Honorable Homer E. Capehart
Chairman, Committee on Banking and Currency
United States Senate
Washington 25, D. C.

Dear Senator Capehart:

This is in response to the recent request of Mr. Ira Dixon for an expression of my opinion as to the merits of S. 413, a bill "To encourage the making of contracts with the United States by requiring the inclusion of an escalator clause to provide adjustments for approved price and wage increases."

This bill appears to be ambiguous with respect to whether it is intended to provide for the adjustment of contracts downward in the case of decreases in wages and prices as well as upward in the case of increases. Section (2), for example, refers to adjustment of the contract price so as to reflect changes in the cost of materials "attributable to changes in the price to the contractor of such materials" (underlining supplied). On the other hand, Section (1) refers to such adjustments to reflect changes in the cost of labor and personal services "attributable to increases in wages and salaries" (underlining supplied). In any event, we may assume that the effect of the proposed legislation would be, in most instances, to provide for upward adjustments.

There may be good reasons why contracts which are to run for a long period should contain provisions for escalation to reflect changes in costs. However, there is no sound reason for applying this principle to every Government contract, as would S. 413, since contracts for cost-plus-a-fixed-fee may be executed under existing statutes when the agency head determines that such method of contracting is likely to be less costly than other methods or that it is impractical to secure supplies or services of the kind or quality required without the use of such a contract. To deny the Government the advantages of fixed-price contracts would add immeasurably to the costs of Government contracts. The Government fixed-price contracts impose no greater burden on contractors than contracts made with private individuals, and there is no more reason in the case of the former than in the latter for applying a general escalator clause.

This bill appears especially unwarranted at this time when some stability in prices and wages has been achieved. It would be bound to have an inflationary effect for Government contractors would have no reason to resist demands for unjustified increases in wages or prices of material if they were permitted in all instances to pass the cost of such increases on to the Government.

For the foregoing reasons, I would not favor the enactment of S. 413.

The Bureau of the Budget advises that it has no objection to the submission of this report.

Yours very truly,

/s/ MARTIN P. DUNKIN
Secretary of Labor