUNCEMENT OF PUBLIC HEARING BEFORE THE ENVIRONMENT AND LAND RESOURCES SUBCOMMITTEE, INTERIOR AND INSULAR AFFAIRS COMMITTEE

Mr. JACKSON. Mr. President, I wish to announce for the information of the Senate and the public, the rescheduling of a public hearing before the Environment and Land Resources Subcommittee of the Senate Interior and Insular Affairs Committee. The hearing is now scheduled for September 30, 1975 at 10 a.m. in room 3110 of the Dirksen Senate Office Building.

Testimony is invited on S. 75—a bill to study certain lands in the Sierra National Forest, Calif., for possible inclusion in the National Wilderness Preservation System. This 28,000 acre area is generally referred to as the Kaiser Wilderness Study Area.

As you know, Mr. President, this hearing was originally scheduled for September 4, 1975.

If there are any questions, please contact Mr. Thomas B. Williams of the subcommittee staff at 224-9894.

NOTICE OF HEARINGS—SUBCOMMITTEE ON AEROSPACE TECHNOLOGY AND NATIONAL NEEDS OF THE COMMITTEE ON AERONAUTICAL AND SPACE SCIENCES

Mr. FORD. Mr. President, the subcommittee on Aerospace Technology and National Needs of the Senate Committee on Aeronautical and Space Sciences will conduct hearings on the NASA technology utilization program. The hearings will commence at 9 a.m. on September 22, 23, and 24, 1975.

The purpose of these hearings is to examine how NASA transfers its "spin-off" technology to users on the national, State, and local levels.

These hearings will involve appearances by NASA personnel, actual users of the technology, economists, and representatives of other agencies and organizations that are engaged in technology transfer.

NOTICE OF HEARINGS ON BALANCING THE BUDGET

Mr. BAYH. Mr. President, the Subcommittee on Constitutional Amendments is scheduling hearings on Senate Joint Resolution 55, proposing a constitutional amendment on balancing the budget, and Senate Joint Resolution 93, proposing a constitutional amendment on balancing the budget, for Tuesday, September 23, 1975.

These hearings will be held in room 2228 Dirksen, the Judiciary Committee hearing room, beginning at 10 a.m.

Any persons wishing to submit written statements for the hearing record should send them to the Subcommittee on Constitutional Amendments, room 108, Russell Senate Office Building, Washington, D.C. 20510.

ADDITIONAL STATEMENTS

PAY ADJUSTMENT FOR FEDERAL EMPLOYEES

Mr. McGEE. Mr. President, the Committee on Post Office and Civil Service has reported Senate Resolution 239 favorably, thereby recommending that the Senate disapprove the President's alternative plan to limit the statutory October pay adjustment for Federal employees to 5 percent, instead of the 8.66 percent adjustment recommended to him by his agents, the Director of the Office of Management and Budget and the Chairman of the Civil Service Commission, and endorsed by the Advisory Committee on Federal Pay, composed of non-Federal compensation experts.

Mr. President, so that Senators can better familiarize themselves with these recommendations, I ask unanimous consent that the Report on Comparability of the Federal Statutory Pay Systems with Private Enterprise Pay Rates and the Report on the Fiscal 1976 Pay Increase Under the Federal Statutory Pay Systems, the former by the President's agents and the latter by the Advisory Committee, be printed in the RECORD.

Also, I ask unanimous consent that the U.S. Department of Labor news release of July 9 concerning the results of the annual survey of professional, administrative, technical, and clerical pay in the private sector, on which the comparability studies are based, be printed in the RECORD.

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

COMPARABILITY OF THE FEDERAL STATUTORY PAY SYSTEMS WITH PRIVATE ENTERPRISE PAY RATES

(Joint Annual Report of the Director, Office of Management and Budget, and the Chairman, U.S. Civil Service Commission)

MEMORANDUM FOR THE PRESIDENT

Subject: Annual report on comparability for Federal statutory pay systems.

In accordance with the provisions of section 5305 of title 5, United States Code, and section 201 of Executive Order 11721, we submit herewith our report on the adjustments needed in Federal statutory pay rates in order to achieve comparability with 1975 private enterprise pay rates.

After comparing Federal and private enterprise pay rates and considering the recommendations of the Federal Employees Pay Council and employee organizations, we have determined that an 8.66 percent pay increase is appropriate.

We are furnishing a copy of this report to the Advisory Committee on Federal Pay so that that committee can carry out its statutory responsibilities in a timely manner.

JAMES T. LYNN,
Director, Office of Management and Budget.

ROBERT E. HAMPTON,
Chairman, U.S. Civil Service Commission.

Attachment.

ANNUAL REPORT OF THE PRESIDENT'S AGENT ON COMPARABILITY OF THE FEDERAL STATUTORY PAY SYSTEMS WITH 1975 PRIVATE ENTERPRISE PAY RATES

INTRODUCTION

Under section 5301 of title 5, United States Code, pay rates for employees under the Federal statutory pay systems are fixed in accordance with the principles that—

"(1) there be equal pay for substantially equal work;

"(2) pay distinctions be maintained in keeping with work and performance distinctions;

"(3) Federal pay rates be comparable with private enterprise pay rates for the same levels of work; and

"(4) pay levels for the statutory pay systems be interrelated."

In order to ensure that these pay rates will remain comparable with private enterprise pay rates, section 5305 of title 5 authorizes the President to adjust these pay rates annually. Each year the President's agent is required to prepare a report to the President for his consideration in determining this pay adjustment. Section 5305 directs that this report is to—

(1) compare the rates of pay of the statutory pay systems with the rates of pay for the same levels of work in private enterprise on the basis of appropriate annual surveys conducted by the Bureau of Labor Statistics;

(2) make recommendations for appropriate adjustments in rates of pay; and

(3) include the views and recommendations of the Federal Employees Pay Council and employee organizations not represented on the Council.

Under section 201 of Executive Order 11721, May 23, 1973, the Director of the Office of Management and Budget and the Chairman of the Civil Service Commission serve as the President's agent, and have prepared this report in fulfillment of their responsibility under section 5305.

1975 BUREAU OF LABOR STATISTICS SURVEY RESULTS

Table 1 in Appendix A shows the national average private enterprise pay rates reported by the Bureau of Labor Statistics (BLS) for the occupations surveyed in the National Survey of Professional, Administrative, Technical, and Clerical Pay, March 1975 (1975 PATC survey). The jobs in the survey have been grouped on this table according to the General Schedule grade levels to which they relate, and the resulting average private enterprise salary for each grade level is also shown.

Survey jobs used

Certain changes have occurred in the group of survey jobs used in the pay comparison this year.

Two survey jobs, Keypunch Supervisor V (equivalent to GS-7) and Job Analyst I (equivalent to GS-5), which have been used in previous pay comparisons cannot be used this year because the data obtained in the 1975 PATC survey did not meet BLS' statistical criteria for publishable data. Director of Personnel V (equivalent to GS-15) is used for the first time this year. This job level has been in the PATC survey since 1960-61, but the data for this level has never before been publishable under BLS' criteria.

We have also had to exclude Job Analyst III and Job Analyst IV from this year's pay comparison, although the data for these two jobs levels does meet BLS' publication standards. These job levels are intended to be equivalent to GS-9 and GS-11, respectively, but a study we made of the survey definitions for the Job Analyst occupation during the past year has shown that the survey defini-

tions for the III and IV levels fail to exclude certain job matches which are not equivalent to the intended General Schedule grades. We hope to be able to correct the deficiencies in these definitions before the 1976 PATC survey, so that we will be able to use the data for these two job levels in next year's pay comparison.

A similar problem was discovered in the survey definition for Keypunch Supervisor V. If the data for this job level had been publishable under BLS' criteria, we would still have had to exclude it from the pay comparison, since the present survey definition produces some job matches which are not equivalent to the intended GS–7 level. Here again, we hope to be able to correct this survey definition before the 1976 survey.

In our report last year, we said that we would be working with the Federal Employees Pay Council to try to reach a decision on the use of the job definitions for two occupations, Secretary and Computer Operator, in the PATC survey and the annual pay comparison. No decision has yet been reached, but the agent and the Council have agreed to a method for resolving this issue, involving a third party, preferably the Advisory Committee on Federal Pay. Pending resolution of this question, we also agreed with the Council to withdraw these disputed job definitions from the 1975 PATC survey.

Industry coverage

The industries and establishment sizes covered in the 1975 PATC survey are the same as were covered by the 1975 survey.

Last year, we indicated that we had reached agreement with the Federal Employees Pay Council to ask BLS to test certain expansions in the survey universe in this year's survey. Unfortunately, due to the considerable lead time required in order to make substantial changes in as large a program as the PATC survey, BLS was not able to include the test of these expansions in the 1975 survey. We anticipate this test will now be made as a part of the 1976 survey.

We have continued our review of the desirability and feasibility of surveying State and local governments and not-for-profit organizations. On the basis of the work that has been completed in this review, we have agreed with the Federal Employees Pay Council to include noncommercial educational, scientific, and research organizations in the 1976 test of survey expansions. When the rest of our review has been completed, we will be discussing other possible changes in the survey universe with the Pay Council.

Bonuses

In our report last year, we indicated that, after discussions with the Federal Employees Pay Council, we had agreed to ask BLS to try to collect data on cash bonuses in the 1975 PATC survey.

BLS was not able to do so, due to the lack of lead time and the unexpected complexity of collecting bonus data in addition to the salary data which the PATC survey now collects. However, BLS has undertaken a major field study of this subject, with the results expected later this year. If this study indicates that bonus data collection will be successful, we anticipate that bonus data will be collected in the 1976 PATC survey and will be used in the 1976 pay comparison.

Time lag

After discussions with the Federal Employees Pay Council, we have agreed that it would be desirable to move the reference date of the PATC survey closer to the effective date of the resulting Federal pay comparability adjustment, in order to shorten the time lag by which Federal pay follows private enterprise pay. We will be working with BLS during the coming year to see if an acceptable and feasible method for accomplishing this can be developed.

COMPARISON OF RATES OF PAY

Table 2 in Appendix A shows the computation of the General Schedule comparability pay rates which were originally proposed by our joint staff. These rates complete the three-year transition to the new reference point technique that was adopted in 1973. As shown on table 2, they would have provided increases ranging from 8.10 percent at GS–1 to a theoretical 9.99 percent at GS–18. In actual fact, the effect of the statutory ceiling (which is currently $36,000) would have limited the average increase to 6.36 percent at GS–15, 0.22 percent at GS–16, and zero at GS–17 and GS–18, rather than the theoretical figures shown.

This computation, and the full table of General Schedule rates which it would have produced, were discussed at length with the Federal Employees Pay Council in a series of meetings, and were also furnished to the unions and employee organizations which are not represented on the Council at meetings which we held with them.

The views and recommendations of the Federal Employees Pay Council appear as Appendix B, while the views of the non-Council organizations appear in Appendix C. As will be seen, the Federal Employees Pay Council urges that the adjustment be modified to provide that the overall average percentage increase proposed by staff be applied uniformly at each General Schedule grade. The Council's detailed rationale in support of an across-the-board increase was presented most forcefully during our series of meetings with them. In addition, three of the non-Council organizations independently advanced the same recommendation.

These arguments, and our reaction to them, are detailed below in the section devoted to the role and views of the Pay Council. In summary, we find the rationale persuasive, and accordingly recommend a comparability adjustment of 8.66 percent at each General Schedule grade. This figure is equivalent to the overall weighted average figure by which the General Schedule rates would have been adjusted had the original staff proposal been implemented.

Table 3 in Appendix A shows the General Schedule rates which would result from an 8.66 percent adjustment.

Continued review of mathematical procedures used in pay comparison process

One of the most important considerations in our decision to recommend an adjustment which differs from that produced by a precise application of the statistical techniques used in the past is that we believe substantial improvements in those techniques are possible as a result of our two-year study of the entire mathematical process by which Federal pay rates are determined.

This study has now been substantially completed, and we will be discussing our findings with the Federal Employees Pay Council very shortly. We believe it is essential to reach final decisions on any needed changes in the pay comparison process well in advance of the 1976 pay adjustemnt.

RELATED STATUTORY PAY SYSTEMS

As mentioned previously, table 3 in Appendix A shows the General Schedule pay rates which we recommend to provide comparability with private enterprise pay rates as shown by the 1975 PATC survey.

Table 4 shows the pay rates for the schedules in section 4107 of title 38, United States Code, relating to doctors, dentists, nurses, and certain other employees in the Department of Medicine and Surgery of the Veterans' Administration.

Table 5 shows the pay rates for the schedules in sections 412 and 415 of the Foreign Service Act of 1946, as amended (22 U.S.C. 867 and 22 U.S.C. 870(a)), relating to Foreign Service officers and staff.

The pay rates in Tables 4 and 5 are related to the pay rates of the General Schedule in the same way they have been in the past. In our report last year, we indicated that there were some unresolved questions about the extremely complicated relationships between the two Foreign schedules and the General Schedule. We are continuing to work with the Department of State on the resolution of these questions. For the time being, we have not altered the established pay relationships of these schedules.

COSTS

The cost, stated on an annual basis, of implementing the recommended pay adjustments for the 1.39 million employees under the statutory pay systems is estimated as follows:

[Millions of dollars]

Statutory pay systems	Basic pay	Fringe benefits and premium pay	Total
General schedule	$1,655.8	$234.8	$1,890.6
Department of medicine and surgery schedules	33.0	5.8	38.8
Foreign service schedules	19.5	3.1	22.6
Total	1,708.3	243.7	1,952.0

In addition, certain other employees whose pay is fixed by administrative action normally receive pay adjustments corresponding to General Schedule adjustments. We estimate the cost of these administrative pay adjustments to be $46.2 million.

Under section 1009 of title 37 of the United States Code, members of the uniformed services will receive an adjustment in their basic pay and certain allowances comparable to the General Schedule adjustment. We estimate the cost of this military pay adjustment for the uniformed services to be $1,894.3 million.

Therefore, we estimate the total annualized cost of the pay adjustment we are recommending to be $3,892.5 million.

ROLE AND VIEWS OF THE FEDERAL EMPLOYEES PAY COUNCIL

The members of the Federal Employees Pay Council this year have been Mr. Vincent L. Connery, President of the National Treasury Employees Union; Mr. Dennis Garrison, Executive Vice President of the American Federation of Government Employees; Mr. Markley Roberts, Economist in the Department of Research of the AFL–CIO; Mr. Clyde M. Webber, President of the American Federation of Government Employees; and Dr. Nathan T. Wolkomir, President of the National Federation of Federal Employees.

The views and recommendations of the Federal Employees Pay Council appear as Appendix B to this report. (Mr. Richard Galleher of the AFL–CIO has signed the Council's statement of views and recommendations in place of Mr. Roberts.)

The Council's paper argues that wage movements in other sectors of the economy have been greater than increases granted to Federal employees under the statutory systerms, and that this disparity has been exacerbated by the inflationary spiral, particularly at the lower grades. The Council also argues that the return of the median General Schedule step to the fourth rate, and the decline of the mean step to its lowest point since 1969 demonstrate that the

agent's adoption of the Average Salary Reference Point Technique (or "dual payline") in 1973 was improper, and that this technique should be abandoned.

The Council accordingly recommends that this year's adjustment be calculated by a return to the fourth step reference point and the 27.7 percent "slope" used prior to 1973.

At our meetings with the Council, the differing views which we hold on the "dual payline"—its necessity and justification, its soundness and validity, and its ultimate monetary effects—were discussed and debated exhaustively. As the Council's paper makes clear, we have not succeeded in dissuading them from a position of total opposition to what we regard as an essential reform in the pay setting process.

By the same token, we could find no merit whatever in the Council's arguments for abandonment of the new technique. We therefore recommend that the transition to the new methodology which was announced in 1973 be completed this year by application of the third and final phase. It bears repeating at this point that the need for this corrective reform, and the specific methodology we developed to effect it, have been endorsed by both the Advisory Committee on Federal Pay, and the General Accounting Office.

Upon our insistence that we could find no reason to abandon the new reference point technique, the Council advanced the "compromise recommendation" which appears on page 25 of their report, and which requests that the same overall average percentage adjustment originally proposed by our joint staff be reallocated to provide a uniform adjustment at each General Schedule grade.

The Council's arguments in support of this modification were presented at considerable length and with considerable forcefulness during our series of meetings with them. The following discussion summaries these arguments and our reaction to them.

The staff proposal would provide a pattern of graduated percentage increments, with the smallest increases going to the lowest-graded Federal employees and the largest to the highest-graded. While this is statistically accurate, the Council pointed out that it can be accurate only in the context of the traditional payline computation formula. We ourselves believe that comparability can be measured much more precisely by the adoption of changes in the type of curve used, the curve-fitting criteria employed, and the weighting of the salary and grade averages. We expect to begin discussion of specific methodological changes in the determination of Federal pay rates with the Pay Council early this fall. Inasmuch as these discussions may result in at least partial abandonment of the specific statistical technique which produced the increasing percentage pattern of the staff proposal, we agree with the Council that it would be excessively rigorous to insist upon the precise application of these techniques when we ourselves contemplate their replacement. It should be noted here that it is not the use of two fitted lines under the "dual payline" concept which might be replaced, but simply the way in which these two lines are calculated.

The Council also pointed out that, even if the technique is statistically precise, the pattern of increasing percentage increments is not readily apparent from a non-technical examination of the raw data published by BLS, which appear to show larger percentage increases over 1974 at the lower grades than at the higher. The Council's paper describes the increasing percentage increments produced by fitted paylines as an "inversion." To investigate this, we fitted both linear and exponential regression lines to the 1974 and 1975 BLS data, and each produced a pattern of increasing percentage differences. It is clear, therefore, that the 1975 BLS data show a steeper fitted slope than the 1974 data, regardless of whether the fitting technique is the unique method developed for the General Schedule payline, or either of two standard techniques whose use in basic statistics is widespread and unquestioned. We alo believe that a process as complex as Federal pay-setting may always be subject to apparent contradictions to a greater or lesser extent, but we do agree with the Council that this year the apparent contradiction under the original staff proposal would have been so great as to be incomprehensible to the overwhelming majority of Federal employees whose pay is being set.

The Council also argued that the increasing percentage increment pattern appears to be at variance with the general concern that inflationary pressures bear more heavily on those at lower income levels than on those earning higher salaries. While we continue to believe that Federal comparability must remain firmly based upon measures of changes in pay rather than other economic changes, we nevertheless agree that the concern which underlies this Council argument must be carefully weighed.

The Council also pointed out that the across-the-board adjustment they recommended was simply a re-distribution of the same aggregate amount which was produced by a staff proposal which had included the reduction necessitated by the final phase of the transition to the average salary reference point technique. This is of course true: the recommended comparability increase of 8.66 percent at each grade is based upon private sector salary levels which have risen about nine percent over 1974 levels, regardless of whether the increase is averaged occupationally, as BLS does, or by General Schedule grade level, as the payline methodology does. The difference between these two figures is the effect of the final phase of the transition to the new technique.

In summary, our meetings with the Federal Employees Pay Council this year have again revealed that we have strongly-held differences as to both concept and methodology in establishing Federal pay. However, we believe that our exchanges, however protracted and sharply-worded, have been productive, particularly since their arguments as to the manner in which this year's increase should be allocated have been ultimately persuasive in the final formulation of the comparability adjustment we are recommending.

ROLE OF EMPLOYEE ORGANIZATIONS NOT REPRESENTED ON THE FEDERAL EMPLOYEES PAY COUNCIL

The views and recommendations of employee organizations not represented on the Federal Employees Pay Council appear in Appendix C of this report.

In keeping with the intention we expressed in last year's report, we made an effort to improve our consultation procedures with these organizations by scheduling two meetings with them this year. The first, held on June 27, was devoted to a briefing on the entire sequence of the comparability process. We explained the occupational and industrial composition of the PATC survey, the way in which the survey data are combined into grade averages, and the way in which these grade averages become the basis for a fitted payline. Particular attention was drawn to the new average salary reference point technique, the reason for its adoption, and the effect it has had on the scheduled rates during the three-year transition process. We also touched upon some of the special studies in which we have been engaged, and the way in which their findings may influence the process in the future.

At the second meeting, on July 8, we distributed the PATC survey data (in advance of its public release) and the tentative proposal, and asked for their comments. When the decision was reached to recommend a redistribution of the adjustment so as to provide a uniform percentage increment at each grade, we re-contacted each of the non-Council organizations and informed them of this decision so that they could specifically address it in their written comments.

Of the 22 organizations whom we invited to participate, fifteen attended at least one meeting and eleven have furnished written comments. Two of the non-respondents are affiliated with the National Federation of Professional Organizations, and informed us that the report of the latter would present their views. Five of the organizations responding favored the graduated adjustment pattern of the original staff proposal, primarily because they represent professionals in the higher grades, and are naturally concerned about the precise degree to which comparability is achieved at these higher salary levels. Three favored the uniform increase, and three did not express a specific preference.

Of the four respondents who mentioned the "dual payline," two endorsed it while two recommended its abandonment, one because they felt that it somehow penalizes the Federal employee for what they believe is a longer tenure than is typically found in the private sector.

Five non-Council organizations expressed concern about the time-lag between the base date of the PATC survey and the effective date of the adjustment, and urged that the agent find an acceptable way to either shorten the period, or compensate for it in the calculation.

Almost all of these organizations mentioned the greater degree of meaningful consultation which our meetings afforded them this year. We plan during the coming year to schedule more meetings of this type so that the findings of our special studies can be presented to the non-Council organizations after they have been thoroughly explored with the Pay Council.

REPORT ON THE FISCAL 1976 PAY INCREASE UNDER THE FEDERAL STATUTORY PAY SYSTEMS

(Annual Report of the Advisory Committee on Federal Pay, Aug. 4, 1975)

ADVISORY COMMITTEE ON FEDERAL PAY,
Washington, D.C., August 4, 1975.

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

DEAR MR. PRESIDENT: The Advisory Committee on Federal Pay has the honor of submitting to you its fourth annual report. The report incorporates our findings and recommendations with respect to the Fiscal 1976 pay adjustment for 1.4 million Federal civilian employees.

The Committee hopes that our recommendations will prove useful to you in arriving at your final decision.

Respectfully submitted,

FREDERICK R. LIVINGSTON,
Member.

ROBERT B. MCKERSIE,
Member.

JEROME M. ROSOW,
Chairman.

I. INTRODUCTION

Recommendations of the Advisory Committee on Federal Pay regarding the Fiscal 1976 salary adjustment for approximately 1.4 million government employees covered by the Federal Pay Comparability Act of 1970 are contained in this, the fourth annual report of the Committee. More than 2 million members of the Armed Services and (for the first time this year, as a result of legislation just enacted) Federal executives, judges, and members of Congress receive the same percentage increase in pay as the General Schedule, Veterans' Administration, and Foreign Service employees covered by the comparability legislation.

II. THIS YEAR'S INCREASE AND THE PAYLINE

The Advisory Committee endorses the uniform increase of 8.66 percent in General Schedule pay scales, agreed to by the President's Agent and the Federal Employees Pay Council, to go into effect the first pay period in October 1975. This endorsement stems from the Committee's belief that, in the absence of overwhelming reasons, it should not recommend reversal or modification of an agreement.

The principles of comparability with private industry pay and maintenance of pay differences in conformity with work differences are theoretically served best by the line of best fit proposed by the staff of the President's Agent. This line would provide for salary increases ranging from 8.1 percent in Grade 1 to 9.9 percent in the theoretical Grade 18 rate. The highest increase that would actually be put into effect would be 9.5 percent (in the lower steps of Grade 15).[1]

The Committee was not persuaded by the agruments of the Pay Council that the data support a uniform percentage increase or larger increases at the lower grades. Indeed the professional organizations made a compelling argument for a non-uniform system of increases. As noted above, our endorsement of the uniform increases is predicated primarily upon the fact that the principal parties agreed on this approach. The Committee decision was also influenced by its belief that failure to follow the line of best fit this year would not set a precedent. The Committee sincerely hopes that revised techniques (changes in the type of payline, in curve-fitting techniques, and in weighting methods) will be agreed to before next year's pay decision must be made, so that the line of best fit resulting from these new approaches can be used.

Plans of the parties to begin serious discussions of payline issues in the fall and thus to separate discussion of technical issues from the decision as to the current pay change are to be commended. As we pointed out last year, "A major reason for the acrimonious discussions between the Pay Agent and the Pay Council is the effort to reach decisions with respect to the amount of each annual pay increase simultaneously with decisions about technical issues of comparability.... Decisions on technical issues should not be reached under the gun of an annual pay deadline. Efforts to do so make the parties suspicious that decisions are not made on professional grounds but are intended to influence the size of the annual adjustment." We urge the Pay Council and the Pay Agent to set and observe a deadline for resolving these issues well in advance of next year's pay discussions.

Now that the 3-year transition to the dual payline has been completed, we would hope that the issue would be considered as settled. The Committee stated in last year's report, "We continue to believe that the dual payline is preferable to the previous pay-fixing practice since it compares actual Federal pay to actual private pay. We are convinced that the new payline method is stable and not subject to manipulation." Experience this year has reinforced our belief in the validity of the dual payline approach.

III. RELATIONS BETWEEN THE PRESIDENT'S AGENT AND THE EMPLOYEE REPRESENTATIVES

We are pleased to note that relations between the President's Agent and the Federal Employees Pay Council have apparently improved during the past year. At the time of last year's report this Committee was deeply concerned at the continued deterioration of the relationship. Special credit should go to the President's Agent for initiating steps to improve this relationship.

This year has also seen an improvement in communications between the Pay Agent and representatives of employee organizations that are not members of the Federal Employees Pay Council. The Pay Agent held two meetings with these groups and has pledged to increase discussions with them during the coming year.

While recognizing that the Pay Comparability Act does not give these organizations the same role in the pay-setting process as members of the Pay Council, the Committee believes that the substantial difference in views between these organizations and members of the Pay Council warrants giving them greater opportunity for meaningful consultation. The pay comparability legislation requires the President's Agent to "give thorough consideration to the views and recommendations of employee organizations not represented on the Federal Employees Pay Council."

IV. THE FUTURE OF LABOR RELATIONS

Aside from the areas of conflict on technical issues, the most significant aspect affecting the relationship between the Agent and the Federal employee organizations stems from the fact that each year since the enactment of the comparability statute the President has not followed the normal procedures envisioned by that statute. Either he has attempted to delay the Federal pay increase on the grounds of his economic stabilization authority or has proposed an alternative plan. As a result, each comparability adjustment has gone into effect only because these departures from normal procedure have been set aside by Congress or the courts.

In last year's report the Advisory Committee stated that, "The ... efforts to invoke an alternative plan attempted to enlarge executive power under the [comparability] statute, which states that an alternative plan can be invoked only 'because of national emergency or economic conditions affecting the general welfare....' While the Advisory Committee is aware of the economic considerations, the statute calls for Federal employee pay to be comparable with similar occupations in the private sector. It is imperative that an alternative plan be invoked only under extraordinary circumstances as an exception rather than the rule." Constant resort to emergency procedures makes the whole process envisioned by the statute meaningless and the BLS survey of private industry pay a futile exercise.

The unions expressed real concern lest the President propose an alternative plan this year which would either reduce the amount or delay the effective date of the Federal pay increase. Discussions of the Advisory Commitee with Federal employee representatives took place the very day the 1975 Postal pay settlement was announced. Union leaders were very upset by the further widening of the gap between Postal and Federal white-collar pay that this settlement presaged. Since the time when Postal employees achieved collective bargaining rights, increases have been 25 percent greater than those provided by the comparability legislation. Failure to implement the 8.66 percent adjustment will widen this gap, which has already seriously undermined the confidence of Federal unions in the present system.

Labor relations is a very fragile entity. In the judgment of this Committee, if an alternative plan is again proposed it is inevitable that more pressure will build up to scrap the present statute. The Federal unions will petition Congress to substitute some form of collective bargaining more akin to that prevailing in the private sector. This pressure will mount and eventually become irresistible.

V. TIME LAG

Plans to discuss ways to reduce the time between the BLS survey of pay in private industry and the effective date of the Federal pay increase indicate that the present 6-month lag between the survey and the Federal increase can be reduced. This is a promising development, since the delay is a serious compromise with comparability. The BLS, the Pay Agent, and the Pay Agent, and the Pay Council are to be complimented on speeding up their roles in this year's pay-setting process to permit the Advisory Committee to submit its report to the President at an earlier date than in previous years.

VI. COMPRESSION AND EXECUTIVE PAY

The problem of compression of the General Schedule pay structure resulting from failure to give Federal executives, judges, and legislators any salary increase since 1969 has become progressively more serious since the Advisory Committee commented on it in its first report in 1972. That report was prepared before the problem of inflation of wages and living costs became acute. In the period during which the executive pay ceiling has remained static, the Consumer Price Index has risen almost 50 percent any pay scales of the General Schedule rank-and-file supervised by these executives have advanced steadily.[2]

The entire principle of maintaining pay distinctions in keeping with work and performance distinctions, required by the Pay Comparability Act of 1970, has been seriously comprised by the ceiling. It is becoming inaccurate to describe Federal pay as part of a dynamic system.

Congressional action on July 30, 1975 to amend the Executive Pay Act has created a link to the Comparability Pay Act. This takes one critical step to break the freeze which has had such adverse effects by compressing the pay structure of the General Schedule. Unfortunately, it is only a partial measure, since compression will still remain after the October pay increase of 8.66 percent. The new statutory salary ceiling will be $39,100. Therefore, all salaries specified in the new General Schedule as needed to provide comparability with 1975 private enterprise pay in excess of $39,100 remain as theoretical with 1975 private enterprise pay in excess of $39,100 remain as theoretical "asterisk" rates rates; they cannot be paid because they exceed the ceiling. Five levels of responsibility will continue to be compensated at one fixed rate. In other words, the serious lag created over the past 6 years in pay scales of the highest grades of the General Schedule will not be corrected.

VII. RECOMMENDATIONS

We recommend:

1. An across-the-board 8.66 percent intercrease in Federal pay scales to go into effect the first pay period in October.

2. The President's Agent and the Federal Employees Pay Council establish and observe a deadline for agreement on technical improvements in the payline well in advance of decisions with respect to next year's pay increase.

3. The President's Agent involve employee organizations that are not members of the Federal Employees Pay Council in the pay-setting process sooner and to a greater degree than during the past year.

4. Efforts now under way to reduce the time lag between the survey of pay in private

[1] The maximum actual dollar loss caused by the choice of a uniform percentage increase is $275 at Step 4 of Grade 15. The greatest gain to any employee resulting from the uniform line is $39 a year for Step 10 of Grade 1.

[2] General Schedule pay increases put into effect from late 1969 to the present have totaled 37 percent. If the increase that went into effect in July 1969 as the final stage of a catch-up with the private sector is included, pay increases for the General Schedule rank-and-file have totaled over 50 percent between early 1969 and 1975.

industry and the effective date of the Federal pay increase be completed and implemented as soon as possible.

The Committee is available to meet with you at your convenience to discuss these recommendations.

Respectfully submitted,

FEDERICK R. LIVINGSTON, *Member.*

ROBERT B. MCKERSIE, *Member.*

JEROME M. ROSOW, *Chairman.*

APPENDIX A: ORGANIZATIONS DISCUSSING THE PRESIDENT'S AGENT'S REPORT WITH THE ADVISORY COMMITTEE ON FEDERAL PAY

President's Pay Agent

Office of Management and Budget

Edward F. Preston.
Leonard Peeler.

Civil Service Commission

Raymond Jacobson.
Arch Ramsey.
Richard Hall.
James Woodruff.
Frederick Hohlweg.
William Kennard.

Federal Employees Pay Council

Richard Galleher, Chairman, AFL–CIO.

Clyde M. Webber, President, AFGE (also attending, Stephen Koczak, George R. Boss).

Dr. Nathan Wolkomir, President, NFFE (also attending, James M. Peirce).

Jerry Klepner, NTEU.

Other Employee Organizations

Air Traffic Control Association, Inc.,* Gabriel A. Hartl, Executive Director.

Association of Civilian Technicians, Vincent Paterno, President.

Association of Senior Engineers Of the Naval Ship Systems Command,* John Buck.

Association of Government Accountants, Chris Peratino, President (also attending, Nathan Cutler, Donald Scantlebury, John Lordan).

The Federal Professional Association, Maurice Ronayne, President (also attending, Dr. Edwin Becker, Dr. Ewan Clague, Lionel Murphy).

National Association of Federal Veterinarians,* Dr. Clarence H. Pals, Executive Vice President.

National Association of Government Employees, Gary Altman, Director of Research.

National Association of Government Engineers,* Dean Fravel.

National Federation of Professional Organizations, James D. Hill, Executive Director.

Organization of Professional Employees of the U.S. Department of Agriculture,* Richard G. Ford, President, George E. Bradley, Executive Director.

*Affiliated with the National Federation of Professional Organizations.

WHITE-COLLAR SALARIES RISE 9 PERCENT

Average salaries for selected white-collar occupations in private industry increased 9.0 percent during the year ended March 1975, according to preliminary data from the latest nationwide salary survey conducted by the Department of Labor's Bureau of Labor Statistics. This was the largest annual increase recorded in the 15-year series; for clerical jobs, increases averaged 9.6 percent and for professional, administrative, and technical occupations, 8.3 percent. During the same period, the Consumer Price Index advanced 10.3 percent.

Percentage increases in average salaries by occupation for the March 1974–March 1975 period are shown below:

Professional, administrative, and technical support occupations	
Accountants	9.8
Auditors	6.8
Chief accountants	8.6
Attorneys	7.6
Buyers	9.2
Job analysts	7.5
Directors of personnel	6.1
Chemists	10.1
Engineers	8.4
Engineering technicians	9.0
Drafting	8.0
Average	8.3
Clerical and clerical supervisory occupations	
Clerks, accounting	7.7
Clerks, file	9.6
Keypunch operators	9.9
Keypunch supervisors	8.7
Messengers	10.1
Stenographers	11.6
Typists	9.9
Average	9.6

SALARY TRENDS, 1961–75

The tabulation below summarizes data on salary trends from earlier surveys in this series:

Occupational group	Average annual rate 1961–66	Average annual rate 1966–70	Percentage increases 1970 to 1971	1971 to 1972 [1]	1972 to 1973	1973 to 1974	1974 to 1975
White-collar occupations	3.1	5.4	6.6	5.8	5.4	6.4	9.0
Professional, administrative, and technical support	3.4	5.4	6.7	5.5	5.4	6.3	8.3
Clerical and clerical supervisory	2.7	5.4	6.5	6.1	5.4	6.4	9.6

[1] Survey data did not represent a 12-mo period due to a change in survey timing. Data have been prorated to represent a 12-mo interval.

The 1974–1975 increases in salary averages were the largest recorded for each of the two major components and for all white-collar occupations surveyed since the series began in 1961. The 9.0 percent overall increase was 2.4 percentage points above the second largest gain which was reported in 1970–1971.

The tabulation below shows percent increases in average salaries in the last 5 annual periods for four distinct occupational groups:

Occupational group	Percent increases 1970 to 1971	1971 to 1972	1972 to 1973	1973 to 1974	1974 to 1975
Experienced professional and administrative	6.3	5.6	5.6	6.3	8.7
Entry and developmental professional and administrative	5.8	3.5	2.8	5.0	8.5
Technical support	6.2	6.2	5.3	6.3	8.5
Clerical	6.5	6.2	5.1	6.5	9.9

The increase for the clerical group, at 9.9 percent, exceeded each of the other three groups which were at, or slightly above, 8.5 percent.

OCCUPATIONAL SALARIES, MARCH 1975

March 1975 average salaries for eight levels of engineers, the largest professional group studied, ranged from $1,076 a month for college graduates in trainee positions to $2,843 for those responsible for highly complex engineering programs. Chemists' salaries ranged from $983 in level I to $3,155 in level VIII. Level IV engineers and chemists, the largest group in each profession and representing fully experienced employees, averaged $1,620 and $1,600 a month.

Salaries of accountants and auditors ranged from $908 a month for accountants I to $1,805 for accountants V. The accountants and auditors included in the survey had bachelor's degrees in accounting or the equivalent in education and experience.

Chief accountants were surveyed separately from accountants and were classified on the scope of their authority and the complexity of the accounting program. Those meeting the scope of requirements of level I (directing a stable accounting system, prescribed in considerable detail by higher levels in the organization) averaged $1,607; those meeting the higher requirements of level IV averaged $2,674.

Buyers responsible for purchasing "off-the-shelf" items and services (level I) were paid monthly salaries averaging $905. Buyers IV, who purchased large amounts of highly complex and technical items, materials, and services, averaged $1,582 a month.

Attorneys included in the study (all having LL.B. degrees and bar membership) were employed in the legal departments of various manufacturing and nonmanufacturing firms. Those performing entry level work involving clearly applicable precedents and well-established facts averaged $1,268 a month; those at level VI, the highest level surveyed, averaged $3,420.

Job analysts and directors of personnel were studied in the personnel management field. Level II job analysts, the lowest level defined for which data could be presented, averaged $1,045 a month compared with $1,538 for those at level IV, where evaluation of a variety of more difficult jobs under general supervision was required. Personnel directors averaged $1,401 for level I and $3,320 for level V.

Two technical support occupations, engineering technicians and drafters, were surveyed in 1975. Among the five engineering technician levels, levels III and IV, in which a majority of the technicians were classified, had average salaries of $950 and $1,092, respectively. Drafter-tracers averaged $640 a month; the average for the highest of the drafting levels studied was $1,191.

Keypunch supervisors, the only clerical supervisory occupation in the survey, were classified on the basis of combinations of three elements—level of supervisory responsibility, difficulty of keypunch work supervised, and number of employees supervised. Their average salaries ranged from $766 at level I to $1,193 at level IV. Level V, which was included in earlier surveys, did not meet publication criteria.

Among the 12 clerical work levels surveyed, average monthly salaries ranged from $460 for file clerks I to $748 for accounting clerks II. Averages for two of the clerical levels were above $700; four were between $600 and $700; five were between $500 and $600; and one—file clerks I—was below $500 per month.

THE SURVEY AND FEDERAL PAY ADJUSTMENTS

The Civil Service Commission and the Office of Management and Budget, acting as the President's agent under the Federal Pay Comparability Act of 1970, use the survey data on salary levels in private industry as the basis for developing their recommendation for a pay adjustment for Federal employees. The recommendations of the President's agent sometimes result in white-collar pay increases above and, at other times, below the percent change reported in the BLS survey. The survey is also used as a benchmark by business, labor unions, professional societies, trade associations, schools, and State and local government agencies. It is a basic reference source for salary administrators, recruiters, educators, career counselors, employee placement workers, and planners.

A bulletin—National Survey of Professional, Administrative, Technical, and Clerical Pay, March 1975—containing final results of the survey will be issued late in 1975. In addition to providing more detailed nationwide information based upon the full survey coverage, it will provide mean, median, and middle range salaries by occupational level for all establishments located in metropolitan areas and for establishments with 2,500 employees or more.

This annual survey relates to metropolitan areas and nonmetropolitan counties in the United States except Alaska and Hawaii. The minimum employment sizes of establishments in industries studied were: 250 or more in manufacturing and retail trade; and 100 or more in transportation, communication, electric, gas, and sanitary services, wholesale trade, engineering and architectural services, commercially operated research, development, and testing laboratories, and finance, insurance, and real estate. For additional detail on the scope and method of the survey and definitions of the occupations referred to in this report, see BLS Bulletin 1837, National Survey of Professional, Administrative, Technical, and Clerical Pay, March 1974.

Procedure for determining the increase for each occupation shown on page 1 is as follows: Average salaries for all reported levels of the occupation were combined using employment in the most recent year as a constant employment weight in both years to eliminate the effects of differences in the proportion of employees at various work levels in the two surveys. The average increase for the two groups is a simple average of the March 1974–75 increase for each occupation. The increases shown for four occupational groups at the bottom of page 2 were obtained by adding average salaries for all occupations in each group for 2 consecutive years, and dividing the later sum by the earlier sum. The resultant relative, less 100, shows the percent of increase. Buyers and keypunch supervisors were not included because they could not readily be identified with any of the four groups.

AVERAGE SALARIES OF EMPLOYEES IN SELECTED WHITE-COLLAR OCCUPATIONS IN PRIVATE ESTABLISHMENTS, MARCH 1975 [1]

Occupation and class	Number of employees [2]	Average salaries [3] Monthly	Annual
Accountants and Auditors:			
Accountants I	6,507	$908	$10,891
Accountants II	12,806	1,065	12,785
Accountants III	29,738	1,205	14,485
Accountants IV	19,228	1,468	17,618
Accountants V	6,765	1,805	21,664
Auditors I	1,286	941	11,296
Auditors II	2,732	1,049	12,587
Auditors III	5,036	1,278	15,334
Auditors IV	3,130	1,567	18,800
Chief accountants I	456	1,607	19,289
Chief accountants II	1,159	1,777	21,323
Chief accountants III	798	2,186	26,226
Chief accountants IV	317	2,674	32,094
Attorneys:			
Attorneys I	571	$1,268	$15,220
Attorneys II	1,341	1,480	17,757
Attorneys III	1,953	1,880	22,558
Attorneys IV	1,991	2,347	28,159
Attorneys V	1,021	2,837	34,040
Attorneys VI	627	3,420	41,046
Buyers:			
Buyers I	4,100	905	10,861
Buyers II	12,063	1,111	13,337
Buyers III	13,232	1,333	15,995
Buyers IV	5,047	1,582	18,983
Personnel management:			
Job analysts II	279	1,045	12,543
Job analysts III	644	1,246	14,949
Job analysts IV	492	1,538	18,459
Directors of personnel I	1,008	1,401	16,809
Directors of personnel II	1,896	1,661	19,938
Directors of personnel III	1,062	2,086	25,033
Directors of personnel IV	287	2,653	31,841
Directors of personnel V	80	3,320	39,843
Chemists and engineers:			
Chemists I	1,574	983	11,801
Chemists II	3,215	1,107	13,288
Chemists III	8,090	1,298	15,572
Chemists IV	10,134	1,600	19,204
Chemists V	7,238	1,892	22,700
Chemists VI	3,977	2,227	26,729
Chemists VII	1,566	2,614	31,362
Chemists VIII	415	3,155	37,855
Engineers I	14,592	1,076	12,917
Engineers II	29,084	1,183	14,197
Engineers III	84,519	1,361	16,330
Engineers IV	114,108	1,620	19,443
Engineers V	80,836	1,869	22,427
Engineers VI	41,314	2,176	26,109
Engineers VII	16,239	2,425	29,101
Engineers VIII	4,170	2,843	34,114
Technical support:			
Engineering technicians I	3,542	719	8,625
Engineering technicians II	12,245	831	9,970
Engineering technicians III	22,853	950	11,397
Engineering technicians IV	29,342	1,092	13,101
Engineering technicians V	19,158	1,236	14,829
Drafter-tracers	5,470	640	7,674
Drafters I	20,313	749	8,988
Drafters II	29,764	935	11,217
Drafters III	30,285	1,191	14,289
Clerical supervisory:			
Keypunch supervisors I	1,199	766	9,187
Keypunch supervisors II	1,747	883	10,595
Keypunch supervisors III	1,207	998	11,971
Keypunch supervisors IV	288	1,193	14,310
Clerical:			
Clerks, accounting I	83,611	595	7,141
Clerks, accounting II	69,858	748	8,982
Clerks, file I	24,669	460	5,524
Clerks, file II	19,637	520	6,244
Clerks, file III	7,151	640	7,683
Keypunch operators I	58,011	593	7,114
Keypunch operators II	44,240	683	8,193
Messengers	22,803	518	6,214
Stenographers, general	37,949	650	7,801
Stenographers, senior	41,137	732	8,784
Typists I	52,671	530	6,365
Typists II	35,530	621	7,452

[1] Includes establishments with 250 workers or more in manufacturing and retail trade; and 100 or more in transportation, communication, electric, gas, and sanitary services, wholesale trade, engineering and architectural services, commercially operated research, development, and testing laboratories, and finance, insurance, and real estate.

[2] Occupational employment estimates relate to the total in all establishments within scope of the survey and not to the number actually surveyed.

[3] Salaries reported relate to the standard salaries that were paid for standard work schedules; i.e., the straight-time salary corresponding to the employee's normal work schedule excluding overtime hours. Nonproduction bonuses are excluded, but cost-of-living bonuses and incentive earnings are included.

WHERE ARE APOLOGIES TO STANS?

Mr. BAKER. Mr. President, a newspaper column has recently come to my attention by the distinguished Pulitzer Prize journalist Charles Bartlett. I feel the contents are significant, and in the spirit of fair play, I bring the attached article to the attention of the Senate.

I ask unanimous consent that the article which was published in the Houston Chronicle, and an editorial which was published in the Columbia Record be printed in the RECORD.

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

WHERE ARE APOLOGIES TO STANS?

(By Charles Bartlett)

The ordeal of Maurice Stans should serve as an intimidating lesson for David Packard, the California industrialist who has boldly agreed to be President Ford's chief fund raiser in the coming campaign.

As Packard takes over the lists and gets ready to shake the Republican money tree, Stans is leaving Washington, jaunty once again after being pursued for almost three years by feverish hounds of suspicion. No campaign treasurer has ever raised as much as Stans' $60 million or been investigated as ruthlessly.

Stans survived this inquiry, accepting guilt in the end on five technical, nonwillful violations. No political fund-raiser has ever been convicted for offenses hinged to a mere neglect to report contributions that were sent back to the donors. But Stans chose this onus and a small fine over the alternative of another expensive year of legal chess.

But the media have not, in Stans' case, been as responsive to the facts as the courts. The broad presumption of his complicity in the blazing scandal, which produced about $95 million in lawsuits against him, was reported far more enthusiastically than the failure to find him guilty of any significant venality.

This failure did not reflect a lack of effort. Stans was grilled for 125 hours on 400 subjects by agents of the special prosecutor. He became the affair's most heavily investigated figure next to Richard Nixon. He had to persuade his interrogators that his office financed the break-in without any knoweldge of it or the subsequent efforts to cover it up.

The prosecutors proceeded on a premise that no one could raise so much political money and stay completely honest. They tried to link Stans to the ITT convention donation, the milk money, the dirty tricks, the sale of ambassadorships in 1968 and 1972 and extortion from companies involved with the governments. They searched hard for contributors from whom he had solicited cash and instances in which he had sought contributions as secretary of commerce.

Stans fell, along with John Mitchell, into the toils of the most avid publicity-seekers in the prosecuting business, the U.S. attorney's office of the Southern District of New York. These beavers flew Edward Nixon across the continent 11 times so they could threaten and cajole him on testimony relating to one five-minute talk with Stans. The defendants won acquittal bacause they looked more honest to the jurors than the immunity-seekers who testified against them.

The proseuctors failed for two reasons. One is that Stans is a straight-forward man, an ex-accountant with no taste for the guile of politics. The other is that Republicans had no need to strain for huge sums of money in 1972. The big checks poured in when Stans pointed to the populist inclinations of George McGovern. He was able to turn down $1 million from Michele Sindona without blinking.

Packard is also direct and honest, another businessman who will keep close accounts and make accurate reports. He will find it no harder than Stans to confront prosperous Republicans and ask them to show gratitude to the system by giving to the President's campaign.

But the lesson of Stans' ordeal is that even an honest man must strive hard to keep his reputation when he raises political money in the current climate. Most Republicans are not happy about the stringent

limits and restraints of the new campaign finance law. They liked the way the money came in in 1972.

But the new law will prove in the end to be useful by protecting both parties from the appearance of evil in political finance, it may also make the Republicans more viable by keeping them close to the middle classes than the nouveau riche.

[From the Columbia (S.C.) Record, July 9, 1975]

STANS' GOOD NAME

"Give me back my good name." This, former Commerce Secretary Maurice Stans asked as he testified before the Ervin Committee. And the genteel, almost-scholarly accountant has decidedly and emphatically earned the right to his "good name," which should be forthwith restored to him by the American people.

The problem is that in the mish-mash of truth, half-truth and innuendo that constitute the unwholesome affair in our body politic called "Watergate," the public is likely to stir together the guilty and the guiltless.

Maurice Stans was, and is, a successful businessman, a CPA, an erstwhile Director of the Bureau of the Budget, head of the Commerce Department, and a very successful political fund-raiser. "No campaign treasurer," columnist Charles Bartlett writes, "has ever raised as much as Stans' $60 million or been investigated as ruthlessly."

Consider the ordeal of Maurice Stans. The blazing Watergate inquiry produced $95 million in lawsuits against him. He was subjected to 125 hours of harsh inquiry on 400 subjects by agents of the Special Prosecutor. The prosecutor's office moved on the assumption that no mortal could raise so much political money and stay honest.

What did they try to tie Stans with? The ITT convention donation, the milk money flow, dirty tricks, sales of ambassadorships, extortion from companies involved in business with the government. High and low, the investigators searched.

When it was all over, Stans survived the 19-months' inquiry, pleading guilty to five technical, non-willful violations. "No political fund-raiser has ever been convicted for offenses hinged to mere neglect to report contributions that were sent back to the donors. But Stans chose this onus and a small fine over the alternative of another expensive year of legal chess," Bartlett concludes.

Stans was never guilty of any significant venality.

In the current climate, the public should understand that Maurice Stans is an honest and direct individual, cleared of all the nasty accusations. Give him back his good name.

PETITIONERS SUPPORT PASSAMAQUODDY

Mr. MUSKIE. Mr. President, as we undertake an examination of our national energy resources and energy policy, it is imperative that we recognize the tremendous potential of the tidal flow in Passamaquoddy Bay.

Interest in Quoddy dates to 1919 when Dexter Cooper first proposed that tidal flows from the Passamaquoddy and Cobscook arms of the Bay of Fundy be harnessed to generate electric power. The tides in the Bay of Fundy are among the strongest in the world—averaging 18 feet and occasionally reaching 27 feet. Quoddy has been a subject of national interest since the early 1930's when President Roosevelt became interested in the project and construction was begun under the Emergency Relief Act of 1935. The project was abandoned when further appropriations were not provided.

The project has been reexamined in 1961, 1963, and 1965. The technical feasibility has been upheld in each of these studies but results have varied as to the economic feasibility. The economic projections for the project were based largely on comparisons to thermal generating plants which are no longer appropriate.

Recent dramatic changes in the costs and availability of fossil fuels have dramatized the need to develop alternative energy sources. The Passamaquoddy Tidal Power project presents a unique opportunity that we can no longer afford to neglect.

On March 21, the Public Works Committee, at my request, approved a resolution requesting the Board of Engineers for Rivers and Harbors to examine the feasibility of Passamaquoddy in view of recent economic and technical developments. I have asked the Public Works Subcommittee of the Appropriations Committee to include funds for that study in the appropriation for general investigations. The committee is now reviewing that proposal.

The Energy Research and Development Administration also has a mandate to investigate tidal power as an alternative energy source, and in response to promptings from Senator HATHAWAY and myself has now begun research in the area.

Local interest in the use of tidal power dates to the period before Maine became a State when small mills powered by the ebb and flow of the tides were developed on estuaries from Kittery to Lubec. One such plant was located at Somesville at the head of Somes Sound on Mount Desert Island. In colonial times there was a small mill powered by the tides at Chelsea, Mass.

This interest continues to the present and was most recently expressed in a petition to the Maine congressional delegation urging action on legislation funding a reexamination of Quoddy as an attractive solution to both the energy problems and unemployment problems which confront Washington County, Maine, and the entire country. I have recently received such a petition from the Passamaquoddy tidal power advocates with over 1,700 signatures.

I ask unanimous consent that the text of that petition be printed in the RECORD, and urge my colleagues and involved administrative officials to take note of the tremendous support evidenced by the 1,700 signatures on this petition.

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

PETITION FOR THE PASSAMAQUODDY TIDAL POWER PROJECT

Whereas, the United States, and particularly, the New England area, by reason of fuel costs and availability, now face unconscionable hardships due to plant closings, unemployment, and

Whereas, Maine, and particularly Washington County, is and has been hardest hit by such shortages, lack of work and excessive energy costs,

Now therefore, we, the undersigned, residents and/or citizens of the community indicated opposite our signatures, hereby petition our Congressional delegation to immediately propose, enact and fund Legislation designed to authorize engineering and architectural revisions of the International Passamaquoddy Tidal Power Project to take advantage of recent technological improvements; and to support and implement, as necessary, negotiations by the State Department with Canada for cooperation in the joint-venture to bring about and on line this vital electrical installation as soon as possible.

CONFIRMATION OF DR. DANIEL BOORSTIN AS LIBRARIAN OF CONGRESS RECOMMENDED BY COMMITTEE ON RULES AND ADMINISTRATION

Mr. BARTLETT. Mr. President, today the Committee on Rules and Administration has recommended confirmation of Dr. Daniel Boorstin as Librarian of Congress. I now urge the Senate to take immediate, affirmative action on this nomination, which has already faced many weeks of unnecessary delay.

Dr. Boorstin is a fellow Oklahoman who possesses outstanding credentials as a scholar and author; among them, the Pulitzer Prize for history in 1973.

I believe Dr. Boorstin is eminently qualified for the position of Librarian of Congress, and I urge the Senate to confirm his nomination.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, in the debates that have taken place over the Genocide Convention there has been some concern over the contents of article III. In this article, "direct and public incitement to commit genocide" is declared punishable. This provision has come under attack several times, usually on the grounds that it would violate rights guaranteed by the Constitution. This argument will not stand up.

I agree that our sacred freedoms of the press and of speech must indeed be upheld. The Supreme Court has, however, drawn a distinction between speech protected by the Constitution and direct incitement to action. For example, in the case of Brandenburg against Ohio, the court said:

. . . the constitutional guarantees of free speech and free press do not permit a state to forbid or proscribe advocacy . . . of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to produce such action.

It is clear from this statement that advocacy is protected as a right of free speech under the Constitution. However, incitement to commit illegal action is not protected in the Court's view.

The Genocide Convention itself is also clear on this point. It states that legislation passed by signatory nations to give effect to the provisions of the convention must be drawn up only "in accordance with their respective constitutions." The Court's interpretation illustrates that making incitement to commit genocide punishable is indeed in accordance with the Constitution of the United States.

I again urge ratification of this most significant convention.

MEXICAN NATIONAL INDEPENDENCE DAY

Mr. FANNIN. Mr. President, this is a day of special significance for our neighbors to the south.

It was on September 16, 1810, that Fr. Miguel Hidalgo y Costilla proclaimed the absolute independence of Mexico. The initial effort by Father Hidalgo failed, but it was his action which lit the torch of liberty, and independence was realized finally in 1821.

Mr. President, the people of Arizona take pride in the contributions of the Mexican culture to our own Nation, We, therefore, are pleased to join in observing September 16 as Mexican national independence day.

It should be noted that Mexico's struggle for independence is not dissimilar in spirit from our own American Revolution. In both nations there is a devotion to democracy and universal freedom.

Americans of Mexican descent have contributed greatly to the building of our country, especially in the Southwest. I would like to salute them, and to join them in commemorating this date which is so important in their rich heritage.

MEXICO CELEBRATES 165 YEARS OF FREEDOM

Mr. HARTKE. Mr. President, our closest neighbor to the south is celebrating its National Holiday September 16, 1975.

September 16 marks 165 years of freedom for the Mexican people. This celebration is marked by the President of the Republic of Mexico reciting the exact words of the 1821 revolution. This Presidential declaration is carried out precisely at 11 p.m. on the night of September 15. On the following day, September 16, a huge civilian-military parade takes place through the streets of Mexico City.

We applaud the effort of the Government of Mexico in suppressing the ilicit drug trade which is causing the United States a great deal of money and human resources.

Mexico has long been noted for its artists and creative intellectuals who have contributed much to the entire world. Most of our friendly borders are unmarked and Mexico and the United States have always reached friendly agreements on boundaries.

I take this opportunity to congratulate the people, the Government and the President of Mexico on their national holiday.

THE SOVIET NAVY

Mr. TAFT. Mr. President, a very perceptive editorial appeared last month in the Dayton Daily News of Dayton, Ohio. The editorial discusses one of my greatest concerns, the rapid growth of the Soviet Navy. I ask that this editorial, "Soviet Navy Keeps Growing," be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. TAFT. Mr. President, as the Dayton Daily News notes, the increasingly powerful Soviet Navy is inherently offensive, not defensive. The Soviet Union is a land power. She does not depend on imports or exports. Soviet sources of raw materials are internal. The Soviet Union's principal allies lie overland from her, not overseas. In short, the Soviet Union does not need to use the seas; she may find it convenient to do so at times, but loss of use of the sea is no real threat to her.

Therefore, a navy is, from the Soviet standpoint, offensive, not defensive; there are no vital Soviet interests at sea to defend. Why is the Soviet Union then building a navy? It can only be because the opponents of the Soviet Union are dependent on use of the sea, and are thus vulnerable to being attacked at sea.

The development of an offensive Soviet navy must be of great concern to us. We must evaluate the Soviet Union's interpretation of détente in the light of her development of such a navy. And we must, as I have continuously urged, take the necessary steps to meet the Soviet naval challenge.

The article follows:

EXHIBIT 1

SOVIET NAVY KEEPS GROWING

You can rationalize why a sullen neighbor might want to collect rifles and pistols. It's when the neighbor starts piling in submachine guns that you have to think twice and stay on your toes.

America's kinky neighbor on the planet these days is the Soviet Union, and its navy continues to grow at an alarming rate despite the talk of detente and peace. The United States ignored or wished away such military buildups in potential enemies before the two world wars—and suffered disastrously.

Jane's Fighting Ships, recognized as a leading authority on naval matters, in recent years has documented the rise of Soviet naval power.

This year Jane's Fighting Ships notes that the Soviet fleet of nuclear and conventional submarines has outgrown the legitimate requirements of national defense.

The conclusion: Russia is trying to strengthen itself to the point it can control the seas and the mercantile shipping lanes.

That's all the more reason for the United States to continue refurbishing its own navy, though the Trident submarine is a dubious development and the Pentagon should back development of smaller aircraft carriers rather than the large, exorbitantly expensive ones some of the navy brass want.

Aircraft carriers are still useful, but it would seem wiser to construct more smaller ones than a few large ones. In an all-out war, of course they may be sitting ducks—but in an all out war nearly everything is g 'ng to be a sitting duck. It is in smaller, more conventional wars that they still have use.

The United States does have some new ships and still has some advantages in electronics and anti-submarine warfare. But that lead over the Soviet Union is shrinking and the growth of the Soviet fleet has to be recognized as an aggressive rather than defensive development.

There could be some Western advantages in the development of navy and other forces among some Mideast nations since the Russians are keen on getting a strong force in the Indian ocean where all that vital oil comes from. But these nations are not our constant allies, as the West Germans and British are, so the United States has to rely on its own power and that of NATO. And that power is gradually being overcome in many areas.

ADAP

Mr. HARTKE. Mr. President, I have reviewed the joint statement of the National Association of State Aviation Officials, National Governor's Conference, and the Conference of State Departments of Transportation setting forth their position for a new Federal airport aid program.

I generally concur with the concept set forth in the statement. The States have presented excellent evidence of their capability in developing general aviation airports at considerable cost savings to the sponsors and the Federal Government. Numerous States, through the State Channeling Act, are administering the entire airport aid program, including air carrier airports and master planning.

The States have a closer relationship to the sponsors and because of their airport system planning responsibilities are better qualified to determine the actual airport needs within their States. They can contribute much to developing a national system of airports and I highly recommend that new legislation provide for those States, as they develop the capacity, being designated to administer the general aviation portion of the new ADAP program.

The Governor of Indiana, Otis Bowen, has written to Mr. CANNON, chairman of the Subcommittee on Aviation expressing his support of my amendment No. 833 to S. 1455. I ask unanimous consent to have that letter printed in the RECORD.

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

OFFICE OF THE GOVERNOR,
Indianapolis, Ind., September 9, 1975.

Hon. HOWARD W. CANNON,
Chairman, U.S. Senate, Subcommittee on Aviation, Washington, D.C.

DEAR MR. CHAIRMAN: I join with you and the members of the United States Senate Subcommittee on Aviation in your concern for developing an equitable and dynamic ADAP Program.

I am especially heartened by your consideration of Senator Hartke's amendment which sponsors an intermodal airport demonstration project. We strongly believe that South Bend, Indiana would provide an excellent national model for such a pilot project.

On another point of consideration in the development of an ADAP bill, I have been assured by Mr. Henry Kazimier, Director, Aeronautics Commission of Indiana, that the State of Indiana is well able to administrate the general aviation portion of the ADAP Program. Even though we have been slow to start, this in no way reflects our current vital concern and major effort in developing a viable aeronautical program now.

I thank you for this opportunity to submit this testimony in this manner to the United State Senate Subcommittee on Aviation.

Respectfully submitted,

OTIS R. BOWEN, M.D.,
Governor.

PROVISIONS OF THE CRIMINAL JUSTICE REFORM ACT OF 1975 (S. 1) RELATING TO INTRUDERS

Mr. McCLELLAN. Mr. President, recently a syndicated news article by Jack C. Landau, of the Newhouse News Service which appeared in several newspapers across the country stated that S. 1, the Criminal Justice Reform Act of 1975, now pending before the Senate Judiciary Subcommittee on Criminal Laws and Procedures, "would make it a Federal crime for a citizen to shoot a night-time prowler on the spot." I ask unanimous consent that the article as published in September 2 issue of the Birmingham News be printed in the RECORD.

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

ADMINISTRATION BACKS BILL TO MAKE SHOOTING INTRUDERS U.S. CRIME

(By Jack C. Landau)

WASHINGTON.—As Congress goes into session this month, it will debate a bill which *would make it a federal crime for a citizen to shoot a night-time prowler on the spot.*

Under the proposed revision of the Federal Criminal Code, a citizen would be justified in using deadly force against an intruder only if the citizen was reasonably certain that he or his family were in danger.

The bill, which is supported by the Ford administration and a coalition of Republican and Democratic senators, would negate the widely held belief that a person can shoot a night-time prowler with no questions asked.

There is considerable debate arising over this provision of the proposed Criminal Justice Reform Act of 1975. The American Bar Association (ABA) at its annual meeting last month voted to oppose the provision.

The home defense section states that a citizen in his home can be convicted of murdering an intruder unless the citizen had reached the conclusion that "deadly force" was "reasonably required to protect" him or his family "from risk of death or serious bodily injury."

The bill also states that the resident could be convicted if he had the opportunity of retreating (to another part of his house) with complete safety to himself and others" before shooting a prowler.

It also would be a crime under this section for a resident to use "deadly force" to stop a night-time prowler from taking away "personal property" such as jewelry or a TV set, or from damaging his home.

There is some debate over whether the proposed federal law on defense of a person's family and property from an intruder merely re-states existing law or amends it in favor of the prowler.

A Senate subcommittee report on the bill states that the ban on shooting an intruder unless the resident decides it is reasonably necessary to protect life (but not property) is an "accurate statement of existing law" as interpreted by the Supreme Court and the states.

But a well-known Washington attorney, Northcut Ely, says that the provision goes beyond most state laws.

"How do you know whether some person prowling around in your house at night is going to harm your family?" he asks. "Do you interview him? Do you first ask him whether he is going to rob you or kidnap you before you shoot him?"

Another lawyer said it was his understanding that the law in most states permitted the use of "deadly force" against a person who "breaks and enters the home at any time."

Several states such as New York have changed their laws to require "safe retreat" rather than shooting but several lawyers said the law is not working.

What reportedly happens is that the home dweller who shoots the intruder testifies that he thought the intruder went for a gun or made a menacing movement—and most juries tend to believe him.

However, some lawmakers are concerned that juveniles—without any intention to do serious harm—have been shot on the spot by frightened citizens overreacting to night-time vandalism.

Mr. McCLELLAN. This statement is calculated to create, and obviously has created with some people, an erroneous and prejudicial impression regarding the provisions of S. 1. His statements by implication, at least, certainly give the impression, first, that the bill would expand Federal criminal jurisdiction into an area that is traditionally and constitutionally within the purview of and which is governed by State law; and second, that the bill would restrict or lessen each citizen's legal right to use such force as may appear to him to be reasonably necessary, under the circumstances, to protect himself and his family from an intruder in his home.

These accusations and implications by Mr. Landau are quite inaccurate. The bill does neither. In all homes throughout America, except those on Federal reservations, the law of the State in which the home is located would apply and not the provisions of S. 1. I am confident that the author of the article and the lawyers he consulted know this.

So, whatever protection State laws now provide to their respective citizens in this area will remain applicable. Such protection as citizens now have under their respective State laws will remain the same if the present provisions of S. 1 should be enacted into law. The only instance in which the provisions of S. 1 would be applicable is in cases of Federal jurisdiction. Its provisions would in no way apply or change the present law with respect to prosecutions in State courts.

In Federal jurisdictions, the bill simply undertakes the codification of present Federal law as it has been judicially developed over many years.

It might be of interest to observe that Mr. Landau, in the closing paragraph of this article, states:

> However, some lawmakers are concerned that juveniles—without any intention to do serious harm—have been shot on the spot by frightened citizens over-reacting to night-time vandalism.

Of course, if the Congress wishes to legalize that kind of shooting on the spot in Federal jurisdictions—notwithstanding the absence of any threat of death or serious bodily injury—it can do so by amending the bill accordingly.

The bill simply should be considered fairly. It should be fully debated, appropriately amended, and then passed or rejected on its merits. It should not be defeated, because of, or become the victim of inaccurate and prejudicial statements or erroneous and unwarranted interpretations.

THE NIGHT PROWLER PROVISIONS OF S. 1

Mr. HRUSKA. Mr. President, I would like to join the Senator from Arkansas (Mr. McCLELLAN) in correcting the erroneous impression that seems to have arisen respecting use of force against a night prowler under pending Senate bill S. 1. He has outlined the misimpression in his remarks today.

I would like to point out that, contrary to the misimpression, the bill permits the use of a firearm to protect against an intruder or prowler except, of course, in a situation where it would be clear to any reasonable man even in the heat of the situation that no danger to the life or limb of persons rightfully on the premises was involved, as, for example, where the intruder is recognized as an intoxicated neighbor coming in by mistake, or a newsboy accidentally coming into the house by stumbling through the door.

The bill merely carries forward what has always been the law. The right to use deadly force against a prowler is justified as an exercise of the right to protect life or limb, a threat to which is inherent in the typical case of an unauthorized prowler in the night. The homeowner or landowner is judged based on what reasonably appeared to be the situation, rather than what it may actually have been. Similarly, there will normally be no duty to retreat in these situations, as retreat, if applicable at all, is required only where it would be apparent to the defender in the heat of the circumstances that retreat would be perfectly safe to himself and others.

One further point: The bill's provisions on this matter apply to areas of direct Federal responsibility. Hence, the average homeowner or renter, or business owner, will be governed not by these provisions, but by the law of his particular State, as always, which has in no way been changed by the criminal code bill.

PROPER OVERSIGHT OF CIA

Mr. THURMOND. Mr. President, a timely editorial entitled "CIA Target of Overkill" appeared in the September 2, 1975, issue of the Aiken Standard newspaper of Aiken, S.C. This editorial wisely points out that while Congress and the administration have a responsibility in properly managing the CIA, present investigations and overexposure in the press are damaging this vital Agency.

It is my hope that the special Senate Committee on Intelligence and a like group in the House will proceed with special care in carrying out their responsibilities under the present mandate of the Congress.

Mr. President, I ask unanimous consent that this editorial be printed in the RECORD.

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

CIA TARGET OF OVERKILL

Sen. Frank Church, the chairman of one of the congressional committees investigating the activities of the Central Intelligence Agency recently compared that organization to a "rogue elephant charging out of control."

More recently many responsible citizens have begun to compare the investigation into the activities of the CIA with the witchhunts of the McCarthy era in the 1950s.

Both evaluations have validity, each in its own context, each in its own time period.

In some respects CIA has behaved like a rogue elephant, although not of recent date. In its heyday the agency violated its charter by spying on Americans within the United States of America. It succumbed to pressure from the White House to take part in improper activities. It undoubtedly had a hand in more than a few revolutions here and there. And there were probably times when it even discussed the possible assassination of foreign leaders.

However, that is all in the past and, even at the worst, its irresponsibilities and transgressions were accompanied by skillful intelligence activity of incalculable value to the nation. Today the CIA is prostrate. Its morale is sapped, its ability to recruit agents is damaged and, as Secretary of Defense James Schlesinger said recently, the sources of information available to the CIA are drying up.

In this context the continuing harassment of the agency—particularly in the limelight of congressional hearings, where immediate drama has more weight with the public than a voluminous report a year from now that few will bother to read—is reminiscent of the McCarthy era.

What we are seeing is investigative overkill at its worst. The question now is not whether the CIA can be bridled and controlled by Congress, but whether it can rise from the ashes. And that brings the discussion to the central point of whether we need a CIA at all. We can't recall that even the severest critic of the agency has said that we do not.

Whatever its failings, the functions of the CIA are vital to our national security. An agency of that sort is essential to provide the president and the defense establishment the information they need both to conduct intelligent foreign policy and to provide for the security of the citizens of the United States of America.

Mr. Schlesinger, himself the head of the CIA recently, reminded us that there is no other way to obtain the intelligence we need. Satellites are inadequate because photographs do not think and, as Schlesinger noted, they do not reveal intentions.

The message that he left with the CIA investigators merits the consideration of every American who believes that he has been wronged by the CIA, or that American institutions have been subverted by CIA activities.

We tend to forget, Mr. Schlesinger said, "that the most valuable of social welfare services that a society can provide for its citizens is to keep them alive and free."

Put another way, we can and should insist that the CIA not have the willy-nilly right to open our mail—but we should also do nothing that sacrifices our right to have private mail in the first place.

We should also remember that while we must set the rules by which the CIA operates, we will lose the game every time if we insist upon using padded gloves while our opponents are using brass knuckles.

SOCIAL SECURITY: 1935–75

Mr. KENNEDY. Mr. President, social security is, without question, one of our Nation's most important legislative achievements.

Today social security affects almost every American family.

Nearly 32 million persons now receive retirement, survivor, or disability benefits. Of this total, 19.3 million are retired workers and spouses. The remaining beneficiaries include 5.6 million widowed mothers and children; 3.9 million aged widows, widowers, and parents; and 2.9 million disabled workers and spouses.

Social security has become the last guarantee of family security.

Last month the University of Michigan and Wayne State University commemorated the 40th anniversary of social security.

The conference, which was held at Ann Arbor, provided an opportunity to view social security from three vantage points: past, present, and future.

Several exceptional presentations were made by persons with a long-standing interest in social security.

One particularly noteworthy example was a paper delivered by Wilbur Cohen—one of the original architects of the Social Security Act; later a Secretary of Health, Education, and Welfare; and now dean of the University of Michigan School of Education.

Mr. President, I commend Dean Cohen's speech on "Social Security: 1935–75" to my colleagues, and I ask unanimous consent that it be printed in the RECORD.

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

SOCIAL SECURITY: 1935–75

(By Wilbur J. Cohen)

Forty years ago, on a warm afternoon, August 14, 1935, President Franklin Delano Roosevelt affixed his signature to the Social Security Act in the Cabinet room of the White House. At that time he said that the Act was "a cornerstone in a structure which is being built but is by no means complete." The Social Security Act was one of the most far-reaching pieces of social legislation ever enacted by the Congress. Its passage marked both the end of a long struggle for protecting and enhancing human rights and the beginning of a new era of social reform.

In the United States the term "social security" is employed to identify the broad range of programs covered under the Social Security Act. But in popular parlance through the years it has come to be particularly identified with the Old Age Insurance Program (now Old Age, Survivors, Disability, and Health Insurance). When the man on the street today says social security, he may be referring to the specific program of OASDHI or he may be referring to the general objective of programs designed to provide income insurance.

It is no exaggeration to say that, in one way or another, the lives of every one of the 215 million citizens in the United States presently is affected by the social security program. Today, over 100 million people have worked long enough in employment covered by the Social Security Act to be insured for benefits, and over 31 million individuals regularly receive such benefits each month. In addition, several million individuals receive weekly unemployment insurance benefits, some 11 million persons receive welfare checks each month, another 4 million aged, blind and disabled persons receive supplemental security income, some 25 million persons receive aid from Medicaid, and millions of others receive social services and child welfare services and have their medical bills paid for through the maternal and child health and crippled children's provisions of the Social Security Act.

Social security has become an accepted part of "the establishment." But the acceptance of social security was slow in coming. The United States was the last of the major industrial nations to work out a social insurance program for the aged and needy. Germany and Great Britain were a generation or two ahead of us.

SMALL STEPS—BIG LEAP

Although the desperate economic depression of 1929–1933 was the immediate cause of the enactment of the 1935 Social Security Act, reformers like Professor Henry Seager and John R. Commons and I. M. Rubinow and Abraham Epstein had been advocating something of the sort for more than two decades, and many small steps toward social welfare were taken before the big leap forward was made. The movement for legislation to provide cash benefits and medical care for injured workmen began in the first decade of the 20th century. The federal government and several states enacted state workmen's compensation laws immediately before World War I, but it took some 35 years before the last state—Mississippi—enacted it into law in 1946. In the early part of the century, there was also a demand for state "mother's pension" laws to provide a payment to families where the breadwinner died or was killed and left dependent children. Immediately before World War I there was also a strong drive for the enactment of state health insurance laws, which collapsed during the war and post-war period of the '20s, largely because of the opposition from the American Medical Association and the apathy growing out of affluence. Right after World War I a campaign began for the passage of state old age pension laws, in which the Fraternal Order of Eagles and Abraham Epstein took a leading role. The need for state unemployment insurance laws also was strongly voiced at that time. The first unemployment insurance bill was proposed in the Massachusetts legislature in 1916 under the leadership of Prof. Commons which enacted the first State unemployment compensation law in 1931. All of this agitation and legislation served as the training ground for the men and women like Frances Perkins, Arthur J. Altmeyer, Edwin Witte and J. Douglas Brown who were to become the leaders in helping formulate the Social Security Act of 1935.

Well, why wasn't a social security program—aid to the unemployed, aid to the aged, aid to dependent children—passed during the 1920s, since it was obviously needed so desperately? Because, as Senator Wagner said, the Republican presidents of that decade, Harding, Coolidge, and Hoover, were sincere believers in the "dogma of self-reliance and individual thrift," even for those who were too old or too young to work and therefore could not save. The Republican administrations were supported in this philosophy by the nation's Chambers of Commerce and manufacturing associations, who advocated individual responsibility for meeting the risks of old age, unemployment, and ill health. Compulsory contributions against time of need—the cornerstone and the strength of the present social security program—was viewed as "un-American." They were also joined in this philosophy by the American Federation of Labor, which did not officially change its position and support social insurance until 1932.

Federal aid to encourage state unemployment insurance and state old age assistance plans became a key issue in Congress in 1934 and might well have become law in that year. President Roosevelt decided, however,

on the advice of Frances Perkins and Harry Hopkins, to seize the historic moment to broaden this to a wider range of programs and alternatives.

FULL SPEED AHEAD

In June, 1934, FDR created the Committee on Economic Security to study and make recommendations to him for a comprehensive social security program. The chairman of the committee was Frances Perkins, Secretary of Labor. The other members were: Henry Morgenthau, Jr., Secretary of the Treasury; Homer Cummings, Attorney General; Henry A. Wallace, Secretary of Agriculture; and Harry L. Hopkins, Federal Emergency Relief Administrator. Professor Edwin Witte of the University of Wisconsin was the executive director of the committee. Arthur J. Altmeyer was chairman of the technical board. There was an advisory committee representing labor, employers, and the general public, which was under the chairmanship of Frank P. Graham, then president of the University of North Carolina and later Senator from North Carolina.

I was a young research assistant to Professor Witte, doing all sorts of chores. Among my assignments were those involving the studying of social security programs in foreign countries, analyzing U.S. experience with state old age assistance plans, collecting economic data on various programs, and attending the public hearings so as to bring back to the committee information about the arguments and issues which most concerned the members of Congress.

A significant development which occurred during the consideration of the committee's proposals was the issuance of a statement by President Roosevelt on November 14, 1934, saying he might defer consideration of the old age insurance proposal to some future date, when it had been more fully thought out. After much debate and discussion of this statement, any doubts that the President had were overcome, and an old age insurance proposal was included in the legislation submitted by him in 1935. We didn't call it "insurance" then for fear the U.S. Supreme Court might hold that the enactment of an "insurance" plan was unconstitutional.

The historic report of the Committee on Economic Security was transmitted to Congress on January 17, 1935, and the Economic Security bill was introduced in both the House of Representatives and the Senate on the same day. Robert L. Doughton, Chairman of the House Committee on Ways and Means and David Lewis, a member of the Committee, introduced the bill in the House. Senator Robert F. Wagner, Sr., introduced it in the Senate.

The first of a series of obstacles which had to be overcome was obtaining approval from Congress of the legislation. The bill which President Roosevelt transmitted to the Congress was an omnibus measure consisting of a number of different programs. The two most popular provisions related to Federal grants for old age assistance and the Federal measures to stimulate states to enact state unemployment insurance laws. The provisions for establishing a national system of old age benefits were the least well-known and the most controversial aspects of the proposed bill. This was due, in part, to doubts about the constitutionality of such a system and also because of the financial questions raised by such a gigantic and long-range plan.

FEDERAL GOVERNMENT TO THE RESCUE

Thomas H. Eliot, one of the lawyers responsible for drafting the original legislation, is credited with the strategic idea of arranging the bill so that the first title dealt with federal grants for old age assistance. This was a popular and well accepted provision which had been discussed in Congress in previous years and which, in fact, was one of the major reasons why social security legislation was so well received. Many of the state and local old age assistance programs were in virtual bankruptcy or inoperative; therefore the proposal to provide federal grants to the aged was widely heralded by governors, mayors and those older people who were on the relief rolls—and by members of Congress.

In order to expedite the passage of legislation, the Administration made a rather unusual request—to which Congress acceded—to have both the House and Senate Committees conduct public hearings simultaneously. This rare procedure has almost never been followed since, primarily because the Constitution gives the House of Representatives the power to initiate tax laws, and the Senate will not consider such legislation until the House has acted upon it. Consequently, on a number of occasions, it has taken two years for any far-reaching amendments to the Social Security Act to pass both Houses of the Congress.

Aside from being bucked by a hard core of the "self-reliant" Republicans, one aspect of federal aid to the states was opposed by a small number of Southern Democrats who were hypersensitive then—as now—to what they viewed as an intrusion of the federal government into states' rights. One provision dropped from the original legislation, for example, was the requirement that state old age assistance programs must meet a minimum federal standard of "health and decency."

Senator Harry F. Byrd, Sr., chairman of the Senate Committee on Finance, discovered that phrase in the bill. He denounced it as an invasion of states' rights; the federal government, in his view, had no right to tell the states what was "healthy and decent." Senator Byrd was a powerful man so the phrase was stricken.

Another famous Southerner who caused us considerable anguish was Senator Huey Long of Louisiana, who had his own program—called "share the wealth" and "every man a King"—so named because the aim of it was to strip rich people of their riches and turn them over to the poor. Long was determined to push the notion for all it was worth in the hopes that he might be a serious dark horse Presidential candidate in 1936. By holding a one-man filibuster on the last night of the Senate session of Congress, in 1935, he managed to temporarily deprive the social security program of initial funding until February, 1936.

On the other hand, if it had not been for Senator Pat Harrison of Mississippi and Representative Robert L. Doughton of North Carolina, the federal old age insurance provisions would never have become law. The AFL and several key employers supported both the old age insurance and unemployment insurance provisions. Insurance companies were silent about these programs during the 1935 legislative consideration although several actuaries from private insurance companies aided in the formulation of the 1935 plan.

DIE-HARD DISSENTERS

Given the depths of the Depression in which this legislation was being developed, few members of Congress, even if ideologically opposed to social security, could afford to stand up against it publicly. Help for old people—half of whom were insolvent—was the kind of cause that ranked with mother and country and flag in its automatic appeal. Open opposition came only from some of the die-hard Republicans such as Robert F. Rich of Pennsylvania, who called Roosevelt a "Socialist" for advocating social reforms, and Hamilton Fish of New York, who suggested that the day might come when Roosevelt would have to be impeached for violating the Constitution.

Soon after the Social Security Act was passed in 1935, some of the old-line Republicans began gearing up to radically change the program before it could take effect on January 1, 1937, when the payroll tax was to commence. These Republicans were especially eager to make capital of the program in the Presidential election year of 1936. The GOP candidate, Alfred Landon, though personally a fairly progressive Republican for that day, embraced the antisocial security campaign which was fostered by the Republican National Committee.

The GOP campaign was simple: The government, if left in the hands of the Democrats, would take away part of the workers' already meager paychecks and might never give it back. In the last fortnight of the campaign, industrialists began distributing notices in the payroll envelopes of employees all over their factories that carried the frightful message: You're Sentenced to a Weekly Pay Reduction for All Your Working Life. You'll Have to Serve the Sentence Unless You Help Reverse it November 3.

The Republican National Committee developed propaganda literature which attempted to scare the American worker about these payroll taxes by making the propaganda appear as though it officially came from the Social Security Board in Washington. Some of these attacks were developed as inserts which were put into the payroll envelopes of workers the week before the election. One of the cruder inserts read:

"Effective January, 1973, we are compelled by a Roosevelt "New Deal" law to make a 1 percent deduction from your wages and turn it over to the Government. Finally, this may go as high as 4 percent. You might get this money back but only if Congress decides to make the appropriation for the purpose. There is NO guarantee. Decide before November 3—election day—whether or not you wish to take these chances."

As the campaign went along, Landon became increasingly enthusiastic about the crusade—or as enthusiastic as he ever became about anything. In a campaign speech he gave in Milwaukee on September 27, 1936, he made the fatal mistake of attacking old age insurance as a "cruel hoax" and "a fraud on the working man." By the end of his campaign he had started picturing the social security program as federal oppression. In one of the last major speeches of his campaign, in St. Louis, he conjured up this scary picture: "Imagine the field opened to federal snooping. Are these twenty-six million going to be fingerprinted? Are their photographs going to be kept on file in a Washington office? Are they going to have identification tags put around their necks?"

THE "DOG TAG" SMEAR

Some spokesmen for the GOP expanded this imagery and warned of an actual metal dog tag that workers would be required to wear around their necks. The chairman of the Republican National Committee said that the only humanity Roosevelt would show would be to have these dog tags made of stainless steel so they wouldn't discolor the workers' skin.

Hearst newspapers, very much for Landon, had Page One stories with headlines such as "Do You Want a Tag and a Number in the Name of False Security?"

The employers, the Republican National Committee and the Hearst newspapers completely misjudged the voters. Whereas they thought the average man would rebel against the so-called "pay cut" which would occur because of the new payroll taxes, the reaction of the workers at that time was that if employers were suddenly so solicitous of their welfare there must be something right about old age insurance. As a result there was very little defection by the workingman to the Republican Presidential candidate, and with Landon's overwhelming defeat in 1936, there came an endorsement by the voters of the Roosevelt social security pro-

gram. This electoral support was to have an important impact as well in helping to convince the Supreme Court of the importance of interpreting the law as being constitutional.

This indeed was the next major hurdle to be overcome: namely, obtaining the approval of the Supreme Court with respect to the constitutionality of both the old age benefits program and the unemployment compensation program. I remember going to the Supreme Court to hear oral argument on the case. The government's position was brilliantly expounded by a young lawyer named Charles Wyzanski, who later became—and still is—a Federal District Judge in Boston. He argued his case without a note and handled himself with great assurance.

But an even more memorable event, (which I had the privilege to witness) was the handing down by the Supreme Court of its decision upholding the constitutionality of the major provisions of the act. I went to the Supreme Court on Monday, May 24, 1937, with John G. Winant, a former Republican Governor of New Hampshire, who had been the Chairman of the Social Security Board, and Arthur J. Altmeyer, who became chairman when Mr. Winant resignued in indignation at Mr. Landon's attack on social security. We heard Mr. Justice Cardozo read the majority decision of the Court upholding the provisions of the law. I can still remember many of the words he spoke because they were like poetry. Commenting on old age insurance, he said:

"Needs that were narrow or parochial a century ago may be interwoven in our day with the well-being of the Nation. What is critical or urgent changes with the times . . . Congress did not improvise a judgment when it found that the award of old age benefits would be conducive to the general welfare. . . . The number of persons in the United States 65 years of age and over is increasing proportionately as well as absolutely. What is even more important, the number of such persons unable to take care of themselves is growing at a threatening pace. . . . The problem is plainly national in area and dimension."

I recall walking down the steps of the Supreme Court building in a glow of ecstasy with Mr. Winant and Mr. Altmeyer. We had hoped and prayed for this day, and yet when it occurred it was still unbelievable to us. When I came back to the office, I obtained Mr. Altmeyer's approval to send out a memo to the staff stating that because of the decision we could now call the old age benefits program "old age insurance" and we could now call the unemployment compensation program "unemployment insurance." The American public was and still is insurance-minded and opposed to welfare, "the dole," and "hand-outs." Although many of those who are opposed to the level of benefits or methods of financing the OASDHI program claim the system is not insurance, they are clearly wrong since the program meets the criteria for insurance set out by insurance experts and organizations.

ROOSEVELT THE INNOVATOR

Although Roosevelt's program was a significant break with the past, the assistance and help that consequently were offered were moderate indeed to the average American by any standard. Privately, President Roosevelt sometimes sounded much more revolutionary than he was in practice. On one occasion he said to Secretary Perkins: "I see no reason why every child, from the day he is born, shouldn't be a member of the social security system. . . . I don't see why not. Cradle to the grave—from the cradle to the grave they ought to be in a social insurance system."

The social security program has been improved and extended by the Congress in major respects some 15 times since the law was first enacted in 1935. Very substantial progress has been made. Some set-backs have occurred.

The original act provided for only two social insurance programs: old age insurance and unemployment insurance. Over the years, additional insurance protection has been added and the program has come to protect the entire family. In 1939, survivors insurance was added which provided monthly life insurance payments to the widow and dependent children of a deceased worker. Today, the face value of this life insurance under social security is approximately a trillion dollars and is nearly equivalent to the total of all private life insurance in the United States. In addition, thousands of young people are able to go to college, even though the breadwinner has died or is disabled or retired since payments are now made to the dependents up to age 22 if attending school.

In 1956, disability insurance was added to the program. Today, over 1.3 million disabled workers are getting disability benefits. An additional one million persons receive payments as the dependents of such employees. The law now provides medical insurance protection to some 22 million aged persons and several million disabled persons. Both hospital and physicians' services are covered.

Regrettably, there are still some Americans who are protected by one or more social security programs and could be drawing benefits today—but don't know it. Nine out of 10 workers are covered under social security, including members of the Armed Forces, the self-employed, the farmers, the farmworkers, domestic help, and just about everyone except certain government employees who are protected by separate systems. About 90 percent of all people 65 and over are eligible under the program and 95 out of 100 mothers and children in the country would be entitled to monthly benefits in the event of the death of the main breadwinner in the family.

Monthly retirement benefits are payable in full at the age of 65 and reduced benefits are available as early as age 62. The widow of a worker covered by social security can draw full survivor's benefits at the age of 62, or reduced benefits as early as 60. Other survivors covered include unmarried children under 18 (under 22, if they are full-time students); a widow at any age if she is caring for a child under 18; a widow as early as age 50 if she has a severe disability; dependent parents 62 or over.

WHERE DO WE GO FROM HERE?

Over $100 billion was paid out under the Social Security Act last year. Along with other federal, state and private pension and social welfare programs, the total amount being currently disbursed exceeds $15 billion a month—a significant volume of purchasing power which has set a floor under consumer income and moderated the adverse economic impact of the recession on families and the economy. Today, all income maintenance and welfare service payments represent about 15 percent of the nation's personal income—a far change from 1929 or even 1960!

The widespread acceptance of social security is due in large part to the contributory earnings-related social insurance philosophy which emphasizes the work ethic and individual responsibility and has appealed to both liberals and conservatives, Democrats and Republicans and individuals in all social economic groups. The statutory right to earned benefits without recourse to welfare restrictions appealed to minorities as well as the majority. The low cost of administering the program (only 2% of benefits) and the compassionate, helpful and friendly attitudes in the local offices has made the social security program a distinctive and acceptable feature of a free society.

But despite the remarkable achievements, there are many proposals for changes and reforms in the program. Looking ahead, the number of persons age 65 and over will grow from the present 22 million to 30 million by the year 2000 and 50 million by the year 2030. We must begin to consider how to prepare our society for a much greater proportion of older people—perhaps 15 percent of the total population. The long-run implications need imaginative consideration. For instance, consideration might well be given to increase the amount of benefits substantially (4 or 5% a year) for those who delay retirement after age 65. There are, however, important short-run changes needing prompt attention.

The most immediate Congressional action is to restore the financial integrity of the OASDI program. This can be done by increasing the maximum earnings base for contributions and benefits which is now $14,100 a year. Under the existing law which provides for the automatic increase in wages, this figure is estimated to be about $17,000 in 1977. An increase to about $24,000 in 1977 and succeeding years would result in enough additional income to cover expected expenditures in the near future and rebuild the reserve fund. It is essential that Congress enact such legislation this year to foreclose the anxieties about the future financing of the system. The 1975 refund of social security contributions for individuals earning less than $4,000 should be extended.

The most far-reaching legislation needed is the enactment of a national health insurance plan as part of the social security system. This can be done by building upon the tried-and-tested Medicare program. Instead of trying to put all medical benefits for all of the American people into effect at one time, a step-by-step expansion is more desirable. The combined social security and health insurance system should be financed by employers paying one-third of the cost, the government one-third, and the employees one-third.

The existing discrimination against women should be eliminated, especially that against divorced women and married working women who are not now entitled to full benefits. All household services should be covered, including those of the non-paid wife or husband, along the lines of the bill introduced by Congresswoman Barbara Jordan and Congressman James Burke.

Two benefit improvements need to be made to take account especially of problems arising from the recession: (1) individuals age 55 and over who are totally disabled for their regular and customary work should be entitled to benefits; and (2) those persons between age 60 and 62 should be entitled to draw their social security benefits on an actuarially-reduced amount as persons age 62–65 now can do.

To assure that the social security program is administered without regard to political effect, the program should be placed as it was originally under a three-person board with terms of office rotated so as to assure the political independence of the board members.

The social security program is a sound structure on which we can build and adapt to changing needs. It is one of the institutions we have built with care and intelligence. We have both the economic resources and the administrative capacity to continue to improve it incrementally in relation to our national priorities and productivity.

Despite the remarkable progress made since the original act was passed, President Roosevelt's words to Frances Perkins are still pertinent. The structure of social security is still being built and by no means is complete. The next decade should produce still further improvements in the program.

INDIANA FARM BUREAU COOPERATIVE ON OIL DECONTROL

Mr. HARTKE. Mr. President, the debate over oil price decontrol continues to rage. We have heard from many quarters on this subject. It seems to me, however, that the plight of the independent refiner has not received sufficient attention. In his testimony before the Senate Agriculture and Forestry Committee, Harold P. Jordon, the general manager of the Indiana Farm Bureau Cooperative, has succinctly stated the case of the independent refiner. He outlines quite clearly the potential effects of decontrol, including the enormously increased competitive advantage that will flow to the large multinational oil companies. Mr. Jordan's testimony is valuable not only because of its insight, but because he represents a group that has traditionally opposed Government intervention in the economy. I think the arguments made are based upon an appreciation that the advent of OPEC has fundamentally transformed the petroleum market, nationally and internationally.

I ask unanimous consent that Mr. Jordan's brief testimony be printed in the RECORD.

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

TESTIMONY OF HAROLD P. JORDAN, GENERAL MANAGER OF INDIANA FARM BUREAU COOPERATIVE ASSOCIATION, INC., BEFORE THE SENATE AGRICULTURE AND FORESTRY COMMITTEE, SEPTEMBER 9, 1975

I am Harold Jordan, General Manager of the Indiana Farm Bureau Cooperative Association, Inc., a farm supply and marketing cooperative, owned and controlled by 77 local farm cooperatives which are, in turn, owned and controlled by 150,000 Indiana farmers.

We market approximately 30% of Indiana-produced grain and soybeans which move through commercial channels, about 50% of the wool, and a substantial portion of the eggs and turkeys produced by Indiana farmers.

We also furnish Indiana farmers from 30% to 40% of their feed, plant food, chemicals, farm buildings, grain storage and drying equipment, over 40% of their gasoline, diesel fuel, heating fuels, and a substantial portion of the propane required for grain drying. In recent years, some major oil companies have withdrawn from serving the farm market in some sections of our state; and we have attempted to supply the needs of a number of these farmers who found themselves without a source of supply.

To supply these fuels, we operate to 18,000-barrels per day refinery on the Ohio River at Mount Vernon, Indiana, and a 230-mile products pipeline from Mount Vernon to Peru, Indiana, with 3 terminals from which we deliver these fuels to approximately 85 bulk plants, owned by our 77 member associations, from which these fuels are delivered to farms.

We also operate over 400 miles of crude oil trunk lines and gathering systems throughout the Illinois Basin in both Illinois and Kentucky, as well as in Indiana, to acquire and deliver crude oil from independent oil producers' wells to our refinery.

For over 35 years this system has provided a very efficient and economical source of fuels for Indiana farmers who choose to use it. It has, I am sure, kept costs lower, even for those farmers who bought their fuels from other sources.

Each year, for the last 20 years at least, our Board of Directors has approved an expenditure of $150,000 to $400,000 for "dry hole expense." This has made it possible for us to participate with "independent crude oil producers" in hundreds of crude oil exploration drilling ventures to encourage independent producers, and help discover and produce as nearly as possible all the elusive pools of oil to be found in the Illinois Basin.

Throughout most of the 35-year history of our refinery, we have produced ourselves, and purchased from independent producers, most of the crude oil needed to supply the throughput requirements of our refinery. In recent years, however, there has been a rather rapid decline in gross production throughout the Illinois Basin; and we have been forced to look elsewhere, at the present time, for almost one-half of our crude oil requirements.

Currently, approximately 85% of the crude oil which we purchase in the Illinois Basin is either newly discovered oil plus its equivalent, or stripper well oil, none of which has not been affected by FEA price controls. We are currently paying $12.40 per barrel, f.o.b., the well for this oil and our current average cost of all crude oil delivered to the refinery is $10.79 per barrel, as compared to an average cost of $3.62 per barrel 3 years ago.

While our Association and its members basically oppose government regulation of agriculture and business, the FEA regulations, providing "entitlements" and "buy-sell" provisions, have (1) helped equalize the burden of the above-described unprecedented precipitous increases in both domestic and foreign crude oil prices of the past 3 years between the "have" and the "have not" American petroleum refiners; and (2) assured that an adequate supply of crude oil would be available to insure continued operation of all United States refineries. Were it not for these provisions in the regulations, those few companies (predominantly major oil companies) who are self sufficient, or nearly self sufficient in crude oil they refine, could have had unprecedented windfall profits, while selling all petroleum products at substantially lower prices than those required to remain solvent by virtually all independent refiners and those major refiners who are not self sufficient.

To further demonstrate this point: For the first 7 months of this year, our entire Petroleum Division had direct net savings, before interest and administrative charges, of $842,000. Our "entitlements" income included in the above during this period amounted to $3,756,936. You can see, therefore, that without the FEA entitlements provision our Petroleum Division would have had a loss of $2,914,936, before any financial or administrative charges.

If controls, which were in effect until September 1, are not reinstated, therefore, until more gradual or partial decontrol measures are enacted, it is our opinion that previously price controlled domestic crude oil (about 40% of domestic production) will rise to present imported and domestic released oil prices, or nearly so; and either (1) prices of petroleum products will rise very sharply and provide a few major oil companies with even greater windfall profits, or (2) prices will remain at, or near, present levels, in which case even several major refiners and most independent refiners, including cooperatives supply a high percentage of farmers' needs in many areas, will be forced to discontinue operations. The few majors that survive could not, if they tried, supply the farmers nor other consumer needs if this occurred.

The chaotic conditions which would follow immediately, and the higher prices long range which would result from the elimination of the competition of independent refiners and marketers, would certainly not be in the best interest of farmers and consumers, nor in the best interest of our nation.

Last week I had a telephone conversation with the President of Rock Island Refining Company, the only independent refiner in Indiana operating a refinery larger than our own. While their source of crude oil and their over-all situation is slightly different from ours, they are similar in many respects. His concerns and conclusions as to the result and effect of sudden and complete discontinuance of petroleum price and allocation controls are in agreement with mine, and his concerns just as deep as mine. I hope that this Committee might have the benefit of the testimony of some of the other independent refiners, as well as those of the cooperatives you will have heard here today.

On August 28, I sent the following telegram to the President; and I quote:

"The sudden discontinuance of present Federal Energy regulations would, in our opinion, put all farmer cooperatives operating refineries to supply fuel needs for farmers in a very vulnerable position. This could make it impossible for farmers to receive adequate supplies of fuel to plant, cultivate and harvest crops. This would also place major oil companies with ownership of large amounts of crude oil production and reserves in a very advantageous position. It would make it possible for them to eliminate the competition of not only cooperatives but any other independent refiner or major refiner not owning large crude oil reserves. In the short run or long run, this would not be in the best interest of America's farmers and consumers.

"Therefore, we earnestly appeal to you to refrain from vetoing the bill recently passed by Congress extending the present FEA regulations until such time as orderly and gradual deregulation can be formulated."

Gentlemen, I do not claim to have the wisdom to determine the precise amount of decontrol of the petroleum industry which our Government should make, nor the precise time over which such decontrol should be made. Perhaps no one man or organization has. I do hope the information and thoughts I have expressed here this morning do persuade you to oppose sudden or complete withdrawal of all controls of the petroleum industry.

Because I know your time is very limited, and because I have appeared before you on rather short notice, my presentation has been very brief. I would be glad to try to answer any questions, and we would be very willing to furnish any specific information which you feel might be helpful to you now, or in the future.

Mr. Chairman and Gentlemen, I want to express my deep and sincere appreciation for the opportunity to be heard by this Committee on a subject which I feel is most vital to American farmers and the production of food for American consumers, and for the continuing production of grains for exports, which are, and will continue to be most important in maintaining our favorable balance of trade.

NATURAL GAS SHORTAGES

Mr. BUCKLEY. Mr. President, 9 months ago, just before the adjournment of the 93d Congress, we were told that consideration of natural gas legislation would be the first order of business on our return this January. We are now in mid-September, and we have still to come to grips with the most readily remedied of our energy problems; namely, the growing shortfall in the production of domestic natural gas for commitment to interstate pipelines. I suspect this reflects a continuing confusion as to the basic facts, including the most basic one of all; namely, whether or not a shortage of domestic gas really exists. John D. Lof-

ton, Jr., has recently written a column in which he has presented the facts confirming the seriousness of the problem we face in a manner that ought to convince any fairminded reader. I ask unanimous consent that the column be printed in the RECORD.

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

[From the Rocky Mountain News, Aug. 9, 1975]

THE SHORTAGE OF NATURAL GAS IS NO HOAX

(By John D. Lofton, Jr.)

In this month's Reader's Digest, in an article titled "Is There Really A Shortage of Natural Gas?" roving editor James Nathan Miller asks Congress to ponder, before it acts, the following "explosive question": Are the big energy companies creating a phony shortage to force the price deregulation of natural gas?

But the question is a dud. It packs all the wallop of a wet cherry bomb fuse. In fact, in one of those fortuitous happenstances of history, concident with the publication of this article, the Congress has answered the natural gas shortage question.

In a report to President Ford, the House Government Operations Committee—not generally thought to be a puppet of the big energy companies—says that the expected severe shortages of gas could create major new unemployment and disrupt the nation's economic recovery. It says that the outlook is so bad that "many areas in the industrial heartland of America will suffer economic disaster if there is a severe winter."

The report says that New York, New Jersey, Ohio, Pennsylvania, Kentucky, North Carolina and West Virginia "can expect major cutbacks of natural gas to industry and commercial business." Furthermore:

"The economic health and national security of the nation are endangered because of the potential adverse effects on employment and industrial production." If necessary, the report declares, "the President should take preventive action under the Defense Production Act and other legal authorities to declare certain regions as potential economic disaster areas before the fact and marshal the federal government's resources accordingly."

So, what about Mr. Miller's question regarding the chance that the industry is "rigging the figures"? Obviously, a possibility, but as Interior Secretary Rogers Morton pointed out last December in testimony—ignored in the Digest article—before the Senate Commerce Committee:

"The continually recurring claim that the shortage is contrived has been refuted by every knowledgeable effort to determine its veracity. The same arguments (that natural gas producers have underreported their reserves) have been raised and rejected: (1) in six separate area rate proceedings by the Federal Power Commission; (2) by the United States Court of Appeals for the District of Columbia; (3) by the Fifth and Ninth Circuit Courts; (4) by the United States Supreme Court; and (5) by the Federal Power Commission's National Gas Survey."

More recently—on July 1 of this year—the Federal Energy Administration issued its preliminary report on natural gas reserves, undertaken in accordance with the FEA Act of 1974 in which Congress orders that such a "complete and independent" analysis be conducted.

This study shows that proven natural gas reserves, as of December 31, 1974, were 237 trillion cubic feet, an estimate less than two per cent higher than that made by the American Gas Association.

The shortage of natural gas is very real and it was caused by government regulation.

In their study for the Brookings Institution, "Energy Regulation by the Federal Power Commission," MIT economist Paul MacAvoy and Harvard law professor Stephen Breyer found that this shortage "can be attributed to field price regulation" by the FPC. They conclude: "Deregulation in all likelihood would end the gas shortage. . . ."

In her study for the American Enterprise Institute, "The Natural Gas Shortage and the Congress," special assistant for legislation in the Energy Resource Development Division of the FEA, Patricia Starratt, says:

"To knowledgeable people, the choice is clear, and too much time—20 years—has already been wasted in the regulatory experiment. It has failed to meet consumers' needs and national needs. The time has come to close debate and act decisively. While total deregulation is preferable to new gas deregulation, half a loaf is better than no loaf at all."

Incidentally, James Miller ought to read his own magazine more closely; he might learn something. Because Pat Starratt wrote pretty much this same thing over two years ago in an article in the Reader's Digest titled, "We're Running Out of Gas Needlessly."

Then again, in Miller's case it probably wouldn't matter. Mrs. Starratt says she talked with him when he was preparing his article but "he already had his mind made up" and "was not interested in the truth."

But I always thought the Digest was, which is why it is so puzzling that this shoddy piece of synthetic sensationalism ever saw the light of day. Some editor somewhere must have really been asleep at the switch.

CASPER STUDENTS FIND THE MEANING OF "ENERGY AND US"

Mr. McGEE. Mr. President, last year about 50 students at Kelly Walsh High School in Casper, Wyo., took part in a unique study of the complex mix of energy, strip mining, and reclamation problems.

Through the outstanding efforts of three educators at the school, the students saw how energy is produced and the environmental effects and demands of that production.

The students produced a report on "Energy and Us" that details the year's study, with the new insights they gained into this complex problem.

I would like to extend my congratulations to the students, and to their teachers, Elizabeth Horsch, Roxie Dever, and Phoebe Holzinger. I am also appreciative of the assistance the study received from the Soil Conservation Service of the U.S. Department of Agriculture and several other offices and agencies.

Mr. President, the study is described in an article from the August 1975 issue of Soil Conservation, a magazine published by the SCS. I ask unanimous consent that the story of these Wyoming students be printed in the RECORD.

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

[From Soil Conservation, August 1975]

WYOMING STUDENTS DELVE INTO "ENERGY AND US"

(By Elizabeth Horsch, Roxie Dever, and Phoebe Holzinger)

Start with a temperature inversion. Mix in some emissions from a power plant. Add some interested and energetic students, a power company willing to cooperate, a lot of interest and expertise from industry, government agencies, the community, and a small Federal grant to fund the student-operated environmental study, and you have a year-long high school project called "Energy and Us."

Focus of the study was the coal-fired Pacific Power and Light Dave Johnston Power Plant located about 25 miles from Casper, Wyoming, near the small community of Glenrock. Fifty junior and senior students at Kelly Walsh High School in Casper planned, research, and conducted an intensive multidisciplinary study of the conversion of stored energy to electrical energy.

Since coal for the plant comes from the company-owned surface mine 16 miles away, the students also investigated reclamation of mined land.

To learn what grasses are native to the area and might serve best for mined land rehabilitation, the students checked with Robert Tresler, state agronomist for the Soil Conservation Service. Tresler said that, with proper management, such species as thickspike wheatgrass, western wheatgrass, green needlegrass, and fourwing saltbush are among the native species that will work.

When the students wondered how long natural reclamation would take in the dry Wyoming climate, Tresler and George Davis, SCS district conservationist, arranged a bus tour to show examples of recovery of farmland plowed more than 50 years ago. The students found fencelines were still visible though no fences remained, and found several species of grass in the once-plowed area. The mixing of grasses that is beginning to occur is, in the course of natural succession, toward a climax plant community, Davis explained.

The class found, however, that mined land recovery is another story. Old spoil piles left bare of topsoil years ago showed no evidence of returning to productivity. This convinced the students that to achieve acceptable mined land reclamation, protection is needed. In addition, knowledgeable people are necessary to plan and carry out reclamation efforts.

The class conducted a variety of field studies at the Dave Johnston plant. Students planted pinto beans to test for sulfur dioxide emissions, and gladiolus bulbs on a study plot downwind from the plant to test for fluoride emissions. River water temperatures were monitored and the cooling water discharge made visible by dyeing the water red at the discharge point. Algal growth in the river was compared at points above and below the power plant. Snow samples were analyzed for fly ash content and pH. Dustfall samples were collected and studied. Students even made an attempt at growing plants in fly ash.

To determine the "people" impact of the plant, the class wrote and conducted public opinion surveys covering people's attitudes toward the plant. The students also studied changing economic patterns in the nearby community, receiving some information from the power company, but obtaining much of it by researching community records.

One interesting conclusion reached as a result of comparing tax revenue and school population was that the need for community services in a "boom town" precedes the money necessary to finance these services. Towns faced with sudden growth do not have the financial resources to provide the necessary services. Schools, sewer systems, water systems, recreation facilities, and law enforcement agencies are often inadequate to meet population influxes which accompany rapid growth.

With the beginning of the 20-day budget session of the state legislature, students began to realize that environmental issues are political issues. To meet the national demand for electrical energy, many coal-fired energy conversion plants are planned for Wyoming, and would have significant impact on the environment. The class studied pro-

posed legislation to regulate the siting of these plants to minimize their impact. The students were keenly disappointed when the bill died in committee on the day of their visit to the legislature.

One of the legislators who spoke to the class after the legislative session challenged the class to "quit sniping and offer some constructive input." As a result, two students, with the help of the class, prepared testimony on plant siting and delivered it before the Joint Interim Mines and Minerals Committee.

Two other students testified before a U.S. Senate Subcommittee on coal leasing on federal lands to express the concern of the class about the adequacy of Wyoming water reserves to accommodate the proposed utilization of Wyoming coal.

The students made available to the community the results of their study by slide presentations to interested groups, by filing the report of the completed study in the public library, and by serving as student resource people for other schools in the district.

Ultimately, it became apparent to the students that they were the consumers of the product which the power plant was producing and they had to accept some of the responsibility for the environmental impact of the power plant. The Pogo quote "We have met the enemy and he is us" gained new meaning.

Factors contributing to the success of the energy course were: (1) grant money from the Office of Education, HEW, to provide transportation for the class to various study and project sites, (2) a 2-hour time block which allowed onsite study, (3) community people who served as "walking textbooks," and (4) the realization by students and teachers alike that answers to environmental questions do not come easily.

For the teachers, the project afforded the opportunity to become involved in a very different learning situation. Since they were no longer the "experts," they were free to learn along with—and from—the students. Perhaps this "letting go" was the hardest lesson of all.

INVESTIGATION OF CLOSURE OF CRATER LAKE NATIONAL PARK

Mr. HATFIELD. Mr. President, on July 11 of this year, Crater Lake National Park in Oregon was closed to all visitors due to contamination of the water supply. Serious allegations have been raised about the events which led to the closure of the park and about attempts to keep the park open when the public health was endangered.

In response to concern about the park's closure, I requested that a thorough investigation into the matter be conducted by the Senate Interior Committee. As a part of that investigation, I presided over a field hearing on the subject on September 6 in Medford, Oreg. I ask unanimous consent that my opening remarks at the hearing be printed in the RECORD.

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

OPENING STATEMENT OF SENATOR MARK HATFIELD

This is the time which has been duly noticed for an open hearing before the Committee on Interior and Insular Affairs. This is an oversight hearing to clarify the circumstances which led to the closure of Crater Lake National Park on July 11 of this year.

Serious allegations have been raised concerning the events which led to the decision to close the park. These allegations have cast a cloud over the performance of various officials and enterprises which have important responsibilities to the public who seek to enjoy those monuments of nature which we have preserved for this and future generations. Public confidence in the integrity of this Government's custodianship of our national parks and monuments is at issue. Allegations have been raised that a coverup was engineered by the park, concessionaire and the National Park Service, that pressure was brought on officials in Washington and on officials in public health agencies to ignore the serious threat to the public, and that the concessionaire's employees who handled food at the park were made to work while sick, further endangering the public.

What is clear is that the water supply at the national park became contaminated with sewage, that many of the concessionaire's employees, park employees, Youth Conservation Corps volunteers, and members of the public became sick from drinking the contaminated water, and that the source of the illnesses was not immediately determined.

The purpose of this hearing is to determine why the water supply became contaminated, why the contamination was not detected earlier, and precisely what actions were taken by the National Park Service, the Public Health Service, and the park concessionaire during this period. It is not the purpose of this hearing to lay blame for the occurrences at Crater Lake at the feet of any individual or agency, but to determine what happened and why.

No conclusions have been drawn at this time and I would like to make clear that no conclusions will be drawn until the record of this hearing and the staff investigation is presented to the full committee. Senator Jackson and the other members of the committee are as concerned as I am that the events which led to the closure of the park occurred, and about the allegations which have been raised. My instructions from the chairman of the committee were specific and clear. This hearing and the staff investigation is to determine what happened and why. On the basis of that record, I will make my recommendations to the committee to prevent a reoccurrence of this type of situation.

SENATOR HUMPHREY'S ADDRESS IN STOCKHOLM ON INTERNATIONAL ECONOMIC POLICY

Mr. KENNEDY. Mr. President, I call to the attention of my colleagues the text of a recent speech by the Senator from Minnesota (Mr. HUMPHREY) chairman of the Joint Economic Committee.

Senator HUMPHREY spoke in Stockholm, Sweden, on September 3 at the invitation of the International Economic Association. In his address to this distinguished group of economists and statesmen, Senator HUMPHREY proposed an economic summit to be convened this fall to bring together the heads of state of the industrial nations to discuss the coordination of their domestic economic policies.

I understand that the Senator's remarks on the economic problems in the United States and the worldwide recession invoked a very favorable response from the conference and from members of the European press.

Mr. President, I ask unanimous consent that Senator HUMPHREY'S speech may be printed in the RECORD in its entirety.

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

REMARKS BY SENATOR HUBERT H. HUMPHREY TO INTERNATIONAL ECONOMIC ASSOCIATION

Stockholm, Sweden, September 3, 1975.

It is an honor and a personal pleasure for me to address this distinguished group of international economists and policymakers.

Economic and political power in the world is shifting. Economic policies are being reassessed. Heretofore comfortable economic principles and theories are being questioned.

The dollar has been devalued. The currencies of Europe and Japan are now the most sought after.

The oil-producing nations of OPEC have caused the quickest redistribution of income in history—a redistribution still underway. This has triggered a world-wide reassessment of who carries political clout and who is being edged out. As a result, there is a world-wide temptation for nations to realign themselves economically.

On the positive side, the oil crisis has forced an overdue assessment of the world's energy reserves. It has provided definite proof that the industrial nations of the world must cooperate in meeting common economic problems.

We survived oil price increases in a far better fashion than predicted. But this relative success was achieved only by common efforts of the industrialized nations to avoid the temptation to "go it alone." Most nations realized that such a solution would only leave all of us in a disadvantaged position.

The late Adlai Stevenson, a colleague and dear friend, often referred to "this space ship world"—the notion of the earth as a huge space ship moving through the universe. East and West have now met—joined together and even shared the same cabin in space. And we have learned first hand that space ships require concentration on navigation—the direction of the ship, and careful management of the limited resources available to those on board.

Interdependence in space and on earth demands coordination and cooperation among nations.

Interdependence demands sensitivity to the needs of others in the name of greater prosperity for all.

And interdependence demands a new economic maturity among nations.

In America we have yet to recognize that our economic well-being depends upon others as much as ourselves.

To be frank, it's been easy for us to go our own way.

It's been easy for America to be both a great and insular economic power.

We are blessed with abundant resources. We are the world's bread basket. And unlike many other industrialized nations, we have been spared the destructive ravages of war for generations.

There is another reason why America has been slow to recognize the need for interdependence. We are a young nation. We have displayed the optimism and independence, and I must confess, the cockiness of our youth.

Yet, let me emphasize I am proud of that youth. We were robust, endowed with idealism—eager to lead.

But as we approach maturity we are beset with uncertainties. Traditional economic concepts and theories no longer seem valid. This does not mean we have to do away with our past but simply that we must re-examine it and build on it.

In the past the very size and strength of the American economy isolated us from the effects of economic fluctuations abroad. But we no longer possess this immunity.

Devaluation and the oil crisis doubled our rate of inflation.

Energy price increases reduced our national output for five consecutive quarters.

Because of this, 4 million Americans lost their jobs.

The spending power of the average American worker is no greater than it was 10 years ago.

In short, we have been plagued by unique circumstances. Never before have we faced double-digit inflation accompanied by unconscionable levels of unemployment.

Our traditional economic theories don't tell us how to deal with high inflation together with high unemployment. They only tell us how to reduce one or the other—but not both together. These new circumstances have forced a rethinking of basic economic theories.

This is particularly true in America. We have seen that restrictive monetary and fiscal policies are not effective in reducing inflation in oil or food prices. They only raise unemployment.

The failure of traditional economic policies is the focus of the current American economic debate which is now raging between a Democratic Congress and a Republican President. The Congress is pushing for growth in GNP using more stimulative monetary and fiscal policies. The Administration still is operating under the questionable theory that in order to reduce inflation we must be willing to endure a longer period of unemployment.

The President recently pointed out that more Americans suffer from inflation than unemployment. But that is hardly the whole story. While official statistics reveal that over 8 million workers are now unemployed, a detailed examination reveals another 3.5 million seeking full-time employment but finding only part-time employment.

At any time 25 million wage earners and their families are touched by unemployment.

And over the next year some 75 million Americans will be directly touched by unemployment.

Unemployment is a colossal economic waste, but it is also a human tragedy.

It is being told, "There is no place for you."

The social costs of unemployment are enormous. But the economic costs alone are startling. It is estimated that unemployment will cost the American economy between the years of 1974 to 1980 about a trillion, 500 billion dollars in lost goods, production and income. It forces government expenditures up while reducing government revenues. It forces society to postpone badly needed investments to improve the quality of life.

We also find that after each recession a higher level of unemployment remains to burden society.

In 1946 our goal was full employment.

By the early 1960's we were told full employment really meant 4 percent unemployed.

By the late 1960's the officially acceptable unemployment target was 5 percent.

And President Ford in his January budget message proposed economic policies that would keep unemployment above 6 percent for the rest of the decade. This is a tragedy. And it is dangerous!

Indeed we have a sizable segment of our population in danger of developing an alienated life style—of becoming a class apart—separated from the main stream of our society—compelled to cut corners—and maintained by an inequitable and inadequate system of welfare.

In America unemployment leads not so much to revolution as to disenchantment. It leads us to a loss of our sense of community. The economic disenfranchised no longer have a sense of belonging. They have been rendered handicapped. It goes without saying that unemployment is like an insidious infection, sapping our strength, denying us productivity, and weakening our social and economic system.

This malady affects all countries to a degree but in our case it is magnified by added racial differences—40 percent of our inner-city black teenagers are out of work. Large numbers of American Indians and poor whites have been forced out of our economic system. A portion of our youth have spent their entire life dependent on welfare and public benefits. We are developing a welfare caste system.

We have a desperate need to get them back to work. This means restoring their faith, their sense of dignity.

I must tell you candidly there is a wide policy difference in the United States today over how quickly unemployment can be reduced. The Democratic Congress has repeatedly passed legislation to accelerate housing construction, to stimulate public employment, and to increase consumer spending power.

Regrettably, President Ford has vetoed much of this legislation.

He believes the legislation to be inflationary. But the majority of our economists find it difficult to believe this legislation will be inflationary when one third of our productive capacity dies idle and 8 million workers are unemployed.

The gap between our actual and potential output is now enormous. Our economy could easily absorb the additional stimulus we called for without triggering inflation.

In fact, as far as these inflationary dangers are concerned, I would stress that a substantial rate of expansion of production over the next two years, say at 8 or 9 percent, would not generate undue inflationary pressures. Indeed, expanded production will reduce inflation as gains in productivity push down unit labor costs.

The Administration's fear of renewed inflation could slow or even stop our economic recovery. I need not remind you that these fears were largely responsible for exacerbating and prolonging the worst recession since the Great Depression.

The duration of past recessions was shorter and recovery more vigorous. Now there is cause for concern about longer range prospects for solid recovery. Automobile production is very important to our economy and we have yet to see vigor in the recovery of this industry. Construction of housing is another important factor in economic performance and this, too, has not as yet shown enough vitality in its recovery.

But the key to rapid economic recovery is increased employment. And there is a great deal more that my country can do to increase employment through expanded public service jobs.

Because we have been blessed with a well endowed and vigorous economy, we have spent little time on the issue of public employment since the great depression of the 1930's. We need to remind ourselves, therefore, that temporary stabilizers like unemployment insurance are no substitute for productive public or private sector work.

Many people say that America is privately rich, but publicly poor, that our public sector is starved. There is a great backlog of public works in America—in public transportation, in the restoration of our cities and in the cleansing of our environment.

An expanded public service jobs program will reduce this backlog, and raise our national income.

It will close the yawning gap between actual and potential GNP.

It will replace unproductive idleness with productive labor.

And it will restore essential public services eliminated by recession-induced state and municipal budget cutbacks.

A rapid economic recovery in America rests on the twin pillars of a stimulative fiscal and monetary policy.

In directing monetary policy, therefore, the Federal Reserve System, our central bank, must be a full partner in stimulating recovery. It must maintain a monetary policy sufficient to accommodate recovery while at the same time avoiding inflation.

Persistence of inflation in the midst of our recession shows that we need a national incomes policy. The powers of our Wage and Price Stability Council must be increased and the structural causes of inflation must be attacked, including a more aggressive enforcement of anti-trust laws.

The speed with which our recovery occurs is very important not only for my country but for the other nations of the world.

In clearest terms, because of our global interdependence, all nations have a stake in the ability of the American economy to recover rapidly.

Let me issue a warning now that recovery both in America and world-wide may be reversed due to selfish or shortsighted actions by the oil producing nations. Rumors abound that the OPEC nations will again increase the price of oil in October.

If they take this action, disastrous economic consequences would ensue both in the industrialized and developing nations of the world. And it can only increase political tensions in the Middle East and elsewhere.

OPEC must be convinced that the predicted oil price increases can only have a destructive impact on the foreign economies in which they have so heavily invested, and on the economies of the Third World already shaken by soaring energy bills.

All nations must bring every reasonable influence they can command to prevent another oil price increase. There is no other alternative!

Our present struggle with inflation and recession has reminded us dramatically of our need for economic planning. The United States is the only industrialized nation in the world without a central planning body.

We can no longer afford the luxury of haphazard, ad hoc and disjointed policy making.

Total government spending now amounts to more than one third of our trillion, 500 billion dollar GNP. This impact is magnified by government rules, regulations, subsidies and credit policies influencing every area of the private economy. These activities are carried out with all too little regard of their impact for any period beyond the current year. We have little, if any idea, whether these policies complement each other or work at cross purposes.

There is no mechanism by which these policies can be evaluated, nor is there any agreement on national goals and priorities. This haphazard conduct of Federal regulatory, fiscal and monetary policies contributes to uncertainty and is wasteful.

There is a growing recognition in government and in the American business community that we are competing at a disadvantage with nations that have more advanced economic planning—and there is a growing recognition that there has to be some definition of our long range economic and social goals.

With these considerations in mind, Senator Jacob Javits of New York and I introtroduced a bill this spring in the Senate entitled, "The Balanced Growth and Economic Planning Act of 1975."

This legislation establishes a central source of economic data.

It establishes a planning process which relies on inputs from state and local governments and the private business community.

It is designed to establish a system of improved economic management.

It is designed to enable private enterprise to plan with a great degree of certainty.

In short it will improve the efficiency we allocate our national resources.

Let me add that the very fact of introducing this bill has sparked a heated debate in America about the need for more economic planning. This was our purpose. But

let me point out that our objective is not a planned economy but rather a planning society; a compact between government and the private sector to look ahead—to produce more goods and services with fewer resources due to improved forecasting and increased economic predictability.

We will never engage in planning just for the sake of planning.

Someone once said, it is politic not only to pay attention to a nation's laws and aspirations, but its superstitions, too.

Opponents to economic planning are terrified at the thought of putting all their eggs in one basket—which is but a manner of saying it is best to scatter your money and your attention. In the name of free enterprise they cling to this superstition. But to borrow from our American humorist, Mark Twain, who said:

"Only a fool saith—do not put all thine eggs in one basket. The wise man saith, 'it's okay to put your eggs all in one basket—just remember to watch the basket'."

Believe me, it is our nature and our inheritance and our American way of life that any attempts at long range planning will have two hundred million eyes glued on the basket!

Let me emphasize that a nation's economic policy is part of a much broader complex of political and social factors. In the United States, we have come through a long period of travail—the race revolution, the terrible tragedy of Vietnam, the Watergate scandal, and we must now cope with a serious recession. For the first time in our history, we had a President and Vice President who resigned and we have at this moment a President and Vice President who were not popularly elected.

But our constitutional government has distinguished itself in surmounting these difficulties. As a nation, we are strengthened in the conviction that our democratic society, with all its diversity and difficulties is sound.

We know that our economic house must be put in order. And we will put it in order through a combination of fiscal and monetary policies and planning designed to coordinate our domestic economic policies.

But the task of bringing economic planning to America is a simple one compared to achieving greater economic cooperation among industrialized nations.

Let's be frank about it—America, Europe and Japan pursue domestic economic policies independent of one another.

The world-wide boom of 1971 and 1972 and the following world-wide recession demonstrated that independent policies can exaggerate fluctuations in the level of economic activity to an alarming degree.

Unilateral economic decisionmaking ignores the fact of our economic interdependence.

The United States, Europe, and Japan simply must make a greater effort to coordinate their domestic economic policy. Even now, the depressed Japanese and European economies are awaiting an export led recovery fueled by American consumers rather than following a coordinated plan of action.

Yet, coordinating domestic and economic decisions at the international level will not be an easy task. It cannot be carried out by experts alone.

The magnitude of the political and economic decisions necessary for coordination will require the attention of the heads of state, of political leaders.

It will require an economic summit conference among OECD members who all face the same unique problems of urban, industrialized societies.

Therefore, I propose that an economic summit conference be convened this fall to bring together the heads of states of the industrialized nations of North America, Europe and Japan to discuss the specific coordination of their domestic economic policies. It is essential that they discuss and arrive at acceptable policies in the fields of energy, food, employment, trade and to combat inflationary policies.

The economic summit conference can focus attention on the enduring problems of how industrialized economies should deal with such problems as trade barriers and international monetary reform. But the summit should not be a substitute for the already existing dialogue on these matters. Rather, its role would be to highlight and complement such discussions.

Convening of such a summit conference would not interfere with the continuing efforts of industrialized nations to engage OPEC and the developing nations in constructive and cooperative dialogue. Clearly, coordination of domestic economic policies within the OECD can only lead to a more rapid growth of markets for both OPEC and Third World products.

The summit will benefit all trading nations. It should not be misinterpreted by either developing nations or OPEC as a step toward economic confrontation.

While the industrialized nations of North America, Europe and Japan attempt to coordinate domestic economic policies, they must not lose sight of the growing importance of the nonmarket economies of the Soviet Union, Eastern Europe and the People's Republic of China.

My country's trade with Communist countries has increased substantially, from $580 million five years ago, to nearly $3.5 billion today. Even larger increases have occurred in the case of other Western nations.

I believe that the growth in East-West trade and commercial relations should be encouraged and expanded, for economic as well as political reasons. But there are still some important hurdles in the way of a substantial expansion of such relations.

There is a tremendous lack of knowledge among businessmen in Europe, the U.S. and Japan about how to market their products in Communist countries and how to deal with state trading monopolies.

Many Communist countries have a shortage of convertible currencies which limit their access to our markets.

And to be frank, the sharp differences between political systems have played a role in the development of legislation placing limits on East-West trade expansion.

Preoccupied as we must be with the total range of economic problems of the industrialized world, we must not forget the urgent problems of over one billion of the world's poor in the urban slums and rural villages of the developing world. These people have not benefited from the post-war economic boom.

We must address the growing disparity between rich and poor nations. It is not only a moral and humanitarian problem but an economic one as well. There are too few signs that the industrialized nations are willing to work together with the developing world in reaching substantive solutions to these problems.

Hopefully, more progress will be made at the Seventh Special Session of the U.N. General Assembly which is just opening in New York.

America has a significant role to play in the creation of a development strategy which could meet the needs of the poorest nations. Secretary Kissinger is outlining what our contribution can be. It is clear, however, to me that the cornerstone of a sound development strategy for the Third World is increased food production.

Industrialized nations have a unique opportunity now to make a commitment to increase agricultural production in the developing world through the newly created International Agricultural Development Fund. This fund, to which OECD and OPEC nations will be asked to commit initially a billion and a half dollars, could go a long way in bringing about greater food self-sufficiency, improved diets in developing nations and aid small farmers. But, unless we act now, the U.S. Department of Agriculture estimates that the world food deficit by 1985 might run as high as 71.6 million tons of grain. It could be held as low as 15.8 million tons if prompt action is taken.

The development of a self-sufficient food policy for the Third World should be accompanied by creation of a world food policy in which the United States plays a major role. The major components of this policy must be international food reserves and a full and free exchange of food production and marketing information.

Many centuries ago, governments found it desirable to establish food reserves to cushion the impact of sudden shortages in supplies. My own country stands unique in the world in not having government reserves even today. America also is the only nation allowing free, full and private access to domestic food supplies.

As a result, our consumers and producers are on the crack end of the world food whip. They are all exposed to a shocking degree of price fluctuations.

They need greater stability. And greater stability requires food reserves, insulated from the market so as not to depress farm income. At the same time these reserves must be adequate to meet our domestic needs and to insure our steady customers of adequate food exports.

This vital food reserve in America could be held by the farmers themselves under a crop loan program that would permit them to carry such inventories, or it could be a combination of farmer-held reserves and government supplies.

Ready access to our American market by occasional customers should hinge on their participation in an early warning system where information on food supplies and crop prospects is provided.

We should not permit easy, penalty-free access to our food supply by nation's unwilling to provide consistently complete and accurate information on the condition of their own crops and food needs.

Let me emphasize that the world must no longer depend on the U.S. to be the sole food reserve country. The burden must be shared.

This principle also should apply to other basic commodities. In this period of raw material shortages and rising prices, there is a temptation to use economic trade as a political lever and even as an economic weapon. Let us all resist this temptation. Such a power struggle can only leave everyone in a disadvantaged position.

I am hopeful that producers and consumers will not conduct economic blackmail. I am optimistic that the family of nations will realize that constructive economic interdependence offers the best route to world stability and prosperity.

Economists and finance ministers are by nature prudent and conservative and rightly so. The public man, yes, the politician must be able to sense changes which are taking place and alert us to dangers. Public policies must be the product of public understanding and governmental decision.

There is no better way for me to share my own concern than in the words of our greatest American statesman, Abraham Lincoln:

"The dogmas of the quiet past are inadequate to the stormy present. The occasion is piled high with difficulty and we must rise with the occasion. As our cause is new so we must think anew and act new. We must disenthrall ourselves. . . ."

Gentlemen this is a different world than it was 100 or even 25 years ago, you and I both know it. There are rising expectations; in both the industrialized and developing worlds. It is our task to realize this—to plan for the future and to do it together.

SENATOR RANDOLPH'S ADDRESS BEFORE THE 35TH ANNUAL GAS MEASUREMENT SHORT COURSE

Mr. JACKSON. Mr. President, during the August recess our colleague, the distinguished senior Senator from West Virginia (Mr. RANDOLPH), addressed the 35th Annual Gas Measurement Short Course at West Virginia University. His speech to 500 engineers and technicians on energy includes an evaluation of the congressional record on energy matters, and a discussion of synthetic fuels development. His analysis of the relationship between natural gas shortages and regulation of natural gas prices is particularly timely.

I ask unanimous consent that the speech by Senator RANDOLPH be printed in the RECORD.

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

REMARKS BY SENATOR JENNINGS RANDOLPH

APPALACHIAN ENERGY RESOURCES ARE VITAL TO THE ACHIEVEMENT OF SELF-SUFFICIENCY

Greater utilization of our country's naturally abundant energy resources can free us from dependence on the vagaries of foreign energy producers. We also need relief from the economic burden of long-term major balance-of-payments deficits. The right of individual choice as American citizens is important.

On the eve of the 200th anniversary of the American revolution, the independence to determine the future of America—not just our energy future—is in jeopardy.

The challenge is here. The challenge is now. What is needed is acceptance and a solid commitment to meeting our energy needs from domestic sources.

Appalachia is blessed with abundant energy resources. As a prime Eastern source of domestic energy supplies, Appalachia can play a special role in achieving energy self-sufficiency. This is especially true for the wealth of coal, which will become increasingly significant in efforts to promote energy independence.

Too much time is being wasted on finding a scapegoat for our energy problem. While industry is being portrayed as the villain, the Congress and the White House are locked in debate over oil price control. For lack of a definitive National Energy Policy, we all suffer.

What is lacking is a common commitment by government, by industry, and by all American citizens toward the single national goal of greater energy self-sufficiency.

We should have acted years ago. We could have acted years ago.

I recall advocating to the Senate in 1959 that "our country's (energy) course must be planned . . . a national fuels policy looking toward the efficient and comprehensive use of our natural resources is overdue." At that time, 43 Senators joined with me in proposing creation of a Congressional Joint Committee on a National Fuels Policy.

Two years later, in June 1961, I reiterated this concern. I recommended, with 63 other Senators, establishment of a Senate Select Committee on a National Fuels Study. In testimony before the Senate Interior Committee I declared that—

"The United States of America, the richest country the world has ever known, is, by its own complacency, gradually placing itself at the mercy of those it should most diligently guard against. By neglecting to apprise ourselves of the true, unbiased, realistic picture of our own energy wealth and stability, we are gambling with our country's future.

"Every year that passes, in which we become more and more dependent on foreign oil to buttress our national economy and security perhaps is one year nearer disaster. What makes this all the more tragic is that it is unnecessary."

An initial task must be a comprehensive and continuing assessment of the United States' energy resources in relation to our long-term requirements. Employing a total-energy concept encompassing all future alternative energy supply options, this evaluation must recognize the need to balance national, social, economic, and environmental concerns.

As early as 1939, an American President advocated a National Energy Resources Policy. President Franklin D. Roosevelt warned 36 years ago, "Our energy resources are not inexhaustible, yet we are permitting waste in their use and production . . ."

But it took the oil embargo of the winter of 1973 before there was general public awareness of our country's energy crisis. In response to the crisis, Pesident Nixon initiated Project Independence.

The 93rd Congress witnessed introduction of over 2,000 energy-related legislative initiatives. Some 30 standing Congressional committees held over 1,000 days of hearings on nearly every aspect of energy policy, programs, and problems.

Not without controversy, 43 public laws were enacted, 5 bills were vetoed by the President, and another 21 bills received active Senate or House consideration.

We saw creation of the Federal Energy Administration, the Energy Research and Development Administration, and the Nuclear Regulatory Commission.

To encourage energy conservation the Congress established 55 miles per hour as the speed limit on interstate highways and enacted the Emergency Petroleum Allocation Act.

To expand domestic energy production, "coal conversion" provisions were incorporated in the Energy Supply and Environmental Coordination Act of 1974.

The first energy action by the Congress in 1975 was Senate approval of a bi-partisan resolution endorsing a voluntary National Energy Conservation Crusade. Our resolution was cosponsored by 44 Democrats and 23 Republicans. Although this energy initiative was endorsed by the President, regrettably, it was never implemented by the Administration.

Since then the 94th Congress has been engaged in intensive consideration of this critical national issue. Following approval of the Congressional Program on the Economy and Energy, legislative programs were initiated on energy conservation, to reduce our dependence on oil imports, and to stimulate new domestic energy supplies.

The first seven months of 1975 have been productive. Several Congressional initiatives are shaping the character of an emerging National Energy Policy.

By August 1, a half-dozen energy-related bills and resolutions had become law, three others were vetoed by the President, another dozen were passed by one or both Houses, six others were favorably reported by Committee, and four others are scheduled for Senate action in September.

The bills enacted include the Tax Reduction Act, which repealed after 60 years the long standing oil and gas depletion allowance for major oil companies. Under an amendment I offered, the depletion allowance was retained for small independent producers, such as those in West Virginia; it will be phased out by 1984 on a graduated schedule, however.

Congress passed and the President vetoed legislation governing (1) surface mine reclamation, (2) Congressional review of Presidential decisions removing controls on oil products, and (3) suspension of 90 days of the President's authority to impose oil import fees.

Presently awaiting Presidential signature is a Congressionally approved extension of the Emergency Petroleum Allocation Act. Perhaps the most significant issue of immediate concern, this measure would continue oil price controls for six months, while the Congress evaluates the Administration's decontrol plan. This legislation also contains a six month extension of Federal coal conversion programs, which I sponsored.

The Chief Executive can either sign the measure or accept the responsibility for the oil price increases that will result from a veto. Besides 80 cent gasoline, looming in the background are probable increases in foreign oil prices on October 1 when the present OPEC (Organization of Petroleum Exporting Countries) price-freeze expires. Clearly, phased decontrol would be more in the national interest.

The Senate also has passed standby energy legislation (S. 62); a limitation on oil price increases (S. 621); a motor vehicle information and cost savings measure (S. 1518); protection for franchised dealers (S. 323); the Truth-in-Energy Act (S. 1883); an auto fuel economy act; revision of Outer Continental Shelf leasing policies (S. 521); and revision of Federal coal leasing policies (S. 391).

The House of Representatives passed a multi-purpose energy tax measure (H.R. 6860). In this regard, the Senate Finance Committee proposes the addition of a windfall profits tax. Protecting the American consumer against excessive profits, this provision should pave the way for the phased decontrol of oil prices and the eventual deregulation of natural gas.

Unfinished business awaiting House-Senate conference includes legislation establishing strategic or contingency reserves and the authorization for energy research programs of the Energy Research and Development Administration.

As approved by the Senate less than two weeks ago, the ERDA authorization for Fiscal Year 1976 is still dominated by power programs and by defense related activities such as nuclear weapons development and the naval reactor program. About 40 percent of ERDA's authorization of $4.832 billion is for defense related activities.

The Senate, however, made significant strides toward a balance between defense-related activities and civilian programs. This is particularly true for non-nuclear energy programs which were increased by $456 million up to $1.156 billion for Fiscal Year 1976. This is 65 percent over the Administration's request. By comparison, the nuclear energy program authorization is about $2.1 billion.

Within these figures the 1976 authorization for coal and other fossil fuel energy technologies was increased to $11 million; compared to solar—$106 million; geothermal—$43 million; advanced power systems—$69 million; and energy conservation—$119 million.

Nevertheless, I am concerned for the meaningful expenditure of these funds. Extensive energy expertise exists in Appalachia, particularly regarding coal, which can and must be applied to the commercialization of new energy technologies. I am thus disturbed by ERDA's emphasis on the use of existing national laboratories, which were established in support of nuclear energy development. What is needed is establishment of an Appalachian National Energy Laboratory, to fully utilize the energy and coal research capabilities existing within the region and West Virginia. Moreover, this action will provide recognition of the vital role that Eastern resources must serve in the achievement of energy self-sufficiency.

While the Administration requested funds for one commercial synthetic fuels project, the Senate bill authorizes eight more commercial demonstration projects: three synthetic fuel from coal plants; one direct coal combustion project; two solar power projects; and two geothermal plants. This is intended to provide a major incentive to coal gasification and liquefaction.

The one synthetic fuels project presently planned by the Administration is scheduled for Appalachia; it is the COALCON project, to be managed by Union Carbide and Aerojet and financed by the Federal government and a 13 member industry consortium. On completion of conceptual design in March 1976 a site will be selected. According to the President of COALCON, Stanley Noss, with whom I conferred a few days ago, fourteen sites are under consideration in six states; four potential sites are in West Virginia. Final site selection will consider available coal and water supplies, the availability of expert labor, environmental requirements, and State economic and other incentives.

This particular project, in my judgment, should be in West Virginia, but it may not occur. We must not limit our perspective to one project. In his 1975 State of the Union message, President Ford proposed a National Synthetic Fuels Commercialization Program capable of producing by 1985 the equivalent of 1 million barrels of oil each day. This will require at least 20 synthetic fuels plants at a total cost of over $20 billion. West Virginia should be thinking of not just COALCON but two or three synthetic fuels facilities.

In this regard, $6 billion in Federal loan guarantees are authorized in the ERDA legislation. Under the provision I authored these guarantees are available for coal gasification and liquefaction, oil shale, solar energy, geothermal, and other non-conventional energy technologies.

Synthetic fuels are often characterized as expensive, but this is not necessarily the case when compared with the alternatives. We take for granted the cost of electricity from coal which in West Virginia is now around $6.30 to $6.80 per million Btu's for residential and commercial uses. By comparison synthetic natural gas from coal costs about $3 to $4 per million Btu's. Comparable investments for the conversion of coal to methane are cheaper in first cost, more efficient, and result in a lower cost residential and commercial energy supply than electricity. Moreover, it is environmentally clean.

Over the past 10 years a major gap has developed between natural gas supplies and demand. This is due, in part, to the unreasonable prices for interstate natural gas established by the Federal Power Commission. In addition to retarding the development of conventional supplies, the policies of the Federal Power Commission have served as a major disincentive to coal gasification. In my judgment, the FPC's unreasonable policies are the reason we do not now have a commercial coal gasification industry in the United States.

Five years ago in 1970 the primary, immediate task confronting government policy-makers and industry was acceleration of exploration and development activities for oil and natural gas. Even then supplementary sources of natural gas were deemed necessary after 1980. The most promising are (a) synthetics, (b) LNG (liquefied natural gas) imports, (c) Canadian imports, and (d) Alaskan supplies.

The formidable task of redressing the imbalance may easily require another decade. Pending resolution of the United States' natural gas problem it may well be necessary to impose mandatory end-use controls to effect a more efficient allocation of available resources.

Yet at this critical time the Federal Power Commission until last week, when John Holliman was sworn in, was functioning with three of the five comissioners provided for by law. However, Chairman John Nassikas has tendered his resignation leaving only two experienced Commissioners: William Springer and Don Smith. This is unconscionable.

Natural gas supplies 21 percent of energy needs of West Virginia. Over 69 percent of the homes use natural gas.

Last year's actual curtailment was 8.1 percent of normal usage. This is predicted in 1975 to reach 11.3 percent—20 billion cubic feet. Reportedly Columbia Gas of West Virginia will impose at least 60 percent curtailment on industrial customers beginning this November.

Hardest hit will be the industrial sector: stone, clay, and glass products; chemical and allied products; and primary metals. If alternative fuels are not available a 20 percent reduction in West Virginia's natural gas supplies could displace 8,300 workers in manufacturing and related industries.

In North Carolina there will be a total cutoff—100 percent curtailment—of industrial users. The nationwide cutback of industrial customers this winter will average 40 percent. This is particularly critical since one-half of all the energy consumed by industry is natural gas.

The House Government Operations Committee has recommended serious consideration be given to declaring a state of emergency in advance of this winter. Particular concern is for six states: West Virginia, Pennsylvania, Ohio, Kentucky, New York, and New Jersey.

Recently the Interstate Oil Compact Commission in an unqualified statement urged deregulation of the price of new natural gas. This national body is composed of the governors of the 36 states which produce oil and natural gas and also are consumers.

This is the environment facing the Congress when it convenes in September, along with the Senate Commerce Committee's bill, S. 692, which expands Federal controls over prices, production, and use of natural gas.

Under every natural gas proposal pending before the Senate the price of new natural gas at the wellhead would increase. The issue, in my view, is not whether to decontrol but how far.

The principal bill, S. 692, establishes an overall ceiling price based on an oil-equivalency value, limits decontrol to independent producers, and further limits decontrol to non-associated new natural gas production. Under all four measures the price paid to most producers of new natural gas from onshore reserves would be decontrolled. This is true for S. 692, the so-called Pearson-Bentsen and the Tunney substitutes, of which I am a cosponsor, as well as the Fannin substitute (or Ford Administration proposal).

Now is the time for Congressional action on natural gas deregulation. The Senate Commerce Committee began legislative hearings over three years ago. The Senate's National Fuels and Energy Policy Study issued an option paper two years ago.

American consumers as well as our country's natural gas producers have every right to expect the Congress to expedite resolution of the wellhead price controversy. The Congress has a special responsibility to provide certainty before major commitments of new natural gas supplies are made to the interstate pipelines. The present uncertainty is costing our economy billions of dollars in higher priced alternatives and loss of employment.

If regulation continues consumers will be forced to switch to more expensive substitutes which currently cost $2 to $4 per million Btu's and in 1985 will average nearly $5 when delivered to homes. By comparison, last week the Federal Power Commission denied the interim request of the West Virginia Independent Oil and Gas Association for 45 cent rate for natural gas. On my initiative this request was supported by four members of the West Virginia delegation: Senator Robert Byrd, Representative Robert Mollohan, Representative John Slack, and myself. By denying this interim price, the affected independent natural gas producers in order to meet existing contracts are forced to sell supplies at a loss. Some 7,000 wells are likely to be shut-down with the resultant loss of enough natural gas to meet the requirements of over 325,000 homes for the next 10 years. Meanwhile, users in the New York area import natural gas from Algeria at rates up to $1.86 per thousand cubic feet (or per million Btu's).

Without higher prices the United States will be faced with dwindling supplies. With higher prices virtually untapped resources are available within West Virginia. In addition to coal gasification there is a significant potential for new natural gas production in deep geologic formations and from Devonian shale formations beneath Appalachia. The estimated cost is from $1.75 to $2.00 per thousand cubic feet, which is competitive with the alternatives and new intrastate prices.

Columbia Gas is exploring this potential in Mingo County, West Virginia. Additional funds amounting to $24 million were authorized by the Senate for activities related to Devonian shale this year. What is now needed is a national survey of this resource; it could prove equal to our natural gas reserves.

Despite the development of this and other energy options, we can expect to continue to experience natural gas shortages and increased oil imports. We must redirect our country's demand for energy toward coal.

The first step is substitution of coal for oil and natural gas as our nation's principal boiler fuel in electric utility and industrial applications. This is the goal of S. 1777, which I introduced in May. This measure is cosponsored by Senators Jackson, Magnuson, Huddleston, McGovern, Moss, Pell, and Symington. The bill requires that by 1985, to the extent practicable, fossil-fuel power plants and major installations must use coal as their primary boiler fuel.

Adoption of this mandate requires a total coal production by 1985—allowing for total domestic use including steel production and for export—of about 2.5 billion tons per year; this compares to 695 million tons in 1975. Such annual production is roughly equal to the *total* production of the past *five* years. Clearly, this is a very tall order.

Residential and commercial supplies of natural gas as well as process uses must be preserved because conversion of these users to coal is unrealistic. The costs of coal conversion must be borne by the sector of the economy that will result in the lowest absolute consumer price increases—that is, electric utilities and major industrial users.

The future of greater coal utilization is inextricably intertwined with the entire future of the United States. At stake is the capability of the United States to determine its own destiny. The Congress, industry, and the American people must support the long-term development of sufficient domestic energy supplies to assure our future economic stability.

Leadership and initiative will be requisite by energy producers and consumers alike.

REGULATORY REFORM AND THE UNEASY LIBERALS

Mr. FANNIN. Mr. President, for many years conservative critics of big government have voiced concern over excessive Federal spending, uncontrollable budgetary deficits, the burgeoning Washington bureaucracy, and the proliferation of Government agencies and programs. Conservatives in Congress have been

predicting dire consequences for our democratic institutions and free economy if the Congress does not take steps to check the growth and expansion of Government power and control. Our warnings are finally being heard.

Businessmen who have been directly affected by Government regulatory activity understand that regulation substantially increases the costs of goods and services that they provide and the public needs. Ordinary citizens are now beginning to realize that economic regulation is not so beneficial to them as consumers and taxpayers as they were once led to believe by liberal politicians. Judging by the mail pouring into my office, my Arizona constituents are increasingly upset over Government's miserable performance record. Their angry letters reflect the popular distrust of politicians and disenchantment with government institutions that the pollsters tell us prevail across America.

Arizonans insist that the Congress must do something immediately to cut spending, trim bureaucratic fat, stop waste and inefficiency and improve the operation and responsiveness of Federal agencies. They demand reform of the Government's regulatory system, with a view to repealing outmoded and unwanted laws and abolishing unnecessary, costly bureaus, councils, committees and commissions. They applaud the President's call for regulatory reform. The conservative message is getting through.

Even the liberals are paying attention. Whatever the stimulus—energy shortages, double digit inflation or the political appeal of the President's program—liberal pundits and politicians who have long advocated Government controls of industry are talking seriously about regulatory reform. Of course, their rhetoric and concern have not yet been translated into solid votes against higher Federal outlays. The Democratic majority is still committed to Government spending programs as the panacea for our social ills and to extending Government controls over business, especially the petroleum industry, despite overwhelming evidence that such regulation has exacerbated the Nation's energy crisis. Yet, as Norman Miller observed in the Wall Street Journal of August 6:

> There is increasing unease among leading liberal officeholders about the inefficiencies, inequities and unpopularity of the gigantic bureaucracy spawned by the array of programs they have championed from the New Deal through the Great Society.

In the view of the Journal's Washington Bureau chief:

> What seems to be happening is that many Democratic liberals are rejecting, modifying or at least questioning some conventional formulas that have guided them—and the country—since the New Deal. And although it is unclear where this process will take the liberals, in specific terms, their very search for alternatives may mark a watershed in politics.

This change of attitude is encouraging, for it it is soon reflected in positive action, perhaps the liberals will reach the same conclusions that conservatives have made concerning the need for positive and comprehensive reform of regulatory process. Regulatory reform, long a desirable but unattainable goal, may then become a political reality.

Many liberals are suspicious that conservative and administration appeals for regulatory reform may disguise other political motives. Their reservations are justified, for conservatives are genuinely committed to dismantling much of the Federal bureaucracy and to eliminating many of the expensive Government programs and unneeded rules and regulations which liberals long supported. Conservatives and liberals, however, share many concerns about government regulation, for instance, that agencies have come to serve the special interests of the businesses they were supposed to regulate. Although they may not always agree on the wisest approach and best solution to regulatory problems, it is to be hoped that conservative and liberal politicians and policy makers will work together, as much as possible, to effectuate meaningful reforms. If not, the problems afflicting our troubled economy may reach crisis stage.

The situation confronting us is aptly described in an editorial appearing in the same August 6 edition of the Wall Street Journal. I quote:

> At some point, the government's appetite for resources starts to overload the economy and threaten the political system. At some point we will have to reach a consensus point about the level of income to which the government is entitled to lay claim. Senator Robert Taft once said that if a government takes more than a third of a person's earnings, that person was no longer a free individual. We hesitate to draw so fine a line, yet surely command over one's income has a great deal to do with freedom of personal choice. At some point—and we already seem to be fast aproaching it—government claims over a person's labor do raise serious questions about basic human freedom.

Mr. President, I call the attention of my colleagues to these two outstanding items, the article by Norman C. Miller, "The Uneasy Liberals," and the editorial "Drifting Toward Statism," which appeared in the August 6 Wall Street Journal. I ask unanimous consent that their texts be printed in the RECORD.

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

[From the Wall Street Journal, Aug. 6, 1975]

THE UNEASY LIBERALS

(By Norman C. Miller)

WASHINGTON.—A sea change in attitude is now occurring among liberal Democrats. The very politicians who created the federal colossus are beginning to oppose the idea of an ever-expanding central government.

So far, this new attitude hasn't been reflected in the actions of liberals controlling Congress. They're still proposing that more federal programs be added to the welter of 1,009 existing categorical-grant schedules run from Washington. For the liberals remain committed to *doing something* to solve social problems, and they don't yet seee acceptable alternative to federally directed programs.

Further, the liberals' partisan distrust of the Republican administration prompts them to almost automatic opposition to President Ford's proposals for consolidation of programs and giving more decision-making authority to state and local governments. The liberals suspect that under the guise of "reform" the Ford administration actually wants to abandon many social efforts. Basically then, the momentum toward building a bigger federal bureaucracy still runs, slowed if at all because of Ford Administration resistance.

Yet there is increasing unease among leading liberal officeholders about the inefficiencies, inequities and unpopularity of the gigantic bureaucracy spawned by the array of programs they have championed from the New Deal through the Great Society. That unease is becoming so great that the liberals are beginning to grope for alternatives.

Meanwhile, the new attitude is producing a conflict among the liberals. Some veterans argue that the emerging criticism of federal power is coming mainly from a few upstarts who simply are pandering to the anti-Washington mood among voters. While it's true that some younger Democrats—like California Gov. Jerry Brown—recently have won office as vocal critics of the federal establishment, the new mood clearly is shared by plenty of veteran liberals in Congress.

"There's a very serious kind of rethinking of the best way to meet the human needs of our society," Sen. Edward Kennedy says. "Over the past few years," the Massachusetts Democrat adds, "many have come to see that one of the greatest dangers of government is bureaucracy."

"The liberals have to reevaluate their posture," says Democratic Sen. Gaylord Nelson of Wisconsin. "Each program looks good, but you put 100 of them together and the results are more negative than positive."

"The federal bureaucracy is just an impossible monstrosity," Sen. Nelson continues. "You can't manage it, there's no way to do it."

GOVERNOR WALLACE'S ROLE

For a long time, most liberals have hesitated to state such conclusions, fearful they would be handing ammunition to conservatives they consider to be basically anti-government. Moreover, George Wallace's racially-oriented denunciations of "briefcase-toting bureaucrats" have made it almost disreputable for many liberals to admit that the Alabamian was also voicing legitimate objections of people to an overweening Washington bureaucracy.

But the long-running power of the Wallace appeal, together with other signs that people are increasingly disenchanted with gigantic government, is persuading many liberals they must finally confront the problems of burgeoning bureaucracy. "There's ample evidence—as a result of the war and Watergate and economic difficulties—that there is widespread disillusionment among citizens about the relevance of government, its programs and its effectiveness," Sen. Edmund Muskie (D., Maine) says. In this political climate, he adds, "I don't think you can successfully defend the discredited side of what we tried to do in some programs. We ought to concede the inadequacies and bureaucratic problems that have been spawned."

A possibly decisive influence on the congressional liberals was last year's election of Democratic governors in traditionally liberal states who are making their mark by *paring down* government—governors such as Brown of California, Michael Dukakis of Massachusetts and even a onetime congressional liberal, Hugh Carey of New York, who took office in Albany last January declaring that "the days of wine and roses are over."

In Massachusetts, Gov. Dukakis has laid off a thousand state workers and cut welfare payments by $311 million, and even as he tries to sell a tax increase he isn't promising lots of benefits. "We must begin to realize that state government has only a limited ability to deal with the problems confronting us [because] it has limited resources," Gov. Dukakis said in a recent television speech.

In California, 37-year-old Jerry Brown

seizes every opportunity to attack government growth. "Spending is not always the way out of our present recession," the governor says. "Sometimes, it's a way into a much bigger pit." He has made avoidance of a tax increase his top goal and strongly pressured state agencies, including the giant University of California system, to hold down spending by reducing programs. He also has attached the whole system of federal subsidies to state and local governments for myriad social purposes.

Many programs represent "misguided efforts at the federal level aimed at making the states do what they don't want to do," Gov. Brown contends. The result is not only wasteful spending but uncontrollable government, says Gov. Brown. "The federal government pours the money through and we just spray it all over the place. There are projects where we don't know how much money is being spent or who is spending it" because the funds sift through a laybrinth of federal, state and local agencies.

"This kind of hybrid form of government . . . is answerable to no one," Gov. Brown declares. "Can this country, at a time when it is running major deficits, afford this kind of nonsense?"

No, answers Philip Noel, the 44-year-old Democratic governor of Rhode Island. "The liberal Democrats are going to have to admit that they've made some huge mistakes creating this maze of federal programs that just breeds inefficiency and frustration," he says.

"It's a disgrace," Gov. Noel continues. "Some of the federal programs I've worked with as a mayor and governor border on criminality. You put $1,000 in one end and the people don't get six cents out the other end."

In Congress, some veteran liberals complain that such charges are just cheap shots by a new breed of on-the-make politicians trying to capitalize on the electorate's anti-Washington mood. "I don't like some of these new guys," says a Democratic Senator. "It's the easiest thing in the world to demagogue these programs. But what are their alternatives? I don't hear them talking about that."

The congressional liberals argue that in some vital policy areas there are no acceptable alternatives to federally-directed action, even though the result may be the creation of bureaucracies that are "inherently irritating," as Sen. Walter Mondale puts it. The Minnesota Democrat cites pollution controls and job safety and health regulations as examples.

Congressional liberals are especially concerned that the attack on federal programs by rising young Democrats represents, consciously or unconsciously, a turning away from federal efforts to channel special aid to blacks and other minorities. "You can't talk about this publicly, but the fact is that many of the specialized programs of the sixties were aimed at helping blacks. Whites resented it and now we are suffering a backlash," argues a Democratic Senator.

Still, the congressional liberals now readily concede they must somehow find ways to make federal programs work better. Sen. Muskie believes the new Senate and House budget committees eventually can influence Congress to discard or change ineffective programs, and better evaluate priorities among continuing and new activities. "We have to bring the budget process under control," he says. "Liberals have to discard the notion that the sky's the limit."

A MEETING OF OPINION

Sen. Kennedy believes liberals should try to lead the drive to overhaul, or even abolish ineffective and redtape-ridden regulatory agencies. He suggests, too, that the welfare-reform debate could be reopened in terms of the desirability of substituting cash payments to the poor so as to cut down the enormous poverty bureaucracy. On both these issues, he notes, "there is an interesting meeting of opinion of the left and right."

Sen. Mondale indicates willingness to consider the Republican-pushed plans for more bloc grants to states and local governments for broad purposes. "When we started these federal programs in the sixties, there was an excellent argument that several states were so segregated that it was necessary to have detailed guidelines," Sen. Mondale says. "That argument is much weaker now and turning back authority to state and local governments has become far more acceptable."

Yet Democrats face a political problem in translating this kind of talk into action. President Ford already is out front on these issues. He is for slashing Washington's strings on aid to state and local governments. He is for reform of the regulatory agencies. And he is doing a pretty good job of blaming the Democratic Congress for "sky's-the-limit" spending schemes. In contrast, the Democrats lack "the one leader who could put it all together and say, 'here are our alternatives'," notes Democratic Rep. Abner Mikva of Illinois.

Moreover, powerful built-in pressures for expansion of government obviously remain. The bureaucracies themselves tend naturally to grow. The knee-jerk reaction of Congressmen is to pass a law every time a problem is sighted, because that way they can say they're doing something. In that, the politicians are not being wholly cynical but rather are often responding to the pressures of influential lobbies demanding more for their interests.

For generalized opposition to bigger government doesn't mean much when it comes to specific issues: "Every Colorado delegation that comes to see me has two messages—one, cut government spending; two, get more federal money for our interests," says freshman Democratic Sen. Gary Hart.

Yet Sen. Hart, for one, believes that pressures for an ever-expanding federal role will ultimately wane—"gradually, over 10 or 20 years"—as a result of two gathering counterforces. One, he says, is that the nation is entering an "era of scarcity" in which "there is no longer a horn of plenty" to supply subsidies-for-everyone politics. Second, he says, is the conviction of many younger liberals like himself that "business has captured the subsidy system and turned the New Deal to its advantage, and big labor unions are right in there with big business." The consequence is that "big government is now opposed to the little person" and therefore has to be scaled down. The only way to do this, Sen. Hart concludes, is to say to the voters: "Don't look to government for a solution to all your problems."

That is hardly traditional liberal rhetoric, but what seems to be happening is that many Democratic liberals are rejecting, modifying or at least questioning some conventional formulas that have guided them—and the country—since the New Deal. And although it is unclear where this process will take the liberals, in specific terms, their very search for alternatives may mark a watershed in politics.

[From the Wall Street Journal, Aug. 6, 1975]

DRIFTING TOWARD STATISM

It's an American tradition to grumble about taxes, laugh at the latest political folly and deride Washington as a symbol of much that is wrong with the country. Yet the typical American appears to give little thought to the question of how much government is necessary or desirable.

This is all the more surprising in that Americans are among the few people who can debate the role government plays in their life with any hope of doing anything about it. Yet over the past several decades, questions about government's relationship to man, a subject that engaged the passion of philosophers through the ages, have tended to be submerged by a succession of New Deals, Fair Deals, New Frontiers and Great Societies. A handful of conservatives continued to raise those questions, but the temper of the times has been against them. Through attempts to solve social problems, and through less exalted political pressures, the government grew and grew, aimlessly but also inexorably.

By now, however, we have reached the point where we can no longer ignore the increasing role of government in our life. Even the liberal Democrats, as Norman C. Miller notes today, now question whether more government is always better government. Some of this talk may arise from visions of running in primaries against someone yelling about "pointy headed bureaucrats." But even such visions are evidence of grass-roots discontent with unfilled promises, often arbitrary regulation and high taxes.

In other quarters, the alarm is sounded even more forthrightly. Caspar Weinberger noted in his recent farewell speech as Secretary of Health, Education and Welfare that if social programs expand during the next two decades at the same pace they have in the last two, half the American people will be working to support the other half.

Laudable though Mr. Weinberger's warning is, however, it is a lot like shouting "the Redcoats are coming" when in fact they have already passed. Economists at Ford Motor Co. recently concluded there are already more Americans (80.6 million) being supported by tax dollars than there are workers in the private sector (71.6 million) to support them.

Perhaps the best measurement of government's influence is the percentage of the gross national product earmarked for taxes. The one-third of GNP collected by all levels of American government is well behind that of Sweden, Norway, the Netherlands, United Kingdom, France and Germany. At least for now. But at former Budget Director Roy Ash noted on this page recently, if present trends continue it is quite easy to foresee a time when the government will command over half of America's GNP, which means that half of all income will be taken in taxes.

In the nature of things, the beneficiaries of these taxes turn out to be organized pressure groups that have the leverage necessary to force politicians to bow to their demands. That is not to deny that many government programs do aid people. But so often the problems at which they are directed seem to go on and on, probably because of the necessity of a "problem" for the bureaucracy to "solve." At some point, the government's appetite for resources starts to overload the economy and threaten the political system.

At some point we will have to reach a consensus about the level of income to which the government is entitled to lay claim. Senator Robert Taft once said that if a government takes more than a third of a person's earnings, that person was no longer a free individual. We hesitate to draw so fine a line, yet surely command over one's income has a great deal to do with freedom of personal choice. At some point—and we already seem to be fast approaching it—government claims over a person's labor do raise serious questions about basic human freedom.

BUDGET COMMITTEE HEARINGS SCHEDULED

Mr. MUSKIE. Mr. President, I have today received the Congressional Budget Office's new study entitled "Recovery: How Fast and How Far?" The report evaluates the success of congressional fiscal policy, identifies potential dangers

and indicates the options and resulting trade-offs which Congress faces in dealing with energy, inflation, and unemployment.

While the CBO report confirms that congressional action to cut taxes and increase social security benefits has provided a "rapid rate of recovery" which seems assured through early 1976, times are still grim and the outlook pessimistic for 8 million unemployed and for every American who struggles under the burden of inflation rates rising again.

The report warns that current monetary policy and higher prices result from food and energy developments. Not as a "result of current pressures on capacity or labor," and could retard or "even abort the recovery."

According to the CBO, there is likely to be little improvement in unemployment in 1977 and inflation will continue at a rate of 6 to 7.5 percent.

Even this pessimistic outlook is predicated on optimistic assumptions about energy policy; namely, no decontrol of oil prices and removal of the oil tariff.

In this framework, where are administration priorities?

Immediate decontrol, the latest administration position means 1.8 percent more inflation, and 600,000 more unemployed, and higher oil company profits over the next 2 years.

This is the policy the administration finds acceptable and offers the Congress and the country. But the CBO report makes it clear that there is an alternative fiscal and monetary policy which could put 1,500,000 more people to work, add $90 billion output to an anemic GNP while increasing inflation by less than one-half percent.

The administration rejects this option out of hand.

The Budget Committee will conduct hearings beginning on September 23 to examine again the difficult trade-offs between energy, inflation, and unemployment in an attempt to arrive at a fiscal policy which will keep the country on the road to recovery on which it has embarked.

Our hearings will focus on three primary issues:

First. Should fiscal policy be changed? Should we have less spending, more spending, an additional tax cut or is the economic policy mix that we decided on last spring still the proper one to rapidly move the country toward recovery?

Second. What new budget requests will the President make requiring additional outlays beyond the Congress total $367 billion? In what ways will the President demand that we bust the deficit either through revised, allegedly more accurate program costs or through spending the President thinks is of a high priority now?

Third. What mix of job-creating programs is most appropriate in light of what we know about their effectiveness and the halting, sluggish character of recovery from recession.

On September 23, the Director of the Congressional Budget Office, Alice Rivlin, the Director of the Office of Management and Budget, James Lynn, and the Chairman of the Council of Economic Advisors, Alan Greenspan, will present a factual background on the state of the budget and the economy.

On September 24, George Meany will appear.

On September 25 we will again explore the relationship between monetary and fiscal policy through a meeting with the Chairman of the Federal Reserve, Arthur Burns. My own objective at that session will be to see if we cannot gain some better control over the impact of discretionary changes in interest rates on other factors affecting the economy and the budget.

The intent of the Budget Act was to enable Congress in time of economic difficulty to set the country firmly back on the track to economic stability. A reasonable argument can be made that monetary policy thus far this year has retarded the speed of economic recovery and unnecessarily prolonged unemployment while not restraining inflation.

On September 30, Secretary of the Treasury Simon and Secretary of Labor Dunlop will discuss potential remedies to deal with unemployment and inflation over the coming months.

On October 1, Mr. Arthur Okun, former Chairman of the President's Council of Economic Advisors, Mr. Murray Weidenbaum, former Assistant Secretary of the Treasury, and Mr. Arthur Brimmer, former Governor of the Federal Reserve, will present the always valuable perspective of informed experts outside the Government.

On October 2, representatives of the business community will present their analysis of our current problems and remedies as they see them.

FEDERAL RATHOLE: GOVERNMENT MOVIE BUSINESS

Mr. FANNIN. Mr. President, recently I inserted into the RECORD a provocative article by UPI Washington correspondent, Don Lambro, entitled "The Federal Rathole: 50 Ways to Plug It." Mr. Lambro called for the elimination of a myriad of unnecessary Government programs and agencies which could save the American taxpayers millions of dollars each year.

Among the costly programs singled out by Mr. Lambro was Federal movie making. I quote the Washingtonian magazine article:

> There is no area in the government as rife with waste and duplication as this one, as hundreds of millions of dollars are spent to produce thousands of films and recordings. Since World War I the government has produced an estimated 100,000 films on everything from toothbrushes to soybeans—an average of 2,000 films a year.
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> No one in the government knows exactly how many films are being produced each year and at what cost. A little-noticed government study said that at least $375 million was spent in 1972 by employees working out of 653 Federal facilities to produce and distribute films, photographs and audio programs.
>
> The government has produced 585 dental films, including at least 12 films on how to brush your teeth. Another 14 films will tell you everything you have ever wanted to know about venereal disease. The Air Force, Army, HEW, NASA, and the Transportation Department have turned out 16 films on driving safety, 11 of them by the Air Force alone. A $64,000 film series by the Navy entitled "How to Succeed with Brunettes" teaches officers proper etiquette, while NASA and the Bureau of Public Roads teamed up to produce "Automobile Tire Hydroplaning—What Happens." There are 3,309 film titles listed in the Air Force catalog, 65 percent of them produced by the Air Force.
>
> A government study that tried to gauge the extent to which federal agencies were duplicating one another's film work confessed the job "turned out to be an all but impossible task." One Congressional study found 45 major agencies were making films and identified at least 1,461 key employees who supervised movie-making activities. The Defense Department alone has more than $289.8 million worth of film equipment spread out over 2,000 military installations. Six of the seven major agencies within HEW have their own film-making facilities and equipment.

The sheer size and mounting costs of Federal film making is emphasized in an article published on September 1 by the Washington Post. According to Post staff writer Richard M. Cohen, Federal agencies have put Washington near the top in film making. In fact, the movie production business is now big business in Washington. The trouble is that no one really knows how big the business really is. It is clear, however, that a number of film companies, many of them with political clout, are lining their pockets at the taxpayers expense.

In 1971 Representative BARRY GOLDWATER, JR., found that the Federal Government budgeted approximately $35 million for audio-visual production in that fiscal year. Since then no study of the Government's motion picture business has ever been completed. According to the Post's article, the General Services Administration set out to probe Government film activity over a year ago but still has not received the results of a survey it requested from Government agencies. This may not be surprising considering bureaucratic lag and inefficiency found in many agencies and the tremendous amount of paperwork that regulators have to go through daily. Nevertheless it is disturbing. Here the Government engages in an important, major business of political, social, and economic consequences and no one knows exactly what is being done or by whom or how much it is costing the taxpayers to do it. I can readily sympathize with the Hollywood film industry which complains that the Government is competing unfairly, using taxpayers money to support this competition.

I recall the controversy generated by the propaganda film about the Kennedy administration, "Years of Lightning, Lays of Drums," which the USIA commissioned for showing overseas. One cannot but wonder how many expensive films like that one are being made today by other agencies for various political purposes. I am sure that my colleagues and the taxpayers would be interested in this information, too.

It is essential that the Congress have a complete and accurate picture of the film-making business currently being supported by our myriad of Government agencies and programs and underwritten

by the taxpayers. The public has a right to know how much of its hard-earned tax money our "Hollywood on the Potomac" is spending on making motion pictures about VD, dental hygiene, driving safety, Navy officers' etiquette or the life and times of JFK. I call on the General Services Administration to complete its survey promptly and to disclose forthwith the results to the Congress.

I call to the attention of my colleagues the interesting Washington Post article on Government film making and ask unanimous consent that its complete text be printed in the RECORD.

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

[From the Washington Post, Sept. 1, 1975]

FEDERAL AGENCIES PUT WASHINGTON NEAR TOP IN FILM MAKING

(By Richard M. Cohen)

Gilbert Courtney, producer for what amounts to the oldest movie studio in the nation, draped himself over the screening room rail, took a drag through his cigarette holder and signaled the projectionist to roll the film.

Lights dimmed. Music swelled—and the screen filled with a group of marionettes discussing, of all things, the danger of ignoring medicine bottle labels. Courtney looked pleased, and returned to offices decorated with movie props and a wall full of film festival awards—Venice, New York, Berlin, Edinborough, Atlanta and others.

Moments later, he left for the day—just another of the thousands of persons who work for the Department of Agriculture, where Courtney has been a movie producer since 1950. Agriculture has been in the film business since 1908, the year it filmed the arrival of the Army's first Wright Brothers plane.

Courtney, of 2100 Brooks Dr., Suitland, is a Washington film maker, making the sort of films that some say have turned Washington into the nation's third largest producer of films—behind Los Angeles and New York. So many films are either made or commissioned here that some have dubbed the city "Hollywood on the Potomac"—no joke to the real Hollywood, which has complained that government film makers like Courtney unfairly compete with the California film industry.

Typical of Washington's film fare are the movies produced by Agriculture—everything from the "Flame In The City" (which was shot on location in the Philippines and memorialized two World War II battles) to "Handling and Storing Apples in Pallet Boxes," a 1959 release listed in the catalogue just under that 1953 epic, "Gypsy Moth."

It's a far cry from the dramatic entertainment mills of the Hollywood myth. Here, the studio is likely to be a government agency, the producer is a civil servant (a captain runs the Navy's Anacostia film facility), and the stars are unknown actors and actresses or the latest piece of military hardware.

All told, there are some 90 independent film producers at work here in addition to the government. They range from two-time Academy Award documentarian Charles Guggenheim to "somebody in a basement in Virginia," as one producer put it.

Although it resembles the industrial film community of any large city, Washington has its own touch of local glamor: the city is home to numerous filmmakers who handle campaign chores for national politicians. This seasonal work requires such support facilities as overnight development laboratories and sound studios geared to quick response for politicians driving to the wire. It sometimes makes for confusion.

Last year, for instance, Guggenheim did commercials for Ohio Democratic Gov. John Gilligan and the local political consulting firm of Bailey, Deardourff and Eyre, Inc., handled Gilligan's opponent, Republican former Governor James A. Rhodes.

One hectic day when Peter Vogt, then production chief for Guggenheim, went to Bono Film Service in Georgetown to see scenes of rushed Gilligan films, he found himself watching the Deardourff spots. (It didn't help: Rhodes beat Gilligan.)

The star had risen early so he could be filmed riding the congressional subway under the Capitol. Now he was sitting at his desk, bright lights overhead, talking about gun control with two lobbyists. As he talked, a film crew moved around him and a sound boom hung just inches from his head. He ignored it all.

After two weeks of shooting, Rep. Abner Mikva (D-Ill.), chosen as a typical congressman for an education film on Congress, was a pro.

The production manager of that film was Vogt, in many ways typical of all but the biggest Washington film producers. Vogt has no studio, no crews and no equipment. Behind the business card proclaiming Peter Vogt and Associates stands an answering service and a mail drop on Wisconsin Avenue NW. When he has a film to make, he can assemble a professional crew from the network of production specialists here.

"There is business in Washington," says Vogt. "The business in Washington is the business that New York wants, that L.A. wants. It's government business, institutional business, political business."

The Mikva film is an example. Although it is being produced by Churchill Films, a California-based producer, and shot by a California film crew, it took a Washington film maker to co-ordinate the shooting, to plan everything from housing the crew to the daily processing of the film at one of the local film laboratories.

When it comes to facilities, however, no private producer here can approach the little Hollywood the government has assembled on the banks of the Potomac. From Agriculture's film unit on 14th Street SW to the Navy's mammoth Photographic Center in Anacostia, Uncle Sam is in the film business in a big way.

Its exact size is a matter of dispute. In 1971, Rep. Barry Goldwater Jr. (R-Calif.) probed governmental film making and said his preliminary inquiries "indicated that the government budgeted approximately $35 million for audiovisual production in fiscal year 1971."

The government has since been seeking to find out just how much it annually spends on film production and how many films it produces. The results are not yet in. After nearly a year, a committee formed within the General Services Administration to monitor film activity does not yet have the results of a survey it has asked government agencies to complete.

Goldwater said that whatever the size, the federal film industry is wasteful. He asserted, for instance, that in a two year period the Pentagon produced 12 films on "How to Brush Your Teeth."

In addition to the Pentagon and Agriculture, other major local film producers include the Department of Health, Education and Welfare, the Environmental Protection Agency, the Department of Interior, Department of Justice, Department of Transportation, the Postal Service, the Treasury, Housing and Urban Development and the National Aeronautics and Space Administration. The United States Information Agency also is a major film maker but is banned by law from domestic distribution.

Most of these departments contract their films to independent producers simply by announcing them for bids in a publication called Commerce Daily.

AGRICULTURE DEPARTMENT

The bright red firetrucks of the Haverhill, Mass., fire department raced out of the firehouse, abruptly reversed themselves and raced back. Then they zoomed forth again. Carl Fowler looked up from his editing machine in an Agriculture Department film office where he was editing a new movie.

It is to be called "Conflagration," and is an attempt to recreate the response to a fire that swept Chelsea, Mass., in October, 1973, causing the evacuation of about 3,000 residents and consuming about a 20-block area of the city.

Fowler of 2130 Brooks Dr., Suitland, and a crew had gone on three weeks of location shooting in Massachusetts to film area fire companies responding to a mock blaze. They even recreated the scene at Chelsea's City Hall, the command post for the firefighting and civil defense officials.

In another Agriculture office down the hall from Fowler, Wolfgang Schubert, of 7906 Gosport La., Springfield, was working on the graphics for the film title. He was making jets of flame shoot out from the word conflagration—a snap for the man who made buffalo do a ghost dance for another Agriculture Department film, "Think Like a Mountain."

But "Conflagration" will not be an Agriculture Department film. The department is producing it for a civil defense agency and will be reimbursed for its costs. It's an example of the government hiring the government, a common practice where film making is concerned.

According to Agriculture film producer Courtney, department rules require that its agencies cannot have non-Agriculture federal agencies produce films. But other government agencies can contract with Agriculture if Courtney and his crews are not busy on department films.

Agriculture made 67 films in fiscal 1974, Courtney said, and 72 this past fiscal year. Some of them entailed the use of actors who, Courtney said, are hired at union wages in Washington. For Agriculture's version of a Hollywood epic, it sometimes calls upon the drama department at Catholic University or upon one of the several talent agencies in town.

"For years I had a contract with Agriculture," said Ruth Quinn, owner of the Quinn Casting Agency. "We've done several things for them," Mrs. Quinn, who has cast movies for other agencies as well, said that recently her business with Agriculture has slowed to a trickle.

"They used to use quite a few (actors)," she said. "Sometimes 20 or 30 and sometimes more than that. Right now, they're at a standstill."

In addition to actors, government agencies, such as Agriculture, occasionally call upon Washington personalities to work as narrators. Agriculture has used such local newsmen as Jim Vance and Willard Scott, Courtney said.

NAVAL PHOTOGRAPHIC CENTER

When it comes to locally produced movies, no one in town can hold a candle to the Navy, whose Naval Photographic Center in Anacostia employs more than 150 men and women—civilians, enlisted men and officers. Its sound stage dwarfs the one at Agriculture and was deemed professional enough by the producers of "All the President's Men." for them to ask for its use. The Navy said no.

The facility annually commissions about 100 films for the Navy, of which about 20 are made inhouse. The remainder are awarded under contract to independent producers, but even for the film made at the facility, the Navy calls upon such specialists as writers.

Like Agriculture, the Navy acts as a freelance producer for other government agencies, making movies for them if Navy business does not come first. And like Agriculture, the Navy occasionally calls upon local actors for movie roles. "We find the people who look most like sailors are not sailors," said Commander Brandon Blum, commander of the motion picture unit.

Essentially, the Navy's center is a complete film production center under one roof—containing everything from the cameras to print-making facilities to charm out the final duplication of the master film. Its mission, as the Navy says, is basically to make training films. But it also produces television spots for the Navy's shipboard closed-circuit television facilities to be inserted in place of commercials.

It has an audio-visual budget of $5.2 million a year, and the most sophisticated facilities in the Washington area, including its pride and joy—a sound stage big enough to drive truck onto.

"It's one of the largest on the East Coast," said Capt. Blum as he walked its expanse. "By Hollywood standards it wouldn't be that big. But for the standards of the East, it's pretty big."

The stage was designed and built by Eastman Kodak during World War II when the Navy constructed the facility to produce training films for an expanded service. The floor is hydraulically supported and the door is set in rubber—all to reduce sound interference. The sets for the stage are built at the Navy's own shop in the building.

At the time of a reporter's visit recently, no film was being made on the stage. Instead the Navy's film crews were on location elsewhere around the country. Upstairs, however, civilian and enlisted technicians were processing recently shot film. One was a training film for a new Navy fighter plane that was being projected on three screens—upside down—so the technicians measuring the color would not be distracted by the film's content.

It was a slow day for the Navy in movieland.

I BELIEVE IN AMERICA

Mr. HARTKE. Mr. President, as the Bicentennial of these United States of America approaches, I am pleased to relay to my colleagues of the Senate this literary piece which was presented in honor of our Nation's 200th birthday to the people and community of Bedford, Ind., by the Reverend Robert E. Anderson, of St. John's Episcopal Church of Bedford, Ind.

I ask unanimous consent to have this presentation printed in the RECORD.

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

I BELIEVE IN AMERICA

(In Honor of our Nation's 200th. birthday, I dedicate this to the people and community of Bedford, Indiana, whose roots are deep in the history of America.)

(By the Rev. Robert E. Anderson)

I believe in America.

The America born in travail and pain, a child of hope, vision and faith. The America conceived by travelers, pilgrims in search of a new life. Sons of freedom.

I believe in America.

The dream unfolding as a great drama across the pages of history. A story written in blood sweat and tears and the spirit of liberty. Sons of freedom.

America. A land. A dream. A people. A spirit. A reality.

A people who built a government-unequaled in time. A system. A way of life. A spirit clothed in human form—rough hewn from the forest primeval, testing the sinews of human spirit.

A glory born under struggle, a struggle for freedom, manhood, life—the right to be pioneers. Rugged coastlands. Towering mountains. Golden plains. Valleys wide and rivers long. A land and people. A nation under God.

America. The noblest of all experiments—in democracy, liberty, freedom and the eternal spirit to soar.

America. Pioneers. Statesmen. Workmen. From villages and settlements, colonies to states, valiant men forged a new document. Life. Human dignity. We call it the Bill of Rights.

America. Valiant soul rose mighty—mighty in valor. No serfdom to kings or queens nor vassals to be controlled. Freedom. Freedom. Light. Liberty.

The midnight cry was never ceased—nor shall it with danger near. Liberty for all and the right to be—the right to achieve—the right to live—The truth has made us free. The right of every man must be—happiness without chains.

America. Her people coming of age. Manchild. Dreams coupled with determination. North and South—East and West—a people undaunted gave birth—a people found new hope—Identity.

America. The melting pot of the world. Poles and Irish. Germans and Swedes. Italians and Greeks. Scotch and English. The song of freedom far flung across ancient empires. Hopes alive and dreams come true.

Struggles did come. Brotherhood is never easy. Tears and pain mingled with heated words. Race and class divided and society felt the sword. Struggles were born as fear and hate gave way—gave way to a new dawning.

America. Tried by fire. Tested upon the anvil—the anvil of our destiny. United as one or divided. The answer was long and painful. Maturity comes hard but it comes in time. The flag still waves.

America. From the farmlands to the cities, From the whirl of industry to the infinity of space, We have led the way. The people, yes the people reaching higher toward the stars. Opportunity. No man need be a slave to anything or anyone.

No longer virgin soil. No longer far flung outposts. No longer settlements or trading posts with garrisons. No longer an infant struggling to survive. Manchild. Genius of mind and spirit creating a new and better tomorrow.

I believe in America. Her people. Her government. Her sons and daughters. Her spirit. Her industry. Her tillers of the soil. Her strength. Her vitality. Her compassion. Her mission. Her sons who fought and her daughters who served that we might all be free.

America. Today. Tomorrow. Facing problems. Meeting challenges. Building bridges for peace. Creating with eternal hope the visions of what still can be. No coward souls are we, for every test an opportunity.

Let the trumpets blow! Let the prophet's voice be heard. Those who seek to divide—sow seeds of discord—tear the cloth of our garments—let them hear and hear it well—The sons of freedom shall never fall. No timid soul are we nor shall we languish as slaves in chains. This is our land—This is our America.

America. Liberty. Freedom. Democracy. Yes—we have fallen short. Yes—we have made mistakes. Yes—we have tried too hard to make impressions. Yes—there has been honor and also dishonor. But we are free and blest with the power to right our wrongs and do it with liberty.

Yes—we have been careless—careless with the land. Yes—we have been withering in the heat of injustice. Our cities are asphalt jungles and our people stop and weep. Yes—we have had times of violence and our soul is cut to the deep. Yes—all of this and more we know, and we know it all too well.

Still the heart beats and the spirit rises high. Still the song of freedom is heard from valley wide and mountain high. Still the pulse is strong and the courage never wavers. America. America. The land and people finding their real destiny.

No land—no people—no country—no government—has ever been as we—this is America! Shout it loud and clear. Sing it around the world. O blessed liberty.

200 years since that birth. 200 years we have come this far. 200 years we have forged a new world. 200 years we have met the test. 200 years we have fought the good flight. America. Her flag still waves. Her people on every hand—still live—The Sons of Freedom.

We are not finished. We have just begun. We are growing and marching on in the Promised Land. America. I stand. I stand with head high and heart aflame. I stand as the red, the white and blue waves in the noon day sun. I stand. This is My America. This is Your America. This is Our America.

Let the church bells ring. Let the flags wave. Let the bands play. Let the people march. Let the children sing. Let the whole world know—yes let them know—let them know now and forever.

This is our America!

In God We Trust!

CONCLUSION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that morning business be closed.

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

RECESS UNTIL 2 P.M.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 2 o'clock.

There being no objection, the Senate, at 12:31 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BELLMON).

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. 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.

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION ACT, 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 357, H.R. 8069, so that it will become the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 8069) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

LEGISLATIVE PROGRAM

Mr. HUGH SCOTT. Mr. President, will the distinguished majority leader yield for a question?

Mr. MANSFIELD. Yes, indeed.

Mr. HUGH SCOTT. The distinguished majority leader and I discussed earlier today the importance of taking some action promptly on energy legislation. I believe there has been discussion in both party conferences on this matter. We are anxious that something be done, and done promptly, and I would like to know whether the distinguished majority leader plans to bring up the principal bill, S. 692, which a number of Senators favor, or S. 2310, recognizing that either might be offered, of course, as an amendment to the other. The Pearson amendment, the Tunney amendment, and others are, I believe, germane and could be offered.

Mr. MANSFIELD. Yes. Mr. President, I am glad the distinguished Republican leader has raised the question, because it gives me an opportunity to lay before the Senate the schedule as agreed to by the Democratic policy committee, which has just concluded its meeting.

As the Senate is aware, H.R. 8069 is the pending business. There will be no action taken on that measure this afternoon, and no votes this afternoon, but it will be the pending business as of the conclusion of morning business tomorrow.

The distinguished assistant majority leader has already received consent from the Senate that when we recess tonight, we will recess until 10 o'clock tomorrow, and I do not know as yet whether there will be any special orders.

ROUTINE MORNING BUSINESS TOMORROW

I ask unanimous consent that following any special orders tomorrow, there be a period for the transaction of routine morning business of not to exceed 30 minutes, with a time limitation of 5 minutes on statements therein.

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

Mr. MANSFIELD. Following the disposal of the appropriations for the Departments of Labor and Health, Education, and Welfare, it is the intention of the leadership to then turn, on Thursday, to Senate Resolution 239, disapproving the alternative plan for pay adjustments for Federal employees, the so-called cost-of-living bill, which was reported out of the Post Office and Civil Service Committee today.

Mr. HUGH SCOTT. There will be a vote on that, I understand.

Mr. MANSFIELD. There will be a rollcall vote on that. It is my understanding that under the law the time allotted for debate on Senate Resolution 239 will be 2 hours, so that the consideration of the bill will start at 1 o'clock on Thursday, and the vote will occur at approximately 3 o'clock that afternoon. Then it is the intention of the Democratic leadership to call up Calendar No. 355, S. 2310, a bill to assure the availability of adequate supplies of natural gas during the period ending June 30, 1976.

This also is being done on the instructions of the Democratic policy committee. I would anticipate that there will be some difficulty with that proposal, just as I would anticipate there will be difficulties with Calendar No. 186, S. 692, the bill which the distinguished Republican leader mentioned earlier, and for which he indicated a preference that it be taken up first.

Mr. HUGH SCOTT. If the distinguished majority leader will further yield, I ought to explain that I said the majority of the Members on this side favored bringing up S. 692 first for a major reason, and that is the fear that, if S. 2310 is brought up first and should be passed, there might be a disposition to defer action on S. 692 indefinitely, and they feel, therefore, that we would not get broad major energy legislation.

Mr. MANSFIELD. Mr. President, will the Senator yield there?

Mr. HUGH SCOTT. If I may conclude, I say that, if we could feel that in taking up S. 2310, subject to whatever amendments might be offered with the firm commitment that promptly thereafter S. 692 could be brought up, that would alleviate the concerns of some of our Members.

Mr. MANSFIELD. Mr. President, the idea is perfectly acceptable.

I wonder if in the meantime it would be possible to get a time limitation agreement on S. 2310?

Mr. HUGH SCOTT. I would suggest that interested parties from the Committee on Interior and Insular Affairs better meet together, because there seems to be some concern among others on the very subject that I mentioned: how to work these two bills out so that both of them can be debated and acted upon?

Mr. MANSFIELD. Mr. President, I indicated the proposal made by the distinguished Republican leader is perfectly acceptable to me.

ORDER FOR CONSIDERATION OF S. 2310 AND S. 692

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the vote on Senate Resolution 239 the Senate then turn to the consideration of S. 2310 and that after it is disposed of the Senate then turn to the consideration of S. 692.

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

Mr. MANSFIELD. There will be no further votes this afternoon.

Mr. HUGH SCOTT. I thank the distinguished majority leader.

ORDER FOR RECOGNITION OF SENATORS ALLEN, SYMINGTON, AND ROBERT C. BYRD TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, prior to the period for the transaction of routine morning business and immediately after the two leaders or their designees have been recognized under the standing order, Mr. ALLEN be recognized for not to exceed 15 minutes, that he be followed by Mr. SYMINGTON for not to exceed 15 minutes, and that I then be recognized for not to exceed 10 minutes.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 10 a.m. tomorrow.

After the two leaders or their designees have been recognized under the standing order, Mr. ALLEN will be recognized for not to exceed 15 minutes, Mr. SYMINGTON will then be recognized for not to exceed 15 minutes, after which I will be recognized for not to exceed 10 minutes.

There will then ensue a period for the transaction of routine morning business. Such a period will not extend beyond 30 minutes, with Senators permitted to speak not in excess of 5 minutes each during that period.

The period for routine morning business is for the purpose only of introduction of statements, memorials, petitions, bills, and resolutions.

Upon the conclusion of routine morning business, the Senate will proceed to consider the HEW appropriations bill. There will be rollcall votes undoubtedly during the day on amendments thereto and hopefully on passage thereafter.

Mr. HUGH SCOTT. Mr. President, if I can anticipate the next motion of the distinguished assistant majority leader, we can only add to his motion that it is in the national interest, and I concur in advance.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 10 a.m. tomorrow.

The motion was agreed to; and at 2:14 p.m., the Senate recessed until Wednesday, September 17, 1975, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 16, 1975:

IN THE NAVY

The following-named officers of the U.S. Navy for temporary promotion to the grade of lieutenant in the line and staff corps of the Navy, as indicated, subject to qualification therefor as provided by law:

LINE

Lieutenant

Aarnes, Richard Lewis
Abretski, Paul Robert
Adams, Andrew Roderick
Adams, George Francis, Jr.
Adams, Jerry Carl
Adams, Robin Lee
Agostini, John Mario
Ainsley, William Lowther, III
Akers, Carl Wayne
Albert, Lawrence Richard
Albin, David Earl
Alderman, John Porter
Aldridge, Billy Don
Aleks, Richard Thomas
Aleshire, Elroy Wayne
Alexander, Douglas
Allen, Andrew J.
Allen, James Joe
Allen, Kristin Lloyd
Allen, Robert Raegan, Jr.
Allin, Robert Wesley
Allison, John Simmons, Jr.
Allum, Arthur Eugene
Almquist, Thomas Victor
Altman, Kenneth Bruce, Jr.
Amorosi, Francis Gregory
Anderson, Edward William
Anderson, Eric Leonard
Anderson, Larry Edward
Anderson, Richard Allen
Anderson, Robert Alton
Anderson, Robert Lewis
Andre, Duane Alan
Andrew, Stewart Raymond
Andrews, Kenton Grant
Angelo, James Warren
Aninowsky, William Edward
Applegate, James Merle
Archibald, Gary Thomas
Arnold, Don Louis
Arnold, Kenneth Berkeley
Arnold, Robert Bruce
Arnold, William Glenn
Ascione, Raymond Armond
Ash, Michael Claude
Ashbridge, George, IV
Ashim, Larry Dennis
Askey, Charles Benjamin
Aten, John Joseph
Aukland, Bruce Michael
Ault, Jon Franklin
Austin, Kenneth Burdette, Jr.
Avenson, Jerome Harvey
Avery, Richard Charles
Axelrod, William Harold
Axtell, Stephen Paul
Baas, Daniel Louis
Babarik, Dan Edward
Babbitt, James Charlton, Jr.
Bach, Terrance Stephen
Bacon, William Fritz
Baczenas, Robert Carl
Baer, Howard Fallier, Jr.
Bagley, Edward Garland, III
Bagley, Raymond Calvin
Bailey, Jack Nathaniel
Bailey, William Charles
Bailly, Richard Marcel
Baird, Robert Kent
Baker, James David
Baker, Neil Douglas
Baker, Richard Carl
Bal, Eugene, III
Baldasari, Nicholas Eugene
Ballas, Jim William
Ballweber, William Arterberr
Balson, William Edward
Banks, Willie B., Jr.
Barber, David Hughes
Barber, Theodore, Jr.
Bard, Ralph Michael
Barnes, Leslie William
Barnett, Peter Graham
Barnhill, Arizona Wendell
Barrington, John Sanders
Barron, Timothy Ray
Barthell, Walter Conley
Bartosh, Stephen Andrew
Bassett, William Thomas
Bates, Richard Samuel
Bates, William Arthur, Jr.
Battle, Frank James
Bauer, Dennis Dean
Bauer, Robert William
Baugh, Dale Eric
Baughman, Wilfred Earl, Jr.
Bausili, Mark Thomas
Bean, Jerry Wayne
Beard, Jeffrey Raymond
Beardin, Larry Don
Beardsley, Wayne Leroy
Beason, John Charles
Beaver, Robert James
Beavers, Michael Cornelius
Bechem, Anthony Joseph
Beck, Donald Dean
Beck, Harold Robert
Becker, Paul Robin
Beckman, William Lawrence
Been, Richard Glenn
Beene, Ronald Owen
Beer, Bill Eugene
Behringer, Stephen Edward
Beirne, Vincent James
Beiter, Michael William
Belcher, John Charles
Belcher, Robert Douglas
Bell, John Bradley
Beloncik, Chris James
Bence, Ronald Paul
Benedict, William Lance
Benefield, Robert Brand
Benham, Webster Lance, III
Bennett, Robert Wesley
Benton, William Duane
Berard, Raymond William
Berdinka, Mitchell James
Berg, Robert Jeffrey
Bernander, Paul Robert
Berriman, John Wallace
Berry, Gale Vernon
Berry, George Zellner
Berto, David Spencer
Bertram, David Lee
Besal, Robert Eugene
Betancourt, Jose Luis, Jr.
Beutell, Timothy O'Brien
Bever, Daryl Leroy
Biby, Dennis Keith
Biedermann, Robert John
Bienhoff, Paul Arthur
Bierut, Jerome Walter
Bills, Steven Howard
Bisceglia, Stephen Vincent
Bishop, David Allan
Bishop, Phillip Anderson
Bishop, Theodore Andrew
Black, Gene Chapman
Blackman, Richard Allen
Blaine, William Kenneth
Blake, Jimmie Oliver
Blakely, James McMahan
Blakey, Blake Victor, Jr.
Blanchard, Robert Kevin
Blanding, Jonathan Hughes
Blanton, William Dunn, Jr.
Bledsoe, John Richard
Blevins, Timothy Ray
Blomeke, Hugh Douglas
Blosser, John Daniels
Blume, Russell Elmer
Blunt, James Michael
Blunt, Paul Frederick
Bobo, William, Jr.
Boeshaar, Richard Tucker
Bolin, Phil Warren
Bollen, Anthony Keith
Boller, George Robert
Bolton, Frederick A.
Bond, Robert Michael
Bones, John David, III
Boniface, William Scott
Booker, Robert William
Boose, Marion Sanford, Jr.
Boost, Walter Gavin
Booth, James Elliott
Borno, Louis Michael, Jr.
Boroff, Jeffrey Lee
Bouch, Timothy William
Boulden, Walter Raleigh, Jr.
Bower, Michael Joseph
Bowes, David Robert
Bowles, Ira Leslie, III
Bowlin, James Allen
Boy, David Clarke, III
Boyar, John Anthony
Boyd, James Alexander
Boyd, James Walter
Boyer, Pelham Grant
Boyle, Jerome Pillow
Boyle, John Earl, III
Bozeman, Virgil, III
Bradley, James Wilkes
Brady, Bernard Galin
Brady, Edward Daniel
Brady, Edward Matthew
Brady, Joseph Benjamin
Brandenburg, Edward Joseph
Branson, James Lee
Braseth, Peter Clinton
Breedlove, Rodger Dale
Breiner, Thomas Lee
Brennan, Michael Eugene
Brennan, Michael Francis
Brewer, Charles Gary
Brewer, Craig Walter
Bridge, Jonathan Joseph
Bridgeford, Joseph Vincent
Briggs, Fred Melvelli, III
Brilla, Richard Charles
Brinker, John Aden
Brinson, Buck, Jr.
Brittain, William Gordon, Jr.
Brown, David Kearney
Brown, David Nelson, III
Brown, Douglas Leo
Brown, Glenn Thomas
Brown, Guy Henry
Brown, Jesse Howard
Brown, Kelley Augustin
Brown, Larry Alan
Brown, Peter Granville
Brown, Rodney Charles
Brown, Tommy Albert
Brownhill, Lloyd Douglas
Brownsberger, Nicholas Mason
Broyles, James William
Bruce, Robert James
Brucker, Blaine Robert
Bruckman, David Earl
Bruckner, Charles John, Jr.
Brumbaugh, David Lindsay
Bruner, Todd Thornton Whitne
Bruninghaus, Ronald Paul
Brust, Stephen Ray
Bryant, Michael Lynn
Buchanan, Herbert Lee, III
Buchspics, Kenneth Lewis, Jr.
Buckner, John Oliver
Buker, Gary Edward
Bullock, James Leslie
Bullough, Bruce Lynn
Bumgardner, Paul Ray
Burdette, Allen Leamon, II
Burdge, Richard James, Jr.
Buresh, Jon Alex
Burgess, Thomas Charles
Burgin, William Edward, Jr.
Burke, Thomas Stephen
Burkhart, Larry William
Burnett, Douglas Randolph
Burnham, Robert Lewis
Burns, Daniel Patrick
Burr, Gerald Lynn
Burroughs, Bruce David
Burton, Fred Ernest
Busch, Danny George
Buschmann, Roger Louis
Butler, James Paul
Butler, Lester Edison, Jr.
Butters, Joseph Kyle
Byczek, John Albert
Byerley, Stephen Chris
Byham, Richard John
Byrd, John Thomas
Cahill, Edwin Joseph
Cahoon, David Clinton
Calcaterra, Frank Sal
Caldwell, Daniel Eugene, Jr.
Caldwell, John Walter
Caldwell, Timothy Dennis

Caldwell, Warren Lee, Jr.
Calhoun, Jimmy Royce
Callahan, Stephen Francis
Cameron, Gerald Phillip
Campbell, Barry Lee
Campbell, Gary Lee
Campbell, Richard Pryor
Campo, Milton Peter
Candalor, Michael Bruno
Canfield, Stephen Russell
Cannan, Robert William
Cannan, Stephen Michael
Cantfil, Scott Thomas
Cantwell, William Joseph, Jr.
Card, Loren Philip
Carle, Mark Vearil
Carlson, Donald John
Carmichael, John Scott
Carmody, Michael James
Carnevale, Joseph Anthony, Jr.
Caroli, William Alexander
Carrier, Guy Joseph
Carroll, Charles Earl
Carroll, Edward Bennett, Jr.
Carter, Larry James
Carter, Leslie Roy
Carter, William Lee
Casmer, Dennis Ronald
Cassada, Jack Henry
Cassidy, Kevin Gary
Castleman, Lexie Charles
Caswell, David Lewis
Cattanach, Robert Edward, Jr.
Ceaglio, Lawrence Benjamin
Cech, Ladd Michael
Cereghino, Stephen Joseph
Cerveny, Alvin Earl
Chabot, Robert Edward
Chalker, John Edward
Chambliss, Kevin Vernon
Chandler, Michael Edward
Chandler, Richard William
Chapin, Lee Alan
Chapman, Davey Sinclair
Chapman, Robert Gene
Chapple, Leroy Windsor
Chesneau, Lee Stewart
Chiasson, Richard Allen
Christensen, Erick Thomas
Christensen, Steven Donald
Christian, Robert Howard
Christiansen, Terry Gordon
Chung, William Gerald
Cincotta, Paul Edward
Claeboe, Gregory Malcolm
Clancy, Dion Frank
Clark, James Stephen
Clarkin, Thomas Robert, Jr.
Clawson, Michael Joseph
Clawson, Stephen Harvey
Clayman, William Dennis
Clayton, Irving Brodribb, III
Clements, Joseph Edward
Clifford, John Daniel
Clutter, Michael Douglas
Coffer, Alan Bennett
Coffey, Jeffrey Grant
Coffman, Bert Uwe
Coggins, Andrew Oscar, Jr.
Cohrs, Fred Lester
Coleman, Alfred Byrdell, Jr.
Coleman, David Scott
Coleman, James Hill
Coleman, Joe Thomas, Jr.
Coleman, Robert Owen
Collier, Dewey Russell
Collins, Harold Michael
Collins, Kevin Robert
Collins, Richard Wayne
Collins, William Wallace
Columbia, Timothy Francis
Combs, Charles Richard
Combs, Russell Wayne
Condon, Robert William
Connair, Thomas Pierce
Connelly, Joseph Bernard
Connelly, Michael Joseph
Connelly, Thomas Joseph, Jr.
Conner, Hilton Leroy, Jr.
Connolly, Paul Michael
Conover, Charles Donald, Jr.
Converse, Thomas Isaly
Cook, Hal Lee
Cook, Robert Bartlett, Jr.
Cook, Roy Donald
Cook, William Eckford, Jr.
Cook, William John
Coon, Ralph Herbert, Jr.
Coonan, Robert Paul
Cooper, Charles Clark, Jr.
Cooper, Michael Robert
Cooper, Robert Jac
Cooper, Thomas Charles
Corcoran, Thomas Charles
Cordasco, Michael Francis, Jr.
Cornelison, Ronald Franklin
Corson, Craig William
Cosgrove, Douglas Earl
Cosgrove, Patrick Eugene
Costigan, Kenneth Michael
Cottrel, William Russell
Coupland, Steve Joel
Cousins, Jack William
Cover, Craig Harding
Covington, Richard Benjamin
Coyle, Gary Leonard
Crabtree, Joseph Howard, Jr.
Craig, Michael Christopher
Craigie, George Seater, Jr.
Crall, Max Richard
Crane, Dennis Joseph
Crane, Jeffrey Ralph
Crawford, Bertram Madison, Jr.
Crawford, Gary Ronald
Crawford, John Thomas
Crawford, Robert Owen
Creamer, Charles Gayle
Creelman, James Edward III
Crim, Mark Adren
Crimmins, Dennis Paul II
Crinklaw, Douglas Leon, Jr.
Cronauer, Harold Thomas, Jr.
Crook, Kevin Patrick
Crooks, Dennis John
Cross, Charles Donald
Cross, James Kilpatrick
Cross, Raymond Stephen
Crossen, James Robert
Crossland, Edward Ernest
Crouse, David Lee
Crowell, Charles Davis
Crowell, Michael Alexander
Crowley, Dennis Elliott
Cruze, Stephen Grant
Cummings, Brian James
Cummings, Darryl Pittmon
Cummings, John Alexander
Cummings, Jon Richard
Cunningham, James Patrick
Cunningham, Richard McHenry
Curley, Timothy John
Curnutt, Randall Chris
Curry, Raymond Michael
Curtin, Thomas
Curtsinger, Delbert Anthony
Custer, Richard Dale
Cuzzocrea, John Leo
Cymerman, Zbigniew Adam
Dabritz, David Edward
Dahlquist, Paul William
Dalby, Brian Shearer
Daley, Michael John
Dalonzo, John Michael
Dalton, Merrill Albert
Daly, John Francis, Jr.
Daly, Joseph Thomas III
Damar, Leroy Charles
Danco, Thomas Richard
Danforth, Lawrence Wayne
Daniel, Gerald Lynn
Daniels, Andrew Martin, Jr.
Dankert, David Marshall
Darling, Ralph Edward
Darnell, Wayne Calvin
Darton, Terry Heber
Darwin, George Robert
Daugherty, Edward Bloxom III
Daughtry, Douglas Stephan
Daum, Bryan Edwin
Davenport, Mark Joseph
Davidson, Edward Martin
Davidson, William Eben
Davidsson, Jeffrey John
Davis, Dan Alan
Davis, Eric Stanley
Davis, Gerald Owen
Davis, Jordan Butler, Jr.
Davis, Nelson Charles
Davis, Robert Martin
Davis, Rodney Michael
Day, Edward William, Jr.
Daywalt, Theodore Lewis
Deacon, Thomas George
Deal, Rocklun Allen
Dean, Alvin Earl
Dean, Dennis Ross
Debutts, Harry Ashby, II
Decker, Charles Edgar
Deemer, Richard Eugene
Deering, Ronald Dean
Deese, David Shannon
Defors, Michael James
Degolian, William Dufour
Deibler, Michael Jeffrey
Deken, James Donald
Delaney, Dennis Michael
Delong, Richard Clair
Demain, William Robert
Demarco, Jimmy Wayne
Demeo, Michael Joseph
Dempsey, Perry Ward
Deneen, Brian Michael
Dengler, Robert Joseph
Dennis, David Arthur
Dennis, Ronald Wayne
Denson, James Paul
Dentler, John Campbell
Depoix, Christopher Paul
Derbyshire, James Walter
Deregt, John Pieter
Deschauer, John Joseph, Jr.
Deschene, David James
Desmond, Dennis Alan
Deuley, Thomas Paul
Devillier, Julian Paul
Devin, James David
Devlin, David Platt
Devlin, John Charles
Devore, George Kenneth
Devries, Robert Donald
Dewald, Bruce Frederick
Dick, Lawrence Lee
Dickson, James Bohart
Dickson, Lee Alan
Dietrich, Leif Leopold
Dilgren, Glen Alan
Dilick, Gregory Frank
Dillingham, John Louis
Dillon, John Michael
Dimmette, Joel Powell, Jr.
Dinkins, James Edward
Disy, Edward George, Jr.
Dohse, John Frederick
Dolan, Robert Eugene
Dom, Stuart Nevin
Dominick, George Clarke
Donihi, Burleson Mills
Donlan, Joseph Anthony
Donlon, Stephen Edward
Donohue, Richard Harney
Donovan, Michael Douglass
Doo, Harry Yin Chong Kahanan
Doran, Milton Dean, Jr.
Dorsey, John Peter
Dorticos, Raul Horacio
Doshier, Alan Jeffrey
Dougherty, Barry Lawrence
Dowd, Vincent Patrick
Doyle, Michael Thomas
Doyle, Patrick Robert
Dragone, Joseph Anthony, Jr.
Drake, Thomas James
Drawneck, Richard Allen
Dreiling, David Lee
Drews, Robert Adam
Dreyer, Donald Richard
Driscoll, Edmund Francis, II
Driscoll, Joseph Francis
Drobnak, Peter Michael
Drumm, Donald Kenneth
Drummond, Thomas Frank
Dubay, Roland Charles
Dubina, Daniel Edward

Dudek, David Paul
Dudek, Frank Jude
Duffett, Neale Arthur
Duguid, Roger Alan
Duke, Boyce Wayne
Dukes, Donald Carl
Duma, David Wayne
Duncan, David Alan
Duncan, Richard Russell
Duncan, Stephen Van
Dunlap, Barry Charles
Dunlap, Billy Wayne
Dunn, David Allen
Dunn, James Patrick, Jr.
Dunne, Patrick William
Dunning, John Alan
Dunscombe, Bruce Edward
Dye, John Dennis
Dziedzic, Thomas Joseph
Eads, Robert Stephen
Earnest, William Grover
Earwaker, John Skermer, III
Easter, David Templeton
Easton, William Richard, Jr.
Ebeling, Charles William, II
Eckler, Burton Franklin, Jr.
Edelstein, Daniel Nelson
Edmonds, Justin Davis
Edson, David Preston
Edwards, Charles Terrell
Edwards, Mark Jackson
Edwards, Scott William
Eger, John Gaylord
Eichel, Laurence Alan
Eichelberger, Kenneth Lee
Eiland, Garland Bowers, Jr.
Eisenhuth, Joseph Paul
Elberling, Lance Eric
Elfervig, Leonard Randolph
Elles, Christopher Jacob
Elliker, John Samuel, Jr.
Ellis, Jimmy Lee
Ellis, Mark Edmund
Ellis, Robert Boyce
Ellis, Ronnie James
Ellison, Carl Edwin
Ellslager, Michael Alan
Elsen, Paul Douglas
Emerick, Dennis Paul
Emmert, Mark Albert
Endicott, David Carlisle
Engelhardt, Bruce Bidwell
England, Richard Terry
Ensley, Lee Michael
Epley, John Douglas
Erazo, Luis Ricardo
Erbele, Douglas James
Ervin, James Edward, Jr.
Etter, Alan Yancy
Evans, Gary Glen
Evans, Gary Wayne
Evans, John Charles
Evans, Ted Robert
Everett, James Legrand, IV
Evers, William Barton
Ewart, Uson Yuan
Fahner, Richard Byron
Falkey, Mark Steven
Fargo, Dennis Kenneth
Farthing, James William, II
Farver, Rick Clark
Farwell, Bruce Kircher
Fayle, Patrick Anthony
Federici, Dennis Carl
Fehrs, Thomas Lee
Feldman, Brian Darrell
Fennessey, 1 onald Brian
Ferguson, Kevin James
Ferree, William Daniel
Fifer, Louis George
Filanowicz, Robert Walter
File, Gary Lee
Filippini, Daniel Alan
Finley, Charles Crothers
Finney, Robert Dean
Firth, David John
Fischbeck, Jeffrey Allen
Fisher, Calvin
Fisher, John Walker
Fisher, Joseph Timothy
Fisher, Robert Stewart, Jr.
Fitzhugh, Gary Lowell
Fitzkee, Stephen James
Fitzsimmons, Michael Joseph
Fitzsimons, John Richard
Flanigan, Richard Joseph
Flatt, Dean Michael
Fleet, George Barry
Fleming, Daniel Eugene
Fleming, Kenneth Werner
Fleming, Richard Peter, Jr.
Fleming, Robert Eugene
Flenniken, Michael Elmo
Flones, Richard Lee
Flood, John Thomas, Jr.
Flora, William Joseph
Flowers, Philip Raymond
Floyd, Thomas Fenton, II
Foley, George Bernard
Fondren, Steven Verne
Forman, Samuel Eugene
Fosse, Roger Wilson
Foster, John Irving, Jr.
Foster, Thomas Hume, II
Foster, Thomas Wayne
Foti, Stephen Gino
Fouke, Ronald Lee
Fowler, Larry Richard
Fox, Donald Clyde
Fox, Edward Charles
Fox, Phillip Arthur
Frahler, Donald Andrew
Franklin, Richard Arman
Franklin, Roland Michael
Franz, Lornie Anthony
Fraser, Powell Alexander, Jr.
Fratello, Thomas James
Frederick, Stephen Edmund
Fredrickson, James Michael
Freeland, Newton Forest, Jr.
Freeman, Russell Dean
Frenzel, Brian Douglas
Friedel, John Michael
Frieden, Charles Oscar
Friedman, Leonard
Frnka, Robert Donald
Froemel, Anthony Frank
Frump, David Arthur
Frye, Mark K.
Fulham, Thomas Anthony, Jr.
Fullerton, John Alan
Fulwider, David Van
Funk, Duane Hadley
Gaffrey, James Thomas
Galluccio, Joseph Michael
Gallup, Frederick Sherer, III
Galvin, Daniel Terry, Jr.
Gandy, Russell Edward
Gant, Gregon Lee
Garden, George Carrington, Jr.
Gardner, Grant Everett
Garifalos, James Ernest, II
Garrick, Francis Leroy
Garrish, James Willard
Garry, William Joseph
Gaskins, James Yost
Gastrock, Martin Deckard, Jr.
Gates, Ronald Austin
Gavett, Wallace Leonard, Jr.
Gawbill, James Joseph, III
Gay, James Frankin
Gear, Bud Stanwood
Gebbie, Larry Allen
Geel, Richard Alan
Gehrke, Lee Erwin
Geiger, Donald Gene
Gentilhomme, Claude Pierre
Geopfarth, Robert Neldon
Gerard, Gregory Lawrence
Gerlach, Garry Lee
Gersuk, Donald Joseph
Getzlaff, Darryll James
Giannotti, Bruce Bennett
Giarra, Paul Severin
Gibbons, David Hughes
Gift, Wendell, Jay, II
Gilbert, James Morton, Jr.
Gilbert, Richard Pitkin
Gilchrist, David McIntosh, Jr.
Gillmor, William Sims, Jr.
Gilmer, Ernest Vernon, Jr.
Gilson, Thomas Goodwin, Jr.
Gimer, Paul Arthur
Giusti, Gerald John
Givens, Joel Dennis
Glass, Joseph William
Glassberg, Arnold Michael
Glatzmaier, Gary Andrew
Glenn, Michael
Glennon, Raymond Michael
Glick, Dean F.
Glick, Robert Charles
Gloor, Louis Ortmann
Glover, Andrew Lee
Glover, Ronald Burton
Goad, Steven Robert
Goodard, James Reed, Jr.
Godfrey, Thomas James
Goforth, George Thomas
Gogolin, James Henry
Golden, Richard Ford
Goldman, Michael Jeffrey
Goldsby, Richard Earl
Goldstein, Robert Jay
Goldthwaite, George Byron, Jr.
Golisch, James Anthony, Jr.
Golubovs, Paul
Gomez, Daniel Samuel
Good, Mark Ivan
Goodwin, Thomas John
Goodwin, William Vernon
Gordon, Douglas Thomas
Gordon, Harry Jay, III
Gorman, James Francis
Gorman, Michael Anthony
Gorman, Timothy James
Gorris, Frederick David
Gossett, Jeffrey Lynn
Goudy, Thomas Christian
Goyer, James Lawrence, III
Grabski, Timothy Martin
Grace, William Joseph
Graham, William Lambert
Grant, Charles Abraham, Jr.
Grant, Geoffrey Edmund
Grau, David George
Gray, Richard Henry
Greaser, Donald Charles
Green, James David
Green, James Francis
Greene, Kerry Dunnleh
Greene, Montie Ray
Greeno, John Ladd
Gregory, Erik Stuart
Gregory, Roland Douglas
Gregory, William Harvey
Griffin, Daniel Everett
Griffin, Paul Michael
Griffith, Carl Dean, Jr.
Griffith, Robert David
Griggs, Edward Cole
Grimes, Gary Charles
Gritzke, Arnold Richard
Groefsema, Gary Gordon
Groenig, Stanley Ray
Groff, George Thomas
Groman, Mark Stephen
Gross, Kenneth Everett, Jr.
Grover, James Chester
Grubbs, Kenneth Kay
Grube, Alan Lee
Gruebnau, Paul Joseph
Gudenkauf, Bruce Patrick
Guebert, David Ralph
Guest, Frank Benjamin, III
Guglietti, Albert David
Guiles, Richard Howland
Gunn, Terrell Lawson
Gurry, Frank Henry, Jr.
Gustafson, David Lee
Gustin, Bruce Albert, III
Gutekunst, Richard Martin
Guthrie, Robert Harold
Guzman, Thomas Albert
Haagensen, Brian Christian
Haas, David Joseph
Haase, Martin Richard
Haberlandt, Frederick Robert
Hackett, William Francis
Haddock, James Max
Hadley, Karl Austin
Hagy, Michael Richard
Hahn, Keith Dennis

Hahn, Kurt Robert
Hahn, Thomas Andrew
Haizlip, John Threlkeld
Hale, Dayton Foster, Jr.
Haley, Richard Louis, Jr.
Hall, Barney Ray
Hall, Charles Jamison
Hall, Delmon Brown, III
Hall, Gary Michael
Hall, Harold Lee, Jr.
Hall, James Dehaven
Hall, Larry Wayne
Hall, Thomas David
Halligan, Michael Joseph
Hallihan, Timothy James
Halsted, David Patrick
Halter, Jeffress Paul
Hamelin, Gregory Raymond
Hamilton, David William
Hamilton, James Alfred
Hammar, Kevin Douglas
Hammerle, Gerald Thomas
Hammond, Gary Richard
Hammond, John Thomas
Hample, Oscar Lewis, III
Hanback, David Lee
Hancock, William Allen
Hanley, John Thomas, Jr.
Hansell, Dennis Richard
Hansen, Christian Peter
Hansen, Harold Edward, Jr.
Hansen, Raymond Hartwig, Jr.
Hardaway, James Hallowell
Hardin, John Thomas
Harding, Richard Warren
Harding, Robert Owen
Harding, Robert William
Hardy, Robert William
Hare, Sidney Wiggins
Hargrave, Douglas Francis, Jr.
Harker, Ward W., III
Harland, Joseph A.
Harlow, William Robert, Jr.
Harmer, Donald Walter
Harper, Allen Douglas, III
Harrington, Michael John
Harris, Bruce Delbert
Harris, Craig Hale
Harris, Robert Randal
Harrison, John Thomas
Harrison, Robert Wayne
Harrold, John Burgess
Harrop, John Kaenel
Hart, David Thomas, Jr.
Hart, John Michael
Hartfield, Daniel Thomas
Hartley, Thomas Franklin
Hartrick, Thomas Frederick
Harvey, Donald Dean, III
Harvey, Gerald Alan
Hash, David Fields
Hass, Timothy Francis
Hastings, David Canfield, Jr.
Hatcher, Russell Lloyd, Jr.
Hauser, Christopher George
Hawk, Bruce Leon
Hawkins, Robert Frederick
Haworth, James Ray
Hawver, William Spencer
Haycock, Melvin Scott
Hayes, Michael Edward
Hearding, David Warren
Heath, Christopher Eugene
Heatley, Charles James, III
Hedden, Charles Robert
Hedrick, Michael Keith
Heller, Leighton James, Jr.
Hemphill, Gregory Lee
Hemphill, William Bruce
Henderson, Harold Dean
Henry, Christopher Ryan
Heppner, Frederick Gary
Hermann, Rory Michael
Herzog, John Michael
Hess, Herbert Irvin, Jr.
Hess, James Robert
Hesser, John Bird, Jr.
Hesser, Neal Patrick
Hett, Harley Wayne
Hewitt, Robert Alvin, Jr.
Heyworth, Gordon
Hibbeler, Kenneth Stewart
Hickox, David Gray
Hicks, Edward Kent
Higgins, Paul Michael
Hilbig, Peter Lawrence
Hill, Billy Paul
Hill, Clarence Ebbert
Hill, Ronald Lee
Hill, Steven Curtis
Hines, James Michael
Hinson, Larry Albert
Hipp, Larkin Dale
Hirsch, Gerald Richard
Hirst, William Clarence, Jr.
Hitpas, Henry Richard, II
Hobbs, Philip Gary
Hobbs, Robert Nile
Hobgood, Gordon Benjamin, Jr.
Hodges, Tedd Walter
Hodson, Brian Jay
Hoerig, Dan Walter
Hoffman, Dennis Edward
Hoffman, James Harvey
Hoffman, Ross Marion
Hoffman, James Edward
Hogen, David John
Hogg, Edward Laning
Hogue, Wayne Dennis
Holberg, Cory Lee
Holcomb, William Kenneth
Holden, Timothy Aloysius
Holdredge, Robert Leslie
Holdstein, Wallace Woodruf, J.
Holesinger, Daniel Lee
Holland, Frank Leonard, Jr.
Holland, Howard Michael
Holland, James Edward
Holley, Paul Edward, Jr.
Hollingsworth, Alan Gregory
Hollingsworth, Arnold Gilmor
Holmes, Thomas Robert
Holt, John Beadle
Holyoak, Joseph Glade
Holz, Lloyd Nelson
Holzmann, Kenneth Ralph
Holzworth, James Edward
Hook, Kenneth John
Hoover, James Dwight
Hopkins, Hubert Denning, Jr.
Hopkins, Robert Larry
Hopper, James Harris, III
Hopper, William Frank
Hormuth, Thomas Patrick
Horn, Richard Douglas
Horn, Robert Gary
Horne, Bennett Frederick, Jr.
Horner, Donald Gordon
Horstmann, Richard Frederick
Hosler, Mark Secrest
Hostetter, Damon Richard
Houck, Charles Michael
Housel, Mark Alan
Howard, Frank William
Howard, George Raymond
Howard, John Francis
Howard, Walter Gregory, Jr.
Howe, Robert Henry
Hribar, James Allan
Hubbard, Allen Lee
Hubbard, Calvin Edward
Huck, Leonard William, Jr.
Huck, Paul Eriksen
Huddleston, Colin Campbell
Hudgens, Robert Thomas
Hudson, Thomas George
Hudson, William Allen
Hudson, William Goode, III
Huff, David George
Hughes, Roger Allen
Hughes, Ronald Alan
Hughes, Thomas Frederick
Hughes, William Robert
Hugill, Joseph Ray
Hull, Roger Leroy
Humble, Alan Dee
Humphries, Arthur Allen
Humphries, Wofford Forres, II
Hunt, James Cornell
Hunter, Thomas Dorsey
Hurd, Steven Lewis
Hurley, Lawrence Edward
Huss, Boyce Wayne
Hussey, John Worthen, Jr.
Hutchison, Raymond Dale
Hutfless, Michael Joseph
Hyatt, Jerry Owen
Hyman, Harold Dee
Iaia, John Thomas
Ill, Frederick Emery, Jr.
Ingalsbe, Stephen Ramage
Ingle, William Cochrane, Jr.
Ingram, Walter Edward
Interholzinger, Jared Frank
Jackson, Andrew Hugh
Jackson, Andrew Joseph, Jr.
Jackson, Bernard Thomas
Jackson, Eric Brian
Jackson, Floyd Stacy
Jackson, Jimmie Ray
Jackson, John Edward, Jr.
Jackson, William Pierce, Jr.
Jacobs, Jan Cypert
Jacobs, Richard Henry
Jacobs, Thomas Edward
Jacobsen, Walter Lindgren
Jacobson, Robert Allen
James, Richard Holland
James, Robert Boe
Jamison, Christopher Prigel
Jankura, Edwin Stephen, Jr.
Jannusch, Craig Michael
Jaquess, Garrison William
Jarosinski, John Michael
Jarrett, Stephen McAllister
Jarvis, Vernon Joseph
Jaskunas, Thomas Michael
Jenkins, Jerry McKinley
Jenkins, William Vaughan
Jenness, William Allan
Jennings, Joe Cannon, Jr.
Jewell, Keith Alan
Jewett, Charles Edward
Jimenez, Jose Salvador
Jody, Phillip Lee
John, Edmund Kean
John, Gary Allen
Johns, Stephen Bunnell
Johnsen, Martin Walter
Johnson, Arthur Gary
Johnson, Arthur Lee
Johnson, Garland Russell, Jr.
Johnson, Glenn Leslie
Johnson, Herman Raymond
Johnson, James David
Johnson, James Weldon
Johnson, Johnny Wayne
Johnson, Larry Charles
Johnson, Mark Gregory
Johnson, Michael Dean
Johnson, Michael Julian
Johnson, Paul Nilan
Johnson, Paul Roald, Jr.
Johnson, Ralph Waldo, III
Johnson, Terrance Durward
Johnson, Terry Alan
Johnson, William Fawver
Johnston, Wayne Alan
Jolly, David Bennett
Jones, Edward Lee
Jones, Granville Paul
Jones, James Anthony
Jones, Lawrence Eugene
Jones, Preston Leon
Jones, Richard Maurice
Jones, Roger Nolan
Jones, Thomas Hanna
Jones, Thomas Levatte
Jones, Thomas Randall
Jordan, Timothy Gaius
Jorgensen, Paul Christian
Jorvig, Daniel Alden
Joseph, Alfred Michael
Josey, Laverne
Joyner, Michael C.
Judd, Thomas Maxwell
Justice, William Keith
Kaden, Glenn Leigh
Kale, James Edward
Kallin, Peter Lindel
Kalstad, Kendall William
Kane, John Michael
Karlovich, James Edward

Kasianchuk, Walter Joseph
Kassner, Michael Ernest
Kaucher, James Elmer, Jr.
Kaufman, Delbert Ralph
Kaye, Theodore Lawrence
Kazmer, Vincent Paul
Kearney, John Michael
Keck, Alan Robert
Keefe, Daniel Stanton
Keefer, Joel David
Keegan, Joseph Wolfe
Keenan, John Joseph, Jr.
Keesling, Robert Alfred
Kehoe, James William, Jr.
Keim, James Franklin
Keith, Douglas Wayne
Keith, James Stephen
Keith, Michael Glen
Keithly, Thomas Morken
Keller, William Bryan
Kelly, Clifford Paul
Kelly, Dennis Jay
Kelly, Patrick Wayne
Kelly, Verland Robert, Jr.
Kelso, Jesse Johnston
Kemp, Curtis Allen
Kemple, Steven Joseph
Kennedy, Kristopher Morris
Kennedy, Terence Stewart
Kennedy, William George
Kenney, Paul Stephen
Kern, Dennis James
Kesling, Willard Ray, Jr.
Kessler, James Michael
Kessler, Paul Kenderson, Jr.
Kessler, Stephen Frederick
Kester, Lawrence Verne
Ketron, Michael Gordon
Kibler, Adrian Earl, Jr.
Kidrick, James Grant
Kieling, Jared Taylor
Kilgore, George Kevin
Kilmartin, Mark Dee
Kilmer, Harold Bruce, Jr.
Kindel, George Finley
King, David Franklin
King, John Paul
King, Kendall James
King, Manton Ambrose
Kinney, Thomas Paul
Kirby, John Joseph
Kirk, Bruce Reed
Kirkland, Douglas Ingraham
Klein, James Michael
Klein, Larry Rogers
Klein, Phillip Drake
Klein, Saul David
Klein, Terrance John
Klima, James Roy
Klinker, Patrick Joseph
Klobukowski, Jerome Joseph
Klueber, Christopher Lee
Kluever, Patrick Robert
Knapik, Paul Peter, Jr.
Knight, Cletius Delaine
Knight, John Ross
Knight, Robert Milton
Knight, William Burton
Knos, Carl Tore
Knueppel, Wolfgang Werner
Koch, Raymond William
Koch, Ronald Bruce
Koczon, Andrew
Koehler, John Adam, III
Koelemay, Maurice Martin
Kohler, Gene Michael
Konopa, Steven Jeffrey
Konya, Bruce Richard
Kopacz, Anthony Joseph
Koss, Andrew James
Kozusko, Frank Paul, Jr.
Kraay, Earl Albert
Kraft, Alan Ralph
Kraker, Lawrence Laidlaw
Kreeger, Theodore Wilbur
Kren, John Joseph
Krogstad, Roger Edwin
Krohn, Raymond Lynn
Krueger, Lloyd Eddy
Kruger, Frederick Boyd, Jr.
Krupski, Paul John
Kryske, Lawrence Michael
Kubo, Lawrence Hiroshi
Kuehne, Kenneth Wesley
Kuhn, Richard Eric
Kujat, Edward Joseph
Kulikowski, Joseph George
Kull, Frederick John, Jr.
Kutcher, Robert James
Labelle, James Joseph
Laforce, Don Christian
Lakis, Nicholas Peter, Jr.
Lambert, Carlton Dewey
Lambert, Robert Bradley
Lambing, Edward Wagner
Lancharic, James Vincent
Landick, Richard Earl, Jr.
Landrum, Richard Henning, Jr.
Landrum, Stephen Mcelwee
Lane, Douglas Steddiford
Lane, Gregory Ben
Lane, Lawrence Charles, Jr.
Langenheim, John Lawson
Langenohl, Frederick Charles
Langley, William Louie, Jr.
Lanning, Ronald Davis
Lantta, Kenneth David
Lapointe, Jean Bernard
Laporte, Charles Richard
Larkin, Robert Lane
Larsen, William Peter, III
Larson, Thomas George
Larue, Stephen Lee
Lasken, John Chester
Lauderdale, Donnie Aubrey
Laughter, Selwyn Shuford
Lautares, Peter George, II
Lavalley, David Leslie
Lavigne, Roger John
Lawrence, David Earl, Jr.
Lawson, Karl Thomas
Lawson, Richard Putnam
Leach, James Francis, Jr.
Leal, Pedro Guillermo
Leclair, Daniel Vincent
Ledbetter, Wayne Douglas
Lee, Patrick Douglas
Lee, Richard Patrick
Legacy, Alan Edward
Leggett, John Glenn
Leib, Robert Conard
Leidholdt, Edwin Marion, Jr.
Lemcool, Richard Joseph
Lemmelin, Leopold Hermenegil
Lenc, Stanley Phillip
Lenfant, Philippe Maurice
Lengerich, Anthony William
Leonard, Raymond Earle, III
Leonard, William Augustine, Jr.
Leverette, Glen
Levi, Jonathan Allen
Lewandowski, Lawrence Anthony
Lewis, Paul Scott
Lewis, Stephen Arthur
Libera, Daniel Clark
Lichtenberg, Robert David, Jr.
Liggett, Robert David
Likens, Dallas Dean
Lillard, Michael Lee
Lillard, William Ashby, III
Lilly, Stuart Carlton
Lind, David Jeffrey
Lindner, Robert William
Lindquist, Robert Frank, Jr.
Lindquist, Robert George
Lindsay, Mark Stewart
Lindsay, Peter Ross
Lindstrom, Jerry Duane
Lipsey, Mark Dillman
Little, Michael Merle
Livesay, Steven Alan
Llewellyn, David Jewett
Locke, William Nash, Jr.
Loeffler, Robert Dean
Loftus, Thomas Arthur, III
Logue, Stephen John
Lohsen, Mark Allan
Long, Robert Henry
Long, Stephen Thornton
Long, William Henry, Jr.
Love, Glenn Edward
Love, John Barrett
Love, Patrick Stephen
Lovett, Harry Lee
Lovett, Joel Dyane
Luebs, William Arthur
Lulu, Michael Joseph
Lundby, Neil Warren
Lunning, Robert Marshall
Lutes, Jack
Lutkenhouse, Michael Anthony
Lynch, Vincent Joseph
Lyons, Patrick William
Lyons, Thomas Willard
Lyons, William Aloysius
Lytwyn, Peter
Mabry, Robert Caldwell, Jr.
MacBean, Thomas Price
MacDonald, Donald John
MacDonald, Douglas Taylor
Machovina, William Mark
Mack, Stanley John
Macklin, Richard Gilbert
Mackown, Raymond Miley
MacLeod, David James
Macon, Richard Thomas
MacPherson, Robert Alan
Madden, Robert Sterling
Maggi, Robert William
Mahle, Gary George
Main, Glenn Allan
Maixner, Michael Rex
Makin, John Phillip
Makings, Dean Morgan
Mallery, Steven Kenneth
Malloy, Paul Francis
Maloney, Robert Seton, III
Mancini, Dante Russell
Mann, Gary Dean
Manning, Walter William
Manning, William Beverly, III
Mansfield, Philip Smith
Manvel, John Talbot, Jr.
Mares, Joe Nieto
Marinelli, Jay William
Markevicz, John Walter
Marks, Kenneth John
Marlin, Robert Dan
Marosek, Conrad Francis
Marra, Kenneth Joseph
Marrs, Alton Douglas
Marsh, William Harry
Marshall, Rudy Frederick
Marshall, William James
Martello, Keith Wallace
Martin, Anthony David
Martin, Colin Leslie
Martin, John Douglas
Martin, Kenneth Ronald
Martin, Stephen Douglas
Martin, William Charles
Martiny, Leon Eugene
Maskew, Rodney Max
Mason, Bruce David
Mason, Charles Manning, Jr.
Mason, James Robert
Mason, Lee Charles, II
Massengale, Saint Elmo Murra
Mastagni, Daniel Stephen
Mastin, Robert Leavenworth, J.
Mathews, Kirk Alan
Mathewson, Raymond Louis, Jr.
Mathis, Don Wade
Matthews, William Theodore
Mavar, John Andrew
Maxson, Phillip James
May, Charles William
Mayes, Larry Leroy
McArthur, James Drake, Jr.
McAvinia, Thomas Francis
McBrayer, Gary David
McCamish, Michael James
McCarthy, Daniel Joseph
McCarthy, Morton Everest, Jr.
McCarthy, James Douglas
McCarville, Patrick Anthony
McCauley, George Brian
McCloskey, John Dennis
McClung, Doyle Curtis
McCollum, James Wayne
McCollum, John William
McCormack, Robert Charles
McCort, Daniel Ralph
McCrae, James Archie

McCrory, Stephen Lee
McCurdy, Russell Alan
McCutchen, John Michael
McDermott, Kenneth Robin
McDevitt, Gerald Ross
McDevitt, Rodney Peter
McDowell, Gary Elexis
McDowell, Joel Gordon
McElmurry, Brian Leslie
McElraft, Ronald Dean
McElroy, Daniel Wallace
McElroy, Kevin James
McEvoy, Michael Kevin
McFetridge, George William, J.
McGalliard, Gene Richard
McGee, Martin Harry
McGilvray, Paul Erwin
McGinn, Leo Francis, Jr.
McGrail, John Michael
McGrath, Joseph James
McGraw, William Lloyd
McKay, Rayburn Lloyd
McKeever, David Vincent
McKinney, Herman Philip, Jr.
McKinney, Michael
McKinnon, Arthur
McKinstray, James Merrill
McKinzie, Joe Edward
McLane, Robert Lewis
McLaughlin, John Patrick
McLaughlin, Peter John
McLoughlin, William Raymond
McMann, Donald Francis
McManus, Floyd Lanier
McManus, Michael Paul
McMartin, James Floyd, III.
McMican, William James
McPherson, Mark Hardin
McVay, Breathitt Rodgers, Jr.
McWilliams, Hugh Newton
Meade, Gary Anthony
Meade, Richard Alburn, Jr.
Mears, George Henry
Mease, Frank Barclay
Measel, Richard Allen
Meek, Terry Lynn
Meeley, William Anthony, Jr.
Meisenbach, Edward Walter
Mendillo, Mark
Mendygral, Steven Joseph
Mercy, Richard Alton
Merkel, Frederick Tompkins
Merschoff, Ellis Wesley
Merwine, Charles Webb
Meyer, Daniel Harry
Meyer, John Gregory
Meyer, Lloyd Jerome
Meyer, John Earl
Meyers, William Arthur
Meyett, Robert Stephen
Miars, Thomas Eugene
Michael, Kirk Burton
Michalske, Ralph Raphael
Michell, William Robert
Middleton, James Marvin, Jr.
Mikhalevsky, Peter Nicholas
Milanette, Jeffrey Charles
Millenbach, Bruce Edward
Miller, Craig Scott
Miller, David Ross
Miller, Dennis Wayne, Jr.
Miller, Edward Lee
Miller, Peter, Jr.
Miller, Robert Arrington
Miller, Ronald Raymond
Miller, Wayne John
Mills, Donald Max
Mills, Jack B.
Mills, Phillip Horne
Mills, Walter Lain, Jr.
Milo, Michael James
Milsted, Charles Eugene, Jr.
Mimms, David Terry
Minnis, Richard Donald
Minton, Johnny Edward
Mischen, Stephen Charles
Misko, Louis Domonic
Mitani, Michael Kiyoshi
Mitchell, Alfred Warren
Mitchell, David Erwin
Mitchell, Joseph Anthony, II
Mitchell, Kenneth Ray
Mitchum, Robert William
Moffatt, William Grier
Moffit, Michel Lloyd
Moffitt, Eric Charles
Moilanen, Thom .s Edward
Molloy, William Earl, Jr.
Molteni, Christopher Phillip
Monahan, Robert Patrick
Monahan, Timothy Patrick
Mone, Frederick Patrick
Monkhouse, Michael William
Montgomery, Henry Edward, Jr.
Montgomery, James Henry
Montoya, Kenneth Edward
Moody, William Vincent
Moon, Eugene Lamar
Moon, Robert Lee
Mooney, Owen Gavin, Jr.
Moore, Donald Ray
Moore, George Richard
Moore, Gilbert Jennings
Moore, James Martin
Moore, Richard Eugene, II
Moore, Robert Charles
Moore, Robert Lowery
Moore, William Thomas, III
Morandi, Theodore Raymond
Morgan, Floyd Jefferson
Morgan, John Gabe, Jr.
Morgan, Kelly Brian
Morneau, Michael Lawrence
Morral, Dennis Gilbert
Morreale, Bruce Vincent
Morrell, James Michael
Morris, William Denton
Morrissey, Martin Lee
Mortimer, Thomas Richard
Morton, Robert Gary
Moser, Sammy Lee
Mosey, David Michael
Mosher, Steven Westley
Moss, Charles Michael
Mott, Charles Wane
Mulder, Keith Paul
Mulkern, Trent Coleman
Mull, Robert Sidney, Jr.
Muller, Robert John
Mullican, James Neal
Murdock, Jerry
Murdock, Thomas Earl
Murphy, George Joseph, III
Murphy, Lewis Franklin
Murray, George Michael
Musselman, Robert Phillip, Jr.
Musselman, Warren Eugene
Mutty, Daniel Hartnett
Myers, David Edward
Myers, Dennis Alan
Myers, Howard Hovey, III
Myers, Rodney Allen
Nadeau, William Joseph
Natter, James Anthony
Naughton, Michael Joseph
Naylor, William Mark
Neal, Robert Allan
Nease, Robert Michael
Needham, William Donald
Neihart, Charles William, Jr.
Nellis, John Donovan, Jr.
Nelson, Duane Lee
Nelson, Jeffrey Robert
Nelson, Victor Peter
Nelson, William Hardage
Nemec, Johnnie Frank
Nemeth, Christopher Paul
Nesbitt, Allan Preston, III
Ness, Christian Quarles
Nestor, Don Alan
Neuman, Stephen Leroy
Neupaver, Albert Joseph
New, George Frank
Newlan, Ronald Scott
Newton, Danny Ray
Nibbs, Alan McLeod, Jr.
Nice, Dan Edwin, Jr.
Nichols, Greg
Nichols, Todd Charles
Nickelson, Bobby Lynn
Nickodem, Peter Webb
Nielsen, Jack Svend
Nielsen, Peter Henry
Nitschke, Roy Hugo
Nocon, Eduardo Carandang
Noland, James Terry, Jr.,
Nolen, Ulysses Louis
Norcross, Carl Stephen
Norrbom, Timothy John
Norris, Donald Owen, Jr.
Norris, John William
Norris, Ted Louis
Nosek, John Teofil
Nottke, Bruce Alden
Nupp, James Lee
Nyarady, Stefan Alan
Nye, Eric Beasley
Oberg, David Allen
O'Brien, William Howard
Obryon, Raymond Thomas
O'Connell, John Terrence
O'Connell, Timothy Dennis
O'Connor, Michael Lawrence
Offerle, Robert Anthony
Offutt, Darrell Jay
O'Grady, Arthur John
O'Hara, Timothy Leo
O'Keefe, James George
Okerson, Eric Cornelius
Olcott, Charles Wheaton, Jr.
Olechnovich, Paul Jerome Vic
Oleson, Melvin Wayne
Olsen, Alfred James
Olson, Clifford Matthew
Olson, David John
Olson, Earl Frederick
Olson, James Donald
Olszewski, Paul John
O'Malley, Dennis Patrick
O'Neal, Loren Lee
Opyd, Walter George
Orender, Bernard Ray
Orlekoski, Michael Gene
Orr, Paul Laroy, Jr.,
Orton, Frederick Charles
Osborne, Kip Reid
Ostendorf, Robert Edward, Jr.,
Ostrander, Thomas Waldron
Oswald, Thomas James
Othus, Ross Bradley
Ott, Andrew Anthony
Ottesen, Karl Russell, Jr.
Otto, David Thomas
Overstreet, Edwin Dale
Owens, Ronald Lynn
Ozehoski, Edward Mark
Pache, Eugene Paul
Pachuta, Mark Theodore
Page, Elton Thrasher III
Page, Rex Lee Alden
Paleck, Robert Harold
Palm, Jerry John
Palmatier, Philip Frank, Jr.
Palmer, George William
Palmer, Steven William
Panos, Christopher William
Pantelides, Nicos Savvas
Papin, Gregory Alan
Papineau, Larry Regan
Pariseau, Robert Roland
Park, James Douglas
Parker, Jay Peter
Parker, Lutrelle Fleming, Jr.
Parker, Wendell Edgar
Parks, James Forest
Parlet, Robert Dale
Parr, Larry Steven
Parrish, Joseph Victor
Parsons, Walter Paschall
Passmore, Robert Orvin
Pastorino, Thomas Joseph
Patras, Richard Steven
Patrick, Terry Lance
Patterson, James Hugh
Patterson, Terry Lee
Patterson, Wayne Lynn
Patton, James Wesley
Patullo, Kenneth Emil
Paul, James
Paul, Kenneth Albert, Jr.
Paul, MacGregor Hume
Peairs, Gregory Ross
Pease, Milton Lee

Peay, Larry Gene
Peck, Andrew Joseph
Peck, John Edward
Pedone, Kenneth Andrew
Pegler, Randall Eugene
Pell, Robert Andrew
Pence, Derry Thomas
Penix, Larry Ellis
Perreault, Mark Dennis
Perry, James Walter
Perry, Joseph Leland, Jr.
Perry, Robert Paul
Peske, John Gerald
Peters, Kenneth Warren
Petersen, Richard Merle
Peterson, Harry William
Peterson, Neil George
Peterson, Thad David
Peterson, William Joseph, Jr.
Petrea, Howard Aldridge, Jr.
Petty, Ralph Edward
Petty, William Milton
Pfadenhauer, John Joseph, Jr.
Pfeiffer, Frank Gaines
Pfister, Russell James
Pharr, Alvis Sylvester, Jr.
Phelan, Michael James
Phelps, Laurence Martin III
Phillips, Donald Wayne
Phillips, James Glenn, III
Phillips, John Lynch
Phillips, William Leighton
Pica, Michael Andrew
Pickett, Mark Allan
Pickett, Russell Ames
Piecuch, John Leon
Pieper, Richard Wayne
Pierce, Billie Joe
Pierce, Roger Allan
Pierce, Steven Doane
Pine, John Steven
Pirkle, Douglas Alan
Pistochini, Mark David
Plautz, Dennis Hoyt
Pledger, James Edgar
Plovanich, Stephen Winslow
Poffinbarger, James Clark, Jr.
Poland, Marc Maier
Poorman, Kenneth Alan
Pope, Richard Paul
Porter, Alan Emmit
Porter, David Percy
Porter, John Scott
Porter, Robert Lee
Porterfield, Richard Bruce
Posey, Allen Murph, Jr.
Pottschmidt, Fred Charles
Powell, Frank Russell
Power, Jerry Ruel
Power, Timothy Henderson
Powers, George Laurin
Powers, Thomas John
Powers, William Hugh
Poy, Rusell Harris
Preisel, John Henry, Jr.
Prendergast, Timothy Edwin
Preston, Randall Dills
Price, Earl Junior
Price, Michael Joseph
Price, Michael Kelley
Price, William Robinson, III
Prill, Larry Richard
Prince, Thomas Alan
Pring, Brian Lee
Pruden, Glenn Richard
Pryor, Hershel Wilson, Jr.
Puccini, Bruce Anthony Josep
Pumilia, Michael Peter
Pyles, Steve
Pyles, Thomas Christopher
Plytlik, Theodore Albert
Quadri, Anton Stefan
Quigley, Thomas King
Quinlan, Dale Keith
Quinn, John Michael, III
Quinn, Paul Francis
Quinn, Timothy Joseph, Jr.
Rae, Robert Bruce
Rainey, John Charles
Rajamaki, David William
Rand, Benjamin Wilfred
Randolph, Garry Lee
Rankin, Robert Howell
Ransbotham, James Irvine, Jr.
Rappe, David Jay
Rappold, William Andrew, II
Rawls, Rodger, Craig
Ray, Harold Lonzo
Ray, James Richard
Read Page Freeman Kinders
Rebhann, John Elwood
Redmond, Douglas Congelton
Reeder, Thomas Leonard, III
Reese, James Claude
Reeves, Jerry David
Reeves, Thomas Earl
Reise, Jeffrey Alan
Reitinger, Glenn Emerson
Remshak, Christopher Jon
Renton, Irvine Andrew, III
Repeta, Thomas John
Reppard, David Bruce
Resing, David Claude
Reuter, David George
Revolinsky, Joseph Albert
Reymann, Charles Benedict
Reynolds, Thomas Francis, Jr.
Rheam, Gary Michael
Rhine Russell Leroy
Rhoades, William Andrew
Rice, Michael Lynn
Rice, Randall Lee
Rich, Patrick Albert, Jr.
Rich, Robert Thomas
Richard, Michael Pierre
Richards, Charles Coleman
Richards, Jack, Jr.
Richards, Neil Roger
Richardson, James Dana
Richardson, Steven Darryl
Riche, Christopher Robert
Richmond, Donald Robert
Rickard, Danny Lee
Rigot, William Laswell, Jr.
Riley, Michael Jay
Riley, Patrick Owen
Ritter, William Merrill
Rivera, Robert
Rizy, David John
Rizzo, Michael Francis
Roach, David Gerard
Roach, Frank Ellis, Jr.
Roark, Louis Keith
Robb, James Andrews
Robbins, Robert Justin
Roberts, Warren Leigh
Roberts, William Peter
Robertson, Michael David
Robertson, Norbert Walter
Robie, Charles Roger
Robinson, Frederick Thomas, I
Robinson, James Edward
Robinson, Robert Lenard
Robinson, Steven Nourse
Robinson, Warren Ellison
Robison, Richard Alan
Roderick, Willard Paul
Rodjom, Thomas Joseph
Rodriguez, Glenn Robert
Roesky, Robert John, Jr.
Roeting, William Henry
Rogers, George Carraway, Jr.
Rogers, James Ernest
Rogers, William Armstard, Jr.
Rohrer, Alan Dale
Roller, James Phelps
Rollins, David Campbell
Roman, Theodore Robert, Jr.
Rood, Homer John
Roper, Thomas Wayne
Ross, Robert Richard
Rothwell, Jeffrey Alfred
Rothwell, John Harwood
Rothwell, Peter Sutherland
Rotondo, Michael Jay
Rottman, Robert Emmett
Rough, James Richard
Roukema, William Edward
Roulstone, Douglas Robert
Round, William Harold
Rubel, William Richard
Rucker, Steven Warren
Ruggles, Thomas Gordon
Ruhl, Philip Calvin
Rulf, Richard Walter
Rummer, David Bruce
Ruschmeier, Stephen John
Rush, Douglas Kevin
Rush, Robert Jacque
Russell, Glenn Halsey
Russell, Robert Wayne
Russell, Roy William
Russell, William David
Ruth, Jack Leroy
Rutherford, Allan
Rutledge, William Craig
Ruybal, George Nifi
Ryan, Jeffrey Brice
Ryskamp, Robert Henry
Sabin, Stephen Christopher
Sabo, William John
Sack, Alvin Lee
Sackett, Craig Pinard
Salamon, James Anton
Salinas, Amando Santos
Salscheider, Kurt Michael
Salyer, Jack Gaynard
Salzer, Thomas Benjamin
Sanders, Thomas Allan
Sands, Robert Waters
Sandvig, William Ward
Sanford, Gregory Benson
Santapaola, Donald Jack
Santino, John Benjamin
Sare, Michael Joseph
Sarraino, Michael
Saunders, Glenn Michael
Saunders, Robert Patrick
Saunders, William Charles
Savage, Charles Lynn III
Savitsky, Adam Joseph
Scarbrough, James Edwards, Jr.
Schaad, Frederick Gordon
Schaffer, John Edward
Schey, Stephen Laurel
Schilling, Robert Luther
Schlehr, Christoper George
Schlieper, Fred Jay
Schluderberg, Larry Earl
Schlueter, Rory Lee
Schmidt, Charles Richard
Schmidt, Colman Arthur
Schmidt, Jonathan Blake
Schmidt, Wesley Henry, Jr.
Schmucker, Thomas John
Schneegas, David Alan
Schneider, David Frank
Schork, John Forrest
Schrade, Donald Edward
Schramm, Mark Stephen
Schroeder, Kenneth Richard
Schubert, Jerry Lee
Schultz, George Walter
Schultz, Randall Craig
Schwab, Claude Raymond
Schwaller, Charles Dale, II
Schwenke, George William
Schwieger, Terry Ross
Schwiering, David Alan
Schwinghammer, William Erich
Sciuto, John Joseph
Scott, Bruce Bob
Scott, Robert John
Scott, Roderick Gibb
Scudder, Stephen Vincent
Seal, Warren George
Seaman, James Richard
Seckinger, David Neil
Sedivy, Dean Gordon
Seeley, James Robert
Seiss, William Albert
Seminoff, Gregory Nicholai
Semko, Fred Allen
Sensat, Robert James
Shalles, Siegfried Lee
Shaver, Eric Bruce
Shay, Jon Vincent
Shealy, Wilson Otto, Jr.
Sheehan, Leroy Edmund
Sheller, Jon

Shellhammer, Gary Ray
Shemella, Paul
Shepard, Jonathan Martin
Sheppard, David Eugene
Sheppard, Michael Thomas Ray
Sheppard, William Lester, Jr.
Sherk, Glenn Eric
Sherman, Vining Alden, Jr.
Sherrard, Martin Victor
Shibuya, Allen Isamu
Shields, Robert Bishop
Shields, Robert Graham
Shilling, William Arthur
Shipley, Thomas Edward
Shobe, Ronald Kenneth
Shoemaker, James Edward
Short, Marshall Sherman
Shubert, Charles Richard
Shumlas, John Anthony
Shurtleff, William Hall, IV
Siedschlag, Paul Christian
Sieve, Glennon Lambert
Sievers, Edward Earl
Signor, Philip White, III
Silcox, John Horton, Jr.
Silkaitis, Lawrence Allen
Simmons, Gordon Brent
Simpson, Charles Cass, III
Simpson, Charles Eugene
Simpson, Jeffrey Phillip
Simpson, William McGee, Jr.
Sipe, Charles Regis, Jr.
Sisa, Steven Andrew
Sise, Michael Joseph
Skewis, Ronald James
Skiano, Ralph Dennis
Skolds, John Lawrence
Skurski, Paul Roy
Sleeper, Arthur Bosworth
Slocumb, Dennis Alexander, Jr.
Smallwood, James Victor
Smith, Bradley Phillip
Smith, Duke Alan
Smith, Earl Maurice
Smith, Edward Samuel, Jr.
Smith, Gary Wayne
Smith, Howard Patrick
Smith, James Allan
Smith, Janvier King
Smith, Jeffrey Frank
Smith, John Frederick
Smith, Kenneth Raymond
Smith, Leigh Randall
Smith, Paul Thomas
Smith, Richard Thomas
Smith, Robert Dorsey, Jr.
Smith, Robert Edward
Smith, Robert Spencer Kerr
Smith, Ronald Carl
Smith, Steven Craig
Smith, Steven Michael
Snead, Leonard Alexander, III
Snell, Stephen Farnham
Snow, Murray Charles
Snyder, Thomas Edward
Snyder, William Lester
Soballe, David Michael
Soha, Walter Michael, Jr.
Solak, Lawrence Edward
Somadelis, Michael George
Sonn, Bruce Eric
Sonntag, Steven Jay
Sontag, Alvin Jack
Sontag, William Carl
Sontheimer, Richard Francis
Soroka, Steven Lloyd
Soule, Douglas Jackson
Spahr, Robert Lloyd
Spangler, Ralph Graham
Spatt, Frank Ronald
Spears, Buddy Wayne
Speed, Austin Hilton, III
Speights, William Donald
Spence, Maurice Frederick
Spencer, Charles Henry, Jr.
Spencer, Kenneth George
Spoerry, Dale Edward
Spradlin, Charles Wesley, Jr.
Squires, Monte Arthur
Stabler, Lemuel Clay, III
Staebler, Robert Paul
Stanfield, David Michael
Stanton, Donald Clifford
Stark, Terry Michael
Starr, Kenneth Wayne
Starr, Lester Launius, Jr.
Starr, Philip James
Stas, Nicholas John
Staton, Ronald Bruce
Steele, Peter Wallace
Steele, Scott Leslie
Stegeman, Ronald Adam
Steinbacher, Daniel Joseph
Stender, Mark Kealey
Stenroos, Joseph Richard
Stephen, Alexander Craig
Sterner, Robert Charles
Stevens, Don Theodore
Stevens, William Ray
Stevenson, Alan Martin
Steverson, Gerald Howard
Steward, Paul Elwyn, Jr.
Stewart, James Harold
Stewart, James Robert
Stewart, John Robert, Jr.
Stewart, Melvin Lindell
Stewart, Michael Alan
Stickler, Christopher Allen
Stine, Jeffrey Lawson
Stinger, William Elwood
Stites, Lloyd Thomas, Jr.
Stocks, Alton Leroy
Stockton, Herbert Hammond
Stoddard, Larry Charles
Stoehr, Dale Erwin
Stone, Jeffrey Morris
Storez, Robert Alfred
Stovall, Robert Michael
Stowe, Abraham Ronald
Strange, William Bryan, III
Stratman, Robert Anthony
Strawbridge, Carl Neilson
Stribling, Thomas Charles
Stringer, George Francis, III
Stringer, Richard Howard
Strohmeyer, George Franklin
Strube, David Carl
Stuart, Gary Leland
Stuckert, Bruce Taylor
Stupfer, Bruce William
Sturm, James Roy
Sturz, Frederick Conrad
Sueirro, Allen Michael
Sullivan, William Ted
Suplicki, Edward Peter
Sutter, John Lester
Sutton, David Bruce
Sutton, Frank Clare
Svatek, Andrew Michael
Swailes, John Hamlin
Swanson, Richard Norman
Swearingen, James David, Jr.
Swedenborg, Thomas Michael
Swift, Lloyd Francis Knapp
Swisher, William Allen
Switzer, David Roe
Szigety, Allen Joseph
Szoka, Michael Allen
Taber, James Charles
Talbot, Gerald Lloyd, Jr.
Talley, James Arthur, Jr.
Tammes, Bradley Specht
Tarantino, John Floyd
Tarantino, Terry Allen
Tate, Russell Eric
Tavares, Michael Humberto
Taylor, Lee Bradford
Taylor, Paul Edwin
Tegethoff, Dennis Doyle
Teitsworth, Dennis Leroy
Teller, Robert Warren, Jr.
Tempest, Mark Jacquot
Tennison, Thomas Edward
Tennyson, Nicholas Jon
Teply, John Frederick
Terch, Lawrence Peter, Jr.
Terhar, Louis Frederick, Jr.
Terrell, Mark Richard
Tetlow, Philip Christopher
Tetlow, Thomas George
Thanig, Dale John
Thoma, John Otto
Thomas, Henry D.
Thomas, Jeffrey Hilton
Thomas, John Adam
Thomas, John Rawls
Thomas, Ronald Milton
Thompson, Clark Frederick
Thompson, John Thomas
Thompson, Peter Michael
Thompson, Ronald Thomas
Thompson, Walter Raymond
Thomson, Alan Douglas
Thomson, Richard Charles
Thorne, Silas Owens, III
Thornton, James Terry
Thorpe, Lloyd Allen
Tierney, Michael Robert
Tillberg, Arthur Raymond
Tillson, Joseph Lauren, Jr.
Timony, John Francis
Tindle, John Richard
Titus, Frank Alvin, II
Tobergte, David John
Tobiason, Erik Arnold
Tofalo, Michael Rocco
Tolk, Lloyd Andrew
Tomaszeski, Steven John
Tomer, Herman Deemar
Tomlin, Edwin Ladeau
Tompkins, James Michael
Toney, James H.
Torelli, Nicholas Marcus, Jr.
Torgerson, Jordan Leigh
Torgesen, Joseph Edward
Tornatore, Gary Paul
Tornatore, William Paul
Torres, Alexander Galvez
Torres, Joseph Francis, Jr.
Towne, Bruce Gene
Townes, John Willie, III
Trabona, Robert Joseph
Traverso, Timothy Joseph
Traynham, Wayne Olaf
Treeman, Michael Wade
Trenta, Richard Francis
Troxell, Richard Kent
Troxler, Kirk Alan
Trudeau, Michael David
Turkowski, Robert Walter
Turner, Donald Paul
Turner, Jay Ellery
Turner, Terry Lee
Tussey, David Alan
Tuttle, Jackson Corpening, II
Tuttle, Larry Jerome
Tynan, Edward Patrick
Uebelherr, Michael Frederick
Ulrich, Henry George, III
Underwood, Arthur Rutledg, II
Underwood, Jonathan Charles
Unger, Norbert Sigfried, Jr.
Urben, Bruce Leroy
Uricoli, Eugene Francis
Ustick, Robert Woodbridge, II
Utterback, Robert Alan
Vaden, Don Reese
Valade, Gerald Robert
Vance, Stephen Gerald
Vanderpool, Michael Eugene
Vanderslice, John Alpheus, II
Vandyke, Gary Paul
Vandyke, Raymond William
Vaneaton, Harley Jamieson, Jr.
Vanmaele, John Edmund
Vanness, Henry Arthur
Vannoy, Richard Thomas, II
Vanorsdel, Robert Randolph
Vanscholk, Douglas Rick
Vanvliet, James Allan
Varakin, Walter Alexander, Jr.
Vaughn, David Roy
Veatch, James Marshall
Veldstra, Daniel Roy
Ventgen, Robert John
Vessely, Robert Paul
Vetter, Thomas Greg
Vincent, Michael Paul
Visage, Samuel Jackson, Jr.
Vislocky, Daniel
Voelker, George Edmund

Vogan, Charles Scott, Jr.
Vogt, Michael Carl
Volpe, Joseph Michael, Jr.
Voltz, Scott Lee
Voros, Charles Douglas
Voss, James Wilson
Voter, James Conant
Wachter, Christopher Michael
Waddell, Ray Kirk
Wagner, Charles Steven
Wagner, Wayne Lewis
Wainionpaa, John William
Wakefield, Stanley Irvin
Walderhaug, John Alan
Walker, Charles Ray
Walker, James Lawrence, III
Walker, Robert John, Jr.
Wall, James Lewis
Walla, David Leroy
Wallace, Edward Charles
Walace, Harry Rufus, Jr.
Wallace, James Reed
Wallace, John
Wallis, Robert Charles
Wallmark, Walter William
Walsh, Dennis Francis
Walsh, Dennis Michael
Walsh, Dennis Paul
Walsh, Gregory Edward
Walter, Bruce Edgar
Walters, James Anthony
Waltman, William Reid
Ward, David Arthur
Wardlaw, William Eddie
Ware, Jerry Steven
Warner, Bruce Edward
Warr, Paul Melbourne
Warren, Floyd Dewey, Jr.
Warren, Jerry Lee
Warren, Joe Nathan
Warres, Edward Clark
Washington, Robert Joseph
Wasserman, William Louis
Waters, Cecil Lathan
Waters, William Henry
Watson, Gregory Harriss
Watson, Samuel Ray
Watt, Alexander Young, Jr.
Watt, Douglas James
Watwood, William Britt
Weatherly, James Michael
Weatherspoon, Stephen Salve
Weber, Donald Bruce
Wechselberger, Jacob Frank
Weigand, Charles Anthony
Weigand, Charles John
Weis, Timothy James
Weise, Stephen Paul
Weiss, David Russell
Welch, John Kirtland
Wellington, Bruce Daniel
Welsh, Joseph Leo
Wenneson, Gregory John
Werner, James Alan
Wessel, Kenneth James
Wesselhoff, Stephen Thomas
West, Paul Kenton
Westover, Steven Bruce
Wetmore, Walter Gilbert
Wetterlin, Harold Jan
Whalen, Gregory Thomas
Wheeler, Dennis Ralph
Wheeler, Philip Huffman
Wheeler, William Gary
Whelan, Stephen John
Whitacre, Robert Franklin, Jr.
White, Donald George
White, Frank Herman, Jr.
White, George William
White, James William
White, John Carl
White, Joseph Wheeler
White, Judson Henry, Jr.
White, Kimber Littlepage
White, Paul Marvin
White, Phillip Joseph
White, Richard Mahaffey
White, William Tyler
Whitehead, Oliver Windell
Whitehill, Archie Richard
Whitford, Dennis James
Whitney, John Douglas
Whittaker, James Augustus
Wick, Peter Alf
Wieferich, James Roger
Wiestling, Stephen Herman
Wigge, Conrad James, III
Wiggins, James Dennis
Wilant, Mark Lawrence
Wilbur, Steven George
Wilder, Henry Lee Bunce
Wilderson, Jack Leon
Wiley, John Edward
Wilfong, Dallas George, III
Wilhelmy, Mark Desloge
Wilkie, Steven Craig
Wilkinson, Joseph Brooks, Jr.
Willats, Steven John
Williams, Comer Lynn
Williams, Dale Edward
Williams, George Bruce
Williams, Lee Kearsley
Williams, Michael Leverette
Williams, Robert Edward, Jr.
Williams, Robert Wister
Williams, Russell Lee
Williams, Scott Kilborn
Williamson, Richard Carter
Willis, Clarence Coleman
Willis, Leland Stanford, III
Wilson, Daniel Mark
Wilson, Michael Ellery Neal
Wilson, Millard Joseph
Wilson, Steven Edgar
Wilson, Steven Paul
Wilus, Michael Stephen
Winde, Ronald Henry, III
Windrow, John Luther
Wingert, Neil Steven
Wingo, Theodore Oscar
Winney, Justin William, Jr.
Winter, Mark Charles
Wise, Herbert Frankferd
Wismer, Stephen John
Wisner, Gary Dean
Wohlford, Gerald Dale
Wolwode, Michael John
Wolf, Dallas Michael
Wolfe, Thomas Page
Wollam, Neil Rebort
Wollenburg, Alfred Edwin
Womer, Rodney Keith
Wood, Charles Andrew
Wood, David Richard
Wood, James Walton
Wood, John Steven
Wood, Kenneth Harold
Wood, Marcelle Elton, Jr.
Woodall, James Mead
Wooldridge, Michael Ray
Worley, Dennis Lee
Worth, James Richard
Worthington, Donald Roy
Worthington, John Reid
Worthington, Ralph Lamar
Wright, Charles Justin
Wright, Oliver Lee, III
Wright, Richard Francis
Wright, Robert Joseph
Wyatt, Patrick Ray
Wyse, Frederick Calhoun
Yancy, Joseph Cesia, Jr.
Yard, Richard Glenn, Jr.,
Yarrows, Edward Peter
Yates, Christopher Barrett
Yates, Michael Edward
Yonce, William Scott
Yoneda, Minoru Mickey
Young, Charles Selden Backus
Young, David Keith
Young, Donald Ray
Young, Gordon Allen
Young, Philip Wayne
Young, Robin Huff
Young, Thomas Charles
Young, Timothy James
Yount, Gregory George
Zeigler, Howell Conway
Zetsch, Kurt Johann, Jr.
Zimmerman, Kenneth Ronald
Zorbas, Frederick Charles
Zuber, James Daniel, Jr.

SUPPLY CORPS

Ace, Drexel Maurice, Jr.
Albright, Keith Roger
Alderman, Elliot Leonard
Alexander, Oran Tyrone
Anderson, David Groves
Anderson, Howard Junior
Anderson, James Samuel
Anderson, Raymond Dale
Ansley, Robert Edward, Jr.
Argue, Arthur Clarke, III
Armstrong, Frank Delano, III
Assad, Shay Deeb
Atkinson, Eric John
Awtrey, Warren
Bailey, Everett Alan
Balint, David Lee
Bang, Paul George
Barcinski, Robert Anthony
Barrs, Jack Calhoun
Bellairs, Jacques Terhune
Benson, Edwin Roswell, III
Bent, Randal Tweedy
Blancq, John Paul
Blanton, James Ellis, II
Bock, John Henry, III
Bonafede, James Michael
Bonner, Alonzo Brenton, Jr.
Bouts, Larry Dale
Boyer, James Charles
Boyle, John Earl
Brown, David Arthur
Bullock, David Richard
Butcher, Thomas Calhoun, Jr.
Cafaro, Patrick Raymond
Callahan, Paul William
Camp, Gary Lee
Cannon, Jamie Ross
Casey, John Joseph, Jr.
Cassano, Anthony John, Jr.
Castle, Christopher Holland
Cavanaugh, John Harold
Chaffet, Robert George
Collier, Robert Lynn
Condon, Kevin Edward
Connolly, John James
Corack, Edward Walter
Costello, Mark Edward
Crowley, Indy Charles
Crozier, Terry Scott
Cummings, Patrick William
Curry, Dennis Samuel
Curtin, Michael Francis
Davis, Robert Ernest
Deck, Roger James
Delaurentis, Michael Joseph
Dewell, Kenneth George
Dickerson, Daniel Joseph
Duffey, Thomas Owen
Eastlund, Lon E.
Eller, Jeffrey Michael
Emerson, Jimmie Darrell
Epstein, David Shalom
Erickson, Steven Craig
Feltes, Dale Joseph
Flanagan, John Edward, Jr.
Flowers, John Madison, Jr.
Folland, Clifford Wayne
Foraker, Millard Wendell
Forman, James Michael
Fortier, Ormond Leo
Fowler, James Marion
Frazier, Robert Bruce
Fredericks, Kenneth David
Grady, Patrick Joseph
Grotjahn, Paul James
Hall, Stephen Christopher
Hammond, Richard Coleman, Jr.
Hannaford, Philip Stephen
Hanson, Peter Gordon
Hart, Philip Newman
Hartman, Larry Duane
Hatfield, Franz
Hayes, Bryan Francis
Henderson, Harold Ernest
Henn, Loring Keene
Henning, Robert Allen
Herbert, Raymond John
Hertstein, Mark Sherman
Hickman, Ronald William
Hill, Gordon Richard

Hodges, John Paul
Hoffman, Lee David
Honsinger, Larry Elwin
Howard, John
Hubbard, Mark Andrew
Hurley, Joseph Francis, Jr.
Hutcheson, Rex Jackson
Ishiguro, Steven Edward Susu
Jamrisko, Steven Francis
Jennings, William Elwood, III
Johnson, Johnnie, III
Johnson, Mitchell Charles
Johnson, Robert Bruce, II
Jones, David Carrick, III
Kamen, Roger Dean
Kaufman, Gary Raymond
Kave, Roger Lester
Keenan, Kevin Barry
Kern, Thomas Marshall
Kidd, John Wallace
Kimble, Lawrence Charles
King, Sammy Lee
King, Wallace Vernon
Kirk, John Robert
Koehler, Jay Barry
Kratzer, Victor Edwin
Langevin, Richard Raymond
Lankenau, Gary Willis
Lawrence, Robert Craig
Leather, John Edward
Lee, Larry Dee
Leroy, Osborn
Link, Spencer Frederick
Lippert, Thomas Robert
Lorenzo, Mary Canzy
Lottes, William Russell II
Lowe, Michael Dennis
Lowndes, Rawlins
Lundberg, James Barton
Main, Archibald Mac Nicol II
Marczynski, Alfons Carl
Matsushima, Rodney Fujio
McKim, Robert Allen
McKinney, William Lex
McLean, William Danforth
McComber, Frederick Neergaard
Mellard, Charles Wilson, Jr.
Michalczyk, Michael Edward
Miller, Felton
Miller, Raymond Lee
Miller, Robert Francis
Miller, Roy Estill III
Moate, George Howard II
Moessner, Frederick William
Mokodean, Mark Michael
Monaco, Robert Edmund
Moore, Darrell Lee
Moore, Robert Tolmie III
Moran, Michael Dann
Morgan, Thomas III
Morse, Lawrence Joseph
Murphy, Timothy Richard
Nelson, David Stuart
Netro, William Robert
Nielsen, Gerald Thomas
Nogosek, John Joseph
O'Connell, Matthew Peter
Orr, William David
Owen, Wayne Allen
Palmer, William Allen, Jr.
Peart, Douglas Thomas
Pecuch, Ramon
Perry, Gordon Curtis
Petry, Gerard Kevin
Pine, William Charles, Jr.
Pinta, Roger John
Pixa, Rand Redd
Pledger, John David
Potampa, Whitton Mark
Powell, Jeffrey Philip
Reeve, Robert Eugene
Reily, James Donald, Jr.
Richardson, Howard Vernon II
Ritchey, Raymond Alexander
Rozenzweig, David Allen
Rossley, Thomas William
Rova, Bruce Wayne
Rowe, Gerald Michael
Sample, Thomas Cornelius
Santonil, Rosendo Torres
Scheckel, Daniel Patrick
Schnell, Martin Jerry
Schoplin, William II
Schrader, Thomas Diedrich
Schwartz, Allen Barry
Seebeck, Robert Niels
Selby, Theodore Joseph
Sheppard, Theodore James
Silver, Irving
Simoneaux, Ramon Joseph
Sims, Donald Booth, Jr.
Smitherman, William Tennison
Solis, Armando Raul
Solomon, John Wendell
Soron, John Edward
Sparks, George Francis
Standen, Eric Allen
Stoddard, Jeffrey Richard
Stone, Daniel Herman
Strunk, Lawrence William
St. Thomas, Stephen Field
Swanson, Graydon Neil
Sweeney, Francis Edward
Tandy, Daniel Frank
Tarleton, George Lester, III
Taylor, Robert Wayne, Jr.
Teipel, Mark Allen
Thurston, Kevin Porter
Underwood, Brian Clinton
Ustick, Michael Lee
Vedder, Hellmuth
Vinagre, Eduardo Gerardo
Vorhoff, Robbert Wolff
Wadsworth, David Barry
Walters, James Stephen
Wathen, Michael Alan
Watts, Ralph Stewart
Westlake, Thomas Edward
Whitt, James Ernest
Williams, David Barnard
Williams, Jan Lee
Williams, John Wiley, Jr.
Wilson, Arthur Ray
Wilson, George Wayne
Witham, Michael Joseph
Wolf, David Scott
Wong, Carey Robert
Wortman, David Carl
Wright, Dennis Lloyd
Yates, David Stephen
Yount, Mark Lee
Zimmerman, Bruce Edward

CIVIL ENGINEER CORPS

Allen, James Richard
Anderson, Lee Lawrence, Jr.
Augustin, James Henry, Jr.
Ball, Owen Keith, Jr.
Barrows, William Carey
Boothe, Thomas Mattison
Chamberlain, Paul Douglas
Checkovich, James Keith
Clark, James Webster
Clements, Neal Woodson, Jr.
Cornell, Wayne Lester
Costello, Donald Haryford, Jr.
Craft, Gary Myers
Doyle, John Raymond
Dun, Richard Andrew
Elkins, James Ernest
Farmer, Ronald Bruce
Fritchen, David Rex
Garcia, Raul Edward
Gault, Alan Cabot, Jr.
Gebert, David Kirk
Gebhardt, Gregory William
George, David Russell
Goddard, Nelson George
Gorden, David William
Haas, Richard Frederick, Jr.
Halwachs, James Edward
Herriott, Thomas Ray
Hiller, Paul Warren
Hutchins, Donald Bruce
Irvine, Jac Delaney
Keane, William Paul
Keene, Ronald Earl
Kendall, James Bruce
Kleven, Courtney Craig
Knotts, Raymond Eugene
Krochalis, Richard Francis
Leidholt, Deane Edward
Longo, Paul David
Malarchik, Nicholas Andrew
McKay, Kenneth Patrick
Miller, Steven Ridgely
Morris, Donald Edward
Myers, George William, Jr.
Newton, Clifford Clemens
Nylen, Sven Thure III
Plockmeyer, Dennis Roger
Praskievelcz, Michael Wallace
Ramsey, Ova Wayne
Redmonjones, David Michael
Seltzer, George Harrison III
Shank, John
Smith, Loren Woodrow
Sollenberger, Lee Andrew
Stotmeister, Kevin Stockel
Terry, Ronald Elton
Vandyk, Peter Martin
Watkins, Paul Wynns
Weyrauch, Edwin Frederick
Wight, Norman Randolph
Yaroschak, Paul John, Jr.
Ybanez, Robert Enrique

MEDICAL SERVICE CORPS

Ansley, Bobby Gene
Barina, Fred George, Jr.
Bennett, Ronald Eugene
Benny, Judith Ann
Berube, Richard Paul
Brent, William Herman
Breton, Robert William
Breckeen, Jerry Wayne
Briere, Gerald Paul
Brown, Harold Thomas, Jr.
Campos, Theodore Ramiro
Carroll, Robert Maxwell
Caton, Gene Allen
Cosenza, Joseph Monte
Cox, Tommy Wayne
Crank, Harold Lane
Cunningham, David William
Davidson, Dennis Martin
Day, Charles Stattman
Defibaugh, Thomas Richard
Denayer, John William
Dillard, James Burkett, Jr.
Dittman, David
Dunkleman, Dennis Clair
Eichelberg, Wallace Christia
Ewing, Ronald Clarence
Farnham, Willard Huntz
Finn, Robert Francis Mary
Gammarano, Peter Vincent, Jr.
Gerhard, Susan Lynn
Gervais, David Royal
Ghent, Ernest Richard
Gibson, George E., Jr.
Hargett, David Allen
Harmon, Layton Oscar
Harrison, Robert Burnham J. J.
Hazzard, Charles Alan
Heisler, Robert Paul
Heltsley, John Richard
Hixson, Steven Ralph
Jones, Robert Gerald
Jones, Rudolph
Keenan, James Michael
Kunerth, Marshall Grant
Lane, John Charles
Langston, Carl Coleman, Jr.
Lockhart, Radph Alvis
Maskulak, Michael Joseph
McCaig, Joe Mickey
McGann, Dennis Michael
Meskill, Gerald Vincent
Mohler, Dennis Lee
Morris, Donald Lewis
Moses, Willilam Robert
Murphree, Garry Wayne
Norris, Henry Hampden, Jr.
Nunn, Thomas Dalton, Jr.
Oldham, Richard Thomas
Olson, Peter Kohrs
Olson, Steven Duane
Parr, Laurence Frederick
Pate, George
Penn, Jerry Don
Peters, Vernon Melvin
Peterson, John Charles
Pierce, Charles Richard
Raymond, James Lyman

Radmore, Kenneth James, Jr.
Ruby, Perry Mills, Jr.
Santore, Orlando James, Jr.
Schmitz, Nancy Carol
Silvas, Jose Noises
Simas, Amance Rezendes
Skog, Roy Reynold, Jr.
Smedley, Fulton Joseph
Smith, Donald Anthony
Stewart, George William King
Stratman, Robert Lee
Tyson, Gary Don
Vanrollins, Michael
Ward, Ernest Douglas
Watts, Len Stanley
Webb, John Rhodes, Jr.
Wheeler, David Leo
Willems, John Paul

NURSE CORPS

Akunevich, Elaine Ann
Anderson, Sharon Mack
Bargerhuff, Kay Loraine
Bregar, Wendy Lynn
Burns, Kathryn Patricia
Butchy, Linda Susan
Cappiello, Joseph Lawrence, J.
Chapman, Gayland John
Chojnowski, Eileen Kay
Coppage, Phillip Lynn
Cornelius, Mary Germaine
Dawe, Cecelia Margaret
Day, Lynn Blair
Day, Marilyn Anita
Donahue, Mary Helen
Ellis, Jo Carol
Eversole, Donna Rae
Fricker, Mary Margaret
Graham, Alfred Ernest, Jr.
Haviland, Rebecca Jane
Hoffman, Donna Kay
Holmes, Anne Ashley
Holmes, Lawrence Charles
Hopper, Janet Hackney
Hughes, Judith Annabel
Jackson, Royal Hudson
Kanurick, Ronald Gregory
Kidgell, Patrick Fred
Korns, Barbara Jean
Kuhnly, Diane Beverly
Leifeld, Deanna Rae
Lescavage, Nancy
Lett, Max Richard
Lind, Nancy Kay
Lujan, Eugenio Alfonso
McCulley, Patrick Michael
Michael, Dorothy Ann
Moore, Judith Carol
Morsillo, Sigrun Marianne
Oswald, Gregory Stephen
Paul, Linda Joann
Ratigan, Thomas Robert
Richard, Shirley Mae
Richburg, William Edward
Robins, Margaret Mary
Schnoor, Elaine Helen
Smiley, Janice Starling
Sullivan, Dennis James
Sutton, James Wesley
Templeton, Alma Nancy
Trinkwalder, Janet Catherine
Wallace, Thomas Wardner
Ward, Kathryn Marie
Wells, Mary Elizabeth
Wenner, Linda Jean
Wierzbowski, Daniel Stanley
Wood, Norine Lynn

The following-named women officers of the U.S. Navy for permanent promotion to the grade of lieutenant in the line of staff corps, as indicated, subject to qualification therefor as provided by law:

LINE

Adams, Kay Louise
Anderson, Patricia Kathleen
Atwell, Cynthia Thro
Bailey, Claudia Lynn
Berkowitz, Anne Louise
Bogdewic, Linda Lentz
Brooker, Susan Marie
Brown, Nellie Ruth
Campbell, Linda Ann
Civello, Constance Emily
Clyne, Edith Rebecca
Cozine, Susan Lee Porter
Crawford, Mary Perri
Dalton, Mary Ann
Darnstaedt, Gloria Jean
Douglas, Diantha Lynn
Estrada, Carmen Camila
Falten, Victoria Lee
Ferguson, Margaret Ann
Froehling, Judith
Games, Lila Lee
Gebeaux, Margrette Carr
Good, Beverly Frances
Grabiel, Marolee
Guterrez, Kathleen Connor
Hahn, Mary Katherine Ryan
Hall, Gwendolyn Faye
Hallahan, Dorothy Ellen
Haney, Connie Louise
Harrington, Carol Ann
Harris, Christine Elizabeth
Harrisonbrown, Dorothy Scher
Hawrylo, Jean Ellen
Hayes, Allison Curtis
Heagney, Mary Grace
Higgins, Melanie Lace
Hubbard, Cynthia
Hudson, Suellen Anderson
Hufford, Harriett Mary
Jack, Susan Kerr
Jolley, Marilyn Kristine
Kirker, Karen Junelle
Latsch, Bonnie Carole
Love, Vicki Rene
Lovvorn, Terry Jean
Marcinizyn, Margaret Louise
McCabe, Sally Jean
McClean, Carolyn Jarrell
McMillan, Patricia Ann
McNary, Kathleen Lou
Miskelly, Elizabeth Tyler
Morrissey, Penny Marie
Murphy, Patricia Ruth
Neely, Judith Anne
O'Meara, Jacqueline
Parrish, Sharon Ella
Poorman, Lucia Gizzi
Prevatte, Carolyn Virginia
Prochaska, Norine Ann
Purcell, Colleen Ann
Reichel, Sharon Ann
Reichert, Paulette
Rhiddlehoover, Suzanne
Richman, Jane Lynn
Riordan, Katherine Lee
Robinson, Nancy Lee
Rodgers, Bette Arlene
Rogers, Suzanne Bennett
Russell, Joan Marie
Saccio, Joyce Ruth
Sheldon, Patricia Jeanne
Sidor, Mary Frances
Smethurst, Marilyn Irene
Smith, Linda Mae
Smith, Sue Katheryn
Stevenson, Susan Mallick
Turrentine, Luanne Aline
Walker, Marcia Adele White
Walsh, Mary Greeves
Weidler, Darlene Ruth
White, Judith Anne
Wiegand, Sue Lynn
Winkler, Valerie Breuer
Wright, Catherine Schoonmake
Youngblood, Cathey Ann

SUPPLY CORPS

McKenna, Kathleen Ann
Skipper, Carol Lynne
Tornes, Linda Marie

HOUSE OF REPRESENTATIVES—*Wednesday, September 17, 1975*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

God is our refuge and strength, a very present help in trouble.—Psalms 46: 1.

O God and Father of us all, on this Citizenship Day when by proclamation of our President and by resolution of our Congress we commemorate the formation and signing of the Constitution of our United States, we pause in gratitude before Thee as we listen to the past, as we live in the present, and as we look toward the future.

Two hundred years ago our fathers pledged their lives, their fortunes, and their sacred honor in the struggle for independence. Now may we renew that devotion pledging our lives, our fortunes, and our sacred honor to our beloved country.

Be Thou to us what our fathers said Thou wert to them—a refuge, a strength, and a very present help in trouble. We are living in a difficult day facing demanding duties and seeking solution to perplexing problems. Be Thou to us, as to our fathers, a pillar of cloud by day and fire by night and lead us in the paths of righteousness and peace for Thy name's sake.

Thus may our commemoration of this day be worthy of our heritage and may we prove ourselves to be great citizens of a great land in a great age.

In Thy holy name 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. Sparrow, one of its clerks, 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. 5727. An act to establish an independent and regionalized U.S. Parole Commission, to provide fair and equitable parole procedures, 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. 662. An act to amend the Urban Mass Transportation Act of 1964 to provide operating assistance for projects located in areas other than urbanized areas, to provide for mass transportation assistance to meet the needs of elderly and handicapped persons, and for other purposes;

S. 1537. An act to amend the Defense Production Act of 1950, as amended; and