662), our 36th attack type nuclear submarine. The ship completed all tests, including full power operation, both surface and submerged. The *Gurnard*, second U.S. submarine to bear this name, was built by the Mare Island Naval Shipyard, Vallejo, California.

The first U.S.S. *Gurnard* (SS254) was commissioned September 18, 1942. In World War II, she made nine war patrols and sank ten Japanese ships for a total of 57,866 tons. She won six battle stars as well as the Navy Unit Commendation. After the war, the *Gurnard* was decommissioned and placed in the Pacific Reserve Fleet. She was activated in 1949 and used for naval reserve submarine training until stricken from the Naval Register in 1961 when she was sold and broken up for scrap.

The new *Gurnard* is equipped with the latest navigation and electronics systems, and a computer-controlled weapons system which enable her to detect and attack targets at various distances. These characteristics combined with her ability to operate at high speeds for long periods of time, and the environmental independence provided by nuclear propulsion make her a powerful weapon against surface ships and submarines alike.

In addition to the 36 attack type nuclear submarines, we also have 41 Polaris submarines, making a total of 77 nuclear submarines in operation. When all nuclear submarines presently authorized by Congress are completed, the United States will have a nuclear submarine fleet of 41 Polaris and 64 attack submarines, and a small submarine capable of exploring the ocean bottom.

The *Gurnard* is the first U.S. submarine to go on sea trials since the tragic loss of the *Scorpion*. Many fine young men—fine husbands, fathers, sons—went down with her. I knew many of them personally. They were outstanding representatives of the best of America's youth.

As a reminder of man's dependence on God, I present a bronze plaque to each submarine Captain as he completes his training in nuclear power. On it is inscribed the prayer which has been used by Breton fishermen for hundreds of years: "Oh God, Thy sea is so great and my boat is so small."

Respectfully,

H. G. RICKOVER.

FORTAS, NO

HON. RICHARD L. ROUDEBUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1968

Mr. ROUDEBUSH. Mr. Speaker, a good editorial penetrates to the core of the controversy and reduces the arguments to their finest points.

Such an editorial appeared on September 13, in the Marion, Ind. Chronicle-Tribune, concerning the appointment of Abe Fortas to Chief Justice of the Supreme Court.

The arguments against this appointment are legion, of course, and his name should have been withdrawn long ago, but the Chronicle-Tribune wraps up the case against Fortas in a most convincing manner.

The editorial from the Chronicle-Tribune follows:

FORTAS, NO

The Senate Judiciary Committee is reopening hearing on the nomination of Justice Abe Fortas to be chief justice of the United States Supreme Court and has agreed to vote on whether to affirm his nomination next Tuesday.

That affirmation should be denied.

More controversy has surrounded the nomination of Fortas by his old friend, President Johnson, than any chief justice in recent times. One of the chief liabilities Fortas carries is his rulings in obscenity cases—in favor of the peddlers of filth of pornography. These decisions have not been popular with the majority of Americans.

No longer can it be said that the Supreme Court reached a decision by simply following the law. The truth of the matter is that the Supreme Court no longer interprets the Constitution. It rules on what the members think the Constitution should say, so the philosophies of a person nominated for chief justice are important matters for consideration.

The manner in which Fortas was nominated is suspect. Chief Justice Earl Warren submitted his resignation, to be effective when his successor was chosen. Some Capitol Hill observers are convinced his resignation was worded this way at the behest of President Johnson. Then there is the question of whether there is a vacancy, since Chief Justice Warren still is a member of the court.

Cronyism certainly enters into President Johnson's choice of Fortas for chief justice and another old Texas friend, Homer Thornberry, to become a justice in the vacancy which would be caused by the elevation of Fortas. Friendship and political debts often enter into political appointments, but it usually isn't that blatant, nor in such large doses.

The "lame duck" problem also must be considered. Should a President, a few short months from stepping out of office, make such an important appointment as a chief justice who may head the court and shape the future of the nation for years to come? This becomes especially important in view of the fact that come November, the voters are quite apt to reverse the roles of the two major parties. While it may well be in the President's power to make the nomination, it hardly seems prudent.

Another objection to Fortas is his testimony when he appeared before the Judiciary Committee earlier. Asked whether he had advised the President while a member of the nation's highest court, Fortas declared he had not. Later, put on the spot, he admitted that he had. We do not find the fact that he was advising the President nearly so objectionable as his denial, which was patently false. It never would have been such a big thing if he had not chosen to falsely deny he advised the President.

Democrats who charge "politics" against those who oppose Fortas ought to check their own skirts on this matter. They aren't exactly clean. For six years, while Democrats controlled Congress, President Eisenhower tried to increase the number of federal judges to relieve the case jam in federal courts. The Democrats would have no part of it. Even when Eisenhower offered to divide the appointments equally between Democrats and Republicans, they still said no. But the moment they gained the Presidency, they promptly added 73 federal judgeships. So let's have no sermons on that subject.

A distinct cloud hangs over the efforts to promote Abe Fortas to the nation's highest judicial post. The Senate should say no on his nomination.

SENATE—*Thursday, September 19, 1968*

The Senate met at 12 noon, and was called to order by the President pro tempore.

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

Our Father God, Thou hast ordained that in the leadership of the Nation the care of the many must ever rest upon the few. We beseech Thee, give understanding, humility, and charity to them who, in the name and for the Nation's sake, are entrusted here with the power of governance.

Thy mercy is broader than the measure of man's mind. Spirit of God, descend upon our hearts. Lead us this day in the paths of righteousness for Thy name's sake.

Bowing at this wayside altar of Thy grace, may we be vividly conscious that we need not turn back to bygone centuries to hear Thy voice, as if Thou dost speak no longer to those now upon the earth.

Give us ears to hear above the noise of crashing systems, Thy voice in and through the change and confusion of our day.

For Thine is the kingdom, and the power, and the glory. Amen.

THE JOURNAL

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, September 18, 1968, be dispensed with.

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

SUBCOMMITTEE MEETING DURING SENATE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Subcommittee on Business and Commerce of the Committee on the District of Columbia be authorized to meet during the session of the Senate today.

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

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that statements in relation to the transaction of routine morning business be limited to 3 minutes.

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

MESSAGE FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT

Under authority of the order of the Senate of September 18, 1968, the Secretary of the Senate received the following message from the President of the United States, on September 18, 1968:

I nominate Albert Bushong Brooke, Jr., of Maryland, to be a member of the Federal

Power Commission for the remainder of the term expiring June 22, 1969, vice Charles Robert Ross.

Subsequently, on today, September 19, 1968, the above nomination was referred to the Committee on Commerce.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Post Office and Civil Service.

(For nominations this day received, see the end of Senate proceedings.)

MESSAGE FROM THE HOUSE— ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the President pro tempore:

S. 3133. An act to extend for 1 year the authority to limit the rates of interest or dividends payable on time and savings deposits and accounts, and for other purposes; and

S. 3379. An act to designate certain lands in the Great Swamp National Wildlife Refuge, Morris County, N.J., as wilderness.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The PRESIDENT pro tempore announced that on today, September 19, 1968, he signed the following enrolled bills and joint resolution, which had previously been signed by the Speaker of the House of Representatives:

S. 220. An act to authorize the sale of certain public lands;

S. 224. An act to provide for the rehabilitation of the Eklutna project, Alaska, and for other purposes;

S. 444. An act to establish the Flaming Gorge National Recreation Area in the States of Utah and Wyoming, and for other purposes;

S. 747. An act for the relief of Dr. Earl C. Chamberlayne;

S. 772. An act for the relief of Dr. Violeta V. Ortega Brown;

S. 905. An act for the relief of John Theodore Nelson;

S. 1327. An act for the relief of Dr. Samad Momtazee;

S. 1354. An act for the relief of Dr. Bong Oh Kim;

S. 1440. An act to include in the prohibitions contained in section 2314 of title 18, United States Code, the transportation with unlawful intent in interstate or foreign commerce of traveler's checks bearing forged countersignatures;

S. 1470. An act for the relief of the Ida group of mining claims in Josephine County, Oreg.;

S. 1637. An act to amend the Tennessee Valley Authority Act of 1933 with respect to certain provisions applicable to condemnation proceedings;

S. 2250. An act for the relief of Dr. Hugo Vicente Cartaya;

S. 2371. An act for the relief of Dr. Herman J. Lohmann;

S. 2477. An act for the relief of Dr. Fang Luke Chiu;

S. 2506. An act for the relief of Dr. Julio Epifanio Morera;

S. 2706. An act for the relief of Yung Ran Kim;

S. 2715. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Chickasaw Nation or Tribe of Oklahoma, and for other purposes;

S. 2720. An act for the relief of Heng Liong Thung;

S. 2759. An act conferring U.S. citizenship posthumously upon S. Sgt. Ivan Claus King;

S. 3024. An act for the relief of Richard Smith (Noboro Kawano);

S. 3072. An act to amend the act entitled "An act to provide for the rehabilitation of Guam, and for other purposes," approved November 4, 1963;

S. 3182. An act to authorize the purchase, sale, exchange, mortgage, and long-term leasing of land by the Swinomish Indian Tribal Community, and for other purposes;

S. 3420. An act to authorize a per capita distribution of $500 from funds arising from a judgment in favor of the Confederated Tribes of the Colville Reservation;

S. 3566. An act to amend the Federal Aviation Act of 1958 with respect to the definition of "supplemental air transportation", and for other purposes;

S. 3578. An act to direct the Secretary of Agriculture to release, on behalf of the United States, a condition in a deed conveying certain lands to the South Carolina State Commission of Forestry so as to permit such commission, subject to a certain condition, to exchange such lands;

S. 3620. An act to provide for the disposition of judgment funds on deposit to the credit of the Quechan Tribe of the Fort Yuma Reservation, Calif., in Indian Claims Commission docket No. 319, and for other purposes;

S. 3621. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Muckleshoot Tribe of Indians in Indian Claims Commission docket No. 98, and for other purposes;

S. 3671. An act to provide for the striking of medals in commemoration of the 200th anniversary of the founding of Dartmouth College;

S. 3687. An act to direct the Secretary of Agriculture to release on behalf of the United States a condition in a deed conveying certain lands to the State of Ohio, and for other purposes;

S. 3728. An act to authorize the use of funds from a judgment in favor of the Kiowa, Comanche, and Apache Tribes of Indians of Oklahoma, and for other purposes;

S.J. Res. 185. Joint resolution to grant the status of permanent residence to Maria Mercedes Riewerts;

H.R. 5754. An act to amend section 1263 of title 18 of the United States Code to require that interstate shipments of intoxicating liquors be accompanied by bill of lading, or other document, showing certain information in lieu of requiring such to be marked on the package;

H.R. 8953. An act to amend the act of November 21, 1941 (55 Stat. 773), providing for the alteration, reconstruction, or relocation of certain highway and railroad bridges by the Tennessee Valley Authority; and

H.R. 18763. An act to authorize preschool and early education programs for handicapped children.

REPORT OF A COMMITTEE

The following report of a committee was submitted:

By Mr. RUSSELL, from the Committee on Appropriations, with amendments:

H.R. 18707. An act making appropriations for the Department of Defense for the fiscal year ending June 30, 1969, and for other purposes (Rept. No. 1576).

REPORT ON DISPOSITION OF EXECUTIVE PAPERS

Mr. MANSFIELD for Mr. MONRONEY, from the Joint Committee on the Disposition of Papers in the Executive Departments, to which were referred for examination and recommendation a list of records transmitted to the Senate by the Archivist of the United States, dated September 9, 1968, that appeared to have no permanent value or historical interest submitted a report thereon, pursuant to law.

PRINTING OF REVIEW OF REPORT ON GULF INTRACOASTAL WATERWAY, ST. MARKS TO TAMPA BAY, FLA., AS A DOCUMENT (H. DOC. 386)

Mr. MANSFIELD. Mr. President, on behalf of the Senator from West Virginia [Mr. RANDOLPH], I present a letter from the Secretary of the Army, transmitting a report dated June 6, 1968, from the Chief of Engineers, Department of the Army, together with accompanying papers and illustrations, on a review of the report on Gulf Intracoastal Waterway, St. Marks to Tampa Bay, Fla., requested by resolutions of the Committee on Commerce and the Committee on Public Works, U.S. Senate, adopted February 6, 1940, and December 20, 1950.

I ask unanimous consent that the report be printed as a House document, with illustrations, and referred to the Committee on Public Works.

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

BILLS INTRODUCED

Bills were introduced, read the first time and, by unanimous consent, the second time, and referred as follows:

By Mr. METCALF (for himself, Mr. ANDERSON, Mr. BAYH, Mr. BURDICK, Mr. CASE, Mr. CHURCH, Mr. HARRIS, Mr. HART, Mr. INOUYE, Mr. MANSFIELD, Mr. MCGEE, Mr. MCGOVERN, Mr. MONDALE, Mr. MONTOYA, Mr. MOSS, Mr. NELSON, and Mr. PEARSON):

S. 4059. A bill to amend the Internal Revenue Code of 1954 so as to limit the amount of deductions attributable to the business of farming which may be used to offset nonfarm income; to the Committee on Finance.

(See the remarks of Mr. METCALF when he introduced the above bill, which appears under a separate heading.)

By Mr. HOLLINGS:

S. 4060. A bill to amend title 28, United States Code, with respect to the trial and review of civil rights proceedings involving student assignment issues; to the Committee on the Judiciary.

S. 4059—INTRODUCTION OF BILL TO AMEND THE INTERNAL REVENUE CODE OF 1954, RELATING TO DEDUCTIONS FOR CERTAIN FARMERS

Mr. METCALF. Mr. President, last November, I introduced a bill, S. 2613, to prevent persons who are not bona fide

farmers from using what are technically tax losses from farming to offset large amounts of other income. On July 17 of this year, I announced that both the Treasury Department and the Department of Agriculture had just issued highly favorable reports endorsing the principle of the bill, S. 2613. At the same time, both reports suggested constructive modifications which have now been incorporated in a new bill which I am introducing today, joined by 15 of my colleagues as cosponsors, and which I now send to the desk. Those of my colleagues who have joined with me in introducing the new bill are Senators ANDERSON, BAYH, BURDICK, CASE, CHURCH, HARRIS, HART, MANSFIELD, MCGEE, MCGOVERN, MONDALE, MONTOYA, MOSS, NELSON, and PEARSON. We are doing this now so that during the adjournment period, farm groups and others will have an opportunity to study its provisions and prepare themselves for early hearings and action in the first session of the 91st Congress.

The problem which now exists is that liberal tax accounting rules designed for the benefit of the ordinary farmer are being manipulated by others who engage in farming for the purpose of creating losses which can be used to offset substantial amounts of their nonfarm income. This problem is spelled out in detail in the reports of both the Treasury Department and the Department of Agriculture.

Mr. President, I ask unanimous consent that the reports on the original bill, S. 2613, be printed in the RECORD.

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

TREASURY DEPARTMENT,
Washington, D.C., July 11, 1968.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the Treasury Department's views on S. 2613, a bill "To amend the Internal Revenue Code of 1954 to provide that farming losses incurred by persons who are not bona fide farmers may not be used to offset nonfarm income", as it would be amended by Amendment No. 529. I note that S. 3443, while differing in many respects, is designed to deal with the same subject and has been referred to your Committee.

The objective of S. 2613 is to eliminate the provisions which presently grant high bracket taxpayers substantial tax benefits from the operation of certain types of farms on a part-time basis. These taxpayers, whose primary economic activity is other than farming, carry on limited farming activities such as citrus farming or cattle raising. By electing the special farm accounting rules—which were developed to ease the bookkeeping chores for ordinary farmers—these high bracket taxpayers show farm "tax losses" which are not true economic losses. These "tax losses" are then deducted from their other income resulting in large tax savings. Moreover, these "tax losses" frequently represent the cost of creating a farm asset (i.e., the cost of raising a breeding herd) which will ultimately be sold and the proceeds (including the part representing a recoupment of the previously deducted expenses) taxed only at lower capital gains rates. Thus, deductions are set off against ordinary income, while the sale price of the resulting assets represents capital gain. The essence of the bill is to deny high bracket part-time farmers the ability to use the generous farm tax accounting rules to reduce taxes on their non-farm income.

When a taxpayer purchases and operates a farm for tax purposes, it inevitably leads to a distortion of the farm economy. The tax benefits allow an individual to operate a farm at an economic breakeven or even a loss and still realize a profit. For example, for a top bracket taxpayer, where a deduction is associated with eventual capital gains income, each $1.00 of deduction means an immediate tax savings of 70 cents to be offset in the future by only 25 cents of tax. This cannot help but result in a distortion of the farm economy, especially for the ordinary farmer who depends on his farm to produce the income needed to support him and his family.

This distortion may be evidenced in various ways: For one, the attractive farm tax benefits available to wealthy persons have caused them to bid up the price of farm land beyond that which would prevail in a normal farm economy. Furthermore, because of the present tax rules, the ordinary farmer must compete in the market place with these wealthy farm owners who may consider a farm profit—in the economic sense—unnecessary for their purposes. Statistics show a clear predominance of farm losses over farm gains among high-bracket taxpayers with income from other sources.

The Treasury Department supports the objective of S. 2613, but suggests certain modifications in its operation. There is attached a memorandum which, in more detail, describe the problem involved, the reasons for the Treasury's position and its recommended changes.

The Bureau of the Budget has advised the Treasury Department that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely yours,

STANLEY S. SURREY,
Assistant Secretary.

AN ANALYSIS OF S. 2613 AND THE FARM LOSS PROBLEM

The objective of S. 2613 is to remove certain unjustified tax benefits available to high bracket taxpayers whose primary economic activity is other than farming through the operation of cattle and other farming activities on a part-time basis. This memorandum describes the general tax problem involved; and then discusses the remedy offered by S. 2613.[1]

The Treasury Department supports the objectives of S. 2613, but suggests certain modifications in its operation.

1. GENERAL BACKGROUND

Methods of accounting.—There are two principal methods of accounting used in reporting business income for tax purposes. In general, those businesses which do not involve the production or sale of merchandise may use the cash method. Under it, income is reported when received in cash or its equivalent, and expenses are deducted when paid in cash or its equivalent.

On the other hand, in businesses where the production or sale of merchandise is a significant factor, income can be properly reflected only if the costs of the merchandise are deducted in the accounting period in which the income from its sale is realized. This is accomplished by recording costs when incurred and sales when made, and including in inventory those costs attributable to unsold goods on hand at year's end. Deduction of the costs included in inventory must be deferred until the goods to which they relate are sold and is not permitted when the costs are incurred. Thus, under this method of accounting, income from sales of inventory and the costs of producing or purchasing such inventory are matched in the same accounting period thereby properly reflecting income.

Farmers, however, have been excepted from these general rules. Even in those cases where inventories are a material factor, they have historically been permitted to use the cash accounting method and ignore their year-end inventories of crops, cattle, etc. This has resulted in an inaccurate reflection of their annual income since expenditures are fully deducted in the year incurred, notwithstanding the fact that the assets produced by those expenditures (inventories) are not sold, and the income not reported, until a later year.

Capitalization of costs.—Farmers are also permitted another liberal tax accounting rule. In most businesses, the cost of constructing an asset (including maintenance of the asset prior to its being used in the business) is a capital expenditure which may not be deducted as incurred but may be recovered only by depreciation over the useful life of the asset. In this manner, the cost of the asset is matched with the income earned by the asset. Farmers, however, have been permitted to deduct some admittedly capital costs as they are incurred. For example, a citrus grove may not bear a commercial crop until 6 or 7 years after it has been planted. Yet, the farmer may elect to deduct as incurred all costs of raising the grove to a producing state even though such expenditures are capital in nature. Similarly, the capital nature of expenditures associated with the raising of livestock held for breeding may be ignored and the expenditures may be deducted currently. These premature deductions frequently result in artificial tax losses.

The problem.—These liberal deviations from good accounting practices were permitted for farm operation in order to spare the ordinary farmer the bookkeeping chores associated with inventories and accrual accounting.

However, many high bracket taxpayers, whose primary economic activity is other than farming, carry on limited farming activties such as citrus farming or cattle raising. By electing the special farm accounting rules which allow premature deductions, many of these high bracket taxpayers show farm losses which are not true economic losses. These "tax losses" are then deducted from their other high bracket income resulting in large tax savings. Moreover, these "tax losses" which arise from deductions taken because of capital costs or inventory costs usually thus represent an investment in farm assets rather than funds actually lost. This investment quite often will ultimately be sold and taxed only at low capital gains rates. Thus, deductions are set off against ordinary income, while the sale price of the resulting assets represents capital gain. The gain is usually the entire sales price since the full cost of creating the asset has previously been deducted against ordinary income.

Examples.—Under the present rules, if the taxpayer has chosen not to capitalize raising costs and also does not use an inventory method of accounting, he may deduct as incurred all the expenses of raising a breeding herd. These include breeding fees, costs of feed, and other expenses attributable to the growth of the herd. During the development of the herd, there is relatively little income realized to offset these expenses with the result that "tax losses" are incurred which may be used to offset the taxpayer's nonfarm income. When the herd has reached its optimum size, a taxpayer seeking the maximum tax savings will sell the entire herd.

---

[1] The sponsor of S. 2613 has also offered Amendment No. 529. The proposed amendment is a minor technical change which does not affect the substance of the bill. The amendment has been considered in this analysis.

If he does, he may report the entire proceeds of the sale as capital gain.

The dollars and cents value of this tax treatment can readily be seen through a simple example. Assume that the expenses of raising the herd are $200,000. If the taxpayer is in the top tax bracket, the current deduction of these expenses will produce a tax savings of $140,000. On the sale of the herd, however, the entire sales price, including the $200,000 representing the recovery of these expenses, will be taxable only at the 25 percent capital gains rate. The capital gains tax on $200,000 is $50,000; or less than half the tax savings realized in the earlier years. Thus, the taxpayer in this situation would realize a $90,000 tax profit from a transaction which economically is merely a break-even.

In the typical situation, the taxpayer will then begin the entire cycle again by starting a new breeding herd which produces more losses and which is later sold at capital gains rates.

Similar advantages are available to one who develops citrus groves, fruit orchards, vineyards, and similar ventures. These assets require several years to mature; however, the development costs, such as the costs of water, fertilizer, cultivation, pruning, and spraying may be deducted as incurred and before the venture produces any income. When the operation has reached the stage where it is ready to begin producing on a profitable basis, the orchard, grove, or vineyard is frequently sold in a transaction which qualifies for the lower capital gains tax rates. Meanwhile, the expenses incurred in the years prior to the sale have been used to create "tax losses" which have been offset against high-bracket ordinary income from other occupations.

Effect of tax benefits on farm economy.—When a taxpayer purchases and operates a farm for tax purposes, it leads to a distortion of the farm economy. The tax benefits allow an individual to operate a farm at an economic breakeven or even loss and still realize a profit. For example, for a top bracket taxpayer, where a deduction is associated with eventual capital gains income, each $1.00 of deduction means an immediate tax savings of 70 cents to be offset in the future by only 25 cents of tax. This cannot help but result in a distortion of the farm economy, especially for the ordinary farmer who depends on his farm to produce the income needed to support him and his family.

This distortion may be evidenced in various ways: For one, the attractive farm tax benefits available to wealthy persons have caused them to bid up the price of farm land beyond that which would prevail in a normal farm economy. Furthermore, because of the present tax rules, the ordinary farmer must compete in the market place with these wealthy farm owners who may consider a farm profit—in the economic sense—unnecessary for their purposes.

Scope of the problem.—Statistics show a clear predominance of farm losses over farm gains among high-bracket taxpayers with income from other sources. The simplest statistics are: In 1965, among taxpayers with less than $50,000 of adjusted gross income, total farm profits were $5.1 billion and total farm losses were $1.7 billion; about a five-to-two ratio of *profits* to losses. Among taxpayers with adjusted gross income between $50,000 and $500,000, profits and losses were in an approximate one-to-one ratio. However, among taxpayers with adjusted gross income over $500,000, total farm profits were $2 million and total farm losses were $14 million, a more than seven-to-one ratio in the other direction—that is, *losses* to profits.

Conclusion.—These data demonstrate the scope and seriousness of the problem. The fact is that our tax laws have spawned artificial tax profits and have distorted the farm economy. S. 2613 is one avenue to a solution to this problem. The Treasury Department supports its objectives and the general approach it takes. The bill does, however, present certain operational problems discussed below. Where appropriate, we have suggested an alternative to overcome the difficulty.

2. AN ANALYSIS OF S. 2613

The essence of the bill is to deny wealthy part-time farmers the ability to use the generous farm accounting rules to reduce taxes on their non-farm income. To accomplish this, the bill would add a new section to the Internal Revenue Code which, in the case of taxpayers who are not "bona fide farmers"[2] as defined in the bill, would disallow as an offset to other income in any taxable year, the excess of all deductions attributable to the business of farming over the aggregate gross income derived from the business of farming in that year.

A bona fide farmer is defined as an individual (A) whose principal business activity is the carrying on of farming operations or (B) who is engaged in the business of farming as the principal source of his livelihood or (C) who is the spouse of an individual who falls under (A) or (B). A corporation would be considered a bona fide farmer if 80 percent or more of its stock were owned by individuals who are also bona fide farmers.

Definitional problems.—The bill thus would limit the tax benefits of farm losses to a defined group. In the Treasury Department's opinion, this approach will lead to administrative difficulty because the meanings of the defining phrases such as "principal business activity" and "principal source of livelihood" are not susceptible of precise definition, and therefore, will inevitably lead to much controversy and perhaps litigation.

As an alternative, we suggest placing a ceiling on the amount of nonfarm income which could be offset by farm losses in any one year. If there were excess farm losses, they could be carried backward and forward to offset farm income, but no other income, of other years. If part of a taxpayer's income for a year consists of capital gains, his carryover of excess farm deductions would be reduced by the excluded half of his capital gains income. No matter what the source of the nonfarm income, excess farm deductions arising from the special farm tax accounting rules would not be permitted to offset it. On the other hand, the ordinary farmer incurring a loss would be protected under this approach in two ways: First, by allowing a limited deduction for farm losses, an ordinary farmer who must take part time or seasonal employment to supplement his income in a poor year in his farm operations would not be deprived of his farm loss deductions. Second, the carryover and carryback provisions would be available to absorb large one-time losses. In other words, the provision would, in operation, only affect taxpayers with relatively large amounts of non-farm income, that is, individuals who do not have to depend on their farm income for their livelihood.

Corporate farms.—In his floor statement Senator Metcalf, the bill's author, noted that corporations were moving into farming at an increasing rate. While he was disturbed by this trend, he did not propose to prohibit corporate farming in this bill. Instead, the purpose was to "eliminate the possibility of corporations getting Federal tax rewards for engaging in loss operations in the farming field." The bill would achieve this goal by denying corporations the right to offset nonfarm income with farm losses unless 80 percent or more of the corporation's stock is held by bona fide farmers. CONGRESSIONAL RECORD, volume 113, part 23, page 30702.

The Treasury Department defers to the Department of Agriculture on the question of the desirability of corporate farming. However, whatever the decision on that matter, the corporate provisions in the bill do not appear to represent an effective approach to the issue. On the one hand they would deny the tax benefits of a farm loss on the basis of the make-up of the shareholders and not the nature of the corporation's activities. Thus, the farm loss abuse would still be available to a limited group of individuals who are able to arrange their farming and non-farming business so as to qualify as "farmers" based on their noncorporate activities although they would not be based on both their corporate and noncorporate activities. For example, if a taxpayer has two farming operations, but is primarily engaged in a non-farming business, he would not be entitled to deduct any farm losses (or, under the Treasury alternatives, only a limited amount). However, by transferring his non-farm business and one farm operation to a corporation and retaining the other farm business, he would qualify as a farmer since his only remaining business activity is farming. As a result, his corporation would be excused from the farm loss limitations. This result seems clearly inconsistent with the purpose of the bill.

On the other hand, as a discouragement to corporate farming, the provisions would affect only loss operations and not profitable ones, which likewise seems somewhat inconsistent. Thus, it does not appear that a proposal concerning "tax losses" is an appropriate vehicle for dealing with the general issues of corporate farming. It is therefore suggested that, in lieu of the corporate rules in the bill, corporations be covered in the same manner as individual farmers and farms run by a partnership.

Capital gains.—Under the bill, a taxpayer would be permitted to measure the amount of his allowable farm expense deductions for a taxable year by the full amount of any long-term capital gains for that year arising from sales of farm assets although, in fact, he receives a deduction equal to 50 percent of these gains in computing his income subject to tax. Thus, in this situation, the taxpayer will in effect receive a double deduction against his capital gain farm income. This is an important problem because of the special capital gain treatment allowed on the sale of farm assets such as draft and breeding livestock, and citrus groves. This problem could be solved by providing for an adjustment that would limit the measure of allowable farm deductions to the taxable one-half of capital gains.

Special treatment for certain losses and expenses.—On the other hand, it would seem appropriate to except some kinds of farm expenses from the disallowance provisions. One category of farm expenses would include taxes and interest which are generally deductible whether or not they are attributable to an income producing activity. A second category would include casualty and abandonment losses and expenses and losses arising from drought. These events are generally not in the taxpayer's control and disallowance of the loss or expense could create an undue hardship to the taxpayer since they may be catastrophic. These same expenses and losses are now excluded from the operation of section 270 which excludes losses in connection with a hobby operation.

Scope of the bill.—As noted at the outset, the farm loss problems at which the bill is aimed arise from the use of accounting methods which do not properly match income and expenses, such as the failure to use an inventory method where goods on hand at year end are a significant factor. Conse-

[2] Taxpayers who were not bona fide farmers when a farming enterprise was acquired but who became bona fide farmers by the end of the second taxable year following the year of acquisition would qualify as such from the time of acquisition. There are also exceptions for a farming enterprise acquired from a decedent, acquired by foreclosure, or acquired in the ordinary course of carrying on the trade or business of buying or selling real property.

quently, there would seem to be no reason to subject a taxpayer who adopts a proper method of accounting and capitalizes expenses to the restrictive rules of this bill. There is, in fact, a positive advantage in encouraging the adoption of sound accounting practices. Therefore, we recommend that the scope of this bill be limited to those taxpayers who, with respect to their farming operations, do not elect to use inventories and to capitalize all expenditures which should be capitalized under generally recognized tax accounting principles.

* * * * *

As indicated, these are not changes that go to the heart of the bill. We thoroughly agree with its objective and general approach. Our suggestions are generally to improve its efficiency.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., July 5, 1968.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request of November 2, 1967, for a report on S. 2613, a bill "To amend the Internal Revenue Code of 1954 to provide that farming losses incurred by persons who are not qualified farmers may not be used to offset nonfarm income;" to your request of February 19, 1968, for a report on Amendment No. 529, a technical amendment to S. 2613; to your request of May 9, 1968, for a report on S. 3443; and to your request of June 20, 1968, for a report on Amendment 853 to S. 3443. S. 3443 has purposes similar to S. 2613 but differs in some of the details.

These bills are designed to capture some of the taxes avoided by some individuals with sizeable income from sources other than agriculture, who operate farm enterprises at a loss and deduct farm losses from their income from other sources. It would accomplish this objective by providing that taxpayers engaged in the business of farming, but who did not have farming as their principal business activity as defined in the law, could deduct farm expenses only to the extent of their gross farm income.

The Department of Agriculture is certainly in agreement with the objectives of these bills. We believe that there are serious problems in the area of the tax treatment of farm income, and that these problems can be remedied. However, we feel that certain modifications in these bills would help to achieve their objectives more effectively, and at the same time would minimize other potential problems.

Perhaps the most important problem under these bills would be the effect on low-income farmers. Many of these farmers also hold nonfarm jobs, and off-farm income is often their most important source of livelihood. Under the proposed legislation, it would appear that these farmers would not be permitted to offset farm losses against income from their nonfarm jobs in years in which they lost money on the farm. Such a provision would have serious effects on present efforts to ameliorate rural poverty.

We believe the objectives of this bill could be accomplished more effectively if certain modifications were made. We recommend placing a reasonable ceiling on the amount of nonfarm income which could be offset by farm losses in any one year. If there were excess farm losses, they could be carried backward and forward to offset farm income, but no other income, of other years. Thus, no matter what the source of the nonfarm income, excess farm deductions arising from the special farm tax accounting rules would not be permitted to offset it. The ordinary farmer incurring a loss would be protected under this approach in two ways: First, by allowing a limited deduction for farm losses, an ordinary farmer who must take part-time or seasonal employment to supplement his income would not be deprived of his farm loss deductions. Second, the carryover and carryback provisions would be available to absorb large one-time losses. In other words, the provisions would, in operation, affect only taxpayers with relatively large amounts of nonfarm income, that is, individuals who do not have to depend on their farm income for an adequate living standard.

It would seem appropriate, however, to exclude from the definition of farm losses some kinds of farm expenses. One group of such expenses would include taxes and interest, which are generally deductible whether or not they are attributable to an income-producing activity. A second group would include casualty and abandonment losses and expenses and losses arising from drought. These events are generally not in the taxpayer's control and disallowance of the loss or expense could create an undue hardship for the taxpayer. These same losses and expenses are now excluded from the operation of Section 270, which excludes losses in connection with a hobby operation.

The special position of farm losses for tax purposes which this bill is designed to change arise from the use of cash accounting procedures by individuals and corporations with large incomes from nonfarm sources who also engage in farming. The cash accounting method does not properly match income and expenses for these firms and individuals. For example, the failure to use an inventory method where goods on hand at a year's end are of considerable value can significantly overstate losses. However, the present farm tax advantages do not apply to a taxpayer who adopts an accrual method of accounting and capitalizes expenses. Therefore, we recommend that the scope of this bill be limited to those taxpayers who elect to use the cash accounting procedures.

This Department is now studying the problem of corporation activity in agriculture, with the objective of obtaining better information on both its extent and its probable effects. We do not believe, however, that it is necessary to wait for the completion of this study to recommend modifications in the tax treatment of corporations engaged in farming. Simple equity would seem to us to dictate that corporations be covered under this proposed legislation in the same manner as are individual farmers and farms run by a partnership. To do otherwise would be to open up new possibilities for tax avoidance through changes in legal form of organization, and raise the danger of attendant problems of distortions in our economic organization due solely to attempts to claim tax advantages.

This Department is informed that the Treasury Department is making similar recommendations with respect to changes in the language of S. 2613. We strongly urge passage of legislation which eliminates existing "farm tax havens" for individuals and corporations with substantial nonfarm incomes.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

ORVILLE L. FREEMAN,
Secretary.

Mr. METCALF. Mr. President, the bill which is now being introduced permits farm losses to be offset in full against nonfarm income up to $15,000 for those whose nonfarm income does not exceed that amount. This means that persons not only engaged in farming but also employed, perhaps on a part-time basis in a neighboring town, will be entirely unaffected by the limitation I have provided in this bill.

For those with nonfarm income in excess of $15,000, the amount against which the farm losses may be offset is reduced dollar for dollar for income above $15,000. In other words, those with nonfarm income of $30,000 or more cannot generally offset farm losses against their nonfarm income.

There is an important exception to this rule, however. The bill in no event prevents the deduction of farm losses to the extent they relate to taxes, interest, casualty losses, losses from drought, and losses from the sale of farm property. An exception is made for these deductions since they are in general deductions which would be allowed to anyone holding property without regard to whether it was being used in farming or because they represent deductions which are clearly beyond the control of the farmer; such as, losses from casualties and drought.

Even if farm losses should be denied under the provisions I have explained up to this point, they still will be available as offsets against farm income for the prior 3 years and the subsequent 5 years. In this case, however, they may not exceed the income from farming in these other years.

Still one more feature of the bill remains to be discussed. The limitation on the deduction of farm losses is not to apply to the taxpayer who is willing to follow with respect to his farming income, accounting rules which apply generally to other taxpayers; that is, using inventories in determining taxable income and treating as capital items—but subject to depreciation in most cases—all expenditures which are properly treated as capital items rather than treating them as expenses fully deductible in the current year.

It is important to note that this provision merely provides an opportunity for those who would otherwise distort the farm economy to follow instead regularly established, generally applicable accounting rules. No incentive to shift to an accrual accounting system is provided by this bill for anyone who derives his income largely from farming, or even from nonfarm income if it does not exceed $15,000 a year. It is fully recognized that bona fide farmers have good reasons for not always following accrual accounting methods and there is no intent here, directly or implied, to make a change in this respect.

The dollar figure as to the exact amount of nonfarm income against which farm income may be offset represents an analysis of available statistics as well as discussion generated by the introduction of the original bill. Substantially all the rest of the provisions of the new bill, however, represent suggestions contained in the reports of the Treasury and Agriculture Departments issued in July of this year.

As I have indicated in previous statements, beginning with the introduction of the earlier bill, this use of farming losses to offset other income is an ever-increasing problem in large part because this is creating a new breed of person, sometimes referred to as "tax farmers," who are more interested in farming the Internal Revenue Code than they are the

land, and who are making it increasingly difficult for bona fide farmers to earn a fair and adequate rate of return on their effort and investment.

The intent of both the earlier bill and the one introduced today is to eliminate the provisions of the tax laws which presently grant high-bracket taxpayers substantial tax benefits from the operation—usually indirectly—of limited types of farm operations on a part-time basis. The principal economic activity of these taxpayers is other than farming—often running a brokerage firm, law business, practicing medicine or deriving income largely from the stage or motion picture productions. By electing the special farm accounting rules which, as the Treasury Department has indicated, were developed to ease the bookkeeping chores for ordinary farmers, these high-bracket taxpayers show farm "tax losses" which are not true economic losses. These tax losses are then deducted against their other income with resulting large tax savings.

In addition, these tax losses frequently represent the costs of creating a farm asset—such as the cost of raising a breeding herd of cattle—which will ultimately be sold and the proceeds taxed at capital gains rate not in excess of 25 percent. As a result, deductions are offset against ordinary income, currently saving as much as 77 cents on a dollar, while the related income may eventually be taxed at 25 cents on the dollar or less.

While I am, of course, concerned with the tax equity problem here—namely, the problem wherein high-bracket taxpayers are able to avoid paying their fair share of the tax burden by using farm losses to offset or eliminate other income—of still greater importance is the fact that the influx of these "tax farmers" is squeezing small and other bona fide farmers out of farming operations. These tax farmers bid up prices of land and other farm assets through the use of their very considerable financial resources. An example of this process is the effect of prices of breeding stock and of the increasing popularity of devices such as "rent-a-cow." High-income "tax farmers" are able to pay these prices because they make their profit from the farm loss deductions, not from the economic return on farming as such.

It is ironic that tax provisions primarily developed for the benefit of bona fide farmers have, in fact, been misused by others so that they, in reality, have injured the bona fide farmer by the movement of the "tax farmers" into farming operations with the resultant bidding up of farm asset prices. Certainly this was not intended by the Congress.

In summary, I would like to point out that the principal effect of this bill will be to remove the inflation in farm asset prices which arises from the encouragement which our tax laws give others than farmers to engage in specialized types of farming operations. The effect of this bill should be to restore a more normal relationship between farm property values and income to be derived from farming. This should also have the substantial, but side effect of substantially increasing the equity of our tax laws.

On April 25, 1968, I inserted in the RECORD a table showing how, in general, farm losses increase as the size of nonfarm income increases. If it were not for the presence of these "tax farmers" in the statistics, one would almost think that the larger one's nonfarm income, the greater one's inefficiency in farming.

Mr. President, I ask unanimous consent that the table be printed in the RECORD.

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

NET FARM LOSS, NUMBER OF RETURNS AND AVERAGE NET FARM LOSS, BY AGI CLASS, TAXABLE RETURNS, 1964, 1965, AND 1966

AGI classes (thousands)	1964			1965			1966		
	Number of returns	Net loss (thousands)	Average loss	Number of returns	Net loss (thousands)	Average loss	Number of returns	Net loss (thousands)	Average loss
$0 to $5	222,910	$236,049	$1,059	197,762	$203,526	$1,029	171,410	$167,024	$974
$5 to $10	314,346	340,867	1,084	319,741	334,943	1,048	324,312	349,196	1,077
$10 to $15	70,351	112,499	1,599	79,564	123,177	1,548	104,509	142,655	1,365
$15 to $20	17,969	48,817	2,717	23,843	60,292	2,529	31,667	35,370	2,380
$20 to $50	29,394	152,693	5,195	30,380	133,187	4,384	36,861	154,263	4,185
$50 to $100	6,865	63,526	9,254	7,424	76,852	10,352	8,863	76,402	8,620
$100 to $500 [1]	2,546	53,608	21,056	2,874	54,872	19,093	[1] 3,241	[1] 60,789	[1] 18,756
$500 to $1,000	145	5,295	36,517	170	6,625	38,971	193	7,566	39,202
$1,000 and over	76	4,500	59,211	103	7,630	74,078	88	3,555	40,398

[1] Greater detail available for 1966:

AGI classes (thousands)	Number of returns	Net loss (thousands)	Average loss
$100 to $200	2,350	$36,202	$15,448
$200 to $500	891	24,487	27,483

Mr. METCALF. Mr. President, I also ask unanimous consent that the new bill be printed in the RECORD.

The PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 4059) to amend the Internal Revenue Code of 1954 so as to limit the amount of deductions attributable to the business of farming which may be used to offset nonfarm income, introduced by Mr. METCALF (for himself and other Senators), was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 4059

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"Sec. 277. Limitation on deductions attributable to farming.

"(a) GENERAL RULE.—In the case of a taxpayer engaged in the business of farming, the deductions attributable to such business which, but for this section, would be allowable under this chapter for the taxable year shall not exceed the sum of—

"(1) the adjusted farm gross income for the taxable year, and

"(2) the higher of—

"(A) the amount of the special deductions (as defined in subsection (c)(3)) allowable for the taxable year, or

"(B) in the case of a taxpayer other than an electing small business corporation (as defined in section 1371), $15,000 ($7,500 in the case of a married individual filing a separate return), reduced by the amount by which the taxpayer's adjusted gross income (taxable income in the case of a corporation) for the taxable year attributable to all sources other than the business of farming (determined before the application of this section) exceeds $15,000 ($7,500 in the case of a married individual filing a separate return).

"(b) EXCEPTION.—

"(1) TAXPAYERS USING CERTAIN ACCOUNTING RULES.—Subsection (a) shall not apply to a taxpayer who has filed a statement, which is effective for the taxable year, that—

"(A) he is using, and will use, a method of accounting in computing taxable income from the business of farming which uses inventories in determining income and deductions for the taxable year, and

"(B) he is charging, and will charge, to capital account all expenditures paid or incurred in the business of farming which are properly chargeable to capital account (including such expenditures which the taxpayer may, under this chapter or regulations prescribed thereunder, otherwise treat or elect to treat as expenditures which are not chargeable to capital account).

"(2) TIME, MANNER, AND EFFECT OF STATEMENT.—A statement under paragraph (1) for any taxable year shall be filed within the time prescribed by law (including extensions thereof) for filing the return for such taxable year, and shall be made and filed in such manner as the Secretary or his delegate shall prescribe by regulations. Such statement shall be binding on the taxpayer, and be effective, for such taxable year and for all subsequent taxable years and may not be revoked except with the consent of the Secretary or his delegate.

"(3) CHANGE OF METHOD OF ACCOUNTING ETC.—If, in connection with a statement under paragraph (1), a taxpayer changes his method of accounting in computing taxable income or changes a method of treating expenditures chargeable to capital account, such change shall be treated as having been made with the consent of the Secretary or his delegate and, in the case of a change in method of accounting, shall be treated as a change not initiated by the taxpayer.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ADJUSTED FARM GROSS INCOME.—The term 'adjusted farm gross income' means, with respect to any taxable year, the gross income derived from the business of farming for such taxable year (including recognized gains derived from sales, exchanges, or involuntary conversions of farm property), reduced, in the case of a taxpayer other than a corporation, by an amount equal to 50 percent of the lower of—

"(A) the amount (if any) by which the recognized gains on sales, exchanges, or involuntary conversions of farm property which under section 1231(a) are treated as gains from sales or exchanges of capital assets held for more than six months exceed the recognized losses on sales, exchanges, or involuntary conversions of farm property which under section 1231(a) are treated as losses from sales or exchanges of capital assets held for more than six months, or

"(B) the amount (if any) by which the recognized gains described in section 1231 (a) exceed the recognized losses described in such section.

"(2) NET FARM INCOME.—The term 'net farm income' means, with respect to any taxable year, the gross income derived from the business of farming for such taxable year, reduced by the sum of—

"(A) the deductions allowable under this chapter (other than by subsection (d) of this section) for such taxable year which are attributable to such business, and

"(B) in the case of a taxpayer other than a corporation, an amount equal to 50 percent of the amount described in subparagraph (A) or (B) of paragraph (1), whichever is lower.

"(3) SPECIAL DEDUCTIONS.—The term 'special deductions' means the deductions allowable under this chapter which are paid or incurred in the business of farming and which are attributable to—

"(A) taxes,

"(B) interest,

"(C) the abandonment or theft of farm property, or losses of farm property arising from fire, storm, or other casualty,

"(D) losses and expenses directly attributable to drought, and

"(E) recognized losses from sales, exchanges, and involuntary conversions of farm property.

"(4) FARM PROPERTY.—The term 'farm property' means property which is used in the business of farming and which is property used in the trade or business within the meaning of paragraph (1), (3), or (4) of section 1231 (b) (determined without regard to the period for which held).

"(5) DISALLOWED FARM OPERATING LOSS.—The term 'disallowed farm operating loss' means, with respect to any taxable year, the amount disallowed as deductions under subsection (a) for such taxable year, reduced, in the case of a taxpayer other than a corporation, by an amount equal to 50 percent of the amount described in subparagraph (A) or (B) of paragraph (1), whichever is lower.

"(6) BUSINESS OF FARMING.—A taxpayer shall be treated as engaged in the business of farming for any taxable year if—

"(A) any deduction is allowable under section 162 or 167 for any expense paid or incurred by the taxpayer with respect to farming, or with respect to any farm property held by the taxpayer, or

"(B) any deduction would (but for this paragraph) otherwise be allowable to the taxpayer under section 212 or 167 for any expense paid or incurred with respect to farming, or with respect to property held for the production of income which is used in farming.

For purposes of this paragraph, farming does not include the raising of timber.

"(7) TWO OR MORE BUSINESSES.—If a taxpayer is engaged in two or more businesses of farming, such businesses shall be treated as a single business.

"(8) PARTNERSHIPS.—A business of farming carried on by a partnership shall be treated as carried on by the members of such partnership in proportion to their interest in such partnership. To the extent that income and deductions attributable to a business of farming are treated under the preceding sentence as income and deductions of members of a partnership, such income and deductions shall, for purposes of this chapter, not be taken into account by the partnership.

"(d) CARRYBACK AND CARRYOVER OF DISALLOWED FARM OPERATING LOSSES.—

"(1) IN GENERAL.—The disallowed farm operating loss for any taxable year (hereinafter referred to as the 'loss year') shall be—

"(A) a disallowed farm operating loss carryback to each of the 3 taxable years preceding the loss year, and

"(B) a disallowed farm operating loss carryover to each of the 5 taxable years following the loss year, and (subject to the limitations contained in paragraph (2)) shall be allowed as a deduction for such years, under regulations prescribed by the Secretary or his delegate, in a manner consistent with the allowance of the net operating loss deduction under section 172.

"(2) LIMITATIONS.—

"(A) IN GENERAL.—The deduction under subsection (a) for any taxable year for disallowed farm operating loss carrybacks and carryovers to such taxable year shall not exceed the taxpayer's net farm income for such taxable year.

"(B) CARRYBACKS.—The deduction under subsection (a) for any taxable year for disallowed farm operating loss carrybacks to such taxable year shall not be allowable to the extent it would increase or produce a net operating loss (as defined in section 172(c)) for such taxable year.

"(3) TREATMENT AS NET OPERATING LOSS CARRYBACK.—Except as provided in regulations prescribed by the Secretary or his delegate, a disallowed farm operating loss carryback shall, for purposes of this title, be treated in the same manner as a net operating loss carryback.

"(e) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section."

SEC. 2. (a) The table of sections for part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new item:

"Sec. 277. Limitation on deductions attributable to farming."

(b) Section 172 (1) of such Code is amended by adding at the end thereof the following new paragraph:

"(3) For limitations on deductions attributable to farming and special treatment of disallowed farm operating losses, see section 277."

(c) Section 381 (c) of such Code is amended by adding at the end thereof the following new paragraph:

"(24) FARM OPERATING LOSS CARRYOVERS.—The acquiring corporation shall take into account, under regulations prescribed by the Secretary or his delegate, the disallowed farm operating loss carryovers under section 277 of the distributor or transferror corporation."

SEC. 3. The amendments made by this Act shall apply to taxable years beginning after the date of the enactment of this Act, except that for purposes of applying section 277(d) of the Internal Revenue Code of 1954 (as added by the first section of this Act) with respect to disallowed farm operating losses of any taxpayer for taxable years beginning after such date, such amendments shall also apply to the 3 taxable years of such taxpayer preceding the first taxable year beginning after such date.

Mr. METCALF. Mr. President, I also ask unanimous consent that the name of the distinguished Senator from Hawaii [Mr. INOUYE], the present occupant of the chair, be added as a cosponsor.

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

Mr. BAYH. Mr. President, as one of the cosponsors, let me commend my distinguished colleague from Montana for introducing a perfected version of S. 2613, his earlier bill to prevent corporations and industries from buying up farmland and intentionally operating at a loss so that they can benefit from tax writeoffs. The new measure incorporates a number of technical modifications and other improvements. I am happy to join in cosponsorship of this proposal because it would contribute substantially toward solving the problem of small farmers.

The result of this growing practice of tax writeoffs by nonfarmers has been to make it more difficult for the family farmer to compete in the marketplace. A family farmer cannot purposely operate at a loss and remain a going concern. In addition, this practice, in effect, denies local, State, and Federal governments taxes. Corporate farms also get the benefit of a number of tax advantages not enjoyed by the family farmer. They can deduct for advertising, losses in any one of several areas of their huge operations, and other corporation expenses.

To illustrate the seriousness of the situation, there are nearly 18,000 corporate farms in the United States, only about half of which pay any Federal taxes. In total, these corporate farms are reported to gross $4.3 billion a year and pay only $70 million in Federal taxes, or about 1.7 percent of their gross. How much better off the family farmer would be if he only had to pay 1.7 percent of his gross income in Federal taxes.

The Treasury Department has also stated that statistics demonstrate a clear predominance of farm losses over farm gains among high-bracket taxpayers with income from other sources. For example, in 1965, among taxpayers with adjusted gross incomes of over $500,000, total farm profits were $2 million; total farm losses were $14 million. This amounts to a 7-to-1 ratio of losses to profits. At the other end of the scale, among taxpayers with less than $50,000 of adjusted gross income, a 5-to-2 ratio of profits to losses occurred.

The implications are clear. Either small farmers are much more efficient in their operations, despite the superior equipment and facilities available to the corporate farms, or the large corporate farms are taking advantage of an inequitable tax structure.

Mr. President, at the very least, our farm programs ought to help the producer who needs it the most: the small family farmer.

The annual migration from rural areas to the cities averaged almost 800,000 annually from 1960 to 1965. Most of these people went to urban areas, many to ghettos, ultimately creating a crisis in the cities. This is not only a farm problem; it is truly a national problem. It does not affect only families in the countryside; it affects families in the cities and the urban taxpayer as well.

Efforts must be made to stem this tide of migration. Let us give the small farmer the benefits that were originally intended to help him. This Nation has a sizable stake in the economic well-being of the agricultural community. It is time that those persons shared in the prosperity of this Nation.

The bill introduced today would simply insure that large corporations would bear an equal tax burden with their rural neighbors. It would not affect those with nonfarm income up to $15,000. Consequently, persons engaged in farming while at the same time holding down a part-time job, would not be affected. For those with nonfarm income over $15,000, losses would be reduced dollar for dollar. Those earning over $30,000 of nonfarm income could not offset farm losses against their income.

As my distinguished colleague stated, the bill would not prevent accepted, general deductions related to drought, sale of farm property, casualty losses, taxes and interest.

I hope the Senate will support this measure which is a modest attempt to aid bona fide farmers who are being driven off the farms in alarming proportions. We simply cannot afford to let the family farm die. If it does, then a handful of people will control the food supply for the whole Nation, which is too great a risk to take in a free society.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, September 19, 1968, he presented to the President of the United States the following enrolled bills and joint resolution:

S. 220. An act to authorize the sale of certain lands;

S. 224. An act to provide for the rehabilitation of the Eklutna project, Alaska, and for other purposes;

S. 444. An act to establish the Flaming Gorge, National Recreation Area in the States of Utah and Wyoming, and for other purposes;

S. 747. An act for the relief of Dr. Earl C. Chamberlayne;

S. 772. An act for the relief of Dr. Violeta V. Ortega Brown;

S. 905. An act for the relief of John Theodore Nelson;

S. 1327. An act for the relief of Dr. Samad Nomtazee;

S. 1354. An act for the relief of Dr. Bong Oh Kim;

S. 1440. An act to include in the prohibitions contained in section 2314 of title 18, United States Code, the transportation with unlawful intent in interstate or foreign commerce of traveler's checks bearing forged countersignatures;

S. 1470. An act for the relief of the Ida group of mining claims in Josephine County, Oreg.;

S. 1637. An act to amend the Tennessee Valley Authority Act of 1933 with respect to certain provisions applicable to condemnation proceedings;

S. 2250. An act for the relief of Dr. Hugo Vicente Cartaya;

S. 2371. An act for the relief of Dr. Herman J. Lohmann;

S. 2477. An act for the relief of Dr. Fang Luke Chiu;

S. 2506. An act for the relief of Dr. Julio Epifanio Morera;

S. 2706. An act for the relief of Yung Ran Kim;

S. 2715. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Chickasaw Nation or Tribe of Oklahoma, and for other purposes;

S. 2720. An act for the relief of Hang Liong Thung;

S. 2759. An act conferring U.S. citizenship posthumously upon S. Sgt. Ivan Claus King;

S. 3024. An act for the relief of Richard Smith (Noboro Kawano);

S. 3072. An act to amend the act entitled "An act to provide for the rehabilitation of Guam, and for other purposes," approved November 4, 1963;

S. 3133. An act to extend for 1 year the authority to limit the rates of interest or dividends payable on time and savings deposits and accounts, and for other purposes;

S. 3182. An act to authorize the purchase, sale, exchange, mortgage, and long-term leasing of land by the Swinomish Indian Tribal Community, and for other purposes;

S. 3379. An act to designate certain lands in the Great Swamp National Wildlife Refuge, Morris County, N.J., as wilderness;

S. 3420. An act to authorize a per capita distribution of $500 from funds arising from a judgment in favor of the Confederated Tribes of the Colville Reservation;

S. 3566. An act to amend the Federal Aviation Act of 1958 with respect to the definition of "supplemental air transportation," and for other purposes;

S. 3578. An act to direct the Secretary of Agriculture to release on behalf of the United States, a condition in a deed conveying certain lands to the South Carolina State Commission of Forestry so as to permit such Commission, subject to a certain condition, to exchange such lands;

S. 3620. An act to provide for the disposition of judgment funds on deposit to the credit of the Quechan Tribe of the Fort Yuma Reservation, Calif., in Indian Claims Commission docket No. 319, and for other purposes;

S. 3621. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Muckleshoot Tribe of Indians in Indian Claims Commission docket No. 98, and for other purposes;

S. 3671. An act to provide for the striking of medals in commemoration of the 200th anniversary of the founding of Dartmouth College;

S. 3687. An act to direct the Secretary of Agriculture to release on behalf of the United States a condition in a deed conveying certain lands to the State of Ohio, and for other purposes;

S. 3728. An act to authorize the use of funds from a judgment in favor of the Kiowa, Comanche, and Apache Tribes of Indians of Oklahoma, and for other purposes; and

S.J. Res. 185. Joint resolution to grant the status of permanent residence to Maria Mercedes Riewerts.

AMENDMENT OF INTERNAL REVENUE CODE OF 1954, RELATING TO AMORTIZED DEDUCTIONS FOR CERTAIN ASSESSMENTS FOR DEPRECIABLE PROPERTY—AMENDMENTS

AMENDMENT NO. 981

Mr. HARTKE (for himself and Mr. HART) submitted amendments, intended to be proposed by them, jointly, to the bill (H.R. 2767) to amend the Internal Revenue Code of 1954 to allow a farmer an amortized deduction from gross income for assessments for depreciable property levied by soil or water conservation or drainage districts, which were ordered to lie on the table and to be printed.

AMENDMENT NO. 982

Mr. GRIFFIN submitted an amendment, intended to be proposed by him, to House bill 2767, supra, which was ordered to lie on the table and to be printed.

CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 79—CORRECTION OF ERRORS IN ENROLLMENT OF SENATE BILL 827

Mr. JACKSON submitted a concurrent resolution (S. Con. Res. 79) to correct errors in the enrollment of S. 827, which was considered and agreed to.

(See the above concurrent resolution printed in full when submitted by Mr. JACKSON, which appears under a separate heading.)

CONSUMER PROTECTION IN THE DISTRICT OF COLUMBIA

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1504, S. 2589.

The PRESIDENT pro tempore. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (S. 2589) to provide for the regulation in the District of Columbia of retail installment sales of consumer goods (other than motor vehicles) and services, and for other purposes.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the District of Columbia with an amendment to strike out all after the enacting clause and insert:

TITLE I—GENERAL PROVISIONS AND DEFINITIONS

SECTION 1.101. PURPOSES, RULES OF CONSTRUCTION.—

(A) This Act may be cited as the "District of Columbia Retail Installment Sales Act", and shall be liberally construed and applied to promote its underlying purposes and policies.

(B) Underlying purposes and policies of this Act are—

(1) to regulate retail installment sales of consumer goods (other than motor vehicles) and services and to safeguard consumers from unfair, unconscionable, or fraudulent advertising, sales, credit, and collection practices;

(2) to permit and encourage the development of fair and economically sound consumer credit practices;

(3) to further consumer understanding through disclosure of the terms of retail installment transactions and to promote and enhance competition among retail sellers of consumer goods and services; and

(4) to promote and develop programs for the education of retail credit consumers.

SEC. 1.102. CONSTRUCTION AGAINST IMPLICIT REPEAL.—This Act being a general Act relating to the retail installment sale of consumer goods and services, no part of it shall

be deemed to be impliedly repealed by subsequent legislation if such construction can reasonably be avoided.

SEC. 1.103. GENERAL REPEALER.—All Acts or parts of Acts inconsistent herewith are, to the extent of such inconsistency, hereby repealed.

SEC. 1.104. SEVERABILITY.—If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or the application of this Act which can be effected without the invalid provision or application, and to this end the provisions of this Act are severable.

SEC. 1.105. EFFECTIVE DATE.—

(A) This Act shall take effect on the first day of the first month which begins more than ninety days after the enactment of this Act.

(B) This Act and the regulations adopted and promulgated by the Council under the authority of this Act shall be applicable to retail installment contracts, open-end credit agreements, and extension or refinancing agreements entered into on or after the effective date of this Act, notwithstanding the provisions of any retail installment contract, refinancing or extension agreement, promissory note, or other instrument to the contrary.

SEC. 1.201. DEFINITIONS.—

(1) "Cash price" of goods or services means the price at which the goods or services are offered for sale by the seller to cash buyers in the ordinary course of business and may include, if separately itemized, any applicable taxes. The cash price of goods may not include the cash price of delivery, installation, servicing, repairs, alterations, or improvements. The amount by which the cash price stated in a retail installment contract exceeds the cash price of goods or services offered for sale by the seller to retail or cash buyers in the ordinary course of business shall be deemed a finance charge.

(2) "Commissioner" means the Commissioner of the District of Columbia or his designated agent; "Council" means the District of Columbia Council or its designated agent.

(3) "Consumer goods" means tangible chattels bought for use primarily for personal, family, or household purposes, including certificates or coupons exchangeable for such goods, and including consumer goods which, at the time of the sale or subsequently, are to be so affixed to real property as to become a part of real property whether or not severable therefrom, but the term "consumer goods" does not include goods acquired for commercial or business use or for resale, nor shall such term include any motor vehicle as such term is defined in the first section of the Act approved April 22, 1960 (74 Stat. 69; title 40, ch. 9, D.C. Code), providing for the regulation of finance charges for retail installment sales of motor vehicles in the District of Columbia.

(4) "Credit" means the right granted to a retail buyer to defer payment of debt or to incur debt and defer its payment.

(5) "District" means the District of Columbia.

(6) "Finance charge":

(a) "Finance charge" means the sum of all the charges directly or indirectly imposed upon and payable by a retail buyer, as an incident to the extension of credit in a retail installment transaction, including, but not limited to, amounts deemed a finance charge under subsection (1) of this section, loan fees, service and carrying charges, discounts, interest, time price differentials, investigators' fees, costs of any guarantee or insurance protecting the creditor against obligor's default or other credit loss.

(b) If itemized and disclosed in compliance with this Act and regulations promulgated thereunder, the term does not include (i) fees and charges prescribed by law which actually are or will be paid to public officials for determining the existence of or for perfecting or releasing or satisfying any security related to a retail installment transaction; (ii) taxes; (iii) charges or premiums, in compliance with this Act and regulations promulgated thereunder, for insurance against loss of or damage to property related to a retail installment transaction or against liability arising out of the ownership or use of such property; and (iv) charges or premiums, in compliance with this Act and regulations promulgated thereunder, for credit life, accident, and health insurance.

(7) "Home improvement contract" or "contract for home improvement work" means an agreement for the performance of home improvement work.

(8) "Home improvement work" means the construction of one or more additions to, other improvement, repair, restoration, alteration, conversion, or replacement of any residential property as herein defined, but the term "home improvement work" shall not extend to or include the sale or installation of any appliance, materials, household furnishings, or home equipment, if not made part of the realty.

(9) "Open-end credit agreement" means an agreement, prescribing the terms of secured or unsecured retail installment transactions, which may take place from time to time thereunder, and providing that the buyer's periodic unpaid balance is payable in installments.

(10) "Person" means an individual, firm, concessionaire, partnership, joint stock company, corporation association, incorporated society, statutory or common law trust, estate, executor, administrator, receiver, trustee, conservator, liquidator, committee, assignee, officer, employee, principal, or agent.

(11) "Residential property" means real property or interest therein consisting of a single-family dwelling or two-family dwelling, including an individual apartment or residential unit in a cooperative or condominium apartment building, together with any structure or grounds appurtenant to such dwelling.

(12) "Retail buyer" or "buyer" means a person who buys consumer goods from a retail seller in a retail installment transaction and not principally for the purpose of resale, or who, under a retail installment contract, buys services from a retail seller.

(13) "Retail installment contract" means a contract evidencing a retail installment transaction and which is entered into within or has substantial contact with the District.

(14) "Retail installment transaction" means any retail transaction between a retail seller and a retail buyer in which there is an agreement for the purchase of consumer goods, or services, or both consumer goods and services, for which the price is to be paid in one or more deferred installments, and such term shall include any transaction involving a contract in the form of a bailment or a lease if the bailee or lessee contracts to pay compensation for the use of the consumer goods or services or both which are the subject of such contract and it is agreed that the bailee or lessee is bound to become, or, for no further, or a merely nominal, consideration, has the option, upon full compliance with the provisions of the bailment or lease, of becoming the owner of the consumer goods or services, or both; except that the term shall not include any retail transaction in which the purchase price is to be paid in full within not more than ninety days from the initial billing date, and no security interest in the consumer goods is retained by the seller and no other collateral or security is required or accepted by the seller, and no finance charge or other charge is made as consideration for the deferral of payment or extension of credit.

(15) "Retail seller" or "seller" means a person engaged in the business of selling consumer goods or services to retail buyers.

(16) "Services" means work, labor, or other kind of activity furnished, or agreed to be furnished, primarily for personal, family, or household use, and not for commercial or business use, whether or not furnished or agreed to be furnished in connection with the delivery, installation, servicing, repair, or improvement of consumer goods, including such work, labor, or other activity furnished or agreed to be furnished in connection with repairs, alterations, or improvements upon or in connection with real property, but the term "services" shall not include work, labor, or other activity furnished or agreed to be furnished for which the price or tariff charged or to be charged is required by law to be determined or approved by, or to be filed, subject to approval or disapproval, with the United States or the District, or a department, division, agency, officer, or official of either of such governments.

TITLE II—REGULATIONS AND GENERAL AUTHORITY TO COMMISSIONER AND COUNCIL

SEC. 2.101. The Council is hereby authorized to make and provide for the enforcement of such regulations as it deems appropriate to effectuate the purposes of this Act and safeguard consumers from unfair and unconscionable advertising, sales, credit, and collection practices in connection with retail installment transactions. Such regulations may include, without limitation, provisions—

(A) containing definitions, whether or not used in this Act, insofar as such definitions are not inconsistent with the provisions of this Act;

(B) defining and proscribing advertising, sales, and collection practices which, in the opinion of the Council, are inconsistent with the general purposes of this Act and existing laws including, without limitations—

(1) false, misleading, and deceptive advertisements relating to quality, quantity, price, finance charge or rate, or other terms relative to the sale of consumer goods and services, provided that such regulations shall not apply to the owner, publisher, employee, or agent of newspapers, magazines, publications, or printed matter wherein such advertisement appears, or to the owner, operator, employee, or agent of a radio or television station which disseminates such advertisement when the owner, publisher, operator, employee, or agent has no knowledge of the commission of a violation of regulations; and

(2) advertising and sales practices and techniques that depend for their effect upon an offer to sell consumer goods or services that is not accompanied by a bona fide offer to sell the offered goods or services, or upon an offer of terms or conditions surrounding a sale that is not contained in the retail installment contract or an offer that would mislead buyers as to the terms and conditions surrounding the obligations of a party or parties to a retail installment transaction, or as to the possibility of performance of such terms and conditions;

(C) respecting the form, execution, and delivery of retail installment contracts, open-end credit agreements, and notices of cancellation, including, without limitation, provisions for a more detailed description of the consumer goods or services to which any contract or agreement relates than is required by section 28:9–110 of the District of Columbia Code, provisions for a brief notice to one who cosigns a contract explaining the liabilities incurred by such signature, and additional provisions, and notices to be contained in such contracts, agreements, or notices of cancellation;

(D) requiring the showing in retail installment contracts of the amount, if any, to be charged retail buyers as a finance charge, or the basis on which such charge is to be determined, and the amounts, if any, to be

charged such buyers for insurance premiums, delinquency charges, attorneys' fees, court costs, collection expenses, and recording or filing fees, such amounts to be itemized separately or to be grouped, as the Council may determine;

(E) requiring the showing in open-end credit agreements of the schedule, rate, or basis upon which the payments and finance charge will be computed, and the basis on which will be determined the amounts to be charged the buyer for insurance premiums, delinquency charges, attorneys' fees, court costs, collection expenses, and recording or filing fees;

(F) governing the form, execution, and delivery of promissory notes and other instruments whereby a retail buyer agrees or promises to pay the unpaid balance of the total amount to be paid under a retail installment contract or open-end credit agreement;

(G) respecting the form, execution, and delivery of notices required by this Act regarding repossession of goods and respecting the manner and methods of the sale or disposition of repossessed goods.

SEC. 2.102. No regulation shall be adopted by the Council under the authority of this Act until after a public hearing has been held thereon for the purpose of receiving evidence relevant and material to the proposed regulation. At the hearing, any interested person may be heard in person or by representative. As soon as practicable after completion of the hearing, the Council shall act upon such proposed regulation and make any final regulations public. Such regulations shall be based only on substantial evidence of record at such hearing and shall set forth, as part of the regulations, detailed findings of fact on which the regulations are based. The Council shall specify in the regulation the date on which it shall take effect, except that it shall not be made to take effect prior to the thirtieth day after its publication unless the Council finds that emergency conditions exist necessitating an earlier effective date, in which event the Council shall specify in the regulation its findings as to such conditions.

Any person who will be adversely affected by a regulation adopted by the Council, if it be placed in effect, may, at any time prior to the thirtieth day after such regulation is published, file a petition with the District of Columbia Court of Appeals for a judicial review of the regulation, alleging therein that the adverse effect so stated in the petition will result from an action of the Council which is (1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (2) contrary to constitutional right, power, privilege, or immunity; (3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; (4) without observance of procedure required by law; or (5) unsupported by substantial evidence. A copy of the petition setting forth the complaint as set forth above shall be forthwith transmitted by the clerk of the court to the Council or other officer designated by it for that purpose. The Council thereupon shall file in the court the record of the proceedings on which the Council based its regulation.

If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material, that there were reasonable grounds for the failure to adduce such evidence in the proceedings before the Council, and that a written request for reconsideration and taking of such additional evidence has been made upon the Council and subsequently denied, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Council and to be adduced upon the hearing, in such manner and upon such terms and conditions as to the court may seem proper. The Council may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, and its recommendations, if any, for the modification or setting aside of its original regulation, with the return of such additional evidence.

Upon the filing of the petition referred to in the second paragraph of this section, the court shall have jurisdiction to affirm the regulation, or to set it aside in whole or in part, temporarily or permanently, upon a showing by petitioner that the proposed regulation is violative of one or more of the enumerated grounds set forth in the proviso contained in the second paragraph of this section. In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error. If the Council refuses to issue, amend, or repeal a regulation, and such regulation is not in accordance with law, the court shall by its judgment order the Council to take action, with respect to such regulation, in accordance with law. The findings of the Council as to the facts, if supported by substantial evidence, shall be conclusive.

The judgment of the court affirming or setting aside, in whole or in part, any such regulation of the Council shall be final, subject to review by United States Court of Appeals for the District of Columbia Circuit pursuant to applicable provisions of titles 11 and 17 of the District of Columbia Code.

Any action instituted under this section shall survive notwithstanding any change in the persons occupying the offices of the Council, or any vacancy in such offices.

The remedies provided for in this subsection shall be in addition to and not in substitution for any other remedies provided by law.

SEC. 2.103. The Commissioner and the Council, with the exception of the function of making regulations to carry out the purposes of this Act, are authorized to delegate, with power to redelegate, any of the functions vested in them by this Act.

SEC. 2.104. The authority and power vested in the Commissioner and Council by any provision of this Act shall be deemed to be additional and supplementary to authority and power now vested in him or them, and not as a limitation.

TITLE III—MAXIMUM FINANCE AND OTHER CHARGES

SEC. 3.101. INCLUSIVE CHARGES.—No fee, expense, or other charge whatsoever shall be taken, received, reserved, or contracted for in retail installment transactions except the following:

(A) finance charges permitted by this Act or regulations promulgated thereunder;

(B) charges for delivery, installation, repair, or other services upon the goods which are included in the contract separate from the cash price of the goods and which are not imposed on the buyer as an incident to the extension of credit;

(C) charges for official fees, taxes, and insurance which are itemized and described in the retail installment contract which qualify for exclusion from the definition of finance charges under section 1.201(6) of this Act; and

(D) additional charges authorized by this Act, or regulations promulgated thereunder.

SEC. 3.102. MAXIMUM FINANCE CHARGES.—No finance charge shall be taken, received, reserved, agreed upon, or contracted for in excess of the maximum rates established by regulations promulgated by the Council. Such rates shall be computed in accordance with rules, regulations, and instructions issued by the Council.

SEC. 3.103. ADDITIONAL PERMITTED CHARGES.—A retail installment contract may provide for the payment by the buyer of—

(A) charges or premiums for insurance, to protect from loss the seller or his assignee or any other person entitled to payment in accordance with the terms of a retail installment contract or any extension or refinancing agreement respecting such contract, of such types, maximum coverage amounts and rates as the Council shall by regulation prescribe;

(B) a delinquency charge on each installment in default for a period of not less than fifteen days, in such amount as the Council shall by regulation prescribe;

(C) an extension charge, in such amount as the Council shall by regulation prescribe for each installment from the date when such installment or part thereof would otherwise have been payable to the date when such installment or part thereof is made payable under the extension agreement: *Provided,* That when any such charge is made, no delinquency charge as provided in subsection (B) of this section shall be made (unless an installment as extended is not paid by the end of the period beyond the extended due date): *And provided further,* That the buyer may be charged the additional cost, if any, for such insurance coverage which is provided as permitted by subsection (A) of this section, and is provided in such extension;

(D) the payment of a reasonable attorney's fee in an action for the unpaid balance and, upon redemption by the buyer of repossessed goods, reasonable attorney's fees incident to the actual and reasonable costs of repossessing and holding the goods, in either case not to exceed 10 per centum of the unpaid balance, to an attorney not a salaried employee of the seller, assignee, or person suing on his behalf;

(E) court costs; and

(F) actual and reasonable expenses incurred in realizing on a security interest, following default of the buyer.

SEC. 3.104. SPLITTING OR DIVIDING TRANSACTIONS.—No seller shall induce or permit any buyer to split up or divide any retail installment transaction for the purposes of contracting for or receiving a higher finance or other charge than would otherwise be permitted by this Act.

TITLE IV—RESTRICTIONS ON RETAIL INSTALLMENT CONTRACTS

SEC. 4.101. Every retail installment contract shall be contained in a single document or single set of documents, signed by both the buyer and the seller, and completed as to all essential provisions before it is signed by the buyer. No provision shall be inserted in any retail installment contract or extension or refinancing agreement designed to nullify and make ineffective the provisions of this Act or regulations adopted pursuant thereto, or otherwise deprive a retail buyer of the protection afforded him by this Act or such regulations, nor shall any provision be inserted in any such contract or agreement whereby the buyer waives or purports to waive any provision of this Act. The insertion in any such contract or agreement of a provision in violation of or designed or intended to nullify this Act or the regulations adopted and promulgated pursuant to this Act, or to waive the requirements of this Act and such regulation, shall constitute a violation of this Act, and, in addition, such provision shall be void and of no effect.

SEC. 4.102. NEGOTIABLE INSTRUMENTS PROHIBITED.—Notwithstanding section 28:3-301 through 307 of the District of Columbia Code, in a retail installment transaction the seller may not take a negotiable promissory note or other negotiable instrument as evidence of the obligation of the buyer. If, as a part of a retail installment transaction, a promissory note is taken by the seller, such note shall state that it is subject to and governed by the retail installment contract out of which it arises and, in the hands of any subsequent holder, such note shall be subject to all defenses which the buyer might have asserted against the seller.

SEC. 4.103. PROHIBITED CONTRACT CLAUSES.—No seller or subsequent assignee shall at any time take or receive any retail installment contract or extension or refinancing agreement from a buyer which contains—

(A) any provision for the acceleration of the time when any part or all of the indebtedness becomes payable other than for a substantial default in payment or performance by the buyer, or on the same grounds as would authorize an attachment before judgment under paragraphs (2) through (5) of subsection (d) of section 16–501 of the District of Columbia Code, notwithstanding section 28:1–208 of the District of Columbia Code;

(B) any schedule of payments under which any one installment, except the downpayment, is not equal or substantially equal to all other installments, excluding the downpayment, or under which the intervals between any consecutive installments differ substantially, except that—

(1) the intervals for the first installment payment may be longer than the other intervals,

(2) the final installment payment may be less in amount than the preceding installment payment, and

(3) where a buyer's livelihood is dependent upon seasonal or intermittent income, the seller and the buyer may agree that one or more installment payments in the schedule of payments may be reduced or deferred;

(C) any confession of judgment or any power or warrant of attorney to appear for the buyer or for any surety or guarantor for him to confess judgment;

(D) any provision by which the buyer agrees not to assert against a seller or, notwithstanding section 28:9–206 and 28:2–316 of the District of Columbia Code, against an assignee, a claim, defense or express or implied warranty arising out of the sale of the consumer goods or services which are the subject matter of such contract;

(E) any provision by which the buyer relieves the seller from liability for any legal remedies which the buyer may have against the seller under the contract or under any separate instrument executed in connection therewith;

(F) any provision by which the buyer grants authority to the seller or assignee to enter the buyer's premises in the repossession of the collateral, if any;

(G) any provision by which the buyer waives any right of action against the seller, assignee or other person acting on behalf of either, for any illegal act committed in the collection of payments under the contract or in the repossession of goods; and

(H) any provision whereby the buyer executes a power of attorney appointing the seller, assignee, or other person acting in the seller's behalf, as the buyer's agent in the collection of payments under the contract or in the repossession of collateral security.

SEC. 4.104. Notwithstanding section 28:9–204 of the District of Columbia Code, the consumer goods which are the subject of a retail installment contract shall serve as security only for the obligation arising out of the sale of such goods and related collection and default charges and such goods shall not be made to secure any past or future advance or obligation of the buyer to the seller or to seller's assignee. This section shall not affect the right of a seller to take a security interest in accessions or in other goods to which such accessions are to be installed or affixed and shall not affect the right to place an encumbrance upon such fixtures or the real estate to which the article has become an accession or fixture.

SEC. 4.105. SIGNING IN BLANK PROHIBITED.—No seller or assignee shall at any time take or receive any retail installment contract signed by a buyer in blank or prior to the time all information required to be disclosed by this part and all terms upon which the parties have agreed at the consummation of the sale have been completed in the body of the contract, and the completed contract has been exhibited to the buyer and the buyer afforded reasonable opportunity to examine the contents thereof.

SEC. 4.106. DELIVERY OF COPY OF COMPLETED CONTRACT TO BUYER; ACKNOWLEDGMENT OF DELIVERY; REBUTTABLE PRESUMPTION.—The seller shall deliver to the buyer, or mail to him at his address shown on the retail installment contract, a legibly executed and completed copy thereof. Any acknowledgment by the buyer of delivery of a copy of the contract or compliance by the seller or assignee with the requirements of section 4.105 shall be in such format as prescribed by regulation of the Council. The buyer's acknowledgment, conforming to the requirements of this section, shall be a rebuttable presumption of such delivery and such compliance in any action or proceeding by or against an assignee of the contract without knowledge to the contrary when he purchases the retail installment contract.

SEC. 4.107. MAIL OR TELEPHONE SALES.—Any sale otherwise subject to the provisions of this Act which has been negotiated or entered into by mail or telephone without personal solicitation by a salesman or other representative of the seller, where the seller's cash and deferred payment prices and other terms are clearly set forth in a catalog or other printed solicitation of business which is generally available to the public, shall not be subject to the requirements of this Act that a copy of the contract be signed by the buyer or be delivered to the buyer: *Provided*, That the seller delivers to the buyer, before the date for the payment of the first installment, a memorandum of the purchase containing all of the essential elements of the agreement.

Nothing in this Act shall prohibit a seller from receiving an order containing blank spaces, where a sale is entered into in accordance with the provisions of this section.

SEC. 4.108. COMPLETION CERTIFICATE INVALID UNLESS TRUE.—In any transaction involving the modernization, rehabilitation, repair, alteration, improvement, or construction of real property, a writing signed by the buyer that such work has been satisfactorily completed shall not be valid unless the work to be performed by the seller is actually completed.

TITLE V—PAYMENTS

SEC. 5.101. OPERATION AND EFFECT OF PAYMENT.—Unless the buyer has written notice of actual or intended assignment of a retail installment contract, the buyer may pay or tender any amount due thereunder or give any notice required or permitted by the contract, to the person last known to be entitled to payment or notice under the contract, and such payment, tender, or notice shall be binding upon any subsequent assignee as fully as if made to him.

SEC. 5.102. RECEIPTS; STATEMENT OF ACCOUNT.—(A) When any payment is made on account of any retail installment contract, the person receiving such payment shall, if the payment is made in cash, give the buyer a complete written receipt therefor. If the buyer specifies that the payment is made on one of several obligations, the receipt shall so state.

(B)(1) Within six months after the execution of a retail installment transaction, including an open-end credit agreement, and within every six-month period thereafter until the buyer has discharged all his obligations under the contract, the seller or assignee, if any, in addition to any other statements or notices required by this Act, shall send to the buyer upon his written request a statement of account which shall list the following items designated as such:

(a) the amounts of each of the payments made by him or on his behalf, or the sum of the payments made by him or on his behalf during each billing period, depending on the manner in which the seller or assignee maintains his records, and setting forth any refunds and any payments of charges for delinquencies, expenses of repossession and extension, to the date of the statement of account but not to exceed a period of three years prior to such request;

(b) the amounts, if any, which have become due but remain unpaid, setting forth any charge for delinquencies, expenses of repossession and extensions; and

(c) the number of installment payments and the dollar amount of each installment not due but still to be paid and the remaining period the agreement is to run.

(2) The buyer shall be entitled to only one such statement in any six-month period free of charge. The sum of $1 may be charged for each additional written statement requested by the buyer before supplying such additional written statement.

SEC. 5.103. PAYMENT IN FULL BEFORE MATURITY.—

(A) Notwithstanding the provisions of any retail installment contract to the contrary, a buyer may pay in full at any time before the maturity of the final installment thereof, and thereby shall receive a refund credit and, if the contract included an amount for insurance, a further refund credit for such anticipation, whether or not the maturity of the scheduled payment of the contract was accelerated by reason of a buyer's default.

(B) Except as provided in paragraph (D), the amount of any such refund credit shall be calculated by the so-called sum of the digits method, and shall represent at least as great a proportion of the total amount of the finance charge as the sum of the scheduled periodic balances after the date of prepayment bears to the sum of the scheduled periodic total balances under the schedule of installments in the original or refinanced contract. In the event a contract has been extended and is prepaid in full during an extension period the buyer shall receive, in addition, the refund of that portion of the extension charge applicable to any unexpired months of the extension period.

(C) DETERMINATION OF THE DATE OF PREPAYMENT.—If the prepayment is made before the first installment due date, it shall be deemed to have been made on the first installment due date; thereafter, if the prepayment is made other than on an installment due date it shall be deemed to have been made on the next preceding or next succeeding installment due date, whichever is nearer to the actual date of prepayment.

(D) Where the amount of credit for anticipation of payment is less than $1, no refund need be made.

(E) In the event of prepayment, the seller shall be entitled to retain a finance charge of not less than $6.

SEC. 5.104. EXTENSION OF DUE DATE.—

(A) A seller or assignee may by agreement with the buyer extend the due date of all or any part of one or more installments under an existing retail installment contract or refinancing agreement.

(B) Except where an extension agreement extends the due date of only one installment or where no charge is made for the extension agreement, an extension agreement—

(1) shall be in writing and signed by the parties;

(2) shall incorporate by reference the agreement to which the extension agreement applies;

(3) shall state the terms of the extension; and

(4) shall clearly set forth regarding any extension charge, the dollar amount for each installment extended (which need not be separately stated if the amounts are substantially equal) the total additional dollar amount to be paid by the buyer for the privilege of extending the time of payment, and the dollar amount for the additional cost

of insurance, if any, resulting from the extension.

SEC. 5.105. REFINANCING.—

(A) A seller or assignee may by agreement with the buyer refinance the unpaid balance of a single retail installment contract or refinancing agreement to provide for a new schedule of the times or amounts of the payments, or both.

(B) The refinancing agreement shall be in such format as prescribed by regulation of the Council.

SEC. 5.106. ACKNOWLEDGEMENT OF PAYMENTS; RELEASE OF SECURITY.—Promptly on written request and in any event within sixty days after payment of all sums for which the buyer is obligated under a retail installment contract, the seller or assignee of such contract shall mail to the buyer, at his last known address, sufficient instruments to indicate payment in full and to release all security in the collateral, if any, under such contract.

TITLE VI—REPOSSESSION

SEC. 6.101. DEFAULT BY BUYER; RIGHTS OF SECURED PARTY; NOTICE OF INTENT TO REPOSSES.—

(A) In the event of default by the buyer in performance of his obligations under a contract or instrument of security which expressly makes such default a ground for repossessing the goods, a secured party, pursuant to any rights granted by such contract or instrument, may (1) retake the goods and proceed as hereinafter provided, notwithstanding sections 28:9–501, 9–502, 9–504, 9–506, and 9–507(1) of the District of Columbia Code, or (2) proceed to recover judgment for the balance due without retaking the goods. In any case in which the proceeds obtained from the sale or other disposition of any such goods so repossessed are not sufficient to cover items (1), (2), and (3) of section 6.104, the secured party may, subject to section 6.105(A), recover the deficiency from the buyer. Unless the goods can be repossessed with the permission of the possessor and without use of force or breach of peace, they shall be repossessed by legal process.

(B) Not less than fourteen days before he repossesses, the secured party may, if he so desires, give notice to the buyer of his intention to repossess. The notice shall state the default, the balance due, and the period, if any, at the end of which the goods may be repossessed, and shall clearly, conspicuously, and briefly state the buyer's rights in case the goods are repossessed. The notice may be delivered to the buyer personally or be sent by registered or certified mail to his last known address.

SEC. 6.102. NOTICE; SERVICE; CONTENTS; PENALTY FOR FAILURE TO COMPLY.—Within five days after goods are repossessed the secured party shall deliver to the buyer personally, or send to him by registered or certified mail to his last known address, a written notice stating:

1. That the goods, including a general description thereof, have been repossessed;

2. The buyer's right to redeem within the fifteen-day period following the date that such notice is personally delivered to the buyer or if the mails are used the date the notice is sent to him by registered or certified mail to his last known address upon payment of the amount due and payable on such goods so repossessed;

3. The buyer's rights as to a resale; and

4. The exact address where any payment is to be made or notice delivered, and where the goods are stored.

SEC. 6.103. BUYER'S RIGHTS OF REDEMPTION.—

(A) The secured party shall retain possession of repossessed goods for the fifteen-day period following the date that such notice referred to in section 6.102 is personally delivered to the buyer or if the mails are used the date the notice is sent to him by registered or certified mail to his last known address, during which period the buyer may redeem the goods and become entitled to take possession thereof, by paying or tendering the amount specified below.

(B) To redeem the goods, the buyer shall:

1. pay or tender the full amount due under the contract or instrument of security;

2. perform or tender performance of any other promise the breach of which gave the secured party the right to repossess the goods; or

3. if the secured party has given notice of his intention to repossess under section 6.101(B), the buyer shall pay in addition, the reasonable costs of repossessing and holding the goods, including attorney's fees as provided in section 6.104(2).

SEC. 6.104. RESALE AND APPLICATION OF PROCEEDS.—After default and repossession of the goods and subject to the provisions of this section and section 6.103, the secured party may sell or otherwise dispose of the goods, the disposition to be carried out in a commercially reasonable manner. The proceeds of any such sale or disposition shall be applied in the following order:

1. If the secured party has given notice of his intention to repossess under section 6.101(B), payment of reasonable expenses incurred in sale or disposition.

2. If the secured party has given notice of his intention to repossess under section 6.101(B), payment of reasonable expenses of repossessing and holding the goods, including reasonable attorney's fees where the attorney is not a salaried employee of the secured party or the seller.

3. Satisfaction of the balance due under the contract, less finance charges and insurance premiums, if any, allocable to installments due after repossession.

4. Surplus, if any, to the buyer without request.

SEC. 6.105. RECOVERY OF DEFICIENCY; ATTACHMENT OF GOODS PROHIBITED.—

(A) When the total amount paid by the buyer, however allocated by the seller, is at the time of default at least 75 per centum of the cash price of a retail installment transaction and the secured party elects to proceed by repossession in accordance with section 6.101(A)(1), the secured party may not recover any deficiency from the buyer or from anyone who has succeeded to the rights and obligations of the buyer.

(B) When the total amount paid by the buyer, however allocated by the seller, is at the time of default at least 75 per centum of the cash price of a retail installment transaction and the secured party elects to proceed to bring an action for the unpaid balance under section 6.101(A)(2), the secured party may not, pursuant to any judgment obtained therein, have the goods, which were the subject of the retail installment transaction, sold on execution or similar proceedings, notwithstanding section 16–544 of the District of Columbia Code.

SEC. 6.106. If it is established that the secured party is not proceeding in accordance with the provisions of this title VI disposition may be ordered or restrained on appropriate terms and conditions.

TITLE VII—PRIVATE REMEDIES

SEC. 7.101. (A) In the case of failure by any person to comply with the provisions of titles III and IV, and sections 5.104, 5.105, or any of the regulations promulgated by the Council pertaining thereto:

(1) such person or his assignee shall be barred from recovery of any finance charge or delinquency, collection, extension, or refinance charge, imposed in connection with the retail installment contract or refinancing or extension agreement; and

(2) for each violation, the buyer shall have the right to recover from such person or any person who acquires such a contract with knowledge of such noncompliance, a sum equal to the amount of any finance charge, imposed by the retail installment contract or refinancing agreement, plus 10 per centum of the principal amount of the debt.

(B) In the case of failure by any person to comply with the provisions of section 5.103, or any regulations promulgated by the Council pertaining thereto, the buyer shall have the right to recover from such person who acquires a retail installment contract or refinancing or extension agreement with knowledge of such noncompliance, a sum equal to twice the amount of the refund credit to which the buyer is entitled under that section.

(C) Failure of the secured party to comply with sections 6.102, 6.103, or 6.104, shall bar him from recovering any deficiency judgment from the buyer or from anyone who has succeeded to the rights and obligations of the buyer, and in addition, shall subject him to liability for any loss caused by the failure to comply with such provisions."

SEC. 7.102.—Penalties—Errors.—SEC. 7.101 (A) or (B) shall not apply to any violation which a seller or assignee establishes by a preponderance of the evidence to be the result of a bona fide error. Any good faith bookkeeping or clerical error and any unintentional failure by the seller to comply with any provision of this Act may be corrected within ten days after the seller or assignee notices such failure or is notified thereof in writing by the buyer and, if so corrected, neither the seller nor the assignee shall be subject to any penalty under this Act.

SEC. 7.103. In addition to the remedies specifically provided by this Act, the court may give such relief as it deems equitable and just.

SEC. 7.104. Except as provided to the contrary, the remedies provided by this part are cumulative to any additional remedies to which a buyer may be entitled under existing law, including, but not limited to, an action for actual damages that proximately resulted from a violation of this Act or regulations promulgated thereunder, and an action for conversion against a secured party who fails to proceed in accordance with sections 6.102 and 6.103.

SEC. 7.105. In any case in which it is found that a buyer, seller, or assignee has violated any provision of this Act, the court may award reasonable attorney's fees incurred by the party charging such violation.

TITLE VIII—ADMINISTRATION AND ENFORCEMENT

SEC. 8.101. There is hereby created a District of Columbia Department of Consumer Protection, subject to the general supervision of the Commissioner. The Department is authorized to employ such personnel as may be required to carry out its functions under this Act, and is hereby authorized and directed to—

(1) administer and enforce this Act and any regulations promulgated by the Council under this Act;

(2) conduct studies, investigations, and research with respect to retail installment transactions, including the retail sale of consumer goods and services and the purchasing of retail installment contracts;

(3) conduct educational programs, collect and disseminate information relating to retail transactions;

(4) establish and carry on continuous studies of the operation of this Act to ascertain from time to time defects therein jeopardizing or threatening to jeopardize the purposes of this Act, and to formulate and recommend changes in this Act and other laws of the District of Columbia which it may determine to be necessary for the realization of such purposes, and to the same end to make a continuous study of the operation and administration of similar laws that may be in effect in the United States and when it

deems advisable, make such studies available to the public;

(5) advise, consult, and cooperate with local governments within the Washington metropolitan region, the Federal Government, and interested persons and groups;

(6) encourage voluntary cooperation by persons or affected groups to achieve the purposes of this Act; and

(7) receive certifications by a clerk of court pursuant to section 8.105 and establish procedures for receiving and receive complaints from all persons affected by potential or actual violations of this Act or regulations promulgated under the authority of this Act, including members of the consuming public and persons engaged in the business of selling consumer goods and services or purchasing retail installment contracts.

SEC. 8.102. (A) The Commissioner or his duly authorized agent, in any case involving violation of the provisions of this Act or any of the regulations promulgated thereunder shall have the power to issue subpenas in the name of the chief judge of the District of Columbia Court of General Sessions to compel witnesses to appear and testify and/or to produce all books, records, papers, or documents.

(B) In case of disobedience to a subpena the Commissioner may invoke the aid of the District of Columbia Court of General Sessions in requiring the attendance and testimony of any person and the production of documentary evidence.

The District of Columbia Court of General Sessions may, in case of contumacy or refusal to obey a subpena issued to any person, issue an order requiring such person to appear before the Commissioner or his duly authorized agent, or to produce documentary evidence if so ordered, or to give evidence touching the matter in question, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(C) no person shall be excused from attending and testifying or from producing documentary evidence before the Commissioner or his duly authorized agent in obedience to the subpena of the Commissioner on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture. But no person except a corporation shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, before the Commissioner in obedience to a subpena: *Provided*, That no such person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

SEC. 8.103. (A) The Commissioner or his duly authorized agents may administer oaths and affirmations to persons summoned in any investigation or hearing conducted under this Act. Any false swearing on the part of any person as to any material fact shall be deemed perjury and shall be punished in the manner prescribed by law for such offense.

(B) The Commissioner may order testimony to be taken by deposition at any stage of an investigation pending under this Act. Such depositions may be taken before any person designated by the Commissioner having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any persons may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the Department as hereinbefore provided.

SEC. 8.104. In carrying out the purposes of this Act, the District of Columbia Department of Consumer Protection is hereby authorized to—

(1) hold hearings or otherwise gather information and conduct investigations relative to any aspect of, or matter in, the administration and enforcement of this Act or regulations promulgated under the authority of this Act;

(2) compel witnesses to appear, testify, or produce books, records, papers, or documents under the authority of and in the manner provided by sections 8.102 and 8.103; and

(3) initiate such proceedings as may be necessary for enforcement of sanctions provided in sections 8.201 through 8.204, or issue such orders as may be necessary to effectuate the purposes of this Act and enforce the sanctions provided in sections 8.201 through 8.204, and enforce the same by all appropriate administrative and judicial proceedings.

SEC. 8.105. CERTIFICATION BY A CLERK OF COURT.—Whenever the judgment of the District of Columbia Court of General Sessions or the United States District Court for the District of Columbia becomes final in a case in which it is found that any person has engaged in conduct violating this Act or regulations promulgated thereunder, the clerk of the court in which the judgment was entered shall certify such finding to the Commissioner or his duly authorized agent. A judgment shall be deemed to have become final for the purposes of this section—

(A) if no appeal is taken from the judgment, upon the expiration of the time within which an appeal could have been taken, or

(B) if an appeal is taken from the judgment, having been sustained, can no longer be appealed from or reviewed on a writ of certiorari.

CIVIL REMEDIES

SEC. 8.201. INJUNCTIONS.—

(A) Any person may be restrained by civil action brought by the Director of the District of Columbia Department of Consumer Protection, or his delegate, or by an aggrieved retail buyer, from engaging in conduct or enforcing any contract that violates this Act or any regulations promulgated thereunder.

(B) In an action brought pursuant to this section to enjoin and restrain any person from violating regulations promulgated by the Council under section 2.101(B), any advertising, sales, or collection practice that is subject to and complies with the rules and regulations of, and the statutes administered by the Federal Trade Commission, shall be rebuttably presumed to be neither unfair nor unconscionable, absent express provision in such regulations to the contrary.

(C) The court shall grant appropriate relief in an action brought pursuant to this section when it finds that the defendant has or is engaged or threatens to engage in conduct violating this Act or any regulations promulgated thereunder.

SEC. 8.202. PRELIMINARY RELIEF.—With respect to and pending final determination of any action brought pursuant to section 8.201, after notice to a defendant and a hearing is held thereon, the court may grant such preliminary relief as it deems appropriate.

SEC. 8.203. CIVIL PENALTY.—Any person who shall engage in a course of repeated and willful violations of this Act or any regulations promulgated by the Council under the authority of this Act shall be subject to liability for a civil penalty not exceeding $5,000. In all other cases, any person who shall willfully violate this Act or any such regulation shall be subject to liability for a civil penalty not exceeding $1,000.

AMENDMENT TO UNIFORM COMMERCIAL CODE—SECURED TRANSACTIONS

SEC. 8.301. MISCELLANEOUS.—Section 28: 9-203(2) of the District of Columbia Code is amended by inserting immediately after the word "subject" where it appears the second time, the following: "to the District of Columbia Retail Installment Sales Act,".

Mr. TYDINGS. Mr. President, the Senate considers today a bill that will provide needed consumer protection for everyone who shops in the Metropolitan Washington area.

Last October I introduced S. 2589, a bill to end the deceptive and unjust practices of a few unscrupulous merchants who were systematically victimizing many honest, hardworking citizens who shop in the District of Columbia. Today, after 6 days of hearings and much committee consideration of the issues involved, a carefully drafted bill that is tough enough to provide the basic protection required yet not so tough as to penalize unfairly the honest merchants of the District—who are in the majority, I believe—is before the Senate.

I urge its prompt and immediate approval.

The Senate District Subcommittee on Business and Commerce, of which I am chairman, held extensive public hearings on S. 2589 in December of last year and January and February of this year. These hearings provoked a great deal of interest and were unusually well attended by Senators, interest groups, the communications media, and concerned citizens. They produced three important findings of fact: First, a large number of consumers in the District of Columbia and the entire Metropolitan Washington area are being taken advantage of in retail installment sales of consumer goods by a small number of dishonest merchants; second, presently there is no general legislative protection against fraudulent and unfair practices in such installment sales, as there are in other States; and, third, no administrative machinery exists with the District of Columbia government with a mandate to look after the interest of the consumer. My bill now before the Senate is designed to act on these three findings.

Before discussing briefly the bill, Mr. President, let me say that S. 2589 is a measure the Senate as a whole can be proud of. It is not an extreme bill. It is not an inappropriate overreaction to the problem. Nor is it what newspapers might classify as a bill "for liberals only." It is instead, I think, a moderate, sensible piece of legislation that defies any ideological split. It is a bill that received careful, diligent and severe scrutiny while in my subcommittee. What emerged from the subcommittee is a bill that is reasonable yet forward looking. In sum, Mr. President, it just makes good sense. And in this regard I want to thank my able colleague on my subcommittee, the junior Senator from Colorado, Senator DOMINICK, who contributed much to the final form of S. 2589.

The bill has wide support. Miss Betty Furness, the President's Special Assistant for Consumer Affairs, endorsed it as did the Honorable Paul Rand Dixon, Chairman of the Federal Trade Commission. The business community, represented by the Retail Bureau of the Metropolitan Washington Board of Trade, strongly supported effective consumer protection legislation and worked

closely with my staff in the development of S. 2589. In addition, the Neighborhood Legal Services Project, the United Planning Organization, the Council of Churches of Greater Washington, and the Washington Urban League. As did B'nai B'rith, the American Home Economic Association, the American Veterans Committee, and the Office of Urban Affairs of the Archdiocese of Washington. Finally, the American Federation of State, County, and Municipal Employees, Local No. 1, the Ad Hoc Group of Law Professors Teaching in Law Schools of the District of Columbia, and District of Columbia Citywide Consumer Council all endorsed S. 2589.

The hearings I conducted on this bill reveal that far too many consumers in the District too often become the unwitting victims of overreaching and unconscionable commercial practices employed by the unethical and "fly-by-night" operators in the retail marketplace. Intent only on "making a buck" these husksters misrepresent their goods, employ phony, and misleading advertising, deliberately misstate costs, and finance charges, and generally hustle their customers into unexplained, misunderstood, and onerous, unfair retail installment contracts. The capacity of man for inhumane action toward his fellow man was all too brilliantly illustrated in these 6 days of hearings. Permit me to give briefly some examples of what has been going on:

First. Bait-and-switch: Advertising techniques under which the customer is lured into the store by some appealing offer followed by high-pressure tactics designed to switch him to the purchase of another more expensive purchase. If the customer persists in pursuing the original enticement, the storekeeper reveals that it is "momentarily" out of stock.

Second. Balloon payment: A type of contract which contains, normally in fine print, provisions creating some installment payments disproportionately larger than others. The individual is paying, let us say, $25 a month and all of a sudden is expected to pay $125 for his last payment. He cannot and thus is forced to default.

Third. The add-on contract: Under which the security interest on each new installment purchase a buyer makes with the same merchant is consolidated with all of the security interests arising from his previous installment purchases with that merchant. If there is any default, all goods, being a part of the collateral for the single consolidated debt, are subject to repossession even if the total payments made by the buyer were sufficient to have paid for all but the last item purchased.

Fourth. Authorization for confession of judgment: A clause often attached to the contract. This highly objectionable practice permits the finance company to record a judgment on the property purchased and as soon as a monthly payment has been missed, the entire unpaid balance becomes due. Additionally, the confession of judgment authorizes any attorney or any court to obtain a levy on the consumer's property without notification. Usually the consumer also expressly waives any stay or exemption laws now in force or to be thereafter enacted. In effect, this type of clause allows the seller virtual legal carte blanche to act against the buyer as soon as a payment is missed for whatever reason. Fifteen States have already voided it as objectionable.

My consumer protection bill now before the Senate would void these unpalatable practices and others like them in the District of Columbia. Thus, the city shoppers from Prince Georges and Montgomery Counties in Maryland, from Virginia, and elsewhere would be safeguarded from the unscrupulous merchant. And, Mr. President, as you no doubt realize, the victims of these merchants are often our low-income citizens—those who can least afford the money taken from them and who are most susceptible to such unconscionable practices.

In addition, S. 2589 would establish in the District of Columbia government a Department of Consumer Protection, with a broad mandate to protect consumers against fraudulent or deceptive retail practices, in such areas as advertising, sales, credit contracts, and collection practices. The Department would be empowered to accomplish this through investigations, administrative hearings and orders, enforcing regulations adopted under this and other consumer protection laws, and through court actions. Here, however, I would like to emphasize that no such regulation would be adoptable by the Department until after a public hearing affording any interested party an opportunity to present evidence. Moreover, all the regulations must be based on substantial evidence of record and on detailed findings of fact. S. 2589 does not permit the government to ramrod through rules and regulations. The procedure is, I think, a fair one. Everyone gets an opportunity to be heard.

The bill also provides for broad and detailed disclosure of the terms of consumer credit contracts, an area of particular abuse by a few merchants within the District. Sellers would be required to deliver completed copies of the contract, to accept only completed and signed contracts, to furnish buyer a written receipt for all cash payments made on account of any retail installment contract. Other similar measures are included in S. 2589.

Here again another important point needs to be stressed. The disclosure aspects of this consumer protection legislation are directed against dishonest merchants. What is required by my bill is but standard operating procedure for the bulk of the metropolitan business community. You do not need laws directing the majority of hardworking businessmen to be honest and fair. They already are. This bill will not obstruct them in their work.

The bill would also provide for elimination of the so-called holder in due course doctrine in retail installment sales transactions. This doctrine, as it is presently applied, permits retail sellers to assign their rights to payment under sales contracts to finance companies, so that buyers must pay the full sales price to the finance companies even if the sellers failed to perform their part of the contracts.

If the buyer purchases a television set, for example, which was defective and immediately breaks down, he still must pay the full purchase price to the finance company—the holder in due course—and then initiate suit against the original seller for return of his money. Many consumers lack the means to get any redress in this cumbersome manner and thus get cheated.

Under the bill, the buyer could use his defense against payment to the original seller also against the finance company to whom the sales contract is assigned. This provision would not limit a seller's ability to obtain financing, since the contract remains assignable. But it would shift the risk that the seller has committed unlawful practices or become insolvent from the consumer to the finance company which is better able to protect its interest against the seller.

The record before my subcommittee stressed the desirability of eliminating the effect of the holder-in-due-course doctrine in retail installment transactions. Mayor Washington, Miss Furness and Chairman Dixon all urged this action. The doctrine, developed to assist bankers and merchants in their normal business intercourse, has been twisted with the advent, on a large scale, of retail installment transactions by consumers, a relatively recent phenomenon. The law has not adjusted to this change in the marketplace so it is our responsibility as legislators to modify the law preserving its undeniable usefulness in certain areas and preventing its equally undeniable misuse in others. This responsibility has been met, I believe, by S. 2589. I might add that Massachusetts abolished the holder-in-due-course doctrine in similar circumstances without flight of consumer credit capital from the Commonwealth or any diminution of credit business.

Finally, the District of Columbia Retail Installment Sales Act, as S. 2589 is entitled, authorizes the District of Columbia Council through its Department of Consumer Protection to prescribe maximum finance charges allowable in retail installment transactions. Ample precedent for this exists in the District. Maximum finance charges are regulated for installment sales of motor vehicles. See District of Columbia Code, section 400–901, and the following, approved April 22, 1960. And in my own State of Maryland, the Maryland Retail Installment Sales Act regulates finance charges in installment purchases of household and other consumer goods and services. The bill also contains provisions permitting private remedies in case of violations though good faith bookkeeping or unintentional errors, if corrected, are exempted from these provisions.

Mr. President, the bill now before the Senate is a good bill. It is a responsible piece of legislation directed toward a serious problem. It is strong enough without being either unfair or inflexible. As I have said, S. 2589 is a bill in which the Senate can take pride.

I urge my colleagues to join with me and vote for it.

Mr. PROUTY. Mr. President, as a

member of the Consumer Subcommittee of the Commerce Committee, I am interested in the furtherance of all measures to give added protection to the consumer. The bill before the Senate today deals with consumer protection on the local level. As a member of the Committee on the District of Columbia, I am particularly interested in consumer protection for residents of the District. S. 2589, the District of Columbia consumer protection bill, is the product of extensive hearings and many hours of deliberation and careful consideration of remedies to confront an onerous consumer fraud problem in the District of Columbia.

The poor and uneducated, Mr. President, have long been victimized by dishonest and deceptive retail practices perpetrated upon them by unscrupulous and unethical operators in the retail marketplace. Fortunately, these hustlers constitute a minority in the retail sales community of Washington, but they are an active minority whose prey—the poor and the uneducated—are the least able to resist their wiles and understand their devious misrepresentations. These victims do not comprehend "balloon payments," "add-on contracts," bait-and-switch advertising," and the myriad gimmicks used by these predators.

The intricate facets of an installment sales contract which relate to finance charges, express and implied warranties, repossession of merchandise, and waivers of their legal rights are not understood by them. Frequently they unwittingly and unknowingly sign such contracts ignorant of its terms and possible resultant consequences.

The bill under consideration today, Mr. President, is designed to give a measure of protection to these unwary purchasers and to provide them with safeguards from unfair and unconscionable advertising, sales, credit and collection practices in connection with retail installment transactions.

S. 2589, Mr. President, is responsive to the needs of the residents of the District of Columbia, and I hope the Senate will swiftly adopt this measure.

The amendment was agreed to.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1519), explaining the purposes of the bill.

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

PURPOSES OF THE BILL

The purposes of S. 2589 are—

1. To regulate retail installment sales of consumer goods in the District of Columbia (other than motor vehicles) and to safeguard consumers from unconscionable, or fraudulent advertising, sales, credit, and collection practices;

2. To permit and encourage the development of fair and economically sound consumer credit practices;

3. To further consumer understanding through disclosure of the terms of retail installment transactions and to promote competition among retail sellers;

4. To promote and develop programs for the education of retail credit consumers.

NEED FOR LEGISLATION

Extensive hearings before the Business and Commerce Subcommittee in December 1967 and January and February 1968, a Federal Trade Commission Economic Report on Installment Credit and Retail Sales Practices of District of Columbia Retailers published in March 1968, and a report of the Federal Trade Commission of June 1968 on a District of Columbia consumer protection program conducted by the Commission during the period June 1965 to June 1968 clearly demonstrate the need for effective regulation of retail installment sales transactions in the Nation's Capital.

While the vast majority of retail merchants in the District of Columbia are honest, fair-minded, considerate businessmen, the record before your committee shows that far too many consumers in the District too often become the unwitting victims of overreaching and unconscionable commercial practices employed by a small ever-present group of unethical and "fly-by-night" operators in the retail marketplace. Intent only on closing the "deal," such hucksters misrepresent their goods, engage in phony and deceptive advertising, misrepresent costs and finance charges, and "hustle" their customers into unexplained, misunderstood, and onerous, unfair retail installment contracts. Such contracts often lead to default, repossession, money judgments in favor of third-party finance companies, and total and serious losses to the consumer.

Deceptive and dishonest retail practices—particularly in relation to installment purchases—can injure anyone in the marketplace, but their impact falls most heavily on the poor and the uneducated—those least able to defend themselves against the unscrupulous merchant (who may be the only seller available to them), and least able to afford the losses to which they fall prey. According to the aforementioned economic report of the Federal Trade Commission, installment credit is used much more extensively by retailers selling to low-income consumers than by retailers selling to other consumers in the District. The Commission's survey showed that low-income market retailers used installment credit in 93 percent of their sales, whereas the comparable figure for general market retailers was 27 percent.

The poor in Washington also pay more for the goods they buy. The Commission's survey found that, "on the average, goods purchased for $100 at wholesale sold for $255 in the low-income market stores, compared with $159 in general market stores." For example, the survey showed that the wholesale cost of a portable TV set to both low-income and general market retailers approximated $109. The general market retailer sold the set for $129.95. The low-income market dealer charged $219.95 for the same set. In the case of a clothes dryer wholesaling for some $115, the general market dealer charged $150 and the low-income market retailer $300.

Finance charges on retail installment transactions are often exorbitant, particularly in sales to low-income consumers who have difficulty obtaining credit in the general retail market. The Federal Trade Commission's survey shows considerable variation in such charges especially among low-income market retailers. Calculated on an effective annual rate basis, finance charges of low-income market retailers ranged as high as 33 percent per annum, averaging 25 percent on contracts assigned to finance companies and 23 percent on contracts the retailers held themselves. Comparable figures for general market retailers show that finance charges averaged 21 and 19 percent respectively. A representative of the Neighborhood Legal Services Project (NLSP) of the District of Columbia, which provides legal services for many indigents throughout the District, advised the subcommittee of cases in which low-income buyers have been charged 35 percent to 50-percent interest on retail purchases. According to NLSP, their experience shows that the highest interest rates like the most exhorbitant prices are imposed on buyers who are least able to protect themselves—buyers who are often forced to deal in a segment of the marketplace fraught with sharp, unconscionable, and fraudulent practices.

The record before the subcommittee, and the Federal Trade Commission's report on the Commission's District of Columbia consumer protection program point up numerous types of deceptive practices uncovered in connection with the investigation of consumer complaints, as follows:

"Bait-and-Switch" advertising technique under which the customer is lured by the touting of some fantastically appealing offer followed by high-pressure tactics designed to switch him to the purchase of another more expensive purchase.

False and misleading statements concerning the nature of the products and services offered.

False and misleading statements concerning guarantees.

Misrepresenting the nature of the seller's business.

Failure to reveal that installment contracts would be sold to a finance company or other third party.

Failure to furnish free merchandise or services when offered.

Failure to reveal the full amount of the purchase price and financing charges.

Deceptive pricing and misrepresentation of regular prices as reduced prices.

Using fake drawings, contests, telephone surveys and scholarships for promotional purposes.

Selling used merchandise as new.

Using fictitious wholesale price lists.

Refusing to provide itemized bills.

Failure to disclose terms regarding refund of deposits.

Inducing purchasers to sign blank installment contract forms.

Unconscionable high prices.

Referral selling tactics, a technique in which the seller induces purchases by representing that the merchandise can be "earned" by referring friends to the same seller, but in which referrals are not paid for, and the consumer's obligation to the seller is independent of and enforceable regardless of such representations.

Misrepresentation in connection with repair, refinishing, and workmanship.

Misbranding and mislabeling of textile products.

Deceptive methods of billing and handling of credit.

The subcommittee also found that some merchants induce buyers to rely on oral, unenforceable promises, or to sign contracts containing onerous conditions. Often these contracts include clauses disclaiming oral representations made by sellers, waiving legal rights of buyers, or permitting creditors to accelerate the entire sum owed on an installment contract even though the buyer has not defaulted. In other cases, sellers extract the buyer's consent to the use of forcible methods in repossession.

One flagrant example of several of these practices which came to the attention of the subcommittee involved the purchase of a stereo set. A door-to-door salesman showed a woman a stereo record player and said it sold for $349. The salesman explained how easy it would be for the woman to pay for it under his company's easy credit terms. The woman agreed to buy the set and signed a paper purportedly authorizing the company to check on her credit. When the stereo was delivered the woman was charged a $20 delivery fee. A short time later, she received a

coupon book for making payments. The payments were to be $19.96 a month for 24 months. This would make a total of $479.04, not including the $20 delivery charge. The total price which the woman was required to pay under the contract she had been tricked into signing as a credit check authorization, was almost $500. The woman never received a copy of the contract nor any warranty and had to pay roughly $150 more than the salesman had told her she would have to pay.

Two practices, "balloon payment" and "add-on" contracts are, unfortunately, frequently used in the District. "Balloon payment" contracts are those which contain, often in fine print, provisions creating some installment payments disproportionately larger than others, the purpose being to force the buyer into defaulting in his payments so that the goods can be repossessed. Miss Betty Furness, Special Assistant to the President for Consumer Affairs, accurately described the dilemma of the consumer in this regard when she testified before the subcommittee:

"I also agree balloon payments ought to be outlawed. If a man organized his budget so that he can pay, for the sake of argument, $10 a month for his television set, then discovers that his last payment is $100, he is probably forced into default. The seller might as well have hit him on the head and taken his money."

The "add-on" contract also has as its objective the default of the buyer so that the goods may be repossessed. Under this stratagem, the security interest on each new installment purchase a buyer makes with the same merchant is consolidated with all of the security interests arising from his previous installment purchases with that merchant. If there is any default, all goods, being a part of the collateral for the single consolidated debt, are subject to repossession even if the total payments made by the buyer were sufficient to have paid for all but the last item purchased.

The subcommittee was informed of several cases in which District residents fell victim to the "add-on" contract. In one instance, a man signed 12 contracts over a period of 5 years, for articles including a used washing machine, a television set plus another TV to replace the first one, a living room set and bedroom furniture. The man purchased most of the items, unseen, from the collector, who visited him periodically to obtain payments. Eventually, this purchaser reached a stage at which he could not maintain his payments. He then received notice that all the merchandise he had purchased, and for which he had paid about $1,800 over the 5-year period, would be repossessed. Data supplied to his attorney by the company showed he still owed 13 cents on the first contract he had signed. It was also discovered that the victim had on several occasions purchased repossessed merchandise at several times the original cost to the seller.

Repossession of goods after a substantial amount of the purchase price has been paid can work hardship in additional ways. Consumer goods depreciate in value relatively quickly after purchase. When goods are repossessed after default and are resold, the resale price often is a small fraction of the original contract price. In these circumstances, under present law a deficiency judgment is often obtainable against the defaulting purchaser who no longer possesses the goods.

For example, the subcommittee was informed of an elderly District resident who had purchased a bed, a television set, and a chair from a store and had been making payments of $35 per month regularly for 3 years. Her daughter became ill and she had to assume responsibility for her three grandchildren and could not continue to meet her full payments. When the furniture company refused her offer to continue making smaller payments, the woman defaulted. The company repossessed all of the three pieces she had bought from them, even though she had paid more than $1,200 on her bill. Despite her large payment, and the fact that she had nothing for herself and the three children to sleep on except the floor after having paid more than $1,200, she was required to pay over an additional $200 to the company.

In the committee's view, this kind of result is obviously and grossly unfair. The present bill provides that where, prior to default, a purchaser has paid an amount equal to at least 75 percent of the cash price of the merchandise, the seller may elect either to exercise whatever contract right he may have to repossess the goods or to obtain a judgment for the balance due under the contract. Under the committee's proposal, he would have no right to both remedies. In the committee's judgment, such a provision is equitable and should discourage unscrupulous merchants from entering transactions with a calculated view toward repossession, resale of the same goods, and deficiency judgments against hard-pressed customers.

Another fundamental right of consumers which the committee found needs added protection is the right to have an effective legal remedy if, for some reason, goods or services purchased do not conform to the conditions of the sales contract. For example, if a man buys a television set and it fails to work when he brings it home, or if a woman buys a new sewing machine and the seller fraudulently delivers a used machine, there must be effective legal redress. Under present law, there is often no recourse because of the "holder in due course" doctrine of the present negotiable instruments law. Under this doctrine, a finance company is able to buy from a retail merchant a note signed by the consumer, and the finance company can require the consumer to pay this note even though the original sales contract was violated by the retail merchant. It might appear that the consumer has a remedy against the retail merchant since, although he must pay the finance company, he can sue the retail merchant and recover his money. In practice, however, the consumer generally lacks the resources to initiate legal action against the retail merchant to recover the money. Too often, unscrupulous merchants operate through dummy "judgment-proof" corporations, or the merchant is a "fly-by-night" who disappears leaving the consumer with worthless merchandise and huge debts on notes negotiated to the finance companies. The result is that too often the "holder in due course" doctrine does not operate fairly in retail installment transactions. Shielded by the doctrine's protections, third-party finance companies may receive and enforce consumer financial obligations without regard to what transpired between the merchant and the buyer—however nefarious the transaction may have been. The victimized purchaser's legal defenses against the seller are of no concern to the third party noteholder. He is told to take those matters up with the merchant, and irrespective of the injury done him must pay the "holder in due course" amount owing on the note.

The record before the committee preponderates in favor of eliminating the effect of the "holder in due course" doctrine in retail installment transactions. Such action has been strongly urged on the committee by the Commissioner of the District of Columbia who advised the committee as follows:

"In the light of testimony at the hearings, the District government has given further consideration to the provision of S. 2589 relating to the doctrine of holder in due course. It is apparent from such testimony that many consumer abuses flow from the unethical practices of some retail installment sellers who are able to exploit unwary purchasers—primarily the poor who are least able to afford such exploitation—by relying on the negotiation of retail installment instruments to third parties who are protected from the defenses that the buyer could otherwise make. The government of the District of Columbia therefore favors legislation that would eliminate the effect of the holder-in-due-course doctrine in retail installment transactions and thereby prevent the unscrupulous practices that have developed. Accordingly, we favor the enactment of the holder-in-due-course provision contained in S. 2589."

Representing the administration at the subcommittee hearings, Miss Betty Furness, Special Assistant to the President for Consumer Affairs, provided the following statement:

"Commendably, S. 2589 takes the sensible course of recognizing that the 'holder in due course' doctrine shall not apply to retail installment sales. This follows the example of Massachusetts where the holder in due course rule was abolished in 1961 (see Mass. Genl. Laws ch. 255, sec. 12C). The burden of proof should be on those credit lenders who may argue that retail credit will be damaged by such a step. In Massachusetts there has been no flight of consumer credit capital from the State, or any diminution of credit business.

"Additionally, section 4.102 will provide several beneficial effects not only in improving the consumer's position but raising the general tone of the marketplace:

"The factor singled out by the great majority of those interviewed in a study made by the University of Pennsylvania Law School (see 'Translating Sympathy for Deceived Consumers Into Effective Programs for Protection,' University of Pennsylvania Law Review, vol. 114, No. 3, January 1966) and characterized as the 'largest problem in the consumer fraud area' is the ability of finance companies or agencies to acquire by purchase installment debt paper free from the responsibility for any of the fraudulent practices perpetrated by the selling dealers. Without the benefit of section 4.102 the risk of dealer fraud rests squarely with the consumer since the financing agencies can purchase the installment note free of consumer defenses. Although it has been said that the consumer chooses to purchase from dealers who will defraud him, this act should not decide where the burden should rest because the finance company in the first instance selected the questionable dealer before it entered into arrangements to buy his installment paper. The finance company or holder in due course has avenues of investigation by which to ascertain the dealer's reliability and to make certain that his business ethics, products, advertising, and sales techniques are not fraudulent or misleading. Additionally, the holder can protect himself by dealing on a full recourse basis which requires the dealer to be liable to him for buyer default by executing a repurchase agreement, binding the dealer to buy back repossessed merchandise or requiring the dealer to set aside funding to protect himself against any contingencies. The improvement in the relationship between the finance company and the seller should prove to be an important indirect benefit to consumers.

"The finance company is better able to bear the risk in this proposal to shift the risk of dealer misrepresentation from the consumer to the holder. Loss of money on any particular transaction with the dealer can be recouped in subsequent transactions. The consumer on the other hand could find himself bankrupt by a major loss sustained from a dealer in a single transaction.

"The shifting of the risk of fraud to the holder would not only make it more difficult for fraudulent dealers to operate but should also result in the gradual elimination of financing agencies whose failure to check on retail outlets make such fraudulent practices against consumers possible."

Hon. Paul Rand Dixon, Chairman of the Federal Trade Commission, testified before the subcommittee that "The eliminating of

the so-called holder in due course doctrine has a worthy objective—to make it simpler for the customer to obtain redress when dissatisfied with faulty or defective merchandise" and that "* * * our recent experience clearly indicates that the traditional reasons for protecting holders of negotiable instruments should be reconsidered, as does section 4.102 of S. 2589, in the light of an overriding need to protect consumers and to destroy the shield behind which too many businessmen have been hiding."

The Trade Commission's June 1968 report on its District of Columbia consumer protection program stated the following:

"Application of the holder in due course doctrine to consumer instruments has led to many abuses. It is simply unfair to permit a vendor to sell shoddy or defective goods, which sometimes are not even delivered, coax, wheedle, or coerce the buyer into signing a negotiable instrument, disappear or dissipate the funds, and, by assigning the instrument, prevent the deceived or defrauded consumer from asserting his legitimate defenses in an action on the note. Legislation similar to that enacted in Massachusetts and Vermont (citation omitted) and currently proposed for the District of Columbia (citation omitted) providing that commercial paper must be labeled as such and is not negotiable, and that the holder of such a note takes subject to all contract defenses and to all rights that the buyer would have under the State's consumer fraud law, is both reasonable and necessary."

Modification of the doctrine was also favored by the United Planning Organization and the Ad Hoc Committee on Consumer Protection, a broad-based coalition of religious, civic, veterans, and varied community action organizations deeply concerned over the problems of low-income residents and families in the District of Columbia.

Conscious that any such change in the law must be considered in relation to the implications it might have respecting commercial and financial affairs generally in the District, the subcommittee also obtained the views of businessmen and lawyers wtih special knowledge of the law of negotiable instruments. Testimony was received from representatives of the Metropolitan Washington Board of Trade, the District of Columbia Bankers Association, finance companies, the District of Columbia Bar Association, the Maryland-Delaware-District of Columbia Jewelers' Association, and other interested parties.

Based upon its full and very careful consideration of the matter, the committee concludes that the "holder in due course" doctrine has no proper or necessary commercial purpose in relation to retail installment transactions. Moreover, the committee is satisfied that abolition of the doctrine will not restrict the availability of credit to consumers or to legitimate, fair-dealing retail merchants. Finance companies can protect themselves from loss by inquiring into the reputation, reliability, and financial resources of the merchants whose paper they purchase. Indeed, a representative of one of the major finance organizations dealing in commercial instruments generated in the District of Columbia and throughout the Nation testified that his organization does investigate the reliability of its merchant-customers, and viewed without alarm the present proposal to abolish the doctrine.

According to testimony presented before the subcommittee, at least five States—Massachusetts, Connecticut, New York, Texas, and California—have eliminated to some degree the holder-in-due-course doctrine, and in other States the courts have acted to the same effect. Also, the committee understands that in a new uniform consumer credit code proposed by the Commissioners on Uniform State Laws, a special committee financed primarily by the credit industry itself has proposed that the doctrine be abandoned. According to the record before the subcommittee abandonment of the doctrine by Massachusetts in 1961, some 7 years ago, has not precluded or impaired the availability of retail installment financing in that State. In the committee's judgment, the same will be true in the District of Columbia under section 4.102 of S. 2589, which was drafted by the subcommittee in close coordination with representatives of the business community. The provision recommended by the committee is virtually identical to a statutory provision of same effect recommended by the Legislative Committee, Retail Bureau, of the Metropolitan Washington Board of Trade.

Further, on the question of the need for effective legislative action to protect low-income, poverty-stricken consumers, the Committee notes the concerns expressed in the Report of the National Advisory Commission on Civil Disorders over the exploitation of disadvantaged consumers by retail merchants. While the committee is in no position to confirm or deny the conclusions contained in that report, there would seem to be little doubt that predatory commercial practices that produce results of the sort illustrated earlier herein may well be a factor contributing to the unrest and violence that have marked the Nation's Capital and other cities these past few years.

In the committee's judgment, and entirely aside from any effort others may have made to ascertain the relationship, if any, between commercial exploitation and civil disorder, it is clear that the scales of justice in the low-income marketplace of the Nation's Capital are too often out of balance.

The reasonable regulation of installment sales of goods and services authorized by the recommended bill will help restore balance by safeguarding all consumers from unfair, unconscionable, and fraudulent advertising, sales, credit, and collection practices. This bill will encourage the development of fair and economically sound credit practices. By requiring full disclosure in all such transactions, S. 2589 will encourage public confidence and promote honest competition among all retailers in the District of Columbia.

Finally, in the committee's judgment, the legal protections afforded by S. 2589 will not be truly effective unless they are continuously and effectively enforced. Too often, consumers lack effective protection because they have no organized voice. All too often, no one speaks for the consumer interest, though organized and powerful voices speak for interest that may be inimical to the consumer.

This absence of organized support for the consumer extends into the government itself. To remedy this problem, the committee provides in the bill for the creation of a Department of Consumer Protection in the District of Columbia government. Among its functions, the Department would be empowered to enforce regulations adopted under the act and to initiate legal action in the courts to stop unlawful commercial practices, to undertake continuing investigations of commercial practices in the District of Columbia, and to carry out programs of consumer information and education. In short, the Department would be the "consumer's advocate" in the District of Columbia.

SLATOR C. BLACKISTON, JR.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1555, H.R. 6862.

The PRESIDENT pro tempore. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 6862) for the relief of Slator C. Blackiston, Jr.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment, on page 1, at the beginning of line 7, strike out "$9,515.73" and insert "$3,500.00".

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.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1572), explaining the purposes of the bill.

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

PURPOSE OF THE AMENDMENT

The purpose of the amendment is to reduce the amount to be paid to the claimant to the maximum amount which could be paid under the Military Personnel and Civilian Employees' Claims Act if the claimant had been a member of the military service.

STATEMENT

The bill, as approved by the House of Representatives, provides for the payment of $9,515.73 to the claimant as the remaining balance of his loss above the amount for which he had been compensated.

The facts in the case were set forth in the report of the Committee on the Judiciary of the House of Representatives, as follows:

"The bill, H.R. 6862, was introduced in accordance with the recommendations of the Department of State in an executive communication and that Department recommends its enactment.

"Mr. Slator C. Blackiston, Jr., a Foreign Service officer, was assigned to the American Embassy in Jidda, Saudi Arabia. In connection with that assignment, his household effects were being transported from Baltimore,, Md., to Jidda aboard the vessel SS *Macedon* of the Admiralty Lines when that vessel foundered off the coast of Beirut, Lebanon in November of 1964. Mr. Blackiston originally submitted a claim in the amount of $25,909.98 for consideration under the procedures required by the Department in accordance with the provisions of the Military Personnel and Civilian Employees' Claims Act of 1964, as amended. The State Department personnel considered the claim in accordance with applicable regulations and adjusted the amount allowable for each item of loss.

"In view of the size of the claim and the desire of the subcommittee considering the bill for full information concerning the nature of the loss and the manner in which the claim has been processed, the committee requested that the State Department furnish full information concerning the claim, including the items of loss and the reductions fixed by the State Department in the course of the claim's consideration. This information disclosed that the orders given to Mr. Blackiston at the time of his assignment authorized the full shipment of his household effects. With the exception of approximately 2,350 pounds left in storage in Washington, he shipped all of his household goods which were the contents of his home in Bethesda, Md. The home in Maryland was a four-bedroom house with a large basement and a two-car garage. The shipment to Jidda totaled 12,440 pounds net weight and 15,800 pounds gross weight. Mr. Blackiston lost all of his household goods in the sinking of the vessel. As is noted in the Department of State communication, after making some adjustments and deducting $3,950 which Mr. Blackiston received as compensation by insurance, the claim was approved by the Department in

the amount of $16,015.73. Mr. Blackiston was paid $6,500 by the Government which is the amount authorized under the Military Personnel and Civilian Employees' Claims Act. The remaining balance of $9,515.73 is the amount stated in the bill.

"The committee feels that this case is a proper one for legislative relief. It is unusual that a Government employee suffers a total loss such as was the case here. The Military Personnel and Civilian Employees' Claims Act of 1964 originated as a bill considered by this committee. The testimony presented at the time of the consideration of that bill establishes that the amount of $6,500 would cover the bulk of the claims that might be expected to result from losses of this kind. When it is considered that the loss suffered by Mr. Blackiston was the result of a shipment required by his transfer to a Foreign Service post and further that the transfer is not that normally made by the average citizen, the committee feels that the Government owes a moral obligation to compensate him for his loss. Accordingly, it is recommended that the bill be considered favorably."

The Committee on the Judiciary of the Senate has consistently refrained from paying claims in excess of the $10,000 limitation set forth by the Military Personnel and Civilian Employees' Claims Act. The committee feels that in the present case as a matter of equity it is proper to allow an additional payment up to the maximum amount by which the claimant could have been compensated if he had been a member of the military service.

The committee believes that the bill, as amended, is meritorious and recommends it favorably.

AMENDMENT OF CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT OF 1964 FOR CERTAIN EMPLOYEES

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1489, H.R. 18786.

The PRESIDENT pro tempore. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 18786) to amend the Central Intelligence Agency Retirement Act of 1964 for certain employees, and for other purposes.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. INOUYE in the chair). Without objection, it is so ordered.

AMENDMENT OF CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT OF 1964 FOR CERTAIN EMPLOYEES

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate reconsider the vote by which Calendar No. 1489, H.R. 18786, was passed.

The PRESIDING OFFICER. Without objection, it is so ordered. The action of the Senate in passing the bill is vacated.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the distinguished junior Senator from Ohio [Mr. YOUNG] be recognized for 5 additional minutes.

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

WE SHOULD WITHDRAW TROOPS FROM WEST GERMANY

Mr. YOUNG of Ohio. Mr. President, West Germany is prospering and has prospered during the past 15 years on a more tremendous scale than ever before in its entire history. This strong independent nation, not even as large in area as the State of Oregon, has a population of 60 million people.

Last year its total national product was $130 billion—making it the third richest country in the entire world, ranking next to the United States and the Soviet Union. In foreign trade, exports from the ports of West Germany are so extraordinarily large that it is second only to the commerce and trade of the United States.

The currency of West Germany, like that of Switzerland, is one of the world's strongest. Here is a country with gold and dollar reserves of more than $7 billion, exceeding that of the Soviet Union and second only to our Nation.

Talk about the ability of any nation to defend itself, the facts are that the greatest output of steel production in free Europe is in West Germany. Unemployment in that nation at the present time is less than 1 percent compared with the unemployment rate in our country of approximately 4 percent.

Surely, it is outrageous and unthinkable that nearly a quarter of a century following the ending of World War II, the United States has at the present time more than 300,000 officers and men of our Armed Forces stationed in Western Europe; more than 238,000 officers and servicemen in West Germany alone. Just why should we be protecting this powerful nation in this manner and to this extent? Furthermore, it is shocking that Secretary of Defense Clark Clifford, who seems to be a captive of the generals of the Joint Chiefs of Staff and echoing every whim and desire of these generals, now proposes that the United States should send at least 12,000 additional troops to West Germany between now and early next year.

This is an indefensible position taken by our new Secretary of Defense who is quite likely to be an ex-Secretary of Defense by early next year. Frankly, I am certain that Vice President HUMPHREY, following his election as President, should and will select a Secretary of Defense in his Cabinet who will manifest better judgment.

West Germany has a conscription law drafting some of its nationals for a period of 18 months only. Furthermore, the total number drafted is insignificant compared with the draft in our Nation under our selective service law.

Very definitely, the United States should withdraw troops from West Germany instead of sending more troops over to protect a country well able to defend itself and giving to that country, West Germany, a form of foreign aid in the guise of six armored divisions, permanently stationed there together with their dependents, all spending American dollars and adding tremendously to the outflow of gold from our country and contributing to the deficit in our balance of payments.

Until and unless West Germany and all other NATO nations of Europe fulfill their commitments for the defense of Europe, we should certainly withdraw troops instead of sending more soldiers and their dependents to West Germany and to other nations of Western Europe.

The fact is that the United States is the only NATO member to have entirely lived up to its treaty obligations.

The expense of maintaining troops in Western Europe accounted for $1.5 billion of our foreign exchange deficit in 1967, most of which was due to the expense of keeping troops in West Germany. This, in addition to the more than a billion dollars spent annually in Western European countries by our servicemen and their families stationed there and by American civilians employed in Europe by the Department of Defense.

It is clear that bringing hundreds of thousands of officers and enlisted men and their dependents home from Spain, Belgium, West Germany, and other European nations would not only cut down the drain on our gold supply and improve our balance-of-payments problem, but would also make troops available for assignment to Vietnam.

While we maintain this huge force of highly-trained and professional fighting men in Western Europe, we send draftees, many with only 4 months of training, to fight in the ugly civil war in Vietnam which President Johnson has made into an American air and ground war. It does not make sense to send hastily-trained young draftees of 18, 19, and 20, to fight in the jungles and swamps of Vietnam while these highly-trained fighting men remain in Europe.

It is the nuclear umbrella of the United States that provides the real protection for Europe and West Germany, and not large numbers of ground troops. If there is really a need for some of our ground forces in Europe, then we should have a lean, trim, combat-ready force stationed there, and not hundreds of thousands of "squawmen" with their wives and children accompanying them. Furthermore, by our Operation Airlift we have proven we can airlift a combat-ready division to West Germany from the continental United States in a matter of hours.

The nations of Western Europe can today provide the necessary troops to defend themselves instead of continuing to depend on us. Let their young men be conscripted and drafted into their own Armed Forces. Why should the lives and aspirations of our teenage young men be disrupted to form the first line of defense for the Germans and French? Under the shelter of our protection these nations have waxed prosperous while our fiscal and monetary problems grow steadily more serious.

It is a stupid policy on the part of the Secretary of Defense and the generals of our Joint Chiefs of Staff to maintain in West Germany six of our best combat divisions made up in large part of enlisted men and noncommissioned officers who are career soldiers. Certainly draftees should be sent to Western Europe and no dependents permitted. If it is seriously claimed by our generals of the Joint Chiefs of Staff and if Secretary of Defense Clifford is gullible enough to share in the view that the Soviet Union is threatening warlike aggression to our NATO allies, then the Secretary of Defense has no business whatever in permitting dependents to be in Western Europe. It is outrageous for the President and his advisers to even consider a travel tax imposed on persons in modest circumstances who wish to visit Europe when we are permitting an outflow of gold of more than $1.5 billion a year being spent by our soldiers and dependents. The present proposal of Defense Secretary Clark Clifford makes no sense whatever. It should be rejected and repudiated.

MODIFICATION OF GLACIER PEAK WILDERNESS, WASH.

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1321.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 1321) to establish the North Cascades National Park and Ross Lake and Lake Chelan National Recreation Areas, to designate the Pasayten Wilderness and to modify the Glacier Peak Wilderness, in the State of Washington, and for other purposes which was, on page 9, strike out lines 18 through 20 inclusive, and insert:

SEC. 506. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, but not more than $3,500,000 shall be appropriated for the acquisition of lands or interest in lands.

Mr. JACKSON. Mr. President, the only amendment added to this bill by the House was a ceiling on the appropriation for the acquisition of interests in lands. The amount estimated to be necessary to acquire what few private holdings there are within the boundaries of the area has been approximately $3.5 million. This was the testimony which was presented before the House and Senate by the executive branch. The overwhelming amount of the land which is involved in the establishment of this superlative park and recreation area is already owned by the public. Therefore, the sponsors of the legislation on the part of the Senate have no objection to the appropriation limitation by the House, which, as I stated, corresponds to the information provided at our hearings.

I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington.

The motion was agreed to.

Mr. JACKSON. I ask unanimous consent that a statistical summary of S. 1321 be printed at this point in the RECORD.

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

Statistical summary for S. 1321

Area (acres):	
North Cascades National Park	503,500
North unit	303,000
South unit	200,500
Ross Lake National Recreation Area	105,000
Lake Chelan National Recreation Area	62,000
Pasayten Wilderness	520,000
Glacier Peak Wilderness additions	10,000
Total private lands in park and 2 recreation areas	4,000
Costs (only for National Park Service units):	
Acquire private lands in park and recreation areas	$3,500,000
Development over first 5 years for park and recreation areas	29,000,000
Operation and maintenance, 1st year	300,000
Operation and maintenance, after 5th year	600,000

ESTABLISHMENT OF A NATIONWIDE SYSTEM OF TRAILS—CONFERENCE REPORT

Mr. JACKSON. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 827) to establish a nationwide system of trails, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The bill clerk read the report.

(For conference report, see House proceedings of September 12, 1968, pages 27316–27319, CONGRESSIONAL RECORD.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. JACKSON. Mr. President, I believe the conference came up with a good bill to establish a national trails system. The bill, approved by the conference committee, provides for the immediate designation of over 4,300 miles of national scenic trails on each side of the continent. There is authority provided for the establishment of national recreation trails which will not require further authorization by Congress. The Agriculture and Interior Departments should seize upon this method of adding new outdoor recreation opportunities to the inventory available to the American people. This potential for new recreation trails, in my judgment, is one of the most important advantages of the act.

The Senate bill provided for the immediate designation of four national scenic trails—the Appalachian, Potomac Heritage, Northern Continental Divide, and Pacific Crest. The House version would have designated only the Appalachian and placed the other three trails in a study category. The conference committee, however, adopted language which authorizes, in the initial system, the Appalachian Trail and the Pacific Crest Trail. The Potomac Heritage and the Continental Divide Trails will be studied further for possible future inclusion.

A House amendment which requires prior authorization for comprehensive studies of other trails which might eventually be included in the system was adopted by the conference committee.

S. 827, as approved by the conference committee, places new emphasis on the need for the establishment and development of recreation trails in or near urban areas, where the demand for outdoor recreation has mushroomed in recent years. The conference adopted the basic language of the House, which affirms the importance of such trails near cities, but also amended the bill so it does not preclude designation of suitable recreation trails in more remote areas.

The Senate bill provided that 50 acres of land per mile could be acquired in fee or scenic easement, but acquisition in fee was limited to 25 acres per mile. As passed by the Senate originally, the bill also prohibited the use of condemnation where 60 percent of the land in the trail area is publicly owned. The House language allowing a limit on acquisition of 25 acres per mile of both fee and easements was adopted. Also an amendment was approved which would prohibit condemnation for acquisition of lands on the Pacific Crest Trail, where 80 percent of the land is already publicly owned.

The House version authorized $5 million for land acquisition for the Appalachian Trail, and the Senate version $10 million for land acquisition for the first 5 years for the four national scenic trails which it would have established. The conference committee recommends a provision calling for $5,500,000 for land acquisition for the two trails.

It was the general understanding of the conferees that the Secretaries should prepare comprehensive plans of their proposed development program for the scenic trails under their jurisdiction and present such plans to the Senate and House Committees on Interior and Insular Affairs prior to their request for appropriations. On this basis, the conferees deleted the language of the House amendment limiting the appropriations authorized for development purposes.

Mr. President, I move the adoption of the conference report.

Mr. HANSEN. Mr. President, I rise in support of the conference report to establish a nationwide system of trails. I had the privilege of participating in the conference between the Senate and the

House and I believe that the bill which we have returned now to both bodies is a good bill and one which is worthy of support of all Senators.

The bill we returned to the Senate today has been considerably tightened and sharpened by the conference committee. Of particular importance to Westerners is the fact that the Continental Divide Trail has now been placed in a study category which means that both the Department of Agriculture and the Department of Interior will sometime within the next several years be submitting additional material and justification to the Congress concerning this proposed trail. As I have told my Senate colleagues before, that while other trails designated in the bill has historic background, the trail proposed along the Continental Divide has, in reality, never existed. Further, I believe that the Congress must be extremely careful to prevent any legislative erosion of the principles set out in the Wilderness Act, and much of the proposed Continental Divide Trail passes through primitive and wilderness areas in Wyoming. The conference committee was wise in placing this in a study category and I am hopeful that the executive departments concerned will present full justification to the Congress in the future which will assure us of a preservation of the values which have been established by the Wilderness Act.

Of interest to all Senators should be the reaffirmation by the conference committee of the importance attributed to the development of trails near our cities. Heavy use by the hiking and recreation-seeking public can be anticipated in the very near future and it is essential that we concentrate on making recreational facilities such as will be established by this nationwide system of trails available near urban concentrations.

Other provisions are contained in the bill now which prohibits indiscriminate public acquisition of private lands and provides that on most of the trails in question condemnation proceedings by the Federal Government may not be utilized to acquire fee title or lesser interest to more than 25 acres of any one mile and that when used such authority will be limited to the most direct or practical connecting trail right-of-way.

I believe that the compromise worked out between the Senate and House have resulted in a good bill being brought before us at this time. I urge other Senators to join in supporting this measure which will add one more building block to the great conservation movement which is sweeping our country.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

CORRECTION OF TECHNICAL ERRORS

Mr. JACKSON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Concurrent Resolution 79. This is simply a measure to allow the enrolling clerk to correct a technical error in the bill to make it conform to the agreement of the conference committee.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Washington?

There being no objection, the concurrent resolution (S. Con. Res. 79) was considered and agreed to, as follows:

S. CON. RES. 79

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate, in the enrollment of the bill, S. 827, entitled "An act to establish a nationwide system of trails, and for other purposes," be authorized to make the following correction: In section 4(a)(1) after the words "such trails are reasonably accessible to urban areas, and" add a comma and insert the word "or" and in section 4(b)(1) at the end of the paragraph delete the comma after the word "and" and delete the word "or".

AMENDMENT OF WATER RESOURCES PLANNING ACT

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3058.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 3058) to amend the Water Resources Planning Act to revise the authorization of appropriations for administering the provisions of the Act, and for other purposes, which was, strike out all after the enacting clause, and insert:

That section 401 of the Water Resources Planning Act (Public Law 89-80; 79 Stat. 244) is amended by deleting "$300,000" and inserting in lieu thereof "$500,000".

Mr. JACKSON. Mr. President, the House granted an increase to the Water Resources Council of $200,000 per year for administration over the existing authority. The Senate had provided for somewhat more than that, but we on the Senate side have no objection to the House amendment.

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

The motion was agreed to.

POLAND'S MOST-FAVORED-NATION TRADE STATUS

Mr. BYRD of Virginia. Mr. President, I ask unanimous consent to speak for 3 additional minutes.

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

Mr. BYRD of Virginia. Mr. President, following the invasion of Czechoslovakia by forces of the Soviet Union and its satellites—Poland, Bulgaria, East Germany and Hungary—I wrote to Secretary of State Dean Rusk concerning the Department's attitude toward the continuation of Poland's most-favored-nation trade status.

I have great sympathy, Mr. President, for the Polish people. I have been to Poland and known the warmth of the people. But various actions of the Polish Government are most distressing.

I would like to read into the RECORD the letter which I addressed to the Secretary of State, dated September 5, 1968:

MY DEAR MR. SECRETARY: As a result of Poland's aid to North Vietnam and its repressive measures against Polish Jews, there has been a growing demand for the withdrawal of Poland's most favored nation status.

On July 24, 1967, the State Department rejected these demands in a letter to Congressman Findley of New York. Writing for the Department, Assistant Secretary Macomber said the following: ". . . we do not believe that this is the time for so drastic an action as the withdrawal of MFN from Poland because the evidence is not conclusive that an opposite trend has developed from that which is described in the attached Presidential determination on Poland."

That Presidential memorandum noted among other things that ". . . Poland was not a nation dominated or controlled by the foreign government or foreign organization controlling the world Communist movement . . . This is still our judgment today."

My letter continues:

In view of the participation of 10,000 Polish troops in the invasion of Czechoslovakia, and Poland's continued aid to North Vietnam, is it still the judgment of the Department that "the evidence is not conclusive" that the Polish government is subservient to the dictates of Moscow?

I would appreciate your early reply to this question.

With best wishes, I am,

Sincerely,

HARRY F. BYRD, JR.

In a letter dated September 17, 1968, and delivered to me yesterday, the Assistant Secretary William B. Macomber, Jr., writing for the Secretary, had this to say in response to my question:

We are unable to judge whether Polish troops were ordered by the Polish Government to take part in this action because of the latter's subservience to Soviet policies or whether the Polish Government acted willingly because it also deemed the signs of liberty in Czechoslovakia as a threat to the security of its own Communist system.

Mr. President, is it really material whether Poland's open aggression was at the prompting of the Soviet Union or whether it was a voluntary act which only happened to be in accord with the Soviet wishes and only happened to be closely coordinated with similar actions by the Soviet Union?

Can the question of motivation in a case like this ever really be resolved? How will we ever prove whether Polish leaders were responding to their own feelings and assessments of the situation in Czechoslovakia, or knuckling under to the expressed desires of the Soviet Union?

In his letter, Secretary Macomber indicates the Department is reviewing the developments in Eastern Europe with a view toward "determining our foreign policy interests and our further position in the circumstances."

The invasion of Czechoslovakia occurred a month ago, and in light of the participation of 10,000 Polish troops in the attack on Czechoslovakia, is there really any doubt about Poland's aggressive foreign policies?

The State Department inaction is important, because it ties in with the fact that our Government has been unwilling to bring financial and diplomatic pressure on those nations which are supplying our enemy in Vietnam.

While the invasion of Czechoslovakia by the Soviet Union and its satellites—including Poland—focuses attention on the problem, the fact is the problem has been there for some time.

Poland is second only to the Soviet Union among East European Communist countries in the number of ships it sends through the port of Haiphong each month. Poland is the only nation sending arms to North Vietnam which enjoys special trade benefits from this country.

The Polish Communist leaders openly boast of their country's aid to the North Vietnamese—witness the statement last year by Mr. Zenon Kliszko, a member of the Polish Communist Party Politburo.

The Associated Press quoted Mr. Kliszko as saying to the North Vietnamese:

> We are glad that Polish guns are bringing concrete results to you in your fight. We are giving, and we will continue to give material, political, and military aid.

It has been 3 years since we began our massive buildup in Vietnam where we have suffered more than 200,000 casualties.

Surely it is time we brought all financial and diplomatic pressure on those aiding our enemy.

How else are we going to bring this war to an end?

In that connection, I want to cite the latest casualty figures, the cumulative totals. The official figures for the year 1968, beginning January 1, 1968, through September 17, 1968, show that the United States suffered 86,800 casualties in Vietnam.

The significant aspect of that figure, Mr. President, is that it represents 41 percent of all the casualties we have suffered during the many years we have been in Vietnam.

The contention is made from time to time that conditions are improving in Vietnam, from the United States' point of view. Various statements are made by high officials that things are going better for the United States in Vietnam.

Well, let us consider these figures for a moment. For the first 8½ months of this year the United States suffered 41 percent of all the casualties it has suffered. Yet the Vietcong killed and wounded for those 8½ months amounted to only 36 percent of the total. The South Vietnam casualties for those 8½ months amounted only to 32 percent of the total casualties suffered by the people of South Vietnam. So I submit that the casualty figures do not bear out the assertion that things are improving to any great extent from the point of view of the American people and the American fighting men.

So I say again, How are we going to bring this war to a conclusion if our Government is not willing to bring all financial and diplomatic pressure against those nations supplying our enemy?

At this point, Mr. President, I ask unanimous consent that the text of the State Department's reply to my letter be printed in the RECORD:

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

DEPARTMENT OF STATE,
Washington, D.C., September 17, 1968.

Hon. HARRY F. BYRD, Jr.,
U.S. Senate, Washington, D.C.

DEAR SENATOR BYRD: The Secretary has asked me to reply to your letter of September 5 regarding the participation of Polish troops in the invasion of Czechoslovakia.

The totally unwarranted invasion of Czechoslovakia by Soviet and other Warsaw Pact forces, which has brutally repressed the progress of the Czechoslovak people toward internal freedom, has aroused deep feelings of revulsion throughout the world. We are unable to judge whether Polish troops were ordered by the Polish Government to take part in this action because of the latter's subservience to Soviet policies or whether the Polish Government acted willingly because it also deemed the signs of liberty in Czechoslovakia as a threat to the security of its own Communist systems.

The United States considers the continuing occupation of Czechoslovakia a flagrant violation of the right of national independence, a challenge to international order, and a violation of the Charter of the United Nations. We are now carefully reviewing and assessing these recent developments in Eastern Europe in all of their implications for the future of that area with a view toward determining our foreign policy interests and our further position in the circumstances. Obviously, this reassessment must involve our relations with Poland as it does our relations with all of the other invading countries.

I regret that we are unable to provide you with a more detailed reply at this point. However, if there is additional information which you believe we can furnish, please do not hesitate to let me know.

Sincerely yours,

WILLIAM B. MACOMBER, Jr.,
Assistant Secretary for Congressional Relations.

LAW AND ORDER

Mr. LAUSCHE. Mr. President, a committee of the administration is taking testimony from witnesses dealing with the subject of riots and violence in our cities. It happens that Mr. Clark, the Attorney General, and Mr. Hoover, of the FBI, gave their views yesterday of what is happening in the Nation, and they obviously directed their attention to the Chicago riots at the Democratic National Convention.

The Attorney General of the United States said:

> Of all violence, police violence in excess of authority is the most dangerous.

Mr. Clark warned, without specific mention, of bloody confrontations such as that between the police and antiwar demonstrators in Chicago.

Mr. Hoover's view seemed diametrically opposite that expressed by the Attorney General. Mr. Hoover stated:

> There is no alternative but to use force when faced with vicious attacking mobs intent on destructive purposes.

As between the two, I prefer to accept the word of Mr. Hoover. This constant diversion of blame from the shoulders of the rioters and placing it upon the shoulders of the police is, I believe, one of the principal causes of the constantly growing defiance of law and order. It makes no difference what happens in a mob demonstration where violence follows; the charge is just as certain as the day following the night that police brutality was the cause of the violence.

I ask Senators whether it is not fair to infer that when contentions of that type are permitted repeatedly to be heaped upon the police, it gives encouragement to every subversive, and every individual misled by subversives into participating in demonstrations, to adopt violent means to achieve their objectives.

The Director of the FBI vigorously endorsed the actions of Chicago Mayor Richard J. Daley's police force, and clearly implied that professional demagogs, extremists, and revolutionaries had learned to use the news media, particularly television, to discredit law-enforcement officers.

There is no question that the plan to disorganize and throw into disorder the city of Chicago, and to destroy the convention, had its origin in an eastern city last June. The plan was laid for a mass descent upon Chicago. The mobs assembled there, not with any purpose of dissenting in the peaceful democratic way, but to take charge of the city, and finally to take charge of the convention.

I cannot help disagreeing vigorously with those who are condemning the Chicago police for what happened. They were taunted, baited, spat upon, and assaulted with cans containing urine, and in some instances with plastic bags containing human excrement. They stood there patiently while the assaults went on.

How much can an individual policeman endure? Is he different from the Presiding Officer of the Senate? He has a circulatory system. He has a nervous system. He has passions, emotions, and pride. Is the police officer, when someone comes up and throws urine at him, to act calmly and in complete control of himself?

I noted that Mr. Eisenhower, a member of the Commission, said that if someone threw urine at him, he doubted that he would control himself.

This testimony, as quoted in the Washington Post, from which I have been reading, is quite illuminating. In my opinion, it involves the issue of the day throughout the country. That issue is, Are innocent, law-abiding citizens to be held supreme, or are the police to yield to rioters, to insurrectionists, and, in frequent instances, to individuals who have a greater love for communism than they have for the democracy of the United States?

At the end of his statement, the Attorney General emphasized:

> It is the duty of law officers to control violence, not to cause it.

Are we to infer that the law officers caused the violence in Chicago? How can anyone come to that conclusion? Is this just a glib rhetorical gem? It sounds wonderful: Police officers are not to cause violence, but to control it. That would imply that the police officers of Chicago caused what happened there.

Mr. President, it is tragic and ironic that yesterday, while on the floor of the Senate we were discussing gun control to maintain law and order, the principal agencies for maintaining law and order in our Nation, the police departments, were being attacked by the highest law and order official in the Federal Government. I cannot stomach and I cannot tolerate that thought.

I yield the floor.

Mr. BYRD of Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill 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.

THE REDWOOD NATIONAL PARK, CALIF.—CONFERENCE REPORT

Mr. JACKSON. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2515) to authorize the establishment of the Redwood National Park in the State of California, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report.

(For conference report, see House proceedings of September 11, 1968, pp. 26576–26579, CONGRESSIONAL RECORD.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. JACKSON. Mr. President, the Redwood National Park recommended by the conference committee is worthy of taking its place among the most magnificent of our national scenic treasures.

I am very pleased to bring back to the Senate a bill which is very close to what we approved last year. The conference committee recommends a Redwood National Park comprising a maximum of 58,000 acres, including approximately 32,500 acres of old growth redwood. The authorized expenditure for acquisition of private lands within the park boundaries would be $92 million.

This is the culmination of more than 2 years of intensive work in the Congress and many years of effort by supporters of a Redwood National Park. Let me say in all frankness that there were times during the consideration of this proposal when those of us who found merit in the creation of a Redwood National Park of significant content and dimensions found cause for discouragement. Early in the Senate consideration of this matter, support for a park was divided. An administration bill calling for a 39,264-acre park in the Mill Creek watershed, plus a 1,600-acre tall trees unit on Redwood Creek at a cost of $60 million had its adherents. A bill introduced by the junior Senator from Montana [Mr. METCALF] and others, calling for a 90,000-acre park in the Redwood Creek drainage at a cost of $200 million was supported by many organizations and individuals. The junior Senator from California [Mr. MURPHY] introduced another measure which highlighted the seashore in the redwood region.

The Senate Committee on Interior and Insular Affairs considered all of these bills and took extensive testimony at hearings in Crescent City, Calif., and Washington, D.C. It was clear that we were dealing with unique and unprecedented legislation. A meaningful Redwood National Park would require an expenditure for land acquisition far greater than any previous national park. The immediate impact on local industry would be great. Two of the proposals before us at that time would each have taken virtually all of the timber holdings of one redwood company or another. Thus, an already depressed local economy was threatened with further loss of employment, at least for a period of several years.

These factors were very carefully weighed by the committee. The senior Senator from California [Mr. KUCHEL] and I came to the conclusion that a new measure was required, combining what we considered to be the best features of the bills before the Senate, and taking into account the financial limitations facing us and the impact on the affected area. Instead of concentrating the park in only the Mill Creek area or only the Redwood Creek area, we proposed boundaries encompassing the most magnificent redwood groves and related scenic attractions in each area. We included within the boundaries of our plan all of the largest and most impressive redwoods—the 000 trees—in private ownership in Del Norte and northern Humboldt Counties. We included all of the magnificent beach—almost 30 miles long—from just south of Crescent City to just north of the town of Orick. We included some untimbered or cutover lands suitable for development as intensive public use areas. We included opportunities for public access without destruction of the scenic and scientific values of the park.

Three State parks—Jedediah Smith, Del Norte, and Prairie Creek—containing some of the most important stands of redwood in existence were within the proposed national park boundaries.

The bill we proposed spread the impact—both in benefits and transition problems—over two counties, not just one. It spread the adjustment impact to four lumber companies, not just one.

We also proposed to ease the economic adjustment for affected industry and employees and lessen the immediate cost burden on the U.S. Treasury by authorizing a reinvestment of certain lands under Forest Service jurisdiction. These lands in what is called the northern redwoods purchase unit, lying near the proposed park, are not of such a character or so located as to be suitable for inclusion in a Redwood National Park. We proposed that under the unique circumstances of the Redwood National Park legislation this area could be devoted to the highest and best use by being made available for trading in the acquisition from private owners of redwood groves essential to the national park.

The Committee on Interior and Insular Affairs accepted the new measure and on October 10, 1967, it was ordered reported as a clean bill and was introduced as S. 2515 with the senior Senator from Nevada [Mr. BIBLE], chairman of the Parks and Recreation Subcommittee, joining with Senator KUCHEL and me as sponsors. This was the measure approved by the Senate on November 1, 1967.

The House of Representatives passed S. 2515 this year after striking all after the enacting clause and substituting a new measure. The House bill proposed a Redwood National Park of 28,358 acres, including 18,487 acres in two State parks, at an authorized expenditure of $56,750,000 for land acquisition and $10 million for development.

The conference committee now recommends a bill which follows essentially the format of the Senate bill. The acreage to be acquired immediately from private owners is approximately 28,100 as compared to approximately 33,000 in the Senate bill. The reduction in acreage results from an adjustment of the park boundaries in the Mill Creek area between the Jedediah Smith and Del Norte State Parks and exclusion from the park boundaries of the Skunk Cabbage area north of the town of Orick. The Senate conferees regret the loss, particularly of the Skunk Cabbage area, but these adjustments were necessary in order to reach a compromise with the House under the pressure of reducing expenditures. Despite the exclusion of these areas, the bill before the Senate will still acquire all of the largest and most impressive redwood trees—the 000 trees—now in private ownership which were included in the Senate bill.

The Senate conferees accepted for inclusion within the park two areas which were authorized for acquisition in the House bill but not in the Senate bill—the so-called Flint Ridge area south of the Klamath River near the mouth and an addition to the Redwood Creek corridor to include the so-called Emerald Mile. The Emerald Mile area is a particularly desirable addition to the park.

The conference committee also recommends acquisition of all of the beach area which was authorized by the Senate plus an extension of the beach south to the northern boundary of the Dry Lagoon Beach State Park. Thus, over 33 uninterrupted miles of beach will be within the park.

The Jedediah Smith, Del Norte, and Prairie Creek State Parks are included within the Redwood National Park. The House receded from the provision of their bill which would have prohibited acquisition of any private lands for the national park until the State had donated the State parks. Under the Senate approach which was accepted, the State parks will come under Federal ownership and management only if donated by the State of California. We hope the State will take this step in the national interest. In any event, the Redwood National Park will be established, and until the State parks are donated the responsible management agencies may enter into agreements to assure that the State and Federal parks are administered on a compatible basis.

No more redwoods will be logged within the boundaries we establish in this bill. Under the terms of this legislation, immediately upon its enactment title to private timberlands will vest in the United States. Just compensation will be paid to the owners subsequently, by agreement with affected parties, or through court proceedings provided for in the act.

Mr. President, this is a great day in the history of conservation in our country. We are creating a magnificent new addition to the array of most cherished national possessions.

The Redwood National Park will include a variety of scenic attractions and opportunities for public enjoyment:

The redwoods, displayed in all their variety from ridge-top stands to slope and bottomland groves, to the seashore, with opportunities for people to admire them without damage to the park environment.

Over 33 uninterrupted miles of beach with the beautiful bluffs and headlands behind the beaches.

Streams and rivers of great natural beauty, with opportunities for fishing, swimming, and streamside walking and floating.

The tallest tree on earth and a host of slightly lesser brothers. Many of them have stood for more than a thousand years. They, themselves, grew from the fallen remains of ancient ancestors.

These giants will live out the years of their existence protected by man rather than threatened by man. It is our intention that a thousand years from now redwood seedlings of today will have lived, within this park, for the inspiration and wonder of future generations.

I ask unanimous consent to have included in the RECORD a section-by-section analysis of the bill.

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

SECTION-BY-SECTION ANALYSIS OF S. 2515

Section 1: This section would establish, effective upon date of enactment, the Redwood National Park in Del Norte and Humboldt Counties, California. This section also states the purposes of the Act.

Section 2(a): This section would provide that the boundaries of the new park shall be set forth in two maps numbered NPS–RED–7114–A and NPS–RED–7114–B. These maps show the boundaries of the park as agreed upon by the conference committee. Copies of the maps are to be kept available for public use and inspection in the offices of the National Park Service and, in addition, shall be filed with the appropriate officers in Del Norte and Humboldt Counties. The maps are dated September 1968, but the Secretary of the Interior may periodically adjust the boundaries of the park to better carry out the purposes of the Act. In addition to this overall standard, the Secretary is directed to pay particular attention to minimizing stream siltation, timber damage, and assuring the preservation of scenery if and when boundary adjustments are made.

Prior to making boundary adjustments, notice of boundary changes must be given by publication in the *Federal Register* of the changes and by filing the revised map and boundary description with the appropriate officers of the two counties. The acreage within the park boundaries may at no time exceed 58,000 acres, exclusive of submerged lands.

Section 2(b): This section would authorize the Secretary to acquire, but by donation only, State or county-owned highways and roads to the extent they are needed for park purposes. Once acquired, they would be park roads. Until acquired, the Secretary may cooperate with the State or county officials in patrolling and maintaining roads and highways within the park boundaries.

Section 3(a): This section would authorize the Secretary to acquire lands and interests in land within the park boundaries and, for administrative purposes, up to 10 acres outside the boundaries. Land acquisition may be accomplished by donation, purchase with appropriated or donated funds, exchange, or otherwise. The Secretary, however, can acquire State-owned lands only by donation. A donation or agreement to donate the existing State parks or other State and county-owned lands is not a condition precedent to the establishment of the Redwood National park. Should the State decide not to donate its parks and other lands, the National Park Service will nevertheless cooperate with State and local officials to minimize administrative and management problems which may arise.

Section 3(b):

Paragraph (1): The first paragraph would provide that, effective on the date the President approves this bill, title to all real property, except that owned by the State or a political subdivision thereof, and except the property within the park boundaries referred to in paragraph (3), will vest in the United States together with the right of immediate possession. This paragraph thus provides for a legislative taking by the United States of all right, title and interest in lands within the park boundaries effective on the date of enactment of this Act. Lands owned by the State of California or its political subdivisions are excepted from the operation of this paragraph. In addition, paragraph (3) of section 3(b) provides that private lands held in ownerships of fifty acres or less are not legislatively taken unless certain determinations and actions are undertaken by the Secretary. The legislative taking provisions of paragraph (1) would not apply with respect to lands subsequently included within the park as a result of boundary changes authorized pursuant to section 2(a).

Paragraph (1) requires that the Secretary must allow for the orderly termination of all activities and operations conducted by property owners, their lessees, licensees and contractees on lands acquired pursuant to this paragraph. The Secretary would also permit the removal of equipment, facilities, and personal property in an orderly manner.

All timber cutting operations would be required to cease on the date title vests, but the Secretary would provide a reasonable period of transition to enable these people to terminate all operations within the park. The Secretary will arrange for fire protection, resource protection and other necessary measures to avoid damage to the area during this transition.

The Committee has been advised by the Department of the Interior that where necessary for the orderly termination of operations the Department will, for a reasonable period of time, allow the regulated use of logging roads within park boundaries under revocable special use permits.

Section 3(b):

Paragraph (2): Paragraph (2) would provide that the United States pay just compensation to the former owners of the real property taken under section 3(b). The compensation would be paid either in the form of money derived from appropriations under the land and water conservation fund, or land available to the Secretary under section 5 of the Act for exchange purposes, or a combination of land and money. Interest would be paid at the rate of 6 per cent per annum from the date of taking to the date of payment. It is expected that the Secretary would seek the necessary appropriations to the land and water conservation fund this year.

Just compensation would be based upon the value of the properties taken pursuant to section 3(b) as of the date of the taking. The value would be established through negotiations between the Secretary and the former property owners, or through proceedings in the Court of Claims as provided in 28 U.S.C. 1491.

In the case of payment through the use of Federally-owned land, the Secretary could use either public lands which have been classified for exchange or disposal or land within the Northern Redwood purchase unit in Del Norte County, California, as he determines. It should be emphasized that it is not the intention of the conference committee that the Secretary first exhaust his available appropriations before negotiating with the property owners for an exchange of the above Federal lands. Also, the committee intends that the Secretary, in negotiating payments from appropriations, could agree to make the payments in installments.

The conference committee has been informed that it is the normal practice of the Court of Claims to appoint commissioners to take testimony at the place or places most convenient to the plaintiff or plaintiffs. The conference committee hopes that the Court would follow this practice in connection with any litigation which may arise by reason of the application of section 3(b), and that the Court would make every effort to minimize delay and avoid inconvenience or added expense to the former property owners.

Section 3(b):

Paragraph (3): Paragraph (3) provides that the provisions of section 3(b)(1) of the bill, relating to the legislative taking of lands within the park boundaries, do not apply to real property ownerships of fifty acres or less, *unless* the Secretary of the Interior (1) determines that on the effective date of the Act each such ownership is either held or occupied primarily for purposes other than residential or agricultural, and (2) notifies the owner or owners of such property within 60 days after the effective date of the Act that title did, in fact, vest by reason of the enactment of this section, in the United States. Thus, as to ownerships of fifty acres or less, there would be no legislative taking *unless* the Secretary makes the required determination and gives notice. As to real property on which the Secretary makes the required determination and gives notice, the date of the taking would be deemed to have related back to the effective date of the Act.

If notice is not given, title will not vest in the United States on the effective date of the Act, but the Secretary may later acquire the property under sections 3(a) or 3(c) of the bill for park purposes. Notice of the vesting of title is not required in the case of any ownership of more than 50 acres.

For the purpose of this section, agricultural purposes does not include tree farming and other forms of tree culture.

The term "primarily," as used in this paragraph, should not be construed strictly, but is designed to give the Secretary some flexibility to determine whether a particular ownership, while having some residential or agricultural status, is being used for purposes that are incompatible with park purposes.

The purpose of paragraph (3) is to exempt small ownerships (less than fifty acres) which are being used for residential and agricultural purposes from the operation of the legislative taking provisions of section 3(b)(1). It was the conference committee's judgment that with respect to these small ownerships it was not necessary to provide immediate and complete protection against the further cutting of timber and the destruction of park values. The Secretary is, of course, still authorized to acquire these ownerships under the authority granted in section 3(a) of the Act.

Paragraph (3) also gives the United States district court for the district in which the land is located jurisdiction to hear and determine any action brought by any person or persons having an interest therein for damages occurring by reason of the potential application of the legislative taking provisions of this paragraph between the effective date of the Act and the date the Secretary

gives notice to the property owner or owners. This provision should not be construed in establishing in such person or persons a new cause of action or a right to compensation against the United States. It merely provides a forum to consider any claim compensable under present law that might be asserted by reason of the potential application of this section to tracts of fifty acres or less.

Section 3(c): This section authorizes the Secretary to acquire in their entirety any tracts or parcels of land that are partly inside and partly outside the park boundaries or the administrative site in order to minimize the payment of severance damages. Once acquired, the Secretary may dispose of the land outside the park boundaries by exchange for other land or interests therein within the park boundaries, or by disposal under the Federal Property and Administrative Services Act of 1949. The cost of acquisition of the land outside the park boundaries or the administrative site which is later disposed of by either of the above methods shall not be charged against the dollar limitation in section 10 of the Act.

Section 3(d): The Secretary is also authorized to acquire land by donation, purchase with appropriated or donated funds, or by exchange or otherwise, lands and interests therein bordering both sides of the highway between the southern boundary of Prairie Creek Redwood State Park and on Redwood Creek near the town of Orick sufficient to maintain or restore a screen of trees between the highway and the land behind the screen.

Section 3(e): This section would authorize the Secretary to acquire interests in lands from, and enter into contracts and cooperative agreements with, land owners on the periphery of the new park and on watersheds tributary to streams within the park. The purpose of this section is to provide protection to the timber, soil, and streams within the park boundaries. The term "interests in land" in this case does not include the fee title unless the Secretary finds that the cost of acquisition of the less than fee interest would be disproportionately high as compared with the cost of the fee itself. Before entering into any contract or cooperative agreement or before acquiring any such interest in land, except by donation, the Secretary must notify the President of the Senate and Speaker of the House of his action and of the cost and benefits to the United States at least 60 days beforehand.

Section 4(a): This section provides that where land is acquired by the Secretary under the provisions of this Act other than under the provisions of section 3(b), the owner of improved property may retain, as a condition to the acquisition, a right of use and occupancy for noncommercial, residential purposes for a term of not to exceed 25 years or in lieu thereof for a term ending at the death of the owner or his spouse, whichever is later. The right retained shall be subject to termination by the Secretary upon a determination that the property is being used in a manner inconsistent with the purposes of the Act. If the Secretary makes this determination, the retained right shall terminate by operation of law when the Secretary notifies the holder of the right of the determination and tenders him the fair market value of the right.

Section 4(b): The term "improved property" as used in the previous section means a detached, noncommercial, residential dwelling, the construction of which was begun before October 9, 1967, together with so much of the land on which the dwelling is located as is reasonably necessary for its enjoyment.

Section 4(c): This section authorizes the Secretary to sell or lease real property acquired in sections 5 and 8, township 13 north, range 1 east, Humboldt Meridian to the former owner. The lease-back, sell-back provisions must include conditions and restrictions which will assure that the property is not used in a manner or for purposes which would be inconsistent with the Redwood National Park.

Section 5: This section would authorize the Secretary to acquire non-Federal property for park purposes by exchange of certain Federal lands located within California. The Secretary can acquire the property from the grantor by exchange for any Federally-owned property under the jurisdiction of the Bureau of Land Management in California that is first classified by the Secretary as suitable for exchange or other disposal, except property needed for public use and management. The Secretary may also exchange any Federally-owned property that the Secretary designates for exchange purposes within the Northern Redwood purchase unit in Del Norte County, California, except the section designated as the Yurok Experimental Forest. These Federally-owned properties shall also be available to the Secretary for use by him in lieu of, or together with, cash in payment of just compensation for property taken under section 3(b) of this Act. The exchange provision of this Act is designed to supplement the exchange provisions of the Land and Water Conservation Fund Act and the provisions of that Act shall also be available to the Secretary in connection with acquisitions under this Act. It is the Committee's intent that the Secretary shall, to the greatest extent possible, by exercising his exchange authority, minimize any adverse impact on the local economy which may occur due to a reduction in employment resulting from any dislocation and disruption of the grantor's commercial operations. This latter requirement is aimed primarily at lands made available for exchange from the Northern Redwood purchase unit.

The provision authorizing exchange of property within the Northern Redwood purchase unit is not intended to be precedent setting. The unique circumstances involved in establishing a Redwood National Park justify this exchange, but the conference committee recognizes this to be an exception and does not contemplate that similar exchanges will be authorized or made in the future.

The exchange provisions of section 5 may keep the cash outlay for land acquisition below the $92 million authorized by section 10 of the Act. At any event, the $92 million figure is not intended to reflect a Congressional determination as to the value of the property involved. The actual value of the property and the expenditures needed for acquisition should be less than this amount because the appropriation authorization includes a substantial factor to cover unforeseen contingencies.

The conference committee does, however, anticipate that it will be necessary for the Department to request the total amount section 10 authorizes for appropriations so that funds will be available if needed in connection with the legislative taking authorized by section 3(b) and to deal with contingencies in the acquisition process.

Section 6: This section would authorize the transfer to the Secretary of the Interior of any Federally-owned property administered by another Federal agency which is within the park boundaries or a designated administrative site.

Section 7(a): This section is designed to supplement the advance contract authority found in the recent amendments to the Land and Water Conservation Fund Act. The advance contract authority would not be applicable to the lands acquired under section 3(b) of this Act, but would apply to areas to be acquired by the Secretary under sections 3(a), 3(c) and 3(e) of this Act. Under this authority, the Secretary could enter into contracts to acquire lands in advance of appropriations.

This section would also authorize the Secretary and the owner of any lands acquired under this Act to agree that the purchase price of the property will be paid in periodic installments over a period that does not exceed ten years with interest on the unpaid balance.

Section 7(b): This section would make the provisions of the Act of July 27, 1956, applicable in the case of condemnation actions brought under this Act. This means that judgments for $100,000 or less will be paid from the continuing appropriation pursuant to 31 U.S.C. 724a, and that judgments for more than that amount will be processed in the same manner that ordinary judgments against the United States are processed; that is, by being included in the items "Claims and Judgments" (*e.g.* 79 Stat. 1152) which is regularly transmitted to the Congress for appropriations.

Section 8: This section would direct the Secretary to continue the present practice of the California Department of Parks and Recreation of maintaining memorial groves of redwood trees named for benefactors of the State redwood parks.

Section 9: This section would direct that the Secretary administer the park in accordance with the National Park Act of 1916, as amended and supplemented.

Section 10: This section authorizes appropriations of $92,000,000 for land acquisition under this Act. Although no limitation is stated for development costs, it is the understanding of the conference committee that no appropriations will be made or requested for this purpose, except for such work as is required for immediate administration of the park, until a master development plan has been submitted to the two Committees on Interior and Insular Affairs.

Several Senators addressed the Chair.

Mr. JACKSON. Mr. President, I yield briefly to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. HOLLAND. Mr. President, I congratulate most heartily the distinguished Senator from Washington and those who worked with him on the accomplishment of this objective of several years, as I know.

The Senator has worked hard and long, and now he has succeeded, as I understand it, in getting almost all of his original objective accomplished and completed.

I believe that the generations of Americans in the future will be grateful to the Senator from Washington, just as the speaker is and just as everyone who is a believer in conservation of our natural beauties and natural values must be grateful to him. Many, many warm thanks.

Mr. JACKSON. Mr. President, I thank my good friend, the senior Senator from Florida, for his very generous comments.

I yield to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I join in the remarks made by the distinguished senior Senator from Florida. He has put in words far better than I could my feelings about what has been accomplished. The Senator from Florida has delineated the years of struggle which the chairman, the Senator from Washington [Mr. JACKSON], has undergone to bring this proposal to a satisfactory conclusion—not as satisfactory as some of us would like, but certainly, in view of all the circumstances, a far better solution than many of us had anticipated.

Mr. President, on behalf of the distinguished Senator from Oregon [Mr. MORSE], I should like to ask some questions. However, before I do so, I yield briefly to my colleague from Montana.

Mr. METCALF. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. METCALF. As one of the original sponsors of the redwoods bill and one of those who was hopeful that we would have a larger park, I recognize the need for compromise. I concur with the Senator from Washington that this is a great day for conservation. This is a day that will go down in history along with the day when Yellowstone Park, Yosemite, and Glacier, were created. We do have a meaningful Redwood National Park. It is a Redwood National Park that, as the Senator from Washington has said, will preserve all the great trees and will, over the years, bring to future generations the enjoyment that we have had in our lifetime in visiting these magnificent trees.

The Senator from Washington [Mr. JACKSON] and the Senator from California [Mr. KUCHEL], who have worked so hard on this bill, deserve great credit for their statesmanship, for their diplomacy, and for their negotiating ability in creating one of the finest national parks in our entire park system and developing one of the greatest natural resources for future generations.

As one of the early sponsors, who worked on this matter in both the House and the Senate, I am glad that this day has arrived and that we are going to save these wonderful trees from the chainsaws and the development that would have taken place except for this bill.

Mr. JACKSON. Mr. President, the able junior Senator from Montana [Mr. METCALF] has long been in the forefront of the battle to save the redwoods. His interest goes back to his days as a student at Stanford University. Am I correct?

Mr. METCALF. The Senator is correct. While at Standford University, I used to visit Muir Woods.

If the Senator will pardon the reminiscence, I went into the Army and took basic training at Fort Ord. I got a 3-day pass and spent the time visiting Muir Woods, so I have a great sentimental attachment for these magnificent trees.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD several newspaper editorials in connection with this matter.

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

[From the San Francisco Chronicle, Sept. 10, 1968]

REDWOOD PARK VICTORY

In the congressional showdown on the Redwood National Park bill yesterday, the public interest came out the winner. A Senate-House conference agreed on legislation, regarded as almost certain to receive final approval on the floor, to create a redwood park of high quality and of ample scope for the recreation needs of future generations of Americans.

Senator Thomas H. Kuchel, who for three years has led the fight for the park, pronounced himself highly satisfied with the outcome; in many respects, he said here yesterday, the conference version is an improvement on his own bill that the Senate had passed earlier.

When the House last summer chopped the Kuchel 64,000 acre park to 28,000 acres conservationists were plunged into despair. They now have good reason for satisfaction and relief that the compromise will provide for one more than twice that size. The conference bill authorizes the Federal Government's acquisition of some 30,000 acres of redwood lands in Humboldt and Del Norte counties connected by a corridor that will include 33 miles of superbly scenic ocean beach. With three existing State parks of 27,468 acres, the combined Federal-State recreational reserve acted upon yesterday will be 58,000 acres. Donation of the State parks to the Federal government was not made a condition for establishing the national park, however. This was a wise decision which will remove any occasion for getting into a State political battle over the project.

Californians who have worked hard for this magnificent reservation of redwood lands, with their majestic old growth trees, have saved a heritage that does them honor.

[From the New York Times, Sept. 11, 1968]

REDWOOD VICTORY

The compromise version of the Redwoods National Park Bill worked out by House-Senate conferees is a substantial victory for the public interest.

The 58,000 acre park is much closer to the size and boundaries set forth in the Senate bill than to the hopelessly inadequate mini-park provided in the House version. Moreover, the private lands to be included in the park have trees mostly of prime quality and are not the cutover areas which some timber companies had hoped to fob off on the public.

However, because of insistent pressures from Georgia Pacific and other timber companies, the park will be considerably less than ideal in its layout. The principal groves of trees in the southern section are tied to one another and to the state parks in the north by rather fragile, narrow corridors. The park will not be easy to protect and administer as a coherent ecological entity if, as expected, the public uses it intensively and there is continued growth in population and economic development in adjoining areas. But despite these potential problems, the magnificent trees in Redwood Creek Valley are very much worth saving, and the conferees deserve credit for drafting this satisfactory compromise.

The bill also makes an important breakthrough on the critical problem of soaring land prices. The complete acquisition of several new parks and national seashores has been delayed in recent years because the price of land has outstripped the funds appropriated by Congress. This bill provides that title to the privately held acreage in the proposed park will pass to the Federal Government when the President signs the bill into law.

The owners are to receive a fair price—subject to an appeal to the courts if a negotiated price cannot be agreed upon—plus 6 per cent interest for the period from enactment of the law to the final financial settlement. In addition to stabilizing the price, this provision eliminates the possibility that the timber companies might choose to cut the trees before the Federal Government actually took possession. If applied to other parks in the future, the precedent should go far to protect the Government against the greed of land speculators and despoilers of the nation's most precious natural resources.

[From the San Jose (Calif.) News, Sept. 11, 1968]

VICTORY ON PARK

Americans are going to get a good Redwood National Park in Northern California after all.

A Senate-House conference committee came up with a valid compromise after the House had emasculated the Senate's earlier version.

The park will take in 58,000 acres. The significant feature is that more than 30,000 acres of this land now is in private ownership and its magnificent stands of redwoods would be fair game for the lumberman's chain saw unless put in the new park. The remainder of the land is now part of the state park system. To help the lumber industry ride out the loss of this timber country, the bill authorizes a trade that would open up for lumbering about 14,000 acres of government-owned forest.

"I believe this bill is one of the great conservation achievements of this or any other Congress," said Sen. Henry Jackson, chairman of the Senate Interior Committee.

Much of the credit for bringing about this significant achievement must go to California's Sen. Thomas H. Kuchel. It probably will be his last major contribution as a senator, as he goes out of office in January.

[From the Los Angeles Times, Sept. 12, 1968]

REDWOODS PARK IN PUBLIC INTEREST

Although far from the optimum desired by many, the 58,000-acre California Redwood National Park proposed by a Senate-House conference committee represents a sound compromise.

Last year the Senate gave top-heavy approval to a 61,654-acre park. The Johnson Administration had recommended only 37,000 acres, and the House slashed the Senate figure to a hopelessly inadequate 28,500 acres in July.

Under this compromise, the state would be asked to donate the Jedediah Smith, Del Norte and Prairie Creek parks, with the two major units of the new national facility connected by a 33-mile stretch of ocean beach. Federal land acquisitions would be spread so as to protect the timber-based economy of the area. Federal timber would be made available as compensation for park quality land in some instances.

Private owners would be assured a fair price under a new section inserted into the bill. They would be entitled to court appeal if a negotiated settlement could not be reached, and 6% interest would be paid from the time the law is enacted until there is a final agreement on price. That clause would also serve to curtail logging off of lands before the government actually took possession.

Both Sen. Tom Kuchel, who played a major role in the drive for the national park, and Assemblyman Edwin L. Z'Berg, chairman of the Assembly Committee on Natural Resources, Planning and Public Works, have lauded the compromise.

It is in the public interest and deserves congressional approval at the earliest possible moment.

The Reagan Administration and the Legislature should also act promptly in taking whatever steps are necessary to bring the plan to fruition.

[From the Sacramento Bee, Sept. 12, 1968]

KUCHEL, PUBLIC WIN

A tremendous double-barreled victory is registered in the Redwood National Park bill which is expected to win easy congressional approval before the end of the month.

The first victor is the public interest. The Senate-House conference measure provides almost every feature sought by conservationists. The 58,000-acre park system in Northern California is ample to preserve this natural heritage for all the generations to come.

The second victory is the personal one of United States Sen. Thomas H. Kuchel who led the three-year fight for the park. In this as in so many other battles the California Republican was an exemplar of political statesmanship.

In the redwoods campaign Kuchel fought not only for the recreation and natural

beauty heritage of this generation but for those voiceless citizens who comprise all the generations to come.

In the course of it he tangled with representatives of the lumber industry and other groups with lobbying muscle.

The people, the general public for whom Kuchel fought, could not bring to bear the same well-organized pressures. Only in time will many of them come to appreciate the momentousness of the issue. For had these priceless, irreplaceable monarchs of the California forests been lost, their like would not be seen again by man.

Now they will continue to stand as a monument to Kuchel's concern for tomorrow.

[From the San Francisco Examiner, Sept. 13, 1968]

KUCHEL'S PARK

The long battle for establishment of a Redwoods National Park is over, or nearly so. A Senate-House conference committee has agreed on details; acceptance by both houses seems certain.

Much of the credit goes to California's Sen. Thomas H. Kuchel whose tireless concentration on the project defied all discouragement. Though other dedicated conservationists in the Congress share the laurels, this park can fairly be described as a splendid climax to Kuchel's outstanding senatorial career.

The park constitutes an elaborate compromise between the claims of ardent conservationists and equally ardent timber operators. A compromise can be defined as a settlement that falls short of the ideal, but in this case the shortcomings from both points of view must, in fair appraisal, be considered minimal.

Sen. Kuchel said: "The bill preserves the finest remaining specimens of the coast redwoods and protects the timber-based economy by spreading the impact of land acquisition among four companies and two counties. It makes some additional federal redwood timberland available to the companies as compensation."

An unexpected bonus is the inclusion in the park of a 33-mile strip of wild headlands and beaches.

The park will contain 58,000 acres composed of new purchases and existing state park lands. Management—perhaps a form of partnership—remains to be worked out. We hope state and federal authorities can approach this in the same spirit of amity and concord that marked their relations when the federal government established Yosemite National Park and the state continued in ownership of the valley floor for 20 years.

Mr. JACKSON. The able junior Senator from Montana did introduce what I thought was an excellent bill to set up a Redwood National Park. The only regret we in the committee had was that, due to financial limitations, we simply could not provide for as large a park as the able Senator from Montana had included in his proposal. The Senator was of tremendous help in getting the bill through.

I also wish to say that the able senior Senator from California, the distinguished ranking minority member of the committee and the able whip for the minority [Mr. KUCHEL], cosponsored the bill that is now before the Senate for final action. It was a great privilege and pleasure for me to work with him, and for my staff to work with his.

Mr. President, this is truly a bipartisan effort to conserve one of the Nation's greatest resources. We are all in Senator KUCHEL's debt for all he has done in helping to make this event possible today.

I yield to the able majority leader.

Mr. MANSFIELD. Mr. President, I join the distinguished chairman of the committee in the remarks he has just made about the deputy minority leader, the senior Senator from California [Mr. KUCHEL]. I believe the Jackson-Kuchel team is a great combination, and they have accomplished a tremendous objective in leading this proposal to its present position.

Mr. President, the distinguished senior Senator from Oregon [Mr. MORSE] is absent momentarily because of official business. He has asked me to propound some questions of the chairman of the committee, and on his behalf I am about to do so.

May I point out to the distinguished Senator, on behalf of Senator MORSE, that the measure calls for immediate vesting of title and rights to private land in the Federal Government upon the signing into law of the redwood park bill. But the question of fair value to be paid for it is a matter for negotiation between the Secretary of the Interior and the private owner. The bill provides that during the interim between enactment of the bill and payment to the owner, 6 percent interest shall accrue to the owner. However, the fifth amendment to the Constitution states that private property shall not be taken without just compensation, and interest is not compensation.

Can this method be said to meet the constitutional test of "just compensation"?

Mr. JACKSON. Mr. President, there is no question about the constitutionality of the provision to which the able Senator has referred.

I ask unanimous consent to have printed at this point in the RECORD a letter from the Solicitor of the Department of the Interior, dated September 18.

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

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington, D.C., September 18, 1968.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: At the request of your staff, we are taking this opportunity to express our opinion on the provisions of section 3(b) of the Conference Committee Print on S. 2515—the Redwood Park bill. We understand that you are particularly concerned, first, with the precedents for a legislative taking of real property for a public purpose, and, second, with the appropriateness of the provision relative to the determination of just compensation by the Court of Claims rather than by a jury.

Section 3(b) of the Conference Committee print of S. 2515 provides that title and the right to immediate possession of all real property within the proposed boundaries of the Redwood National Park established by the bill "shall" vest in the United States on the date of enactment which is the date the President approves the bill. There are two exceptions to this general taking. First, the taking does not apply to real property owned by the State of California or by a political subdivision thereof. Second, the taking provision shall apply to ownerships of 50 acres or less only if (1) the Secretary of the Interior determines that such ownerships are not being "held or occupied" primarily for residential or agricultural purposes, and (2) the Secretary notifies the property owner of the applicability of this section 3(b) within 60 days after enactment. We construe the term "agricultural" in this situation as not including tree farming, since the purpose of the legislation is to preserve the timber within the park boundaries.

Section 3(b) of the bill also mandates that "just compensation to the owner of real property taken" under section 3(b) of the bill "will" be paid by the United States. The bill establishes two methods for determining just compensation.

The first would be by negotiation with the owner and the Secretary of the Interior. This procedure enables these two parties to determine by mutual agreement the value of the property to be taken and enter into an agreement to provide compensation through the use of appropriated funds or through the use of other Federally owned land in the State as an exchange or through a combination of both of these.

The second would be by action brought by the property owner in the Court of Claims.

The bill provides that where the payment is in the form of money such payment will be derived from any "money appropriated from the Land and Water Conservation Fund" subject to the dollar limitations in section 10 of the Act.

Lastly, the bill provides for the payment of interest "from the date of taking to the date of payment therefor."

The objective of this section 3(b) of the bill, as we recommended it to the House Committee is (1) to provide immediate and complete protection to the resource for which the park was established, namely, the redwoods, through the prevention of further cutting, and (2) to prevent an escalation of the price which, as experience shows, always attends the establishment of a national park or recreation area.

In our opinion, there is no question that Congress may take real property directly by legislative action.

The power of eminent domain pre-dates the Constitution. It is a power that could exist independently of the Constitution in the Federal Government. It therefore is a power of the sovereign (see *Kohl* v. *United States*, 91 U.S. 367 (1875); *United States* v. *Lynch*, 188 U.S. 455 (1903)).

The first general statute by Congress authorizing condemnation in the Federal courts was enacted in 1888 (see 40 U.S.C. 257). Since then, Congress has, on numerous occasions, authorized the Secretary of the Interior to acquire property by condemnation. It seems clear that if Congress can delegate this authority to the Secretary of the Interior and other heads of agencies, Congress can also exercise the power itself. As a matter of fact, Congress has on several occasions exercised this authority, e.g.—

The Act of May 9, 1924, 43 Stat. 117.
The Act of March 14, 1940, 54 Stat. 49.
The Act of July 30, 1941, 55 Stat. 612.
The Act of October 3, 1962, 76 Stat. 698.
The Act of October 3, 1962, 76 Stat. 704.

In all of these cases, whether the taking is done by the Congress or by the Secretary, the only constitutional requirement is that the Government has an obligation to make "just compensation" to the owner thereof.

The question then turns on how just compensation is to be determined. S. 2515 provides that such compensation shall be determined by the Court of Claims in cases where the Secretary of the Interior and the owners are unable to agree on the amount of the compensation. We understand that some contend that a person is entitled to a jury trial on the issue of just compensation under the seventh amendment to the Constitution which provides:

"In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United

States, than according to the rules of the common law."

The courts, however, have held uniformly "that condemnation is not a common law action and is not subject to the constitutional guarantee of a jury trial." *United States* v. *Alexander*, 47 F. Supp. 900, 912 (1942). (See also *Secombe* v. *Railroad Co.*, 90 U.S. 108 (1874); *United States* v. *Jones*, 109 U.S. 513 (1883); *Bauman* v. *Ross*, 167 U.S. 548 (1896); *Backus* v. *Fort Street Union Depot Co.*, 169 U.S. 557 (1897); *United States* v. *93.970 acres of land*, et al, 258 F(2) 17 (CCA 7th, 1958); *Atlantic Seaboard Corporation* v. *Van Sterkenburg*, 318 F(2) 455 (CCA 4, 1963); *Bencke* v. *Weick*, 275 F(2) 38 (CCA 6, 1960)). In *Backus* v. *Fort Street Union Depot Co.*, *supra*, p. 569, the court said:

"All that is essential is that in some appropriate way, before some properly constituted tribunal, inquiry shall be made as to the amount of compensation, and when this has been provided there is due process of law which is required by the Federal Constitution."

Again the Supreme Court in *Bauman* v. *Ross*, *supra*, 548 p. 593 held: "By the Constitution of the United States, the estimate of the just compensation for property taken for the public use, under the right of eminent domain, is not required to be made by a jury; but may be entrusted by Congress to commissioners appointed by a court or by the executive, or to an inquest consisting of more or fewer men than an ordinary jury."

As a matter of fact, Congress, in the case of the Tennessee Valley Authority (see 16 U.S.C. 831), specifically chose not to follow the jury trial procedure. Rather, Congress directed the district court for the district in which the land taken is located to appoint 3 commissioners "to examine into the value of the lands" and "generally to take appropriate steps" to determine the value thereof. If an exception is filed to the commissioners award, 3 Federal district judges shall file their own award and thereupon there is an appeal to the court of appeals.

It is clear therefore that Congress can provide for the determination of just compensation by a system other than a jury trial. It is also clear that the United States may not be sued without its consent. In consenting to such a suit, "it rests with Congress to determine not only whether the United States may be sued, but in what courts the suit may be brought." *Minnesota* v. *United States*, 305 U.S. 382, 388 (1939). Congress in 28 U.S.C. § 1358, has conferred original jurisdiction, generally, in the district courts in condemnation actions. In addition, Congress, in 28 U.S.C. 1491, has also conferred jurisdiction on the Court of Claims "To render judgment upon any claim against the United States founded either upon the Constitution, or any Act of Congress." S. 2515 specifically confers jurisdiction on the latter court to handle claims of just compensation arising under section 3(b) of the bill. Further, Rule 71A(h) of the Federal Rules of Civil Procedures provides that any tribunal "specifically constituted by an Act of Congress governing the case for the trial of the issue of just compensation shall be the tribunal for the determination of that issue." We believe this is a valid exercise of Congress' authority.

We believe that there are sound reasons for using a tribunal other than the jury trial.

First, the bill will condemn a large area of very similar land, involving a number of owners. The Court of Claims approach affords an opportunity to insure uniformity in awards and avoid the inconsistency that the jury system tends to promote. This assures fairness to all former landowners and to the Government alike.

Second, the actual trial, under Court of Claims procedure can take place in the vicinity of the lands. Landowners will not be required to journey to Washington for the trial of the issue of just compensation. The Commissioners of the Court of Claims, under Rule 48 of the Court of Claims Rules, take evidence at different times and different places and fix the place of trial with consideration to the convenience of all concerned.

In summary, we believe that the provisions of section 3(b) of the bill are within the scope of Congress' authority, are not unconstitutional, do not require the determination of just compensation by a jury, are consistent with previous precedents, and finally are quite workable.

Sincerely yours,

EDWARD WEINBERG,
Solicitor.

Mr. JACKSON. I shall quote a pertinent part of the letter which relates to the Senator's question:

In our opinion, there is no question that Congress may take real property directly by legislative action.

The letter goes on to say that the power of eminent domain predates the Constitution.

At the end of the letter:

In summary, we believe that the provisions of section 3(b) of the bill are within the scope of Congress' authority, are not unconstitutional, do not require the determination of just compensation by a jury, are consistent with previous precedents, and finally are quite workable.

Mr. MANSFIELD. Is it the opinion of the distinguished Senator that this method would be able to withstand a court test?

Mr. JACKSON. There is no question about it in my mind. As indicated in my previous reply, it is clearly constitutional, and it will withstand any such test.

Mr. MANSFIELD. When can an owner reasonably expect to receive compensation for land taken under this measure?

Immediately after funds are appropriated, if the negotiations referred to in section 3(b)(2) work out. If the former property owners go to court, payment would be made when the judgment of the court is entered and the funds are appropriated. If they negotiate a land exchange, then the payment in lands available to the Secretary under the act could be made as soon as agreement is reached. The provisions authorizing payment of compensation are spelled out in greater detail in the bill. It is the intent of the conference committee that the owners should be compensated at as early a time as is possible pursuant to the procedures available to the Secretary and the United States.

Mr. KUCHEL. Would the Senator permit a slight interruption?

Mr. JACKSON. I yield to the able senior Senator from California.

Mr. KUCHEL. I do want the record affirmatively to show, on that point, that our conference report specifically provides for the payment of interest at the rate of 6 percent on the amount subsequently to be determined as value, and to that extent represents a completely fair disposition.

Mr. JACKSON. The Senator is correct. The moment title passes, interest runs until a settlement is achieved and payment is made as a result of that settlement or court test.

Mr. MANSFIELD. I wish to point out to the Senator that the bill provides that jurisdiction over suits contesting fair value shall reside in the Court of Claims. This is contrary to the general practice under section 1358 of the United States Code, which gives original jurisdiction to the local Federal district court in cases involving real estate taken for use by the Federal Government. The Court of Claims is an administrative court, not part of the Federal judiciary.

Why is this unusual procedure in the redwood bill?

Mr. JACKSON. Mr. President, first of all, title 28 of the United States Code, section 1358, which is referred to by the able Senator from Montana, applies only in actions brought by the United States to condemn real estate, so the reference and the question are not entirely appropriate. The act involves a legislative taking and not a condemnation proceedings. I would point out that even if the Court of Claims had not been mentioned in the act, they would still have jurisdiction under existing law. The reference to the Court of Claims simply made it very clear as to that point.

I want to emphasize that if we had simply provided for a straight legislative taking without granting the right, or mentioning judicial review, that right would accrue automatically under existing law, even though the Court of Claims were not mentioned. The litigation would still go to the Court of Claims.

Also, the Court of Claims is not an administrative court and is a part of the Federal judiciary. This question was decided by the Supreme Court in the case of *Glidden* v. *Zdanok*, 370 U.S. 530, in 1962.

Mr. MANSFIELD. What is there different about taking private property for a park, that a different procedure should be used from that used for highways, urban renewal, dam reservoirs, or the taking of property for any other Federal use?

Mr. JACKSON. Mr. President, I might mention the overriding reason for this course of action was the existence of an emergency. The emergency, of course, is known throughout the length and breadth of the land. The emergency related to the cutting of these precious trees which could take place even after we had passed a regular park authorization bill, because title to the lands involved would not have vested in the United States.

It was because of this emergency that the conferees unanimously agreed there should be a legislative taking, placing title immediately in the hands of the Federal Government so that the present owners could not continue to cut down trees in the area which is to be designated as the Redwood National Park.

Mr. MANSFIELD. Does the Interior Committee contemplate that this procedure will be used in subsequent establishment of national parks, recreational areas, wildlife refuges, and other condemnations for management by the Department of the Interior?

Mr. JACKSON. This procedure applies only to this situation, as we stated, because this is not a normal situation.

Mr. MANSFIELD. Is this transfer of jurisdiction desirable in other cases of

condemnation for military purposes, for example, or highways?

Mr. JACKSON. The question of the able Senator from Montana is not applicable. There is no transfer of jurisdiction. Also, this situation is unique and the question propounded was not before the conference committee.

Mr. MANSFIELD. They are made in behalf of the senior Senator from Oregon.

Mr. JACKSON. I understand, and that is true all the way through. The questions propounded in all instances here are on behalf of the senior Senator from Oregon.

It is not intended in this particular situation to make the provisions of this bill universally applicable. This legislation relates only to this emergency problem. We will have to meet future emergencies as they arise, and determine what remedy is best.

Mr. MANSFIELD. Is it the opinion of the conferees that taking jurisdiction away from the Federal courts is desirable because juries have been known to place a higher value on the property than someone else thinks it is worth?

Mr. JACKSON. As to the first point, the bill does not take jurisdiction away from the Federal courts. The Court of Claims is a Federal court and has been determined to be an article III court by the Supreme Court. What we are trying to do is to get a resolution of this problem in the most effective and in the most just way, considering both the interests of the Federal Government and the interests of the private owners.

Mr. MANSFIELD. Is it intended through this provision to keep the costs of acquisition within the $92 million authorized by the bill?

Mr. JACKSON. We, of course, do want to keep within the appropriation authorization of $92 million, but there is no relationship between the appropriation authorization and the legislative taking provision.

Mr. MANSFIELD. On behalf of the distinguished senior Senator from Oregon [Mr. MORSE], and for that matter, on behalf of the Senate, I thank the chairman of the committee for his lucid and to-the-point answers to the questions raised.

Mr. JACKSON. I thank the Senator.

Mr. MURPHY. Mr. President, will the Senator yield?

Mr. JACKSON. I yield to the able and distinguished junior Senator from California.

Mr. MURPHY. Mr. President, at the outset I wish to extend congratulations to the chairman of the committee, to my senior colleague from the State of California, and to all those who served on the committee, who have done this wonderful job. It is a worthy job, and it has been a long and tedious one. There was not only bipartisan cooperation in this Chamber but also I believe there was full, complete, and enthusiastic cooperation by the Governor of the State of California, my good friend and former colleague in another industry, His Excellency Ronald Reagan. I think this is an exceptional day that this is happening and I think it is great for the people of the country, present and future. It is the kind of thing we all hope for and look forward to.

However, Mr. President, I, too, must rise with a series of questions because of my interest in this particular instance and the manner of taking the land from the people. I may be repetitious because I could not hear clearly all of the questions propounded. I heard all the answers.

I heard one answer that this was done because of an emergency, an emergency because the trees might be cut.

I have continually tried to point out in this Chamber—I believe I made my first remarks as a result of a state of the Union speech—that the President had been badly misinformed.

The giant redwoods have been protected for about 70 years. No one has nor has anyone had any other intention for many years. Generally what we are talking about are ordinary redwood forests that are used for cutting lumber.

I would also like to point out, which is not generally known, that these are the fastest growing trees. We have trees that have been growing for 2,000 years and some longer than that. The ordinary tree replaces itself and grows very quickly.

I have gone into this matter to discover that under the new system of reforestation, or tree farming as they now call it, the destruction of these great forests, based on scientific knowledge of 20 and 30 years ago was a danger.

Today I do not think the danger exists to the extent that has been indicated.

My point in rising is to ask about the legislative taking of the land. I have been advised it is customary that if the Government needs the land, the Government gets the land. Then, one comes to the question of repayment to the individual owner of the land, the citizen who, perhaps, has lived there for years and has his entire fortune in that land and perhaps has a little farm where he has done a little lumber cutting himself. His property must pass to the Government and there is the question of the proper price and value.

I have been told that in the past it was customary in these matters that the representative of the Government and the individual owner would get together and if they could not agree on a fair price, then, as is customary, the individual and the Government would go into court, customarily into the district court, and the individual would have a right to a trial by jury, or a trial by a judge, whichever he chooses. However, his right under the Constitution in this matter included his right to ask for a trial by jury.

In other words, if he wished he could have the protection of the advice, the knowledge, the expertise of the people of his area who would go into court and testify what they thought the proper and fair value should be.

In the committee report, I have been told, there is an entirely new provision which was not suggested by the Members of this body, which was not suggested by Members of the other body, but which certaintly appears in the conference report. This, in effect, does something else. When the Government and the individual cannot agree on the fair price to be paid to the individual for his property, it is now sent to the Court of Claims in Washington rather than to the district Federal court in the area, where the individuals on a jury would have knowledge of and would be familiar with the local conditions and would know what the values are.

The other day—and I am sorry the distinguished senior Senator from Oregon [Mr. MORSE] is not here, but I would ask respectfully that his remarks be read very carefully in the RECORD, he spoke at great length and with great eloquence on this point. He said that when asked why this change had taken place, some one on the Government side said, "Well, they found out that some of the juries were awarding prices much too high. Therefore the decision was made to do away with that particular manner of ascertaining a fair price and bringing it back to Washington and putting it in the Court of Claims back here."

I am not too familiar with the Court of Claims, but I know one member. He is a lawyer from Chicago. I think I know another one, and he comes from Texas. I am not sure whether they have had any experience in the values of land in the redwood areas we are talking about.

One of the things that interested me was the fact that no provision for this was in either the report of the House or of the Senate. I would ask whether there were any hearings or testimony before this provision was put into the conference report.

Mr. JACKSON. The answer to the Senator's question is "Yes." The House did take testimony on this specific point.

Mr. MURPHY. But the Senate never took testimony, though.

Mr. JACKSON. We did not go into this specific matter; that is correct.

Mr. MURPHY. May I ask, from the testimony, who was in favor of this change, this completely new departure? Although my distinguished colleague said it is not the intent that this should set a precedent in other matters, there is no guarantee that it will not set a precedent, that this may not become customary in any manner, in any instance where the Government wants to take over private property for any reason whatsoever. Who is in favor and who suggested this?

Mr. JACKSON. The Department of the Interior, supported this approach in its report of May 11, 1968, on this legislation. Secretary Udall also supported this approach in testimony before the House Committee in May 1968. All of the conferees, House and Senate, were unanimous on adopting this means of resolving the problem. It was adopted unanimously.

Mr. MURPHY. May I ask one further question: Does not this, in effect—and this is extremely important—deny the right of a jury trial to a citizen involved, in California, in Oregon, and elsewhere, and to force him to bring his claim to Washington? Would that not work an undue hardship on him? Might it not place an impossible burden on some of these citizens?

Mr. JACKSON. I think the able Senator from California undoubtedly has in

mind the seventh amendment to the Constitution of the United States which provides as follows:

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.

Now, to read from the Solicitor's opinion which I previously placed in the RECORD, here are the findings, and I quote from the Solicitor's opinion and the citation:

The courts, however, have held uniformly "that condemnation is not a common law action and is not subject to the constitutional guarantee of a jury trial."

Then there follows a long list of citations in support of this proposition.

Mr. MURPHY. Will the Senator from Washington yield for another question?

Mr. JACKSON. I yield.

Mr. MURPHY. Has this not been customary over the years, the question of handling matters before a jury trial? Is this not a new departure which has been suggested?

Mr. JACKSON. This is a normal procedure, generally speaking, in condemnation actions.

Mr. MURPHY. Is it customary? Has it been customary?

Mr. JACKSON. The normal procedure in condemnation actions is to provide for the suit to be instituted in the district court with a jury trial if the parties elect or if the defendant elects. But this is not a normal condemnation action. S. 2515 authorizes a legislative taking of certain lands within the park boundaries. In the Solicitor's opinion, which I have placed in the RECORD, there are five previous occasions where Congress, first in 1924, and then as late as October 1962, provided for legislative taking—that is, where Congress by act of Congress takes title to the property. Therefore, this precedent is not new, in any respect.

Second, on the point that this is a special situation we are faced with; the problem is a very difficult one. The Court of Claims has had long experience in adjudicating complicated land problems. The land involved here is, generally, of the same nature.

If we go through the jury process, we run into the problem of one jury awarding one amount for property and another jury another amount for property which is similar. This lack of any kind of uniformity in the judgments that would be rendered by juries, is not fair to the former property owners and was an additional factor in our determination.

Mr. MURPHY. It would seem to me, with all due respect to the committee, the conference, the Solicitor General, and the fact that there have been five cases out of how many, should we say—50,000? 200,000?

Mr. JACKSON. I have cited only five. I did not want to limit it to five. Also, they are not cases, but five acts of Congress. There are many more than five. The ones I have mentioned are illustrative of what has been done in recent times by act of Congress.

Mr. MURPHY. Then this would be considered in this particular conference report an act of Congress,

Mr. JACKSON. This is, indeed, an act of Congress. It is nothing else. It is a legislative "taking," which means, of course, that the legislative branch of the Government is taking title to the properties involved pursuant to an act of Congress in which the President must concur.

Mr. MURPHY. Is there any language that will protect this from becoming general custom? Is this not a dangerous invasion of the rights of the individual? Is this not what should be a very carefully thought out progression, in order to expedite this park, which we all want, where the Solicitor General advises, "Fellows, we can do it better by bringing it back to the court of claims."

We have had hearings and, I repeat, the reason for this suspicion is a remark made by the Senator from Oregon [Mr. MORSE] where he said, "Why do they do that?" He was told that in some cases the juries awarded people too much money for their land.

My concern is not for the park in this instance. There will be a park. There is no question about that. I am happy and pleased that there will be a park, and all concerned should be congratulated.

My concern is not whether the Government gets a proper amount of land. There is no question about that. But I am very definitely concerned about the rights of an individual—a lonely individual—who is opposed on the other side by the great, majestic, frightening power of the United States. This sort of procedure is not the first instance that we have come across lately. More and more, it is decided that the decision shall be made in Washington. It shall be made by a man who has been appointed, a man who is not elected. He is not a representative of the people, really. He is only a copartner of the head of the administration, and to him he owes his complete allegiance and responsibility.

I am greatly concerned that if this procedure starts in this particular bill—and it may spread Lord knows where—it may become the general custom. Based on the legal opinion of the Solicitor General, suddenly we find individuals deprived of one of the most precious rights under our free system, the right of a jury trial. This is my concern.

Mr. METCALF. Mr. President, will the Senator yield?

Mr. JACKSON. I yield to the junior Senator from Montana for the purpose of replying to the Senator from California.

Mr. METCALF. Mr. President, for many years I have had before the Congress a bill to provide for jury trials in condemnation cases and for jury trials in district courts. The district judge appoints a commissioner. If the judge makes a ruling, his ruling is final, without a jury trial. People come back here to the district court of appeals on grazing cases, as do people who are involved in various other cases, from the Senator's State and mine. They have to come to Washington. The junior Senator from Montana has objected to that. Many times it is required in legislation that, instead of going to the local district courts, the appeal under the Administrative Procedure Act must go to a circuit court. I have objected to that on the ground the Senator from California has objected. But I see no reason—until we correct all those things—not to take care of this real emergency to prevent people from cutting the redwoods and follow the procedure that is established. Really, it is an established procedure. We do not get jury trials in district courts. We do not get jury trials in grazing cases.

Mr. MURPHY. Mr. President, will the Senator yield?

Mr. METCALF. I yield.

Mr. MURPHY. The Senator raises the question of emergency. We are trying to build a park. This is not a question of keeping people from cutting trees. The trees involved replace themselves very quickly. We are not talking about the giants that have been protected in my State for 50 or 60 or 70 years. I am part owner in one grove. I think I own half a tree. They are wonderful trees. They are not big. They are not over 200 or 250 feet tall. But the majority of land we are talking about is used for trees for lumbering. Those trees replace themselves very quickly. So the emergency is not that great. As an old outdoorsman, I would never think of camping in the redwoods, because by midnight we would be covered by mildew; it is so damp in there. I am for building this park to preserve what is a great heritage, but I do not think it is necessary, in getting the park built properly and put together properly, to take a chance on destroying the right of our people to a jury trial simply on the suggestion of the Solicitor General, who, I am told, has been urged and prompted by the Secretary of the Interior to get this done.

I know something of the actions of the Secretary of the Interior. I know something of his other plans. I am going to object to them. I have had experience with the Secretary of Transportation and what the Solicitor General and his assistant said Congress meant, which was not what Congress intended. I asked if I could borrow his lawyer so they would understand what we meant by the legislation. He said "No," he would not provide me with the lawyer; I would have to get my own lawyer.

So I want to point out this danger. I want to be certain that the remarks of the Senator from Oregon, who is vitally interested in this matter, are brought to the attention of this body. That is my only purpose.

I believe, to achieve my purpose to the best of my ability, so I do not take any more time of this body—I do not mean to impede—I should only add that this conference report, without origin in the House and without origin in the Senate, but with origin in the executive branch, certainly shows a new way with legislative opinion. As one who believes in the complete separation of the three branches of government, more firmly now because of present activities and considerations than ever before, I felt compelled to rise and point this out. I do not think the emergency is so great. I am sure the park will be put together, but I think the rights of individuals must be carefully preserved. They get eroded.

In my lifetime I have seen them disappear. What happened? We do not know. I give as an instance the rights of the people in Czechoslovakia. They were not cautious and careful. One day their rights are gone. They try to get a few back. They are trampled under the heel. This is the very thing I came here to protect. I shall not take any more time. I congratulate my colleague on the great job he has done, and I rest my case.

Mr. JACKSON. Mr. President, I thank the able junior Senator from California for his comments. I must say the Senator has raised questions that should be raised and should be answered. The record will, in my judgment, disclose the answers to these questions.

I want to reiterate the point that the right of jury trial in cases of this nature, did not come up just now. The question was decided as early as 1883 in United States against Jones, where it was held that there was no absolute right to a jury trial. That case was decided in 1883. So the law has been settled on this very point from time immemorial, almost.

Mr. KUCHEL. Mr. President, will the Senator yield?

Mr. JACKSON. I am happy to yield.

Mr. KUCHEL. Mr. President, I believe I can allay some of the apprehension of my friend and colleague from California on the question he has raised. In order to do so, I want to take a moment or two to sketch a little background.

A prior Congress, a number of years ago, authorized the creation of a National Seashore in our State of California. It relied on the best estimates available as to the amounts of money the property was worth. It authorized the Secretary of the Interior to acquire that property either by agreement or by lawsuit. Speculators swooped in on that area, Mr. President, intent on making a fast buck. They took every conceivable parcel of property in the park area they could get their hands on. They subdivided the land, they built homes and sold them on a speculative basis. Prices of land in that whole area were inflated. Today I regret with all my heart, that Point Reyes National Seashore has not come into its own because the $19 million authorized to be appropriated bought less than one-half of the land at inflated speculative values.

From the beginning, Mr. President, I have been interested in the creation of a National Redwood Park. I did not want speculators to have a chance to inflate value. The problem of getting the Congress of the United States to agree was for a long time almost insurmountable. Opposition was potent. And among conservation groups there were conflicting opinions on what and where the park should be. The price tag for a meaningful park became, obviously, an important factor. But, back of everything else, those of us who believed that the public interest warranted—indeed, required—saving the redwoods, realized that we were approaching the last, clear chance to achieve it.

Many Senators on the Democratic side, and the Republican side, including the Senator from Washington [Mr. JACKSON], the Senator from Vermont [Mr. AIKEN], the Senator from Montana [Mr. METCALF], the Senator from New Jersey [Mr. CASE], the Senator from New York [Mr. JAVITS] and others, wanted a park. There was some disagreement, even among those who sponsored the park, as I say as to how big it should be, where it should be located, what kind of trees, and what kind of land should be included, and how much money should be spent.

Finally, we did obtain a general agreement in conference. After agreement on size, location, approximate cost were had, the problem remained: What is the best, most feasible, and most economical fashion for the Government of the United States to acquire this property? Should we authorize the Secretary of the Interior to take the matter to court, and meanwhile let title remain in the private owners, with the terrible hazard that, once again, speculators would cause the value of that property to skyrocket? Should we leave the trees we seek to protect in jeopardy of being cut before condemnation proceedings begin? Or should we, as this conference did, provide that Congress, by statute, transfer title to the property involved, to the people of the United States? We chose the latter method. Title will pass on the signing by the President of this conference report.

There is nothing new or novel about that procedure. The fact of the matter is, Congress many years ago authorized a legislative taking of Indian lands in California with respect to the construction of the gigantic Central Valleys project. Water rights were also taken for that project without the filing of a declaration of taking. For both the Indians and the landowners asserting water rights, the Court of Claims was the only court having jurisdiction to determine the liability of the United States to compensate its citizens.

Mr. JACKSON. Mr. President, will the Senator yield at that point?

Mr. KUCHEL. I yield.

Mr. JACKSON. It is my understanding that on the question of a legislative taking, representatives of the major companies involved informally agreed to an immediate taking. It is my understanding that they had no objection to it. It later developed, however, that at least one of the companies did not like the provision about the Court of Claims. However, if we had simply provided for a legislative taking, without reference to the question of jurisdiction it automatically would have been the Court of Claims on the basis of existing law authorizing suits against the United States.

Mr. KUCHEL. As to cases involving over $10,000, the Senator is correct. Jurisdiction is in the Court of Claims, and no other place, cases under $10,000 could have come to the district court under 28 United States Code, section 1346.

Mr. JACKSON. That is right. All we did was write into the act that which is already the law.

As it said earlier, the companies involved had agreed, according to the information passed on to me, that it would meet with their approval, if we passed a bill providing for a legislative taking.

Mr. KUCHEL. I think the Senator is completely correct, and the point he makes, Mr. President, should be persuasive to all of us.

Mr. JACKSON. This is the information, the Senator will recall, that was given to us in conference when this question was discussed.

Mr. KUCHEL. I do indeed; and when the legislative taking is approved by Congress, and signed into law by the President, under the law there is only one forum in which any issue over value for the parcels subject to the legislative taking can be tested and resolved, and that is the Court of Claims.

I sincerely believe that what the conference, under the leadership of the distinguished chairman of the committee in the House of Representatives, and the great assistance of the Senator from Washington was able to agree upon here, is completely in the public interest, and does not frustrate the constitutional rights of any person, or our fellow citizens.

I have listened with interest to descriptions of the Court of Claims as an "administrative court" subject to the vagaries of politics and passing out second-class justice. The Court of Claims is perhaps as little understood as the technique of "inverse condemnation" or "legislative taking" which we use on this bill. Both have roots deep in history.

To clarify one misconception, landowners will have their hearings closer to home under our bill than they would if the conference had adopted a special exception to normal procedures and placed these inverse condemnation actions in the Federal district court. A Court of Claims Commissioner will conduct hearings in the locale where the property is located, but the Federal district court is nearly 300 miles away in San Francisco.

The actions in the Court of Claims will be under the Tucker Act, 28 United States Code, section 1491, which was enacted over 80 years ago. To clarify any misunderstanding about the functions of the Court of Claims or the regularity of Tucker Act proceedings, I ask unanimous consent that excerpts from the opinion of the Supreme Court in *Glidden Company* v. *Zdanok*, 370 U.S. 530, 552 (1962) be printed in the RECORD at this point.

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

VI

A. *Court of Claims.*—The Court of Claims was created by the Act of February 24, 1855, c. 122, 10 Stat. 612, primarily to relieve the pressure on Congress caused by the volume of private bills. As an innovation the court was at first regarded as an experiment, and some of its creators were reluctant to give it all the attributes of a court by making its judgments final; instead it was authorized to hear claims and report its findings of fact and opinions to Congress, together with drafts of bills designed to carry its recommendations into effect. § 7, 10 Stat. 613; see Cong. Globe, 33d Cong., 2d Sess. 70–72 (1854) (remarks of Senators Brodhead and Hunter). From the outset, however, a majority of the court's proponents insisted that its judges be given life tenure as a means of assuring independence of judgment, and their proposal won acceptance in the Act. § 1, 10 Stat. 612; see Cong. Globe, 33d Cong., 2d Sess. 71, 108–109 (Senator Hunter); 72 (Senator Clayton); 106 (Senator Brodhead); 110 (Senator Pratt); 114, 902 (the votes). Indeed there

are substantial indications in the debates that Congress thought it was establishing a court under Article III. Cong. Globe, 33d Cong., 2d Sess. 108–109 (Senator Hunter); 110–111 (Senator Pratt); 111 (Senator Clayton); 113 (Senators Stuart and Douglas).

By the end of 1861, however, it was apparent that the limited powers conferred on the court were insufficient to relieve Congress from the laborious necessity of examining the merits of private bills. In his State of the Union message that year, President Lincoln recommended that the legislative design to provide for the independent adjudication of claims against the United States be brought to fruition by making the judgments of the Court of Claims final. The pertinent text of his address is as follows, Cong. Globe, 37th Cong., 2d Sess., Appendix, p. 2:

"It is as much the duty of Government to render prompt justice against itself, in favor of citizens, as it is to administer the same between private individuals. The investigation and adjudication of claims, in their nature belong to the judicial department. . . . It was intended by the organization of the Court of Claims mainly to remove this branch of business from the Halls of Congress; but while the court has proved to be an effective and valuable means of investigation, it in great degree fails to effect the object of its creation, for want of power to make its judgments final."

By the Act of March 3, 1863, c. 92, § 5, 12 Stat. 765, 766, Congress adopted the President's recommendation and made the court's judgments final, with appeal to the Supreme Court provided in certain cases. The significance of this nearly contemporaneous enactment for the light it sheds on the aims of the 1855 Congress is apparent.

There was one further impediment. Section 14 of the 1863 Act, 12 Stat. 768, provided that "no money shall be paid out of the treasury for any claim passed upon by the court of claims till after an appropriation therefor shall be estimated for by the Secretary of the Treasury." In *Gordon* v. *United States*, 2 Wall. 561, this Court refused to review a judgment of the Court of Claims because it construed that section as giving the Secretary a revisory authority over the court inconsistent with its exercise of judicial power. Congress promptly repealed the offensive section, Act of March 17, 1866, c. 19, § 1, 14 Stat. 9, once again exhibiting its purpose to liberate the Court of Claims from itself and the Executive. Thereafter, the Supreme Court promulgated rules governing appeals from the court, 3 Wall. vii–viii, and took jurisdiction under them for the first time in *De Groot* v. *United States*, 5 Wall. 419.

The early appeals entertained by the Court furnish striking evidence of its understanding that the Court of Claims had been vested with judicial power. In *De Groot* the court had been given jurisdiction by special bill only after the passage of two private bills had failed to produce agreement by administrative officials upon adequate recompense. This Court was thus presented with a vivid illustration of the ways in which the same matter might be submitted for resolution to a legislative committee, to an executive officer, or to a court, *Murray's Lessee, supra*, and nevertheless accepted appellate jurisdiction over what was, necessarily, an exercise of the judicial power which alone it may review. *Marbury* v. *Madison*, 1 Cranch 137, 174–175.

After the repeal of § 14, the Court was quick to protect the Court of Claims' judgments from executive revision. In *United States* v. *O'Grady*, 22 Wall. 641, a judgment had been diminished by the Secretary of the Treasury in an amount equal to a tax assertedly due, although the United States had not pleaded a set-off as it was entitled by the 1863 Act to do. The Court of Claims and this Court on appeal held the deduction unwarranted in law, with the following pertinent closing observation:

"Should it be suggested that the judgment in question was rendered in the Court of Claims, the answer to the suggestion is that the judgment of the Court of Claims, from which no appeal is taken, is just as conclusive under existing laws as the judgment of the Supreme Court, until it is set aside on a motion for a new trial."

Like views abound in the early reports. In *United States* v. *Union Pacific R. Co.*, 98 U.S. 569, 603, for example, referring to Article III, the Court said:

"Congress has, under this authority, created the district courts, the circuit courts, and the Court of Claims, and vested each of them with a defined portion of the judicial power found in the Constitution."

Such remained the view of the Court as late as *Miles* v. *Graham*, 268 U.S. 501, decided in 1925. There it was held, on the authority of *Evans* v. *Gore*, 253 U.S. 245, that the salary of a Court of Claims judge appointed even after enactment of the taxing statute in question was not subject to such diminution. Although the case was afterwards overruled on this point, *O'Malley* v. *Woodrough*, 307 U.S. 277, 283, what is of continuing interest is the Court's reliance in *Miles* upon *Evans* v. *Gore*, where Mr. Justice Van Devanter for the Court devoted six full pages to recitation of the importance of the guarantees of tenure and salary contained in Article III. How it was possible to say in *Bakelite*, 279 U.S., at 455, that the Court in *Miles*, decided only five years after *Evans* and with copious quotation from it, was unaware of the crucial question whether Article III extended its protection to a judge of the Court of Claims, is very difficult to understand.

In actuality, the Court's per-*Bakelite* view of the Court of Claims is supported by the evidence of increasing confidence placed in that tribunal by Congress. The Tucker Act, § 1, 24 Stat. 505 (1887), now 28 U.S.C. § 1491, greatly exanded the jurisdiction of the court by authorizing it to adjudicate.

"All claims founded upon the Constitution of the United States or any law of Congress, except for pensions, or upon any regulation of an Executive Department, or upon any contract, express or implied, with the Government of the United States, or for damages, liquidated or unliquidated, in cases not sounding in tort, in respect of which claims the party would be entitled to redress against the United States either in a court of law, equity, or admiralty if the United States were suable. . . ."

All of the cases within this grant of jurisdiction arise either immediately or potentially under federal law within the meaning of Art. III, § 2. *Osborn* v. *Bank of the United States*, 9 Wheat. 738, 818–819, 823–825; see *Clearfield Trust Co.* v. *United States*, 318 U.S. 363; *Federal Crop Insurance Corp.* v. *Merrill*, 332 U.S. 380; Mishkin, The Federal "Question" in the District Courts, 53 Col. L. Rev. 157, 184–196. The cases heard by the Court have been as intricate and far-ranging as any coming within the federal-question jurisdiction, 28 U.S.C. § 1331, of the District Courts. *E.g., Causby* v. *United States*, 104 Ct. Cl. 342, 60 F. Supp. 751, *remanded for further findings*, 328 U.S. 256 (eminent domain); *Lovett* v. *United States*, 104 Ct. Cl. 557, 66 F. Supp. 142, aff'd, 328 U.S. 303 (bill of attainder); *Shapiro* v. *United States*, 107 Ct. Cl. 650, 69 F. Supp. 205 (military due process). In none of these cases, nor in others, could it well be suggested that the Court of Claims had adjudged the issues, no matter how important to the Government, otherwise than dispassionately.

Indeed there is reason to believe that the Court of Claims has been constituted as it is precisely to the end that there may be a tribunal specially qualified to hold the Government to strict legal accounting.

From the beginning it has been given jurisdiction only to award damages, not specific relief. *United States* v. *Alire*, 6 Wall. 573; *United States* v. *Jones*, 131 U.S. 1; see Schwartz and Jacoby, Government Litigation (tentative ed. 1960), 123–126. No question can be raised of Congress' freedom, consistently with Article III, to impose such a limitation upon the remedial powers of a federal court. *Lauf* v. *E. G. Shinner & Co.*, 303 U.S. 323, 330 (Norris-LaGuardia Act). But far from serving as a restriction, this limitation has allowed the Court of Claims a greater freedom than is enjoyed by other federal courts to inquire into the legality of governmental action. See *Larson* v. *Domestic & Foreign Commerce Corp.*, 337 U.S. 682, 703–704; *Malone* v. *Bowdoin*, 369 U.S. 643; Brenner, Judicial Review by Money Judgment in the Court of Claims, 21 Fed. B. J. 179 (1961).

"If there are such things as political axioms," said Alexander Hamilton, "the propriety of the judicial power of a government being coextensive with its legislative, may be ranked among the number." The Federalist, No. 80 (Wright ed. 1961), at 500. His sentiments were not ignored by the Framers of Article III. The Randolph plan, which formed the basis of that article, called for establishment of a national judiciary coextensive in authority with the executive and legislative branches. IV Farrand, The Records of the Federal Convention (rev. ed. 1937), 47–48. For, as Hamilton observed, a chief defect of the Confederation had been ". . . the want of a judiciary power. Laws are a dead letter without courts to expound and define their true meaning and operation." The Federalist, No. 22 (Wright ed. 1961), at 197. But because of the barrier of sovereign immunity, the laws controlling governmental rights and obligations could not for years obtain a fully definitive exposition. The creation of the Court of Claims can be viewed as a fulfillment of the design of Article III.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. KUCHEL. I yield.

Mr. HANSEN. I wish to pay my respects to the distinguished senior Senator from California for the exemplary job he has done in furthering the interests of all of the people of the United States, by protecting this great redwoods area. I had the rare privilege and opportunity to serve as one of the conferees, and I can see that every consideration, in my judgment, was given to all of the various interests; and they were conglomerate in nature. They represented private interests, purists who were concerned only with the protection of the redwoods, and a much broader area than either of those, that of the majority of the people of the United States, who, with their children and their children's children, will reap the benefits that were assured by the approval of this bill by the conference committee.

Mr. President, as a member of the conference committee, it is my great pleasure to urge the adoption of the conference report. The Redwood National Park provided for in the conference report is a great step toward the preservation of one of the unique areas in our Nation. It is a national park we can all be proud of. The majestic redwood is one of the most magnificent sights in the world. This legislation insures that the area containing the most outstanding redwoods would be preserved in its natural state for all times.

The legislation recommended in the conference report would establish a meaningful national park. It would include three great State parks and add to them the most inspiring stands of red-

wood which still remain in private ownership. The inclusion of the entire watershed of Lost Man Creek and Little Lost Man Creek have great importance to ecologists. They will be able to study life within a complete watershed which is totally unaffected by outside influences.

The proposed costs of establishing Redwood National Park is a realistic appraisal. The conference committee has taken great pains to insure that funds will be allotted fairly and that the establishment of Redwood National Park will not be detrimental to the establishment of national parks and national monuments in other worthy areas. We feel that the cost of this park is justified by its value to the Nation as one of the unique areas which should be preserved for future generations.

This legislation is a fine example of what the Federal Government can accomplish through cooperation with State and local governments. In addition to including present State parks within the Redwood National Park, the bill before us will make available certain Government lands for private ownership and thus help compensate for private lands included within the national park. This exchange not only will greatly reduce the cash outlay of the Federal Government but will also minimize any possible harmful effects which this legislation will have on the local economy of northern California.

I am proud to have served as a member of the conference committee and believe that the establishment of Redwood National Park will be considered one of the notable achievements of the 90th Congress.

Mr. KUCHEL. I thank my friend for his generous personal comment. His assistance, as a conferee, in the fashioning of this report was splendid and most helpful. He and I may take considerable pride that all of us on the conference, Republicans and Democrats, House and Senate, agreed on what has been brought before the Senate. We were unanimous. I thank my able friend very much.

Mr. President, I express to the Senate a keen sense of personal gratification that the dream of a National Redwood Park is about to become a reality. It has been a long fight, and, sometimes, acrimonious and bitter. Opposition to a redwood park has been powerful and imposing. Beyond that, among those who yearned for the establishment of a park, there existed serious divergencies of view as to what kind of a park they desired. how large it should be, and where it should be located.

But the differences, finally, have been composed, the opposition has been overcome, and, from the Senate-House conference, there comes to us a proposal to establish at once a superb national park of majestic redwood forests. In most respects, it is similar to the bill I coauthored earlier. Differences of opinion have been admirably composed. This report, now to be approved, represents an imposing milestone in American conservation.

During the 90th Congress, we have either passed, or will by the end of this session pass, legislation to assure adequate funding of conservation programs, a national trails bill, the first additions to the wilderness system under the Wilderness Act of 1964, a wild rivers bill, the North Cascades National Park in Washington, and legislation before us today which will create a Redwood National Park.

Surely the redwood issue has focused the conflict of conservation in the 1960's most clearly. Never before has Congress preserved in a national park an asset of such great commercial value, and never before has a national park been created when the competing demands of exploitative use have been so vigorously and persuasively advocated. Surely the passage of this bill to create a Redwood National Park is the climax of conservation's greatest year.

The struggle to preserve the finest redwood stands began just a half century ago when the Save-the-Redwoods League was founded. Through 50 years of cooperation between that organization, the Rockefeller family, and the State of California, a magnificent State park system has been established to preserve the redwoods. The names of the men whose vision has built those parks—Grant, Mather, Osborne, Merriam, Chaney, Drury—ring through the groves of Jedediah Smith State Park and the Rockefeller Forest in Humboldt County.

After a 1964 study of the redwoods by the National Park Service under a National Geographic Society grant, the Secretary of the Interior early in 1966 proposed a 39,264-acre Redwood National Park composed of the entire Mill Creek Watershed in Del Norte County, Calif., plus a 1,600-acre tall trees unit on Redwood Creek in Humboldt County. I introduced that bill as S. 2962 in the 89th Congress and again as S. 1370 in the 90th Congress. Some believe that the most significant redwoods are in the Redwood Creek area in Humboldt County south of Del Norte County, and their proposal was represented by amendment 487 to S. 2962 in the 89th Congress and by S. 514 in the 90th Congress. In an effort to reconcile as many of the conflicting interests as possible and with a view to preserving the most significant and beautiful old growth redwoods for all time, the distinguished chairman of the Senate Interior Committee, the Senator from Washington [Mr. JACKSON], and I, in 1967, proposed a park to span both counties, a park of 64,000 acres in the watersheds of Mill Creek, Redwood Creek, Lost Man Creek, Little Lost Man Creek, and Skunk Cabbage Creek, and incorporating three of California's State parks, Jedediah Smith Redwoods State Park, Del Norte Redwoods State Park, and Prairie Creek Redwoods State Park, within its boundaries.

That bill, S. 2515, was adopted by the Senate on November 1, 1967. In urging the Senate to adopt the conference report on the version of S. 2515 now before us I can assert with pleasure that this fine bill embodies nearly all of the features which were vital to the bill which the Senate adopted by a vote of 77 to 6 last year. The bill creates a park of 58,000 acres in both Del Norte and Humboldt Counties at a cost of $92 million. Within its boundaries will be included the finest remaining 33,000 acres of centuries-old redwoods. As I have often said, with a feeling of great awe, some of these trees were standing when Christ walked in the Garden of Gethsemane. With the passage of this bill, these amazing trees will remain untouched in perpetuity.

I would like to now indicate several problems with which we have had to deal in the consideration of the Redwood National Park proposals, and discuss how we dealt with them.

The redwood purchase unit was established in 1935 by the Forest Service. It was to be an area exhibiting sound forest management and demonstrating proper redwood logging methods to the timber industry of northern California. As originally contemplated, the redwood purchase unit was to include 863,000 acres of land in a northern and a southern unit. Of the contemplated 863,000 acres planned, only 14,567 acres were ever acquired, and these in the northern unit. Acquisitions ceased over 20 years ago, and the area has been managed on a sustained yield basis with timber being harvested by various commercial timber companies in the area. The Senate-passed Redwood National Park bill provided, and the conference committee agreed, that in light of the limited supply of redwood timber of commercial value remaining, the timberlands of the northern redwood purchase unit should be made available for exchange to those timber companies being forced to give up their commercial timberlands to the Federal Government for a Redwood National Park.

It was hoped that by using, in part, trees for trees, instead of only cash for trees, the commercial timber industry of this area of northern California would not be unduly hurt. The bill as reported by the conference committee excepts from exchange the Yurok experimental forest consisting of approximately 935 acres within which forest research is conducted by the Forest Service. I agree, as a general rule, that forest land under the jurisdiction of the Forest Service ought not to be used as the medium of exchange for acquiring park lands. However, the uniqueness of the land being acquired, and the existence of exchangeable redwood land in an all but defunct Federal program, dictates that an exception should be made in this case. It should be emphasized that the northern redwood purchase unit is not within the boundaries of a national forest. It is the residue of a project initiated over 30 years ago and is being administered for commercial timber purposes at the present time. I hope that the timber companies affected by the Redwood National Park bill, if given the opportunity to accept trees from the northern redwood purchase unit, will do so, and will undertake every exertion to sustain their employment levels into the future. I keenly regret any economic dislocation which may occur by virtue of the creation of a redwood national park, but I feel confident that by use of the northern redwood purchase unit, and by the developmental and operating activities of the Redwood National Park, the affected region of northern California will reap distinct economic benefits, from the creation of the Redwood National Park. This

park will surely act as a magnet to attract peoples from all the country, and the world, to come and see its wonders.

As I have indicated, three very fine State redwood parks are included within the boundaries of the Redwood National Park. The approximately 28,000 acres encompassed within the boundaries of these State parks contain some of the finest examples of old-growth redwood remaining on the face of the earth. When joined with the magnificent trees included within the Redwood National Park exterior to these State parks, a truly inspiring collection of these age-old giants is obtained. When hearings opened on the various Redwood National Park proposals during the 90th Congress, the State of California indicated that it would consider donating its fine parks to the Federal Government only if certain Federal land with great recreational value located within the State of California was provided to the State for recreational development. Negotiations did take place between the State and Federal agencies concerned with the various areas, but no final agreement was obtained. Given that situation, we were faced with the disturbing problem of time. As we delayed in authorizing the Redwood National Park, the lumbermen's saws daily reduced our options. Waiting until the Federal-State negotiations were concluded successfully meant more uncertain delay. Therefore, we decided that our legislation should authorize a Redwood National Park magnificent within itself, but including the great State parks within its boundaries, which parks were to be donated to the Federal Government by the State of California, if and when the State determined to do so. This action will allow the authorization of a Redwood National Park without further delay. By not requiring the State to donate its parks as a condition precedent to the establishment of a national park, the proposal removes an unnecessary veto over the creation of the national park. We hope and believe that before too long the State of California will see the advantage of donating the concerned areas to the Federal Government for inclusion in the Redwood National Park. Until such time, arrangements can be made by which the administration of both areas may be harmonious and in the public interest.

Many of my colleagues are aware that over the years a continuing and serious problem has existed as to the limitation on lumbering activities in the areas being considered for a Redwood National Park. So-called timber-cutting moratoriums were established but controversy—sometimes bitterness—constantly existed as to the terms and extent of such moratoriums. The conference report before us today provides that upon its enactment, the major areas to be acquired, within the designated boundaries of the park, immediately become the property of the United States. Title passes. This, of course, stops all lumbering activities within the areas taken except as may be allowed by the Secretary of the Interior for the purpose of bringing to an orderly termination lumbering operations within the area. A legislative taking such as this also guards against an escalation in land values which usually occurs following the statutory designation of an area to be acquired as a national park. All too often real estate speculators and developers move into an area designated for Federal acquisition with a view to extracting the highest possible price from the Federal Government. The unfortunate delay between authorization and funding of many of our park and recreation areas provides an ample opportunity for such undesirable activities. The provision I have just mentioned will establish the date of taking of the areas concerned and, hopefully, will allow speedy funding and development of the concerned lands. Those whose lands are taken under this provision will receive interest on the amounts received for their land. The interest will be computed on the land value determined by mutual agreement or by decision of the U.S. Court of Claims and will be retroactive to the date the lands were taken for inclusion in the park.

One other provision requires comment. The committee desired to establish an unbroken corridor of coastal land between the northern unit and the southern unit of the Redwood National Park. Therefore, it was necessary to bring into Federal ownership approximately 100 acres of land located at the mouth of the Klamath River directly in the center of the Redwood National Park area. This land is owned and operated by a family of Indian heritage but was not acquired as part of an Indian reservation or by virtue of their Indian ancestry. The area is now being operated as a fishing camp, a use which will not interfere with the operation of the Redwood National Park. However, leaving this area out of the park would leave open the troublesome possibility that at some future time this centrally located area could be developed into an uninviting commercial operation completely incompatible with the very reasons for establishing the park. Therefore, the committee saw fit to include this property within the park boundaries, but provided that the Secretary of the Interior may lease or sell the land taken back to the Indian family with restrictions designed appropriately to limit the uses of the area. In such a manner the present owners can continue to operate on the land which has been in their family for some time, but they will not be able to use or dispose of the land for commercial development or engage in an unsuitable development themselves.

When our ancestors came to the American shore they looked upon a land of unlimited natural bounty. With vision and diligence they carved a great nation out of the land. As our numbers multiplied at the beginning of this century, it became apparent that our resources were not adequate to meet all of our demands. The great conservationists of that era, Gifford Pinchot and President Theodore Roosevelt enunciated a policy of multiple-use management of our public lands by which competing, yet compatible, uses might exist side by side. The policy has preserved our public lands and fostered the growth of our Nation for the last half century.

As population has doubled and redoubled and the demands of an industrial society have exploded, it has become clear in recent years that some natural assets are so precious that the single highest and best use of them for the future is that they be preserved in their primeval state for all time. The passage of the Wilderness Act was perhaps the most important public manifesto of that belief. Surely when the history of conservation is written, 1968 will be marked as a year in which the cause of sound conservation legislation reached its apex.

Mr. President, I am proud to have been connected with this fight for the people from the beginning. I am proud of the legislation which is before us from the conference committee, which will create a great Redwood National Park in my State of California. The conferees have acted in good faith. The public interest is well served. A wonderland, ancient and irreplaceable, will be preserved. I urge the adoption of the conference report.

Mr. President, as my tenure in the Senate of the United States now rapidly draws to its close, I am proud of this moment, I am proud of the legislation we are about to approve. I am proud that this last major legislative act with which I shall be associated during my service here preserves these ancient, majestic living giants for the enjoyment of the human race. This almost one hundred million dollar National Redwood Park constitutes an imposing milestone in the field of conservation. We may all thrill to the fact that in this action, the Congress of the United States is preserving one of the wonders provided by the Supreme Being, to be enjoyed by this and every generation for all time to come.

Mr. JACKSON. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

Mr. JACKSON. Mr. President, the Senate has completed action today on three major pieces of conservation legislation and sent them on to the President for his signature.

The North Cascades legislation establishes the most extensive and complete complex of outdoor areas in our country. The North Cascades National Park, the Ross Lake Recreation Area, the Lake Chelan Recreation Area, the Pasayten Wilderness, and the White Chuck and Suiattle additions to the Glacier Peak Wilderness Area complete an array of unmatched Alpine beauty.

The Redwood National Park will preserve forever the home of these ancient giants so they may continue to thrive for the inspiration and wonder of future generations.

The National Trails Act gives statutory status and protection to the Appalachian Trail and the Pacific Crest Trail, and provides a process for the study, planning, and designation of additional trails to be added to the system.

The Senate can take great pride in what has been accomplished in a most historic day in the conservation record of a great conservation Congress.

Mr. MANSFIELD. Mr. President, I extend my personal thanks to the distinguished Senator from Washington. I know that I speak for the Senate and ex-

press the feelings of all of us when I extend thanks to the distinguished chairman of the Committee on Interior and Insular Affairs.

Year after year the Senator has handled legislation expeditiously. There have been no holdups. The Senator has been in the forefront in the field of legislation which comprises so many fields in his committee.

I want the Senator to know that I think he has done a magnificent job as chairman of this committee.

Mr. JACKSON. Mr. President, the able majority leader has been most cooperative and helpful in all of the bills that we have brought from the Committee on Interior and Insular Affairs to the floor of the Senate. Without his support and without his special interest, we would not have been able to move as expeditiously as I think we have during the past Congress.

Mr. MANSFIELD. Mr. President, I was not asking for that. I wanted it to be the distinguished Senator from Washington's day in court because of his magnificent work done through the years in the Committee on Interior and Insular Affairs.

Mr. KUCHEL. Mr. President, I join with the distinguished majority leader to say that it has been a rewarding and enriching experience for every member of the committee, Republican and Democrat, who has served under the leadership of the distinguished Senator from Washington to know that, one after another, milestones of progress in the field of conservation have come from his committee.

I avail myself of the opportunity to join with the distinguished majority leader in paying tribute to the Senator from Washington [Mr. JACKSON].

Mr. JACKSON. Mr. President, whatever leadership has been provided, it has been shared with the able ranking minority member of the Senate Committee on Interior and Insular Affairs, the able senior Senator from California [Mr. KUCHEL].

DEMONSTRATIONS AND REVOLUTION

Mr. LAUSCHE. Mr. President, in the September 13 issue of U.S.A., there appears an article, written by Alice Widener, nationally syndicated columnist and authority on the so-called left, old and new.

The article, written by Mrs. Widener, has been reprinted in Barron's issue of September 16, 1968.

The article gives a detailed account of what happened at Rutgers University when the Socialist Scholars of the United States met at their annual conference. The guest of honor at the conference was Ernest Mandel, of Brussels. He is the editor of the Belgian Socialist weekly known as the Left.

Mrs. Widener tells us of the talk made by Mr. Mandel, of the enthusiastic and explosive reaction of the Socialist scholars who were in attendance and in detail describes the recommendation made by Mr. Mandel about how to prosecute the seizure of a government.

The article states:

With militant young radicals wearing blue armbands marked "SSC," and guarding locked meeting room doors, the Socialist Scholars, revolutionary Marxist brain trust in U.S. institutions of higher learning, held their Fourth Annual Conference over the weekend of September 6–8, at Rutgers University, in New Jersey.

Guest of honor was Ernest Mandel of Brussels, editor of the Belgian socialist weekly "La Gauche" (The Left), and a main instigator of the student riots and workers' strikes in France during last May and June.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LAUSCHE. Mr. President, I ask unanimous consent that I may be permitted to continue for an additional 5 minutes.

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

Mr. LAUSCHE. Mr. President, the article further states:

It is a pity that Mandel's speech at dinner in Nielsen Dining Hall, Rutgers, on Friday evening, September 6th, was not broadcast to the American public. He speaks excellent English and received a standing ovation from the Socialist Scholars and their guests, busloads of radical youths from New York City and other centers. Had the public heard what Mandel said, statistics in an opinion poll of approval or disapproval for security and riot control action taken during the recent Democratic National Convention would rise to 99.9% in favor of Mayor Daley and the Chicago police.

Mr. President, I skip the remainder of that paragraph and continue to read:

"Students," explained Ernest Mandel, "are the detonators in the formula for triggering off a social explosion creating a revolutionary situation." To resounding applause, he made clear how he and other socialists use Marxism-Leninism as the device for timing, controlling and targeting the explosion.

He was referring to the recent riots and difficulties in France.

I continue to read from the article:

Mandel went on to say that the May-June rebellion in France this year failed temporarily "only because of lack of a revolutionary organization which, at the decisive moment, could counterpose new centralized workers' power to existing capitalist power."

Mr. President, Mr. Mandel pointed out in his speech that the students absolutely took over the government in Nantes and Caen. They stopped all communications. They induced the issuance of new currency by the governments where they had control, and they obtained control to the degree that the merchants began accepting the bonds of credit issued by the revolutionary government.

When De Gaulle—and I admire his great bravery, though I disagree with him tremendously on his treatment of our country—showed a willingness to take hold and demonstrated the might of his government, those who took the bonds of credit from the newly instituted government of course lost their money.

The point I make is that we had better wake up and not be misled into the belief that there is not danger in our country.

Mr. President, I ask unanimous consent that this very worthwhile article by Mrs. Alice Widener, to which I have referred, be printed at this point in the RECORD.

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

[From Barron's, Sept. 16, 1968]

THE DETONATORS: A REPORT ON THE FOURTH CONFERENCE OF SOCIALIST SCHOLARS

(NOTE.—The accompanying article is an excerpt from the September 13 issue of U.S.A., a bi-weekly published by Alice Widener, nationally syndicated columnist and authority on the so-called Left, Old and New.)

With militant young radicals wearing blue armbands marked "SSC," and guarding locked meeting room doors, the Socialist Scholars, revolutionary Marxist brain trust in U.S. institutions of higher learning, held their Fourth Annual Conference over the week-end of September 6–8, at Rutgers University, in New Jersey.

Guest of honor was Ernest Mandel of Brussels, editor of the Belgian socialist weekly "La Gauche" (The Left), and a main instigator of the student riots and workers' strikes in France during last May and June. Now banned from that country, Mandel made his welcome way into our own via Paris-Havana-Brussels. He was formally introduced to the Socialist Scholars by Paul Sweezy, editor of the leftist radical Monthly Review, who said: "Ernest Mandel is one of the most eminent and important Marxist theorists in Europe today. He spent considerable time last summer in Cuba. He was active in events which took place in France last spring and is banned by the French Government for his part in those events. We're all hoping he will go back to France and take part in events developing there now."

It is a pity that Mandel's speech at dinner in Nielsen Dining Hall, Rutgers, on Friday evening, September 6th, was not broadcast to the American public. He speaks excellent English and received a standing ovation from the Socialist Scholars and their guests, busloads of radical youths from New York City and other centers. Had the public heard what Mandel said, statistics in an opinion poll of approval or disapproval for security and riot control action taken during the recent Democratic National Convention would rise to 99.9% in favor of Mayor Daley and the Chicago police. Moreover, if TV networks had featured Mandel's speech, there would be no more confusion among loyal Americans about the revolutionary leadership of violent student rebellions and "peace" demonstrations.

"Students," explained Ernest Mandel, "are the detonators in the formula for triggering off a social explosion creating a revolutionary situation." To resounding applause, he made clear how he and other socialists use Marxism-Leninism as the device for timing, controlling and targeting the explosion. Mandel said the main strategy for overthrowing neo-capitalism in advanced industrial nations today, including the U.S., is "to put forth, through mass strikes and mass movements, concrete demands and goals which are unacceptable to the capitalist system and cannot be granted within the capitalist system."

Mandel went on to say that the May-June rebellion in France this year failed temporarily "only because of lack of a revolutionary organization which, at the decisive moment, could counterpose new centralized workers' power to existing capitalist power."

In his speech, Ernest Mandel said that French workers' affinity for Marxism determined their actions last spring, not working conditions or pay. "The remarkable thing," he explained, "was that the rebellion against neo-capitalism took place despite the fact that French per capita consumption is the highest in Western Europe except for Sweden." He said many facts showed the French workers "were starting a revolution." Among these, he noted, was the complete cut-off of the cities of Nantes and Caen from communication, and the establishment of "a workers' state which started

to issue its own currency—bons de credits—which were accepted by the storekeepers." He admitted, parenthetically, that after the Gaullist Government "repression," the storekeepers lost their money.

Another significant fact, said Mandel, was that St. Nazaire shipyard workers had called for "a General Assembly (Assemblee Generale)," as in the French revolution of 1848. (At Columbia University this month, Students for a Democratic Society, which sparked the rebellion last April, called for a "General Assembly.")

Mandel said the St. Nazaire workers entered into a dialogue with the authorities that lasted for more than a week, but "refused to make any precise demands within the framework of the capitalist system." He said the only reason the Marxist revolution failed in France last spring was that the mass of workers made demands—such as the 10% wage increase—which could be granted. Had there been "nuclei of revolutionary workers in the factories, in the key industries to take decisive control at the propitious moment," he said, "the workers would have been able to set up a dual government within France and topple the capitalist state by protracted revolutionary class struggle."

The three key issues on which Marxists must make their stand, said Mandel, the issues on which capitalists cannot compromise without forfeiting capitalism, are: (1) workers' control; (2) workers' "self-defense" (meaning armed might); and (3) government by workers' councils, instead of bourgeois power. "Never," cried Mandel dramatically, "never, I assure you, were Frenchmen so free, so truly free, as in the days of May-June!"

Shouts of approval came from the long-haired, bearded youths in Neilsen Dining Hall, many of whose faces had stared out of front-page news photos during the demonstrations at the Pentagon and Columbia University, at draft-card burnings and in street actions, and in attacks on the Chicago police during the Democratic National Convention in August. Members of the Old Left attending the dinner—Corliss Lamont, Russ Nixon, Harry Magdoff et al—were equally enthusiastic.

When the applause died down, Ernest Mandel quoted a statement by James M. Roche, president of General Motors, published in a news weekly, September 30, 1967: "We live in a world of change. We work in a world of change." Smiling sarcastically, Mandel paused a moment to look around the dining hall at the Socialist Scholars, then moved to the climax of his speech. "It may seem strange that I would agree on anything with such a person," he said, "but I would accept that statement and amend it a little bit." Slowly and with utmost emphasis, he said that "there is a possibility that the very society will change."

Applauding loudly, the Socialist Scholars rose to pay homage to the speaker. Certainly, if they and their associates have their way, American society will be so changed that private enterprise cannot exist. The tenet of the entire week-end conference at Rutgers was that after a social explosion has been detonated in the U.S., only a revolutionary organization, directed by socialists adhering to an advance Marxist-Leninist plan, can exercise decisive leadership. They believe it is the function of socialist scholars to formulate the plan and adapt it to given conditions while adhering to basic Marxist-Leninist strategy.

The official Socialist Scholars program for the Rutgers conference listed the following topics for discussion: "The Role of the Intellectuals in Social Change; New Thoughts on the Historiography of the American Working Class; The Working Class and Neo-Capitalism; Black Power and Socialism; The Preconditions for a Mass Socialist Party in the United States."

Participants came from universities across our nation and from abroad. Panel discussion leaders included: Warren Susman, Rutgers University; Christopher Lasch, Northwestern University; Herbert Gutman, University of Rochester; Melvyn Dubofsky, University of Massachusetts, Amherst; Philip Foner, Lincoln University; Alexander Erlich, Columbia University; Eugene D. Genovese, Sir George William University, Montreal; Sterling Stuckey, Northwestern University; Alphonse Pinckney, Hunter College; Harold Cruse, author of "The Crisis of the Negro Intellectual"; Ann Lane, Douglass College; Gar Alperovitz, MIT; Michael Greenberg, Polytechnical Institute of Brooklyn; Geoff White, Berkeley.

(Programmed but unable to attend were Conor Cruise O'Brien of New York University, who conducted "liberation" classes for rebel students at Columbia, and Louis Salkever of State University of New York, Albany.)

At the Friday morning session on the role of the intellectual, Christopher Lasch said, "The emergence of a mature American culture depends on the emergence of revolutionary change." He added: "The responsibility of the intellectual is the same as that of the street organizer." Intellectual leadership, he explained, can come only from intellectuals having confidence in themselves "as a class." He said, "American intellectuals have been mostly amateurs ignorant of their craft, and their failure is due to the absence of revolutionary structure."

Prof. Eugene D. Genovese, now teaching in Canada, but formerly of Rutgers (where, in 1965, he proclaimed "I would welcome a Viet Cong victory"), was persona grata and seemed very sure of what he was doing. He discussed "Black Power and Socialism," criticized some aspects of Harold Cruse's book, "The Crisis of the Negro Intellectual," but said the author's "ideological manifesto wiped out decades of ideological drivel." Genovese attacked American society for using "the same terrorist methods against black nationalism that the Zionist bund uses," and said, "White America must be restructured if Black America is to be free."

(Genovese used the exact terminology of the uncensored edition of Joseph Stalin's, "Marxism and the National and Colonial Question," which contains two chapters on Zionism as "a Fascist bund movement." To Leninist-Stalinists, all nationalist movements are "fascist" except those directed by Communists and set up for the sole purpose of leading a nation or minority group into absorption by the Communist bloc, Khrushchev denounced Stalin but affirmed Kremlin adherence to Marxism-Leninism-Stalinism. The present Soviet regime, led by Kosygin and Brezhnev, sticks rigidly to that ideology, as does Gomulka of Poland. The Communist attitude toward Zionism has nothing to do with pro- or anti-Zionism; the attitude solely concerns orthodox Marxism-Leninism-Stalinism on the national and colonial question.)

Eugene Genovese stated at the Socialist Scholars panel on Black Power that there can be no successful "black enclave economy" in the United States. He maintains that only in a worldwide radical Marxist economy can there be an end to racist exploitation.

The establishment of such an economy was the theme of the entire Socialist Scholars Conference. The aim—as Warren Susman put it—is "to formulate a revolutionary plan for the future which will remove the power of past traditions and create a Socialist America."

On Saturday morning, Professor Alexander Erlich of Columbia University, who last June delivered the "anti-commencement" address to rebel student walkouts from the official exercises, shared the Socialist Scholars platform at Rutgers with guest-of-honor Ernest Mandel to discuss "The Working Class and Neo-Capitalism." Prof. Erlich was introduced to the audience by John Cammett of Rutgers, 1967–68 president of the Socialist Scholars, who said about Prof. Erlich, "He is a member of the Russian Institute at Columbia and one of the very few professors to take a constructive role in the student events there."

Erlich speaks English with such a heavy accent it was difficult to hear what he said. The poor acoustics in Blake Hall, a depressing, cheaply built cement-cell edifice, worsened Erlich's diction. But his views were plain as he nodded in agreement when Ernest Mandel said, "The student revolt can become the vanguard of the working class."

An extremely important part of the Socialist Scholars Conference was the book exhibit at the Rutgers Labor Education Center, where most of the meetings and activities took place. According to a Frenchwoman selling photographs at $10 apiece of the May–June students' revolt in Paris, the troubles in France will begin again this month. A Parisian school teacher, she was in charge of a literature table heaped with copies of "L'Enrage," a vile publication in unprintable four letter words translated into English for students at Berkeley by Ruth Porter of Merit Publishers in New York City, an outfit run by the Socialist Workers Party in our country. The Frenchwoman said much of the translation from French into English was done over the trans-Atlantic telephone between Paris and New York City; student support from America "was a big help to us."

Two major documents which surfaced at the book exhibit were in great demand: (1) A leaflet printed by the Radical Education Project (REP) at Ann Arbor, Mich., which was founded by Students for a Democratic Society; and (2) a "Research Methodology Guide," put out by the North American Congress on Latin America (NACLA) in New York City.

Under the heading "REPs Politics," the Radical Education project leaflet contains statements on beliefs, including: "the great promise of American abundance is perverted and thwarted by the functioning of contemporary capitalism;" "America is held in political and moral stalemate not only by sheer economic and political force, but also by deadening ideology . . . celebrating the American Way of Life, the American Dream, the American Century; anti-communism is a central element in this ideological manipulation of belief . . .; violent revolution is to be recognized and deplored for its high human cost; but . . . where the oppressed lack political power, violent overthrow may be the necessary, though not sufficient, precondition to economic and political freedom."

In the light of events during the Democratic National Convention and loud denunciations of Mayor Daley and Chicago police by intellectuals in the press and on television, it is enlightening to study a list of sponsors printed on the last page of the Radical Education Project. They are: Ralph Andreano, Philip Berrigan, Julian Bond, Robert Browne, Richard Cloward, David Dellinger, Stanley Diamond, Douglas Dowd, Hal Draper, Barrows Dunham, Robert Engler, Jules Feiffer, W. H. Ferry, Phillip Foner, Norm Frutcher, William Gamson, Julien Gendell, John Gerassi, Ernest Goodman, and Paul Goodmen.

The list also includes Nat Hentoff, David Horowitz, Leo Huberman, Raghavan Tyer, Paul Jacobs, Julius Jacobson, Gabriel Kolko, Andrew Kopkind, William Kunstler, Paul Lauter, Richard Lichtman, Staughton Lynd, Herbert Marcuse, Seymour Melman, Jack Minnis, Barrington Moore, Charles Moskos, Charles E. Osgood, Linus Pauling, Victor Perlo, James A. Pike, Marc Pilisuk, Victor Rabinowitz, Anatol Rapoport, Marc Raskin, Kenneth Rexroth, Sumner M. Rosen, Richard Shaull, Sol Stern, Harvey Swados. Harold Taylor, Michael Walzer, Arthur Waskow, Harvey Wheeler, William A. Williams, Marshall Windmiller and Howard Zinn.

Three of the foregoing REP sponsors became nationally known via television during the Chicago demonstrations: Julian Bond of Georgia; David Dellinger, a revolutionist; and Staughton Lynd, formerly of Yale University, who went to Hanoi in 1967 with Herbert Aptheker of the Communist Party, U.S.A.

Heavily represented on the list is the Fund for the Republic's leftist Center for the Study of Democratic Institutions at Santa Barbara: W. H. Ferry, its vice president; Linus Pauling, James A. Pike and Harvey Wheeler, fellows at the Center; and Raghavan N. Tyer and Paul Jacobs, official Center consultants.

Among academic REP sponsors listed are the following Socialist Scholars: Profs. Richard Cloward and Seymour Melman of Columbia University; as well as Prof. Herbert Marcuse of the University of California at San Diego, internationally known as the intellectual mentor of "Red" Rudi Dutschke in Germany and "Red" Daniel Cohn-Bendit in France.

The other vital document to emerge at the Socialist Scholars book exhibit was the "Research Methodology Guide" put out by the North American Congress on Latin America (NACLA), an outfit claiming as its target "the Empire," meaning every U.S. corporation doing business abroad, especially in Latin America, as well as U.S. Government agencies dealing with domestic and foreign economic and military operations.

The three authors of the NACLA guide are Lois Reivich, Michael Locker and Edie Black (who said at the SDS-sponsored Radical Education Project regional conference held at Princeton University in February 1967, "I am a revolutionist, not just a Marxist, a revolutionist").

The three young radicals have written what is tantamount to a two-part guidebook for espionage. Part One is entitled "Researching The Empire—How to Research the Imperial Elite: Corporations, People, Non-Profit Organizations, Government Agencies, Universities." Part Two is entitled "Campus Reconnaissance—How to Investigate Campus Military Contracting." Here are excerpts from both parts of the NACLA guide:

Page 17: "Field Work" "At times interviews and observation can not be directly undertaken without creating a role that legitimizes (sic) their necessity. Covers can be easily erected by getting a friendly faculty member to authorize the research through a course or enlisting the aid of a campus newspaper reporter. In some situations, where security is tight, inside informers will be the only way to secure vital information. Personal contact with friends or political associates who have positions providing access to the information (i.e., secretaries, research assistants) can prove quite helpful. If necessary someone may have to take a job on the project or in the research facility to gain access to such information. Persons in positions of public authority, such as federal or state congressmen, senators, executive officials and their assistants, can easily acquire restricted (but not necessarily classified) information and forward it to you. . . .

"Whatever the method, the problem of getting inside information (no matter its classification) essentially involves finding a person with legitimacy in the authority's eyes who has access to the material and can transmit the data either secretly or without the threat of reprisal. Obviously such a person should be handled with discretion and the smaller the number of persons who know about it the better your chances of success."

At the opening of the Fourth Annual Conference of Socialist Scholars at Rutgers University, September 6, the radical group's president, John Cammett, said, "We decided previous conferences were too large and not carefully enough organized." He explained the Fourth Conference had been narrowed down so that it would not "dampen discussion with people of more or less similar ideas," and said sessions could thus "be more organically related."

It seems plain that the Socialist Scholars are organically related to all Marxist revolutionary groups in this country and abroad. At their conference this month, it grew clear that they and their associates believe "phase one" of their operations in the United States has been successfully completed and that they are entering on "phase two."

Phase one included revolutionary propaganda and activity to promote the demonstration at the Pentagon last October, the rebellion at Columbia University last April, "the abdication" (as they call it) of President Johnson, and the mass demonstrations during the Democratic National Convention in Chicago last month. During phase one, Students for a Democratic Society (SDS), acting in concert with David Dellinger and other self-proclaimed Communists, played a principal role.

In phase two of the Marxist brain trust operations, action will grow more disciplined and sophisticated. Students for a Democratic Society is slated to be taken out of undergraduate leadership, molded into the "Movement for a Democratic Society (MDS)" and meshed closely with the international Marxist-Leninist apparatus. Guided by members and affiliates of the Socialist Scholars, the new MDS and Youth International Party (Yippies, many of whom were at Rutgers wearing SSC armbands, including young American draft evaders now living in Canada) will be used as "detonators." In this country, the SDS-initiated Radical Education Project and North American Congress for Latin America will be used in intelligence and espionage operations.

The near-future goal of the Socialist Scholars was ably set forth in the Guardian, independent radical news weekly, August 24, 1968, by Irving Beinin, who was present at their conference at Rutgers. "Disruption is not a program, and sometimes it can be a cover for lack of a program. Yet this year, without an effective alternative, disruption seems to be the most creative thing to do for the left in most of the country. But beyond disruption, it is also a time for putting together the scattered forces of radical opposition, for building a viable left which is capable of inspiring the confidence that it can develop a real alternative and a real challenge to U.S. capitalist state power."

Between-sessions and corridor conversations at the Socialist Scholars Conference disclosed that most of the participants and their youthful adherents, "the detonators," believe they can continue operations unharassed if Hubert H. Humphrey is elected in November, but will be "repressed"—to use the Socialists' term—if Richard M. Nixon wins.

Whoever wins, the Socialist Scholars intend to continue their Marxist-Leninist revolutionary struggle at home and abroad, acting as a fuse to human detonators to set off social explosions.

NATIONAL BUSINESSWOMEN'S WEEK

Mr. CANNON. Mr. President, in recognition of women's contributions to the Nation and to center national attention on the role women play in today's business and professional world, we set aside 1 week each year to honor those women who are actively involved in the business and professional life of this Nation.

President Johnson has set the observance of National Business Women's Week on October 20–26, 1968.

The National Federation of Business and Professional Women's Clubs of America has sponsored this official recognition of America's businesswomen since 1926.

This year my State of Nevada is honored that one of her citizens, Mrs. Hope Roberts, of Reno, has been chosen president of the national federation. I, too, feel honored to claim the friendship of Mrs Roberts.

I ask unanimous consent to have printed in the RECORD the statement by President Johnson in tribute to National Businesswomen's Week.

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

THE WHITE HOUSE,
August 8, 1968.

Sponsored annually by the public-spirited members of the National Federation of Business and Professional Women's Clubs, National Business Women's Week focuses on the indispensable role of the American woman doer.

The Federation serves as a catalyst for action in many strategic areas of civic endeavor. It develops in its members the leadership needed to advance not only the economic well-being of the nation but its social, civil, and political progress as well.

It is a fitting tribute to our working women that we set aside National Business Women's Week to applaud their vital share in a prospering America. And it is a continuing compliment to the National Federation of Business and Professional Women's Clubs that this traditional observance gains in meaning and momentum with every passing year.

LYNDON B. JOHNSON.

WHAT KIND OF CONTINUING BODY SHOULD CARRY ON FIGHT FOR HUMAN RIGHTS?

Mr. PROXMIRE. Mr. President, I discussed yesterday before the Senate the necessity of carrying on the functions of the President's Commission on Observance of Human Rights Year. I pointed out that despite wholehearted efforts on the part of the distinguished membership on the Commission the practical accomplishments of that body have just begun to emerge.

The expectation that the Commission could complete the task of education in human rights, and secure ratification by the Senate of the various human rights conventions, all in a year's time, was and is now proven unrealistic.

Much needs to be done before the people of the Nation are fully aware of the necessity for the universalization of the same rights we enjoy here in America. Indeed, the major task of educating the Senate still remains to be accomplished.

In my remarks yesterday, I called for the President and the Commission to consider the various ways in which the work of the Commission could be continued and intensified. I pointed out that the importance of continuing this struggle is paramount and that all other efforts at achieving world peace must be built on a foundation of international respect for the rights of all men.

The Commission ceases to exist on January 30, 1969. Mr. President, the momentum gained for human rights by the work of the Commission must not be lost. We must continue to progress in this area, building on what has already been achieved.

Frankly, I am not quite sure exactly what kind of body is needed to continue the work of the Commission. Particularly since much of the effectiveness of what they will be trying to do will depend on the administration that takes office next January.

During the next week or so, I would welcome suggestions from those interested in the cause of human rights as to how the work of the President's Commission might be continued.

The ground gained during the International Year for Human Rights must not now be lost.

SHOULD AMERICANS SUPPORT LAW AND ORDER?

Mr. MUNDT. Mr. President, 2 weeks ago astonished Americans sat transfixed before their television sets, appalled and frightened at the scenes of violence on the streets of Chicago. A great political party had convened itself in that city to ponder and decide its course for the next 4 years.

Coincidentally other groups not officially associated with that convention convened themselves in that city with the announced purpose of disrupting and even bringing to a standstill that convention. The actions of those separate groups resulted in confrontations between themselves and the police of Chicago which shocked Americans from one end of this land to the other. We do not at this time have before us all the evidence as to which party was most guilty of the brutalities ascribed to each. That is something which is now under study and until that report is in we should reserve judgment. We do, however, know that these other groups went to Chicago to create civil disorders and in this undertaking there can be no one who can deny that they were successful.

This fact has added to the already serious concern which many of our people have for civil unrest and violence in the streets which has become so characteristic of those who do not wish to work within our normal political channels and processes.

This concern is so articulately stated in a letter which I have received from Mrs. Standford L. Smith, of Sioux Falls, S. Dak., that I ask unanimous consent that it and articles she enclosed be printed in the RECORD.

I commend Mrs. Smith's letter to the attention of Senators.

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

SIOUX FALLS, S. DAK.,
September 2, 1968.

Senator KARL MUNDT,
Senate Office Building, Washington, D.C.

DEAR SENATOR MUNDT: Enclosed are two articles which appeared in the September 1st issue of the Minneapolis Tribune and one from the Sioux Falls Argus-Leader of August 30th. One is an article about the young radicals congratulating themselves on the disturbances they caused in Chicago during the Democratic National Convention, and the plans they have for creating 200 to 300 "little Chicagos" wherever the Presidential candidates appears. The other article in the Tribune quotes FBI Director J. Edgar Hoover, who warns that the young radicals plan to launch widespread attacks on American campuses this fall, creating "many Columbias."

A law was recently passed by the Congress of the United States, making it a Federal crime to cross State lines to incite riots. There seems to be much evidence available as to the identities of the instigators of these plans. They very openly state their objective of destroying the government by force and violence, and there have already been many occasions when they have used violence in an attempt to carry out their objective. Isn't that enough evidence for arrest and conviction? Why should it be necessary for this nation to tolerate *one* more "Chicago" or *one* more "Columbia," let alone stand still for 200 to 300 "Chicagos" or "many Columbias"? There *are* laws against inciting violence, and I for one want to know why they are not enforced. Why are the leaders of the groups who caused the disturbances in Chicago allowed to go free and assemble with their followers to make plans for further disturbances?

The danger to the country is not so much that they can achieve their objective. The riots are eventually stopped, after much destruction, many injuries, and sometimes deaths. It has been the history of this country that whenever mass violence has been used to further a cause, no matter how worthy, that cause has been set back many years. The danger is that this violence, if allowed to continue, will cause the people of this country to reject the effort that is necessary to solve the problems that confront us. The violence of the few naturally receives more publicity than the efforts of many more, who have been working patiently to improve the conditions of those among us who are distressed and impoverished, who have been working to improve our educational system, who have been working to improve the methods of selecting candidates for office, and to change the Electoral College system. They will continue to do so, if they do not see their achievements destroyed by violence. Why is that violence tolerated, if not condoned, by some who are responsible for maintaining the security which is due to all citizens?

The article in the Sioux Falls Argus-Leader quotes Senator Eugene McCarthy as saying that the destruction of our present political system may have to be risked. This is the system that has achieved more general prosperity, happiness and freedom than has ever been known to man. This is the country where a black child in Mississippi has a better chance to obtain a college degree than a white child in any other country in the world. We are a people who have shown more sympathy for the poor, the handicapped and afflicted throughout the world, and who have done more to relieve their distress—individually, through private organizations, and government programs, than any other people have ever done. That a major candidate for the highest office in the land should even hint at the desirability of destroying the system that has made possible all of these things, is almost beyond belief.

I urge you to do all in your power, commensurate with the high position you hold, to end the violent and destructive activities of a minority of our people who are resorting to such tactics. If this is done, the majority will continue to strive toward the goal we have always sought, the goal of liberty and justice for all.

Sincerely,

HELEN L. SMITH.

[From the Minneapolis (Minn.) Tribune, Sept. 1, 1968]

WHEREVER CANDIDATES APPEAR: YOUNG RADICALS VOW TO CREATE "LITTLE CHICAGOS" ACROSS NATION

DOWNERS GROVE, ILL.—The young radicals were sitting on the lawn of Herb Nadelhoffer's farm, drinking beer, eating hot dogs and telling each other war stories of a week of demonstrations in Chicago, Ill., teargassing and bloody clashes with the police.

Under a black anarchist flag fluttering from the barn's hayloft, others were tossing around a softball, wandering into the sunny fields of corn and soybeans and playing football.

Dozens of young people had come to Nadelhoffer's 177-acre farm about 30 miles from Chicago Friday afternoon to relax and, inevitably, to talk about where "the movement" is heading.

"We're going to create little Chicagos everywhere the candidates appear," said Tom Hayden, a co-ordinator of the demonstration.

"Our goal is to underscore the illegitimacy of the government and to show that it doesn't have any hope of governing without social change beginning with ending the war.

"There's coming a time when the American movement will become more violent for defensive and survival reasons," he added.

Among the young people was a sense of pride that they had faced the police on the streets and the expectation that they will do so again as they move toward "resistance."

"Some of the kids yesterday were gassed two or three times in the same spot and they held it," a girl from the Berkeley Commune was saying.

A mustached young man from the University of Wisconsin added, "another good thing about last week is that black people started respecting white radicals for the first time. They're saying we stood up to the cops."

Some of the youths began their active protest only in the last week. They drove up in cars spotted with flowered McCarthy stickers. Others were veterans of the civil rights movement or campus radical groups.

Occasionally police cars cruised by on the gravel road fronting the farm's lawn, and the youths pointed out to one another a man with a thin mustache and a yellow shirt who, they said, was a Federal Bureau of Investigation agent.

"We're planning a national GI Week, probably in late October," said Rennie Davis, the other demonstration co-ordinator.

"This will be a demonstration of support by the antiwar movement for the forgotten victims, the servicemen, and their right to come home.

"Then there will be action at the ballot boxes in November—some kind of voting no. We may sit in the booth all day long, forcing the police to remove us.

"And we expect a lot of action at the universities."

Like Hayden and Davis, David Dellinger, the long-time pacifist who heads the National Mobilization Committee to end the War in Vietnam, saw future action occurring in the streets rather than in fourth party politics.

"A lot of things will never be the same," Dellinger said. "After this week, the kids have got a sense of their own strength."

He said that the activists will return home to "create 200–300 Chicagos."

SIMILAR TO COLUMBIA UNIVERSITY: HOOVER SAYS LEFTISTS PLAN CAMPUS ATTACK

WASHINGTON D.C.—FBI Director J. Edgar Hoover warned Saturday that radical New Left students plan to launch a widespread attack on American campuses this fall similar to the recent uprising at Columbia University.

"A growing band of self-styled revolutionaries who are using college campuses as a base for their destructive activities . . . openly avow that their aim is to overthrow the existing order," Hoover said.

"Through these confrontations, they expect to smash first our educational structure, then our economic system and finally our government itself," he charged.

"It is vitally important to recognize that these militant extremists are not simply fad-

dists or 'college kids' at play," he continued. "Their cries for revolution and their advocacy of guerilla warfare evolve out of a pathological hatred for our way of life and a determination to destroy it."

The FBI chief's remarks were contained in the September issue of the FBI law enforcement bulletin.

"Encouraged by their 'success' at Columbia," Hoover continued, "the anarchists in the new left movement are boldly spreading the word that they intend to 'create two, three, many Columbias,' in the manner of one of their 'heroes,' Che Guevara, the Cuban revolutionary who cried, 'Create two, three, many Vietnams!' "

The FBI director singled out the Students for a Democratic Society as the "main thrust" of the new left movement.

"Many of its members and some of its national leaders openly profess their faith in Communist concepts and their determination to 'restructure' our society."

Hoover concluded: "It would be foolhardy for educators, public officials and law enforcement officers to ignore or dismiss lightly the revolutionary terrorism invading college campuses. It is a serious threat to both the academic community and a lawful and orderly society."

[From the Sioux Falls (S. Dak.) Argus-Leader, Aug. 30, 1968]

MCCARTHY ISN'T ENDORSING EITHER CANDIDATE

CHICAGO.—Minnesota delegates to the Democratic National Convention and the man they helped nominate—Hubert H. Humphrey—both will be heading home to Minnesota Friday.

The vice president will spend the weekend at his lakeside home at Waverly while delegates scatter to their homes to tell the natives about the rigors of conventioneering in Chicago.

Humphrey and the delegates during the week settled the question of who had the votes.

But the one question nobody settled was: What does Sen. Eugene J. McCarthy mean?

McCarthy, long an enigma in Minnesota politics, has smoothly transferred his operations to the national level.

It's traditional—at least in orderly groups like the Republican party—for the losers to get together and support the winner.

Not so with McCarthy. He said Thursday he isn't endorsing anyone for president, either Republican or Democrat.

McCarthy appeared before the Minnesota delegation Thursday afternoon for what might have been a unity meeting of sorts. But he didn't even hint he might forget his differences with Humphrey and join the effort to elect him.

"I have no regrets," McCarthy said. "We've raised all the issues we wanted to raise."

Summing up his nine-month campaign, McCarthy said he was asking for a basic reassessment of what America is.

There may come a time, he said, when the destruction of the present political system must be risked. "I haven't quite reached that point," he said.

Addressing a group of his mostly-young supporters Thursday afternoon, McCarthy lent little support to a fourth party move on his behalf.

ALASKA LAND SELECTION

Mr. WILLIAMS of New Jersey. Mr. President, I ask unanimous consent to have printed in the RECORD a statement on the subject, "Alaska Land Selection." prepared by the distinguished senior Senator from Alaska [Mr. BARTLETT], who is unable to be present today.

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

ALASKA LAND SELECTION

(Statement by Senator BARTLETT)

Mr. BARTLETT. Mr. President, I speak today to urge the passage of legislation vital to the continuing economic development in the State of Alaska. H.R. 17874, a bill to extend the time for filing applications for the selection of certain lands by the State of Alaska, is now before us.

The Alaska Statehood Act granted the State 25 years to select about 103 million acres from public lands. The provisions of the Act providing for these land selections were in the historic tradition of enabling States newly admitted to the union to carry out their governmental responsibilities and to encourage economic development. In short, the right to select land is vital to building a viable, self-sufficient State. No one can argue that it is not in the national interest that the federal government do what it can to encourage orderly growth in each of the states of the union.

In the interests of orderly growth, Congress, in approving the Statehood Act, set one limitation on the State selection of land. That limitation was a five-year period following statehood for the selection of land under federal mineral leases. I recall that the intent of that limitation was to avoid any possible confusion resulting from the continuing transfer of leases from federal to state ownership. It was felt that unity of ownership of geological units was in the interest of orderly economic development.

However, the selection of land by the State was delayed 18 months after statehood until regulations for the selection process were developed. Even after the regulations were promulgated, the selection process, for a number of unforeseen reasons, went slower than anticipated. Surveys were required and geological studies were needed to determine what areas held the most promise for mineral development.

In 1964, Congress, recognizing the need to extend the five-year deadline for the selection of land under federal lease, enacted S. 1877, which gave the State an additional five years to make such selections. That extension expires January 3, 1969.

Because of some of the same problems and because the Secretary of the Interior, acting after Alaska native people filed land claims on most of the State other than southeast Alaska, has refused to process further State selections, it is necessary and fair that the State be given additional time in which to make mineral claims.

At present, about 7 million acres are under federal lease in Alaska. Of that total, about one million acres has been withdrawn for one reason or another, and State selection patents are pending on a second one million acres. That means that about five million acres under federal lease are now available for State selection, land that will not be available for selection after January 3, 1969, until the lease expires.

Of the approximately 102 million acres the State is entitled to select from public lands, about 16.4 million acres have been selected. An additional 800,000 acres have been selected for educational, health, and other purposes.

Inasmuch as the principal reason for setting a deadline on selecting land under federal lease is no longer valid and inasmuch as the purpose of the land selection program is to foster orderly economic growth of Alaska, it now becomes quite clear that the State should have an additional time to select lands under federal lease. If that were allowed, the State would be free of having to make hasty and perhaps poor selections under the pressure of a deadline.

I introduced S. 3406, which calls for a 15-year extension of State selection time. This measure was reported favorably by the Committee on Interior and Insular Affairs, but the committee amended the selection time to five years. Even five years was agreeable. However, the other body has passed legislation granting an extension for only 9 months. I am informed that, in view of the late date in the session, if this body will not accept the 9 months, further action in resolving the time extension may not be forthcoming. With this in mind, I urge the passage of H.R. 17874.

RICHARD GOODWIN AND THE FORTAS CASE

Mr. GRIFFIN. Mr. President, in a memorandum to the chairman of the Senate Committee on the Judiciary, dated September 9, 1968, I called the committee's attention to an article by Daniel Yergin which appeared in New York magazine, July 22, 1968, and reads in part as follows:

Nonetheless, (President) Johnson called him (Richard Goodwin) back to the White House to help prepare the State of the Union message in 1966. He was up two days straight working on it, and then a doctor came in and gave him an injection, as though he were a machine, so he could stay up even longer.

Then Johnson handed the speech over to Abe Fortas and Clark Clifford, the old New Dealers and Fair Dealers, *who began chopping it up.* Goodwin retired to his hotel room exhausted.

My memorandum also called the committee's attention to a report carried by the UPI and published in Sunday, September 8, newspapers, which reads in part:

The controversy over Abe Fortas' nomination . . . heightened yesterday with a charge being prepared for Senate debate that Fortas helped draft legislation while serving on the Supreme Court. * * *

(Senator Gordon) Allott contends that as associate justice, Fortas took part in the drafting of an amendment to an appropriations bill providing Secret Service protection for all presidential candidates. * * *

The White House did not deny the allegation. . . Fortas could not be reached for comment.

In light of these reports, I urged in the memorandum, that "the committee determine the accuracy of the reports noted above by taking testimony from Mr. Richard Goodwin, Defense Secretary Clifford, staff members of the Appropriations Committee, and others."

My memorandum appealed to the committee as follows:

Particularly in view of the fact that the statements to the Committee by Mr. Fortas was qualified ("I *guess* I have made full disclosure now."), and in light of the subsequent disclosure concerning his call to the Business Council, I urge the Committee to proceed with a thorough investigation of these fresh reports with a view toward determining the full extent of Mr. Fortas' involvement in the operations of the Executive branch while sitting as a justice of the Supreme Court.

As the Senate knows, the committee did reopen its hearings and listened to testimony from Senator GORDON ALLOTT and others. However, not only did Justice Fortas refuse to reappear, but Defense Secretary Clark Clifford, Under Secretary of the Treasury Joseph W. Barr, and Associate Special Counsel to the President W. DeVier Pierson also refused.

In addition, Richard Goodwin and Daniel Yergin failed to appear and

testify on the question of Justice Fortas' participation in the drafting of the 1966 state of the Union address.

On September 17, the Committee on the Judiciary met in executive session and discussed the failure of Goodwin and Yergin to appear. It was agreed that a transcript of the discussion should be released to the public.

I ask unanimous consent that a transcript of that discussion be printed in the RECORD.

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

Mr. HOLLOMAN. Early last night, after I got home, Fred Graham, who covers the Supreme Court for the New York Times, called me at home and told me that he had found out where (Richard) Goodwin was, that it just happened that Goodwin called another newspaper man there at the Times Headquarters on another matter and he overheard it and got on the telephone and got his number. I called Goodwin at the number—I assume Hyannisport—and told him that the committee would like to have him down here this morning.

The CHAIRMAN. At 9:30.

Mr. HOLLOMAN. Yes, sir. He said that he doubted that he could get here without chartering a private plane to New York to catch the shuttle flight. And doubted the committee would want to pick up that expense. I replied that the committee would pick up that expense, to arrange for the private charter to New York, and to be here this morning. During the conversation he said that he had seen in the newspapers last week that the committee wanted him to testify and that later in the week he had seen where the committee had issued a subpoena for him. But he stated that he could have been found and that a number of people knew where he was. I had been unable to find out where he was during the week.

I asked him if he was familiar with the article that Mr. Yergan wrote, specifically that part where it referred to a State of the Union Message being drafted, at which time Mr. Fortas and Clark Clifford were present. He said he was familiar with the article and that particular reference.

I asked him if he would be willing to testify in regard to that matter. He indicated that he didn't know whether he would invoke executive privilege or not. He said that he had discussed the matter with the Attorney General, Ramsey Clark, but had not indicated that he had not made up his mind whether he would feel free to testify in regard to that occasion or not.

Senator DODD. You mean he had indicated?

Mr. HOLLOMAN. He indicated to me he had not made up his mind whether or not if he came down here he would invoke executive privilege.

He did say that it was obvious that he was Mr. Yergan's source, although, of course, those were not his words, referring to the article.

About an hour later he called me back at my home and told me that he had been unable to obtain a chartered flight to New York and thus would be unable to be here today. He did indicate, however, that he would be willing to come at some other time that the committee requested him to do so.

Senator ERVIN. Did he indicate whether he was willing to tell us anything after he got here?

Mr. HOLLOMAN. No, he didn't.

The CHAIRMAN. Here is a telegram from him dated September 17. "May I request that you inform the members of the Senate Judiciary Committee of my complete willingness—now or in the future—to testify before that committee or any other congressional group. I read with some surprise the reports that federal marshals had been instructed to contact me. The fact is I have been available at Truro, Massachusetts for more than two weeks. My location and phone number are known to the office of my last employer, Senator Eugene McCarthy, as well as to several associates. Many people, including members of the press, have contacted me easily. Despite that, I received no phone call or message from any member of the committee staff until after 9 o'clock p.m. last night, when it was too late to make plane connections in order to testify this mornnig. Therefore I was never even invited to appear before the Senate Judiciary Committee although I would gladly have responded to any invitation. Let me add that in my judgment as a former Supreme Court law clerk, President of the Harvard Review, and former Assistant Special Counsel for the President, I do not know of a single instance wherein Mr. Justas Fortas has offended the judicial propriety." Signed "Richard Goodwin."

Senator BAKER. May I ask Mr. Holloman a question. Do we have any basis for knowing whether Mr. Goodwin has in fact been in Hyannis or wherever for the last two weeks.

Mr. HOLLOMAN. Well, in speaking to Mr. Graham yesterday afternoon, he related a conversation to me with a friend of his—which may or may not be true—that he recalled that a friend of his has told him within the last day that he had seen Mr. Goodwin get off the airplane here in Washington, or possibly his recollection wasn't quite accurate, it may have been New York. But that is the extent of it. It was second-hand.

Senator ERVIN. Did he say when he talked to the Attorney General?

Mr. HOLLOMAN. No, sir.

Senator MCCLELLAN. Did he say he talked to him about this matter?

Mr. HOLLOMAN. Yes, sir.

Senator ERVIN. Did he say what day he read in the newspaper he was wanted?

Mr. HOLLOMAN. He said he read it last week. Of course the meeting was on Tuesday and it was in all the papers on Wednesday that the committee wanted him to testify and it was in the papers on Saturday that a subpoena had been issued.

Senator THURMOND. What time did you talk to him yesterday?

Mr. HOLLOMAN. Senator, I believe it was somewhere around 8 or 9 o'clock.

Senator THURMOND. Yesterday morning?

Mr. HOLLOMAN. No, sir, evening, after I got home.

Senator ERVIN. Well, I don't guess it seems unreasonable to infer he didn't talk to the Attorney General about executive privilege until after he knew he might be called on to testify. That would be the inference I would draw.

Senator THURMOND. I think it is obvious he hid out and made himself unavailable. I am sure Mr. Holloman did all he could to try to reach him.

Mr. HOLLOMAN. This is a rented summer home, I understand. That is what he told me. So it is not his regular address.

I first asked several staff members, who I had reason to believe were acquaintances of Mr. Goodwin, where he might be located and they gave me the address of this school up in Connecticut—I believe Middleton. And I called there and they gave me a number in Boston and an address and apparently he does have an address there because I asked information for Mr. Goodwin at that address and they gave me a number and I wasn't able to get an answer at that number.

Then I asked a number of members of the press if they knew where he was and they all told me they didn't know.

Senator BURDICK. In this process, did anybody call Gene McCarthy's office?

Mr. HOLLOMAN. No; I did not call Gene McCarthy's office. Mr. Goodwin has worked for a number of people this past year. But I did ask a number of newspaper men who had been with the campaign and a number of staff members who I thought might——

Senator THURMOND. Did you mention or did he mention the article quoting him?

Mr. HOLLOMAN. I did.

Senator THURMOND. On this matter. Did he deny the truth of the article?

Mr. HOLLOMAN. He didn't confirm it or deny it.

Senator DODD. When was the subpoena issued?

Mr. HOLLOMAN. Saturday morning.

Senator THURMOND. I believe we also issued a subpoena, or at least the committee did, for Mr. Yergan?

Mr. HOLLOMAN. Yes, sir.

Senator THURMOND. You talked to him over the telephone?

Mr. HOLLOMAN. Yes, sir.

Senator THURMOND. Several days ago.

Mr. HOLLOMAN. Wednesday of last week, I believe.

Senator THURMOND. Would you give us a report on that?

Mr. HOLLOMAN. The extent of that conversation was that Mr. Yergan stated that he wanted to talk to his attorneys and that he would call me back and let me know his decision. I told him that we didn't want to issue a subpoena for him, if it could be avoided, and that hearing no reply a subpoena would be issued for him. I knew where he was. And having received no reply a subpoena was issued for him. But apparently they had been unable to serve it.

Senator THURMOND. They have been able to locate him?

Mr. HOLLOMAN. Yes, sir.

Senator THURMOND. Did he ever call you back as he promised?

Mr. HOLLOMAN. No, sir.

Senator THURMOND. I think it is clear that he hid out, too.

Senator MCCLELLAN. Mr. Chairman, I understand that telegram closes by saying he knows of no impropriety on the part of Justice Fortas.

The CHAIRMAN. That is a conclusion.

Senator MCCLELLAN. But he does not direct himself to the specific instance as to what the facts were about that.

The CHAIRMAN. No, sir.

Mr. HOLLOMAN. The only thing he ever said, as I have already stated in reference to that particular article and that part of it is, "Obviously I was Mr. Yergan's source," but those are his words and not mine.

Senator BAKER. Did he say when he talked to Ramsey Clark?

Mr. HOLLOMAN. No, sir.

Senator BAKER. Could you draw any inferences about when he talked to him?

Mr. HOLLOMAN. No, sir.

Senator BAKER. Was there any question in your mind it was Mr. Clark that he spoke to?

Mr. HOLLOMAN. He mentioned it was the Attorney General and he mentioned later it was Ramsey Clark.

Senator DODD. When did he call your office?

Senator TYDINGS. Sometime late yesterday afternoon, because I didn't get word until 7:00 or 7:30.

Mr. HOLLOMAN. He made no mention in the conversation last night that he had called anyone trying to get in touch with the committee. In fact I asked him why, in view of the fact that he had read it in the newspapers, he had not tried to contact us; and he said that he had made no effort, he was waiting for us to contact him.

Senator THURMOND. Mr. Chairman, if there is no objection I would move that the notes on Mr. Holloman's report on these two witnesses be available to the press or anybody who wants them.

The CHAIRMAN. All in favor say "Aye."

(Chorus of aye.)

The CHAIRMAN. Opposed.

(No response.)

The CHAIRMAN. The ayes have it.

Senator KENNEDY. Also, the telegram, Mr. Chairman?

The CHAIRMAN. Repeat?

Senator KENNEDY. Does that include the telegram?

The CHAIRMAN. Yes. Why, of course it will be the whole record.

MUTUAL FUNDS ARE PRINCIPAL CAUSE OF DIFFICULTIES IN FINANCIAL COMMUNITY

Mr. McINTYRE. Mr. President, every student of economics in the United States knows Prof. Paul Samuelson as a highly distinguished economist. In recent years, through a regular column in Newsweek magazine, Professor Samuelson has turned his knowledge and ability to the task of educating millions of other Americans in the important economic problems of our time.

This week, Professor Samuelson's column is entitled "Reforming Wall Street." He devotes his attention to answering the question, is there any longer anything rotten on Wall Street? His answer, given in detail, is a resounding "yes."

What particularly interested me about this discussion was that each of the three major "rotten" situations described by Professor Samuelson is one created, or primarily aggravated by, one particular element of the financial community—the mutual fund industry. The mutual fund industry, by its extreme defense of its own selfish interests, is raising a cloud of scandal which cannot help casting a dark shadow over the brokers, the Exchange, and the other non-fund elements of the financial community.

Professor Samuelson concludes that the next moves are up to the Department of Justice, of the SEC, and Congress. I am not too familiar with the mood of the Justice Department or the SEC, but I am familiar enough with the thoughts of my colleagues in Congress to be quite certain that legislative action here in the near future regarding mutual funds is inevitable.

In view of this, I would hope that all responsible elements of the financial community could find it possible to take a cooperative attitude toward congressional efforts to establish a fair and reasonable set of rules for the regulation of mutual funds.

Mr. President, Professor Samuelson's column is timely in its content and significant in its insight. I ask unanimous consent that it be printed in the RECORD.

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

REFORMING WALL STREET

(By Paul A. Samuelson)

Last year I pointed out in this column that something was rotten in Wall Street. This public service brought down on my professorial head considerable vituperation.

But time is vindicating my concern. Under fire, the New York Stock Exchange has now agreed to lower commissions on transactions in excess of 1,000 shares and has outlawed the nefarious practice of "give-ups."

And the Securities and Exchange Commission has agreed, on an interim trial basis, to accept the new commission schedule of the exchange.

Hence, in this new day there is no longer anything rotten in Wall Street? A muckraking columnist can now turn his attention elsewhere?

BAROMETER FALLING

With all respect, this is nonsense. The housecleaning in Wall Street is just beginning. I know it. Manuel Cohen, chairman of the SEC, knows it. The attorneys of the brokerage community know it. And, most important of all, the Antitrust Division of the Department of Justice knows it.

For make no mistake about it. It was not the fulminations of columnists that brought about a single cent's reduction in commissions. And, despite the propensity of the industry to complain about the SEC, it has, if anything, been soft in exercising its undoubted administrative powers. What has blown the whistle on the monopoly has been the new interventions by the Antitrust Division.

Since capitalism is too important to be left to the tender mercies of the capitalists, all who really cherish the efficient working and survival of an enterprise system must once again be indebted to the Antitrust Division. Space does not leave room for a full listing of all of the evils and defects of the present financial scene. So let me sample the more important structural weaknesses.

Competition doesn't work to bring costs down to the efficient minimum.

The New York Stock Exchange is an island of privileged monopoly. *It* limits it members and access to its floor. *It* sets minimum fees. If U.S. and Bethlehem Steel tried to act the way the New York and American exchanges act, Roger Blough would be in jail before you could say Merrill Lynch, Pierce, Fenner and Smith.

When the SEC asked Congress to put limits on the *maximum* loading fees that the mutual-fund industry could charge, the industry hired experts to testify that the present up-to-9 per cent loadings were the product of free competition. Senators were assured that competition could be relied on to ensure the public interest.

Now the industry is hiring experts—some of them the very same experts—to testify that taking away the stock exchange's monopoly powers to set *minimum* fees will result in "ruinous competition" and chaos. Balderdash!

"Give-ups" and "churnings" of portfolios are direct consequences of the uncompetitive fee schedule.

When a brokerage firm is sued and fined for decimating a widow's net worth through excessive buying and selling—that makes the headlines. But what about the non-criminal propensity to overtrade that goes on all the time and on a vast scale?

An acquaintance who runs a go-go fund explains that he could not motivate salesmen to push his fund if he did not generate more commissions from turning over the fund's portfolio than his trading judgment told him was profitable in its own right. For a long time no one complained, as the go-go boys seemed to coin instant wealth for their clients. This year the gravy ended. This year most of the large go-go funds have been falling behind the exchange index of all stocks. But even if they had not, that would be no excuse for rigged commission schedules and give-ups.

AGENDA FOR CHANGE

Mutual-fund loadings and particularly front-end loadings on periodic investment plans are so high as to create powerful vested interests.

These loadings are not the product of free competition. The law keeps you or me or Merrill Lynch from bringing the loading on 100 shares of, say, the Dreyfus or MIT fund down to the 1 or 2 per cent rate that would result under competition. Such price-maintenance regulations should go.

Next moves are up to the Justice Department, the SEC and Congress. Except as a first step, the new commission schedule is a token reform. Give-ups were only the visable part of the rigged schedule. Abolishing them only drives the evil underground and may even lessen the loopholes through which competition operated.

Can we hope to hear from the Presidential candidates—both of them?

RETIREMENT OF JAMES WEBB AS ADMINISTRATOR OF NASA

Mr. DODD. Mr. President, it was with deep regret that I learned of the resignation of James Webb as Administrator of the National Aeronautics and Space Administration.

Mr. Webb served the United States well as Administrator of such a vital agency as NASA.

During his administration, the United States moved through the infancy of space flight. His determination helped to move our space agency through some difficult times.

The milestones of space history made during Mr. Webb's tenure are too many to list. Under his guidance, the National Aeronautics and Space Administration has conducted the Mercury and Gemini manned space programs, and the Surveyor program, probably one of our most important scientific space programs.

I am sorry to see Mr. Webb leave.

Mr. Webb's successor, Thomas O. Paine, is well qualified to fill the Administrator's post. Mr. Paine has held the No. 2 post in the space agency, that of Deputy Administrator.

Mr. Paine is a scientist by profession and has worked in the aerospace industry for many years. He knows the space industry, and I am certain that under his leadership the National Aeronautics and Space Administration will expand and grow in scope as it should.

KENAI DEVELOPMENT

Mr. WILLIAMS of New Jersey. Mr. President, I ask unanimous consent to have printed in the RECORD a statement entitled "Kenai Development," prepared by the distinguished senior Senator from Alaska [Mr. BARTLETT], who is unable to be present today.

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

KENAI DEVELOPMENT

Mr. BARTLETT. Mr. President, the Senate yesterday passed legislation I introduced transferring 1.88 acres of land to the City of Kenai, Alaska. This legislation will enable the City of Kenai to continue with its rapid economic expansion in an orderly manner. Furthermore, it will guarantee to the residents of the City of Kenai area the continuing existence of a modern Public Health Clinic. The original legislation was unsatisfactory to the Department of Interior. However, the Department did accept an alternative I proposed, and this alternative has now passed both the House and Senate. This bill recognizes the extraordinary growth of the City of Kenai as well as the necessity of relocating the Public Health Clinic, and I note its passage with great satisfaction.

FARM PROGRAMS IN PERSPECTIVE

Mr. McGEE. Mr. President, the American farmer is not being deceived these days by clever slogans. Instead, he is judging farm programs by their results, as Mr. Raymond Johnson of Lingle, Wyo., puts it in a brief but pointed paper he

entitles "Farm Programs in Perspective."

Mr. Johnson's paper deserves attention. He is well experienced in the farm business. He is a farmer. He has been in the business of farming and livestock feeding for 40 years and more, and does not desire to return to the days of no farm programs when, as he puts it, "a coyote pelt would bring more than a 2-year-old steer."

I ask unanimous consent that Mr. Johnson's paper be printed in the RECORD.

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

FARM PROGRAMS IN PERSPECTIVE

(By Mr. Raymond Johnson, a small Wyoming farmer)

For thirty-six years hungry politicians have unjustly preyed on farm programs by cleverly twisting facts for the sake of garnering votes, and 1968 promises to be no different.

So, henceforth let us judge farm programs by their true results rather than by politically manipulated motivations.

Using the American Farm Bureau, whose leadership has always been opposed to farm programs, as spokesmen for all agriculture is indeed misleading, for they represent only the thinking of a very small minority. The truth is a very large number of Farm Bureau members favor farm programs. In spite of the Farm Bureau's vigorous effort to defeat the wool referendum, their members voted overwhelmingly in favor of it.

Farm commodity organizations who are the true representatives of agriculture are working vigorously to renew or extend their various farm programs, because they know they are doomed if these acts are not renewed.

The National Grange and the Farmers Union are working for the renewal of all farm programs and the N.F.O. is in favor of these programs. Taking the total of these organizations into consideration makes the odds 16 to 1 in favor of farm programs.

Farm Journal polls showing 63% of the farmers favoring an end to all programs will go down in history as *wrong-way* polls.

Destroy farm programs and the economic repercussion will be felt by every American. Loss of buying power by the farmer will immediately be felt by labor and industry.

A study just completed by the Economic Research Service shows net farm income under farm programs during the 1961–67 period was $95.4 billion. Under the free market situation, net farm income was estimated at $60.9 billion, the researchers found.

Under the present supply management program gross farm income has gone from $37.9 billion in 1960 to $49.7 billion in 1966. With the ratio of gross farm income to the Gross National Product being 7 to 1 would mean an increase of $82.6 billion in the Gross National Product due to farm programs.

Present-day supply management farm programs have been updated to meet the needs of today and they do not in any way infringe on the farmers' freedom. The only time the Department of Agriculture becomes involved in the farmers' business is when the farmer chooses to participate in programs, then he is required to live up to the terms of his contract.

Farm programs are designed to prevent the build-up of surpluses which depress farm prices to such a low level that it creates unbearable losses to the farmer. The result of over-production is dramatically illustrated by turkey producers who last year got $36.9 million less for 126.6 million turkeys than they did the year before for 115.5 million turkeys.

Under 30 years of farm programs agriculture has made the greatest progress in the nation's history. It has gone from brutal brawn of man and beast to a highly sophisticated industry of brains and electronics. Each agricultural worker today produces enough food for himself and 40 others, whereas in 1940 he produced only enough for himself and 10 others.

The farmer, through wise use of farm programs, efficiency and technology, has made it possible for the consumer to buy the finest food on earth for only 18% of his disposable income. No nation on earth enjoys such bargains in food.

Farm programs are no longer designed as a welfare program for the small farmer. The exodus of the small farmer has come about because of mechanization and fierce competition, not because of farm programs. The decrease in number of farmers is a sign of progress and economic growth, not stagnation and decline. Increase in size of farm units clearly depicts progress. How else can a farmer achieve economic growth?

With equal participation farm programs protect the small as well as the large farmer from economic disaster caused by unmanaged surpluses.

Huge subsidies paid to large farmers (who depend entirely upon agriculture for their financial well-being) are just as necessary and proper as the subsidies paid to small farmers, for without them they would both perish. Large farmers who participate in the supply management programs contribute more in reducing surpluses and are therefore entitled to larger payments. Denying or scaling down subsidies to large agriculture producers would, in principle, be like denying or scaling down subsidies to large magazines, large shipping companies, large airline companies, etc.

Because of the unprincipled few, should we deny the farmer, who produces our food, a decent living? Huge farm subsidies paid to eligible money-mongers who do not depend on agriculture for a living and use them only for the sake of making mockery of farm programs does not justify the repeal of all farm subsidies, which are so very important to our entire economic structure.

A properly established National Board of Agriculture could do much in improving the image of farm programs and it could free them from the fangs of politics.

With the capability we have for producing wheat and feed grains, the repeal of the wheat and feed grain program would, in one year, create such a surplus that it would drive these commodity prices down to a ruinous level. For proof of this we need only look at the 1967 production. Low wheat and feed grain prices are also a fore-runner to low livestock prices; nor do low farm prices bring cheap groceries to consumers.

I have been in the farming and livestock feeding business for over 40 years and nothing has so drastically effected my economic well-being as surpluses of farm commodities that force prices down to nothing, such as the potato market this year.

The underlying reason for most of our agriculture problems in the past seven years lies not in the present programs, rather they are the direct result of the mismanagement of our farm programs by the previous Republican administration which led agriculture to the brink of economic disaster.

After eight years of farm program bungling under Secretary Benson, the government had acquired such huge quantities of wheat and feed grain that the cost of storage to the taxpayer was greater than the cost of program payments to the farmer, and it had reduced the farmers' net income from $15.3 billion in 1952 to $11.7 billion in 1960. Through this staggering accumulation of unmanageable wheat and feed grain surpluses was born the supply management program we have today.

It was crystal-clear that these huge surpluses would have to be reduced in an orderly manner so as not to raise havoc with the market; therefore the farmer was offered an incentive to curtail his production in order to give the government an opportunity to dispose of these surpluses. The disposal of these surplus commodities, accumulated under Benson's program, has been a real depressant on the market, but Secretary Freeman has done a remarkably good job of reducing these surpluses without breaking the market. Accusing Secretary Freeman of dumping corn on the market to force down food prices in 1966 is ridiculous stupidity. The entire corn crop, surplus and all, could be dumped on the market and it would not reduce the food price one penny.

No Secretary of Agriculture has worked so hard to improve the well-being of the farmer and has been so harshly criticized for it. This is the first time in history that the American farmer has not suffered enormous losses during a period of surpluses.

The supply management program for wheat and feed grain has indeed accomplished its purpose. It has reduced our surpluses to a prudent reserve, thus reducing the cost of storage to the taxpayer. It has stabilized livestock prices. It has prevented the farmer from taking heavy financial losses in times of surpluses, and it has increased the farmers' net income from $11.7 billion to $16.4 billion.

Cost of production in agriculture has reached such an enormous level that it would be economic suicide to destroy farm programs that have worked so very well in protecting the farmer from unbearable financial losses. Destroy farm programs and the economic impact resulting from unmanaged surpluses which depress prices to the farmer will be felt by every American, for low farm prices are bound to create joblessness in the city.

Now that we have licked our surplus problem, let us insist that Congress establish a strategic reserve so that the Secretary of Agriculture can establish acreage allotments without the fear of creating a shortage; then the farmer can look to the future with high hopes of gaining their rightful place in our economy.

We dare not return to the days of no farm programs where a coyote pelt would bring more than a two-year old steer, rather let us go forward improving farm programs and thus restore agriculture to its full potential buying power for the good of all America.

THE FORTAS NOMINATION

Mr. HART. Mr. President, today I shall examine briefly just two of the arguments often put forth by the opponents of Mr. Justice Fortas.

All of us, when we address this body to explain some position or some action, try to grace that position with logic. However, on some occasions we are able to find so many appealing arguments in support of our case that we are tempted to use them all, even though they do battle with each other.

Thus, occasionally we fall into the trap of the painter so fond of both pink and orange that he felt always drawn to use them both, even though in combination they rarely presented an appealing work of art.

One of the themes played against Justice Fortas is that a retiring President should not fill a Supreme Court seat, especially if his choice for the vacancy happens to be a friend of his. In presenting this argument the word "crony" is often thought more useful than the word "friend."

A second argument often used is that the voice of the people should be heard before any appointment is made and,

thus, the next President ought to decide what sort of legal philosopher should occupy the Court's presiding seat.

Certainly, I can see why both of these arguments are considered to have political appeal. But this combination of pink and orange is not going to delight the logical mind.

Because the first argument clearly implies that the Supreme Court should be completely divorced from the Presidency, with no transmittal of the Presidential viewpoint into the Court Chamber.

The second argument, on the other hand, clearly implies that the new Chief Justice ought to be philosophically alined with the incoming President.

This idea that the Court should reflect the viewpoints of the new President is especially curious in the light of the often-repeated observation that the next Chief Justice may well hold office for 20 years or more.

The Constitution, as I recall it, provides that the President elected in November shall hold office for no more than two terms. Thus, his appointment of a Chief Justice could certainly affect the Court for years beyond his term of office.

I fear that many citizens, peering through the cracks in this logic, might suspect that something besides lofty constitutional principle is involved in this dispute.

Some cynics might even come to believe that the greatest misfortune of Abe Fortas is to have his appointment considered in an election year and in a time when personal political gain is tremendously important.

It simply seems to me that any true dedication to the independence of the Court dictates that we consider a nominee, not on the basis of who appoints him or what party he belongs to, but rather on the basis of his qualifications; his legal scholarship, his mental ability, and his dedication to the law.

Certainly, I would invite the Senate to make its judgment on this basis and to allow a majority of its Members to render a decision one way or the other.

It seems to me that the country will have small patience with those who claim victory because they muster a minimum one-third of the Senate's votes, enough to filibuster the nomination to death.

As a politician myself, I know how difficult it is to lay aside political considerations. But there are some matters where dedication to principle is the best politics.

And I submit that dedication to an independent judiciary, dedication to the idea that a nominee ought to be considered only in the light of his qualifications, should be numbered among these matters.

THE CALL OF THE PACK

Mr. FANNIN. Mr. President, Attorney General Ramsey Clark has sounded forth the newest leftward-ho line, and it will now be dutifully repeated in columns and speeches by left-leaning spokesmen.

The new line, in essence, is that police violence is more dangerous than mob violence. The convoluted reasoning responsible for this is—in the words of the Attorney General:

> Who will protect the public when the police violate the law?

He seems to ignore the fact that only an infinitesimal percentage of policemen are ever involved in law violations or violence. If he thinks the law was violated by policemen in Chicago, then the proper action is to bring them to trial, not make irresponsible statements on every available curbstone.

Mr. President, the public utterances of Mr. Clark bring on complete exasperation. Is the Attorney General totally without the most elementary understanding of the function of the office which he holds? Has the Attorney General ever heard of the Justice Department, which is supposed to bring criminals to justice? The Justice Department should be just as much concerned with bringing police who commit criminal acts to justice as any other individuals. Has the Attorney General read the sign on his door? He is not head of the Department of Beautification or executive secretary of the Flower Protective Association. He is the Attorney General of the United States, and I wish he would act like one.

Now comes a column by Adam Yarmolinsky—published September 19 in the Washington Post—alleged security risk; relegated to a Government post not requiring senatorial confirmation, for fear such confirmation would not be forthcoming; now a professor of law at Harvard University, who describes action by police in putting down unruly mobs as "rioting, and no less so because in some cases they—the police—were unreasonably provoked." Yarmolinsky goes on to describe the duty of a policeman like this:

> The policeman, particularly in the big city, must take his stand at the frontier where the orderly mechanisms for resolving social problems are breaking down. He is the immediate object of everybody's excess emotions. And as tension and hostilities build up, he feels them first and most directly. It is not surprising that he can turn in anger on the people who seem to be making his job more difficult. . . .

What precocious poppycock.

If Yarmolinsky and his ilk are to be credited, what we need for front rank policemen are not human beings but Harvard law professors.

The call of the pack has sounded, Mr. President, and the wolfpack has set off at a lope in pursuit of "rioting by police," or "police violence in excess of authority," or some other freshly minted catch phrase that completely ignores the realities involved in today's society. I expect we shall now be inundated as the semi-intellectual pack followers reword their stories and remouth the current catch phrases designed to make policemen the violators, rather than the protectors, of law and order. If such unreasoned reasoning was not so frighteningly sick, it would be funny.

DEATH OF DR. FEDOR HODZA, GALLANT SLOVAK LEADER

Mr. PELL. Mr. President, Dr. Fedor Hodza, a fine and gallant Slovak leader, who suffered under the Communists because of his beliefs, is being buried tomorrow in New York.

When I established the American Consulate General in Bratislava, Czechoslovakia, in February of 1948, Dr. Hodza did what he could to smooth our paths in those turbulent and difficult days. I shall always be grateful for his friendship and help at that time.

Finally, during the Communist putsch that month, Dr. Hodza made a dramatic escape from his home country to Britain.

Indeed, Dr. Hodza's life was inextricably entwined with the destiny of Czechoslovakia. His father, Milan Hodza, resigned as Premier of Czechoslovakia in 1938 at the time of the Munich agreement.

During World War II, Fedor Hodza served in his country's government-in-exile in London under Dr. Eduard Benes. After World War II, he returned to his country and became a member of Parliament and secretary general of the Slovak Democratic Party.

After fleeing his country, Dr. Hodza became a cofounder of both the Council and the Committee for a Free Czechoslovakia and the Assembly of Captive European Nations.

STOL AIRCRAFT IN SCHEDULED AIRLINE SERVICE COMING CLOSER—TO CARRY OVER 100 PASSENGERS AT CRUISING SPEEDS OF 500 MILES PER HOUR

Mr. RANDOLPH. Mr. President, it was a year ago that a knowledgeable airline executive made a significant speech which prompted me to comment in this forum: When a top airline executive declares that it is time for the industry to begin using new short-haul transportation aircraft because rising ground costs are making conventional means uneconomic, perhaps our country is on the verge of a breakthrough and possibly has at least a partial solution for the airport crisis, and the air traffic congestion problem.

The CONGRESSIONAL RECORD, volume 113, part 20, page 27032, records that I said:

> Arthur D. Lewis, senior vice president and general manager of Eastern Airlines—one of the major trunkline carriers—is reported to have said in a speech in New York City last week that the airline industry will have to get behind new short-haul concepts. He forthrightly asserted that the industry of which his company is a significant part "must move aggressively to develop STOL—short takeoff and landing—aircraft and STOL landing strips" to offset costs which he sees continuing upward. In fact, Mr. Lewis said:
>
> "Ultimately, Eastern's shuttle and other similar short-haul operations must be performed by efficient STOL airplanes."
>
> He declared, however, that before this can happen, the airline industry as a whole "is going to have to place STOL high on its list of priorities and aggressively push it."
>
> Mr. President, I believe it is incumbent on the airline industry to place a high priority on the STOL's—and on the aerospace equipment manufacturers to respond—because domestic aviation in this country has reached a new crossroad.
>
> Despite the efficiency of jet aircraft, substantial percentages of the savings that had been expected by converting from propeller craft to jets are being dissipated by other factors. In fact, it was Eastern Airlines' vice president and general manager—Lewis—who said that flight costs are declining as the ef-

ficient jets go into service, but these savings are being offset by the costs of delays due to congestion, landing fees, and ground servicing. According to one account I read, Mr. Lewis noted that placing a jet on Eastern's afternoon flight from Boston to Philadelphia had reduced the line's haul cost by 34 percent, but ground-handling expenses, airport congestion, and uneconomic operations below cruising altitude were up 27 percent, and the result has been that the jet cost per passenger for the trip is only 5 percent less than the propeller cost 2 years ago.

Mr. President, I also said in those September 27, 1967, comments, and I repeat with emphasis today, that a Washington Star business writer had quoted the then Director of FAA Aircraft Development Activities as having declared that STOL aircraft are both technically and economically practicable—those which become airborne in less than 1,500 feet of runway, compared to more than 5,000 feet needed by the big jets; and those with design concepts for planes to carry up to 120 passengers, cruise at 500 miles per hour, and land at speeds as slow as 60 miles an hour.

Yesterday, September 18, 1968, Charles Yarborough, aviation specialist and staff writer for the Washington Star, updated events and demonstrated how much closer to reality is the STOL aircraft to scheduled airline service than was even dreamed of a year ago. He reported:

An airplane that is up, off, turned and gone while a big jet is taxiing out to wait in line flew its own "road map" out of National Airport today.

It was a demonstration of what may be a big factor in solving today's problems of airport congestion and delay.

The aircraft was a four-engine turboprop McDonnell Douglas 188, known in Europe as the French-built Breguet, probably the world's most advanced STOL—short take-off and landing.

Eastern Airlines, McDonnell Douglas and the Federal Aviation Administration are running evaluation tests with the airplane, simulating air shuttle scheduling.

Mr. Yarborough further reported that in its demonstration flight yesterday, the McDonnell Douglas 188 required only 600 feet to take off; about 400 to land. And he wrote that, as though by design, the 188 made its final, steep downhill approach to National Airport's STOL runway at the same time an Eastern DC-9 was coming in on another runway. He commented that Eastern Airlines envisions as the ideal STOL in air shuttle routes a 400-mile-an-hour aircraft accommodating at least 100 passengers.

But, Mr. President, as was pointed out by an FAA expert a year ago, STOL's that can be airborne in less than 1,500 feet, carry 120 passengers at 500 miles per hour and land as slowly as 60 miles per hour are in design concept.

The demonstrator, a converted military craft, is fitted with 12 observer seats, but is capable of seating 64 persons, and cruises at 250 miles an hour. An Eastern spokesman is reported to have said that the STOL in demonstration can conceivably can be fully developed to carry 100 passengers at 400 miles per hour and be operated commercially with those capabilities by the early 1970's.

Today, Staff Writer Paul Valentine covered the same event yesterday at National Airport for the Washington Post as did Charley Yarborough for the Washington Star. He commented:

Eastern Airlines unveiled a tubby, short-takeoff, steep-climbing turboprop craft that may be the prototype of a replacement for Eastern jets on the crowded Washington-New York-Boston shuttle services.

And he said:

The high-wing plane, built by McDonnell Douglas Corp., will help relieve chronic air congestion—

Quoting Eastern Airlines officials as his source. He pointed out that this is so because it is a craft that can take off on currently unused airport pavement and fly in different patterns from conventional traffic.

It is significant to emphasize, as did both Mr. Yarborough, of the Star, and Mr. Valentine, of the Post, that the STOL demonstrator, now in a 7-week demonstration program simulating the Washington-New York-Boston shuttle service, will enable Eastern to measure STOL performance against that of the DC-9 jets now operating in the popular and useful shuttle service in and out of New York's LaGuardia Airport, Washington's National Airport, and Boston's Logan Airport.

Mr. President, because of the vital importance of these developments as the search continues for real solutions to the airways and airport glut, I ask unanimous consent to have printed in the RECORD both the Charles Yarborough report in the Washington Star and the Paul Valentine article in the Washington Post.

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

[From the Washington (D.C.) Evening Star Sept. 18, 1968]

SHORT TAKEOFF, LANDING TEST PLANE OFFERS FLIGHT-DELAY RELIEF

(By Charles Yarbrough)

An airplane that is up, off, turned and gone while a big jet is taxiing out to wait in line flew its own "road map" out of National Airport today.

It was a demonstration of what may be a big factor in solving today's problems of airport congestion and delay.

The aircraft was a four-engine turboprop McDonnell Douglas 188, known in Europe as the French-built Breguet, probably the world's most advanced STOL—short take-off and landing.

Eastern Airlines, McDonnell Douglas and the Federal Aviation Administration are running evaluation tests with the airplane, simulating air shuttle scheduling.

With its unique navigation avionics package, it is currently one of a kind. In a demonstration flight today, it required only 600 feet to take off; about 400 to land.

As though by design, the 188 made its final steep downhill approach to National's STOL runway at the same time an Eastern DC-9 was coming in on another runway.

What Eastern envisions as the ideal STOL in air shuttle routes is a 400-mile-an-hour aircraft accommodating at least 100 passengers.

With further advanced electronic navigation systems, STOL planes of what could be a very-near future could virtually "go it alone" with little dependence on air traffic control. Separated from other planes, it can expand the usable airspace and permit more efficient operations at major airports with time savings for the passenger.

The Model 188 in current evaluation is a flying test bed for an imposing array of equipment, most of it still uncanny in its performance.

One is the Decca Omnitrac system which permits the pilot to select in advance a number of check points over a selected route. The points positions are stored automatically in a computer, which automatically guides the flight director instrument.

Oversimplified, it's a moving map. Eastern has built up operational experience with the system in over 1,200 DC-9 shuttle flights in the last 15 months.

Another device on today's airplane—and one now in use by at least 24 airlines—is one which anticipates speed changes before they register on the airspeed indicator, assuring stability of speeds during all types of approaches.

NO IMMEDIATE SCHEDULE

As with other proposed remedies for airport congestion and delays, the STOL as a scheduled service in such intercity hopping is nothing immediate.

But its potential was outlined more than a year ago by Eastern's top echelon: "With properly-developed STOL airstrips, we can enormously expand capacity at our critical airports." The carrier recognizes that "delays on the ground and delays in landing pose a clear threat to future airline growth."

Actual STOL service, on a smaller scale, becomes a reality in the Washington area next Monday when Washington Airways—created by Butler Aviation and Pan-Maryland—begins regular flying schedules linking Dulles, National and Friendship airports with 64 operations a day.

The fare between any two airports will be $8.50 on the 12-passenger Dornier Skyservants, a German-built STOL under franchise to Butler in this country.

[From the Washington (D.C.) Post, Sept. 19, 1968]

IT'LL TAKE OFF SHORTLY

(By Paul Valentine)

Eastern Airlines yesterday unveiled a tubby, short-takeoff, steep-climbing turboprop craft that may be the prototype of a replacement for Eastern jets on the crowded Washington-New York-Boston shuttle services.

The high-wing plane, built by McDonnell Douglas Corp., will help relieve chronic air congestion, Eastern officials said, because it can land and take off on currently unused airport pavement and fly in different patterns from conventional traffic.

Newsmen went on a half-hour demonstration flight in the short-takeoff-and-landing (STOL) craft yesterday, circling over Washington. Navigation equipment included a moving map that showed the shifting position of the plane over the metropolitan area.

The STOL needs less than 800 feet of runway for takeoff and landing—in contrast to jetliners, which often need more than a mile.

It climbed steeply, banked abruptly and reached a low cruising altitude within seconds. The STOL demonstrator, a converted military craft fitted with 12 observer seats but capable of seating 64 persons, cruises at 250 miles an hour.

When fully developed, it will carry 100 passengers and fly at 400 miles an hour, Eastern officials said. The plane promises to be an economic boon, they said, by providing quicker, more efficient service.

It will be able to fly more direct routes, which are closed to conventional aircraft because of noise-abatement rules, they said, and it will have all-weather capability.

A spokesman said it is "conceivable" that the STOL craft will be operating commercially "by the early 1970s."

Eastern will put the aircraft through a seven-week demonstration program this fall, simulating the Washington-New York-Boston shuttle service and measuring the STOL performance against that of Eastern's DC-9 jets now operating on the shuttle.

MEDAL OF HONOR AWARD TO SGT. LEONARD B. KELLER, ROCKFORD, ILL.

Mr. PERCY. Mr. President, I was honored today together with Representative JOHN ANDERSON, to attend the ceremonies on the lawn of the White House when the President of the United States presented the Medal of Honor to Sgt. Leonard B. Keller, U.S. Army, of Rockford, Ill. The ceremony itself was deeply moving and impressive and was attended by the Secretary of Defense, Hon. Clark Clifford; the Chairman of the Joint Chiefs of Staff, General Wheeler; and by General Westmoreland as well as by many others.

What a proud moment for Sergeant Keller's family, as the honor guard presented the colors and the Medal of Honor citation was read. I take pride in reading the citation at this time, so that it might become a part of the CONGRESSIONAL RECORD for today. On behalf of Senator EVERETT MCKINLEY DIRKSEN, Representative JOHN ANDERSON, and myself, I offer the gratitude of the entire Congress to Sgt. Leonard Keller for the contribution he has made to his country and to the way in which he has distinguished the U.S. Army and brought credit to his State of Illinois and the Rockford community.

The citation reads:

The President of the United States of America, authorized by Act of Congress, March 3, 1863, has awarded in the name of The Congress the Medal of Honor to Sergeant Leonard B. Keller, United States Army, for conspicuous gallantry and intrepidity in action at the risk of his life above and beyond the call of duty:

Sergeant Leonard B. Keller distinguished himself on 2 May 1967 as a machine gunner with Company A, 3d Battalion, 60th Infantry, 9th Infantry Division in the Ap Bac Zone, Republic of Vietnam. Sweeping through an area where an enemy ambush had occurred earlier, Sergeant Keller's unit suddenly came under intense automatic weapons and small arms fire from a number of enemy bunkers and numerous snipers in nearby trees. Sergeant Keller quickly moved to a position where he could fire at a bunker from which automatic weapons fire was received, killing one Viet Cong who attempted to escape. Leaping to the top of a dike, he and a comrade charged the enemy bunkers, dangerously exposing themselves to the enemy fire. Armed with a light machine gun, Sergeant Keller and his comrade began a systematic assault on the enemy bunkers. While Sergeant Keller neutralized the fire from the first bunker with his machine gun, the other soldier threw in a hand grenade killing its occupant. Then he and the other soldier charged a second bunker, killing its occupant. A third bunker contained an automatic rifleman who had pinned down much of the friendly platoon. Again, with utter disregard for the fire directed at them, the two men charged, killing the enemy within. Continuing their attack, Sergeant Keller and his comrade assaulted four more bunkers, killing the enemy within. During their furious assault, Sergeant Keller and his comrade had been almost continuously exposed to intense sniper fire as the enemy desperately sought to stop their attack. The ferocity of their assault had carried the soldiers beyond the line of bunkers into the treeline, forcing the snipers to flee. The two men gave immediate chase, driving the enemy away from the friendly unit. When his ammunition was exhausted, Sergeant Keller returned to the platoon to assist in the evacuation of the wounded. The two-man assault had driven an enemy platoon from a well prepared position, accounted for numerous enemy dead, and prevented further friendly casualties. Sergeant Keller's selfless heroism, indomitable fighting spirit, and extraordinary gallantry saved the lives of many of his comrades and inflicted serious damage on the enemy. His acts were in keeping with the highest traditions of the military service and reflect great credit upon himself and the Unted States Army.

EQUAL PENSION RIGHTS FOR WOMEN

Mr. HARTKE. Mr. President, I invite attention to an amendment which I have offered on behalf of myself and the Senator from Michigan [Mr. HART] to H.R. 2767, which I understand will likely be the pending business tomorrow.

My amendment would delete section 2 of the bill and renumber this and succeeding sections accordingly. Section 2 is an amendment which was presented in the Committee on Finance where there was an inadequate explanation and about which there is now available a better understanding of the implications. It is this better understanding which I wish to share with Senators and alert them to the intended amendment and its meaning.

Mr. President, the amendment, added by the Finance Committee and discussed in the committee report on pages 6 and 7, provides for exceptions to the Civil Rights Act of 1964 and other portions of law dealing with the provision of private pensions for women.

At the present time, under the law the Equal Employment Opportunity Commission has issued regulations in this matter only last Friday. The mandate of the amendment provided in section 2 would nullify those regulations. Its deletion, restoring it to its House-passed status with regard to this matter, will continue the authority of the Commission to accomplish nondiscrimination by sex in relation to retirement plans.

I have checked with the Equal Employment Opportunity Commission, and find that they favor retaining the present status as my deletion amendment would do. I have talked with Esther Peterson, who has been here today explaining the necessity, for the sake of holding to nondiscrimination by sex, of killing section 2. In short, I am still in favor of treating men and women alike under the law, as I am sure is true of many Senators. Therefore, even though section 2 is presented as a beneficial change, I am supporting here a truer action in the interest of equality for women workers.

Mr. President, if we do not consider H.R. 2767 yet today, my amendment will be available tomorrow when I shall discuss it more fully. In the meantime, I ask unanimous consent that an analysis prepared by Mrs. Peterson, who is so well known both by her official position as Assistant Secretary of Labor and by her long-standing concern for the rights of women, be printed in the RECORD.

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

FACTS RESPECTING THE EFFECT OF THE RIDER IN SECTION 2 OF H.R. 2767, PERMITTING A DIFFERENCE IN RETIREMENT AGES FOR MEN AND WOMEN, BOTH OPTIONAL AND COMPULSORY, UNDER EXISTING FEDERAL LAW

1. This rider:

(a) Would overturn the principle of equality between the sexes in employment embodied in Title VII of the Civil Rights Act of 1964;

(b) Could adversely affect the principle of equality in the Equal Employment Opportunity Executive Order No. 11375, October 13, 1967;

(c) Is contrary to the principle of the same retirement ages for men and women in effect under the Civil Service Retirement Act.

2. To ease the adjustment in retirement plans relating to optional lower retirement ages and to protect the rights of women nearing retirement age, the EEOC could:

(a) Authorize a definite period of transition such as one year within which plans containing options for women's earlier retirement could be adjusted;

(b) Specifically provide for the preservation of retirement options for women in existing plans, within certain periods of retirement age, such as ten years.

3. The far-flung effects of the rider in amending Title VII of the Civil Rights Act have not been considered by the Judiciary Committee which framed that Act.

4. The probable effects of the rider in permitting the setting of "reasonable retirement ages" on the basis of employment *practices*, as well as retirement plans, notwithstanding the Age Discrimination in Employment Act of 1967 have not been considered by the Congressional Labor Committees which framed that Act.

5. An earlier optional retirement age for a woman is not necessarily a boon or really optional. This arrangement may in fact be the means for mounting subtle pressure for what amounts to compulsory retirement or may be used as a justification not to promote or advance in salary.

6. Women are serious in wanting equality, not pseudo-favoritism, in the conditions of employment as reflected in retirement plans as well as in wage rates.

7. Mrs. Griffith's statement in the Congressional Record states that 95% of all employee retirement plans do *not* discriminate on the basis of sex.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5910) to declare that the United States holds certain lands in trust for the Pawnee Indian Tribe of Oklahoma.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15263) to amend further the Foreign Assistance Act of 1961, as amended, and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bills and they were signed by the President pro tempore:

H.R. 17609. An act to authorize the Secretary of the Interior to convey to the city of Kenai, Alaska, interests of the United States in certain land; and

H.R. 18785. An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1969, and for other purposes.

DUTIABLE STATUS OF ALUMINUM HYDROXIDE AND OXIDE, CALCINED BAUXITE, AND BAUXITE ORE

Mr. LONG of Louisiana. Mr. President, I move that the Senate proceed to the consideration of the unfinished business.

The PRESIDING OFFICER. The bill will be stated by title.

The BILL CLERK. A bill (H.R. 7735) relating to the dutiable status of aluminum hydroxide and oxide, calcined bauxite, and bauxite ore.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana.

The motion was agreed to; and the Senate proceeded to consider the bill which had been reported from the Committee on Finance, with an amendment, to strike out all after the enacting clause and insert:

That (a) items 907.15 (relating to aluminum oxide (alumina) when imported for use in producing aluminum), 909.30 (relating to bauxite, calcined), and 911.05 (relating to bauxite ore) of the Tariff Schedules of the United States (19 U.S.C. 1201) are each amended by striking out "7/15/68" and inserting in lieu thereof "7/15/70".

(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after July 15, 1968.

SEC. 2. (a) In the case of a taxpayer—

(1) whose business properties in Europe, when released from enemy confiscation at the end of World War II, were again immediately lost by the taxpayer without compensation and placed under Communist control by reason of treaties and agreements made between the United States and the Soviet Union,

(2) to whom a non-interest-bearing award was made pursuant to section 202(a) of the War Claims Act of 1948, as amended, and

(3) who was certified by the Small Business Administration under section 213(a)(1) of such Act as a small business concern,

there shall be allowed, as a credit against the tax imposed by chapter 1 of the Internal Revenue Code of 1954, an amount determined in the manner provided by subsection (c). Such credit shall be allowed ratably over a period of ten taxable years beginning with the taxpayer's first taxable year ending on or after the date of the enactment of this Act, except that if the taxpayer dies during such ten-year period, the amount of his unused credit (as defined in subsection (d)(2)) shall be allowed for the taxable year in which he dies. The credit provided by this subsection shall be treated as a credit allowed by part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954, and shall not exceed, for any taxable year, the tax imposed by chapter 1 of such Code, reduced by the sum of the credits allowable under sections 33, 35, 37, and 38 of such Code.

(b) For purposes of the tax imposed by chapter 1 of the Internal Revenue Code of 1954, the taxable income of a taxpayer to whom a credit is allowed under subsection (a) for a taxable year (determined before the application of this subsection) shall be increased by an amount equal to the credit allowed for such year. The amount of any credit or deduction allowable under such chapter shall not be increased or decreased by reason of the application of this subsection.

(c)(1) For purposes of subsection (a), the amount of the credit shall be an amount equal to (A) six percent of the taxpayer's award under section 202(a) of the War Claims Act of 1948, as amended (less any reduction of the taxpayer's tax under chapter 1 of the Internal Revenue Code of 1954 or corresponding provisions of prior income tax laws resulting from the prior deduction of the loss for which the award was rendered, unless such reduction was made on the face of the award), multiplied by (B) the number of years in the period from September 2, 1945, the date hostilities ended in World War II, to the date on which such award was rendered in favor of the taxpayer.

(2) The amount of the credit determined under paragraph (1) of this subsection shall be reduced by an amount equal to any payment the taxpayer receives under subsection (d), and such reduction in the credit shall be ratably spread over the taxable years of the taxpayer remaining in the ten-year period specified in subsection (a) beginning with the taxable year in which the payment is made to the taxpayer.

(d)(1) The Secretary of the Treasury is authorized and directed to pay to each person described in subsection (a), out of any moneys in the War Claims Fund on the date of the enactment of this Act, an amount equal to the credit to which such person is entitled under subsection (a). If the moneys in the War Claims Fund on the date of the enactment of this Act are insufficient to enable the Secretary to pay the full amounts to which all persons are entitled under the preceding sentence, the Secretary shall pay (in lieu of such amounts) to each such person an amount which bears the same ratio to the amount in the Fund on such date as the amount of such person's credit bears to the total amount of credits of all such persons.

(2) The Secretary of the Treasury is authorized and directed to pay to each person described in subsection (a), out of any moneys in the War Claims Fund which are covered into the Fund after the date of the enactment of this Act, an amount equal to the unused credit to which such person is entitled under subsection (a). If the moneys so covered into the Fund at any time are insufficient to enable the Secretary to pay the full amounts to which all persons are entitled under the preceding sentence, the Secretary shall pay (in lieu of such amounts) to each such person an amount which bears the same ratio to the amount so covered into the Fund as the amount of such person's unused credit bears to the total amount of unused credits of all such persons. For purposes of this section, the unused credit of any person, as of any time, is the amount of the credit to which such person is entitled under subsection (a) reduced by the sum of (A) the credits allowable to such person for prior taxable years (determined without regard to the limitation contained in the last sentence of subsection (a)) and (B) the payments made to such person under this subsection.

(3) Notwithstanding any other provision of law, payments from the War Claims Fund under paragraphs (1) and (2) shall have priority over all other payments from the Fund.

(4) Payments made under paragraphs (1) and (2) shall be subject to the tax imposed by chapter 1 of the Internal Revenue Code of 1954.

(e) At such time as no taxpayer described in subsection (a) has an unused credit to which he is entitled under such subsection, the Secretary of the Treasury shall transfer moneys from the War Claims Fund to the general fund of the Treasury, out of any moneys in such Fund at such time or thereafter covered into the Fund, until he has transferred an amount equal to the total credits allowed to taxpayers under subsection (a).

(f) Terms used in subsections (a), (b), and (c) shall have the meanings assigned to them under the Internal Revenue Code of 1954.

(g) The Secretary of the Treasury or his delegate shall prescribe such regulations as he determines necessary to carry out the purposes of this section.

SEC. 3. (a) Section 5134(b) of the Internal Revenue Code of 1954 (relating to claims for drawback of distilled spirits taxes on account of certain nonbeverage uses) is amended by striking out in the last sentence thereof "3 months" and inserting in lieu thereof "6 months".

(b) The amendment made by subsection (a) shall apply with respect to claims filed on or after January 10, 1967.

SEC. 4. (a) Items 911.10 (relating to copper waste and scrap), 911.11 (relating to articles of copper), 911.13 (relating to copper bearing ores and materials), 911.14 (relating to cement copper and copper precipitates), 911.15 (relating to black copper, blister copper, and anode copper), and 911.16 (relating to other unwrought copper) of the Tariff Schedules of the United States (19 U.S.C. 1202) are each amended by striking out "6/30/68" and inserting in lieu thereof "6/30/70".

(b) The following provisions of the Tariff Schedules of the United States are each amended by striking out "24 cents" each place it appears therein and inserting in lieu thereof "36 cents":

(1) headnote 5 of schedule 6, part 2, subpart C;

(2) item 602.28;

(3) item 603.49; and

(4) item 603.54.

(c) The amendments made by this section shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after June 30, 1968.

SEC. 5. (a) Schedule 8, part 4, of the Tariff Schedules of the United States (relating to importations of religious, educational, scientific, and other institutions) is amended by inserting after item 854.10 the following new item:

"854.20	Cellulosic plastics materials imported for use in artificial kidney machines or apparatus.	Free	Free	"

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

Mr. LONG of Louisiana. Mr. President, section 1 of this bill, as reported by the Committee on Finance, extends for 2 years until July 15, 1970, the period during which the duty on alumina, calcined bauxite, and bauxite ore is suspended. The House bill would have provided permanent duty-free entry for these products, but a committee amendment continues the past practice of suspending the duty on a temporary basis for a 2-year period. This will enable the committee to review the developing tech-

nology in this industry, and new domestic sources of raw materials which may be developed in the future.

The committee also added four other amendments to the House bill.

The first of these additional amendments provides a limited income tax credit, reduced by payments from the war claims fund, to American taxpayers whose small businesses in Europe originally taken by Germany during World War II were not returned to them at the end of the war but rather by agreement between the United States and the Soviet Union were immediately turned over to Communist control.

Under the War Claims Act of 1948, as amended in 1962, awards were made to American claimants for the loss of their properties located in certain countries in Europe. A priority in payment of these property loss claims was made for those who were certified by the Small Business Administration as small business concerns.

Yet, the War Claims Act awards made by the Foreign Claims Settlement Commission were based only on the value of the properties at the time they were initially taken by the Germans. The awards failed to reflect the continued loss of the use of the property from the end of the war until the dates when the awards were made. Such continued loss of the use of the property had been compensated for by the Foreign Claims Settlement Commission in its administration of other claims programs by including interest in the amount of the awards. The Commission chose not to do that under the War Claims Act. As a result, some claimants whose properties did not fall to Soviet control at the end of hostilities regained the use of their properties while other claimants whose properties were in East Germany or other parts of Eastern Europe that fell to Soviet domination after the war did not regain the use of their properties and received no compensation for this continued loss of the properties.

The committee amendment provides some relief to these claimants. It directs that any money in the war claims fund now or coming into the fund in the next 10 years be used first to pay these claimants what is, in effect, interest on the amount of their original awards, from the end of the war to the dates on which the awards were rendered.

However, since there is at present insufficient money in the war claims fund—only about $378,000—to pay the claimants the full amount to which they are to be entitled, and since there may not be enough money coming into the fund to make full payment in the future, a tax credit is allowed to the claimants to the extent that they do not receive payments from the fund.

This credit is spread in equal installments over a 10-year period so that the immediate revenue impact on the Treasury is minimized. Another provision in the committee amendment lessening the revenue impact requires the taxpayers receiving the credit to include in their taxable income in each of the 10 years they take the credit an amount equal to that part of the credit taken that year. In other words, if the total credit to which a taxpayer is entitled is $100,000, he will take a $10,000 credit for each of 10 years and at the same time he will have to include $10,000 in income for each of the 10 years. The inclusion in income of an amount equal to the credit makes the benefit derived from the credit depend on the rate at which the taxpayer pays tax. The higher the tax bracket, the less benefit to be derived from the credit.

There is no carryover of this credit so that 10 years after the date of enactment, the credit will expire, regardless of whether the taxpayers are able to avail themselves of it. And in no event can the combination of the credits and any payments made from the war claims fund under the amendment exceed the total credit allowable to these taxpayers.

If enough money is covered into the war claims fund to make full payment of this so-called unpaid interest to each of the taxpayers eligible to receive payment under this amendment, any money still remaining in the war claims fund must be paid into the general fund of the Treasury up to the amount of the credits allowed to the taxpayers. In this way, it is conceivable that the Treasury will regain all of the revenue lost through the use of the credit and the Treasury might actually gain revenue because any payments from the war claims fund to these taxpayers will be taxable. The war claims fund moneys are not appropriated. They are derived from the liquidated proceeds of alien property vested in the Attorney General of the United States or transferred to him under the Trading With the Enemy Act.

Mr. President, let me summarize why this amendment is needed.

It is needed to fully compensate 13 small business claimants for property lost during World War II which was ceded after the war to Communist control in accordance with the Yalta and Potsdam conferences.

It is needed to carry out the objective of Public Law 87-846—1962—which provided for total compensation of these losses and gave the small business concerns involved a priority for payment of their claims out of the war claims fund.

It is needed to restore these small business elements to the position in which they would have been if their property had been returned to them after the war as was true with respect to most other claimants.

It is needed to restore these small business claimants to the position in which they would have been if the Foreign Claims Settlement Commission had fully compensated them for their losses as Congress intended by the 1962 statute.

And, it is needed to substantially reflect the intent of the Senate as expressed in a 1966 amendment to H.R. 13935—89th Congress—that these small business concerns be paid interest as a measure of the just compensation they were denied by the Foreign Claims Settlement Commission.

Now, Mr. President, I would like to summarize what the amendment does.

It provides a limited tax credit—spread over a 10-year period—for these 13 small business claimants equal to the amount of compensation not paid to them when the Foreign Claims Settlement Commission made their award under the 1962 statute. The amount of the credit is calculated at 6 percent of the amount of the award from the end of the war—September 2, 1945, until the date the award was paid—1965, 1966, or 1967.

It reduces the tax benefit by requiring that an amount equal to the annual credit must be included in gross income for the year the credit is allowed.

It provides for reduction of the credit for any amounts subsequently paid to these small business claimants from the war claims fund.

It reimburses the Treasury Department by allowing it to recover the amount of the tax credit actually used from funds subsequently covered into the war claims fund upon the liquidation of alien property.

Finally, Mr. President, let me show the tax policy precedents for this amendment. The Internal Revenue Code provides numerous relief features to soften the harsh impact that income or property losses have on taxpayers. When confronted with particular situations in which the general loss provisions fail to provide adequate relief, Congress has patterned the law to suit the circumstances of the situation. The following paragraphs describe certain of these provisions specially designed because of the inadequacies of the general rules:

First. Cuban expropriation losses: Taxpayers are allowed a deduction over a 10-year period for business or nonbusiness losses arising out of the taking of their property by the Castro revolutionists. I sponsored this amendment.

Second. Disaster losses: Taxpayers who suffer a loss from a major disaster after his tax year closes but before his tax return is filed may offset the loss against income from the preceding year and thus realize the tax benefit a year early. This provision was sponsored by the distinguished senior Republican member of the Committee on Finance, the Senator from Delaware [Mr. WILLIAMS].

Third. Regulated transportation corporation: Special extensions of the regular carryover period have been provided for certain transportation companies who are unable to utilize their losses in the general period.

Fourth. Auto manufacturers: The regular 3-year carryback and 5-year carryforward provisions were reversed so that the benefit of certain losses could be immediately realized. Senators NELSON and PROXMIRE sponsored this provision.

Fifth. Imports: Corporations, injured by import competition, may carry their losses back 5 years rather than 3, so that the tax benefit can be immediately realized. This provision was the subject of a Presidential recommendation by the late President John F. Kennedy.

Mr. President, I have referred to five specially designed provisions.

It is to the everlasting credit of the distinguished Senator from Delaware, who while providing help for the citizens of Delaware who were injured by hurricanes, put something into the law which helped the people of Louisiana. When Hurricane Betsy hit, anybody who owed a tax liability to the Government was helped immensely. We appreciate

that. I do not think he had Louisiana in mind when he offered the amendment, but rather the people of Delaware. However, we appreciate his consideration.

TIME FOR FILING DRAWBACK CLAIMS FOR THE DISTILLED SPIRITS TAX

The next committee amendment extends from 3 to 6 months the period in which a refund claim may be filed for the tax paid on distilled spirits when those spirits are unfit for beverage purposes.

When distilled spirits are used in the production of certain nonbeverage products such as medicine, food flavoring, and extracts, the excise tax previously paid on such distilled spirits can be recovered by the taxpayer. The claim for this drawback of taxes, however, must be filed not later than 3 months after the calendar quarter during which the spirits were used. If the claim for the drawback is not made within the 3-month period, the Treasury Department has no choice under the law but to keep the taxes. This 3-month period is shorter than the period in which claims for other tax refunds can be filed. The minimum period for filing a claim for a refund other than in this one instance is 6 months. In some cases, claims for refunds of taxes may be filed within 3 years after the taxes are paid.

Therefore, the committee decided to lengthen from 3 to 6 months the period for filing a claim for a drawback of the distilled spirits tax.

COPPER

The third amendment continues the temporary duty suspension on copper for another 2 years, and increases the peril price in the Tariff Schedules from 24 cents per pound to 36 cents per pound. As provided by the committee, if the domestic price of copper falls below 36 cents, a duty on most forms of raw copper and copper ores of 1.8 cents per pound will be applied. However, if the domestic price remains above 36 cents, copper imported from non-Communist sources can come in duty free.

Copper continues to be in short supply. This is partly due to the after effects of the 8½-month strike and to increased defense and industrial demands. However, the shortage is not confined to this country. The world price of copper has remained above the U.S. price since February 1964. At one point, in April of 1966, the world price, as measured on the London Metal Exchange, was nearly $1 per pound, or over 60 cents a pound higher than the U.S. price. More recently it has fluctuated between 47 and 55 cents per pound—5 to 13 cents higher than the present U.S. price of 42 cents per pound.

At the time the Congress last suspended the copper duties in February of 1966, the domestic price was 36 cents a pound. The shortage of copper brought about by the strike and the growing civilian and defense requirements has caused the price to increase to 42 cents per pound. The administration believes that without the continued duty suspension, the price would increase further, at least by the amount of the duties. An executive communication of April 11 from the Secretary of Commerce to the Senate stated:

Although the permanent duty on copper is low (it is now 1.5 cents per pound and will ultimately be reduced to 0.8 cent per pound on January 1, 1972, because of staged reductions agreed on in the Kennedy round), the continued suspension of duty will provide savings to domestic copper mills. We know of no adverse effect from the present suspension on the overall interests of domestic copper producers, and none is anticipated if the suspension period is extended to June 30, 1970.

In order to protect the domestic miners from the price-depressing effects of large imports, the committee agreed to increase the "peril price" in the Tariff Schedules from 24 to 36 cents per pound. Not since October 2, 1950, has the price of copper been as low as 24 cents. The new "peril point" price of 36 cents, however, reflects copper prices which applied as late as December 1966, and if the supply situation should ease—and hopefully it will—the price could well drop below 36 cents. If it does, a duty ranging from 1.8 cents per pound in 1968 to 1 cent a pound in 1972 will be applied. This duty will help protect domestic miners from growing imports.

FILTERS FOR ARTIFICIAL KIDNEY MACHINES

The last committee amendment provides for duty-free treatment for certain cellulosic materials imported for use in artificial kidney machines. This material is used as filters to remove the poisonous matters from the human body that are normally removed by healthy kidneys. For the duty-free treatment to apply, the filters must be imported by a nonprofit organization—such as a hospital—established for educational, scientific, or therapeutic purposes.

At the present time the only producer of such filters is in West Germany, and therefore no U.S. industry will be adversely affected by a removal of the present 20-percent ad valorem duties.

There is no objection to this amendment from executive branch agencies.

Mr. President, to be sure that there will be a maximum number of Senators to hear the speeches for and against the bill, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. WILLIAMS of Delaware. Mr. President, since we are dealing with committee amendments, do I understand correctly that the chairman does not want to agree to the committee amendments en bloc and make it a clean bill?

Mr. LONG of Louisiana. It would seem to me that it would be just as well to vote on the committee amendments.

Mr. WILLIAMS of Delaware. That is agreeable with me. That would mean that section 1 would be the first committee amendment to be considered; is that not correct?

The PRESIDING OFFICER. The Chair would inform the Senator that the pending business, H.R. 7735, is in the nature of a substitute, and that floor amendments would be in order at this time.

Mr. WILLIAMS of Delaware. They would be in order at this time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. WILLIAMS of Delaware. Mr. President, do I understand correctly that amendments to sections 3, 2, and 1 of the bill will be in order at this time?

The PRESIDING OFFICER. That is correct.

Mr. WILLIAMS of Delaware. Does the Senator from Montana [Mr. METCALF] wish to proceed with his amendment to section 3 first?

Mr. METCALF. I will defer to the chairman of the committee as to how he wants the amendments brought up. I have an amendment, as the Senator knows, to strike out the provision for the copper suspension.

Mr. WILLIAMS of Delaware. I have an amendment to strike out section 2 but I am perfectly willing to defer to the Senator from Montana.

Mr. METCALF. If the Senator wishes to bring up section 2 first, that is perfectly all right with me.

Mr. WILLIAMS of Delaware. I thank the Senator.

Mr. President, I send to the desk an amendment and ask that it be stated.

The bill clerk read as follows:

Beginning on page 3, strike all the language on line 6 through line 16 on page 7, as follows:

"SEC. 2. (a) In the case of a taxpayer—

"(1) whose business properties in Europe, when released from enemy confiscation at the end of World War II, were again immediately lost by the taxpayer without compensation and placed under Communist control by reason of treaties and agreements made between the United States and the Soviet Union,

"(2) to whom a non-interest-bearing award was made pursuant to section 202(a) of the War Claims Act of 1948, as amended, and

"(3) who was certified by the Small Business Administration under section 213(a)(1) of such Act as a small business concern,

there shall be allowed, as a credit against the tax imposed by chapter 1 of the Internal Revenue Code of 1954, an amount determined in the manner provided by subsection (c). Such credit shall be allowed ratably over a period of ten taxable years beginning with the taxpayer's first taxable year ending on or after the date of the enactment of this Act, except that if the taxpayer dies during such ten-year period, the amount of his unused credit (as defined in subsection (d)(2)) shall be allowed for the taxable year in which he dies. The credit provided by this subsection shall be treated as a credit allowed by part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954, and shall not exceed, for any taxable year, the tax imposed by chapter 1 of such Code, reduced by the sum of the credits allowable under sections 33, 35, 37, and 38 of such code.

"(b) For purposes of the tax imposed by chapter 1 of the Internal Revenue Code of 1945, the taxable income of a taxpayer to

whom a credit is allowed under subsection (a) for a taxable year (determined before the application of this subsection) shall be increased by an amount equal to the credit allowed for such year. The amount of any credit or deduction allowable under such chapter shall not be increased or decreased by reason of the application of this subsection.

"(c)(1) For purposes of subsection (a), the amount of the credit shall be an amount equal to (A) six percent of the taxpayer's award under section 202(a) of the War Claims Act of 1948, as amended (less any reduction of the taxpayer's tax under chapter 1 of the Internal Revenue Code of 1954 or corresponding provisions of prior income tax laws resulting from the prior deduction of the loss for which the award was rendered, unless such reduction was made on the face of the award), multiplied by (B) the number of years in the period from September 2, 1945, the date hostilities ended in World War II, to the date on which such award was rendered in favor of the taxpayer.

"(2) The amount of the credit determined under paragraph (1) of this subsection shall be reduced by an amount equal to any payment the taxpayer receives under subsection (d), and such reduction in the credit shall be ratably spread over the taxable years of the taxpayer remaining in the ten-year period specified in subsection (a) beginning with the taxable year in which the payment is made to the taxpayer.

"(d)(1) The Secretary of the Treasury is authorized and directed to pay to each person described in subsection (a), out of any moneys in the War Claims Fund on the date of the enactment of this Act, an amount equal to the credit to which such person is entitled under subsection (a). If the moneys in the War Claims Fund on the date of the enactment of this Act are insufficient to enable the Secretary to pay the full amounts to which all persons are entitled under the preceding sentence, the Secretary shall pay (in lieu of such amounts) to each such person an amount which bears the same ratio to the amount in the Fund on such date as the amount of such person's credit bears to the total amount of credits of all such persons.

"(2) The Secretary of the Treasury is authorized and directed to pay to each person described in subsection (a), out of any moneys in the War Claims Fund which are covered into the Fund after the date of the enactment of this Act, an amount equal to the unused credit to which such person is entitled under subsection (a). If the moneys so covered into the Fund at any time are insufficient to enable the Secretary to pay the full amounts to which all persons are entitled under the preceding sentence, the Secretary shall pay (in lieu of such amounts) to each such person an amount which bears the same ratio to the amount so covered into the Fund as the amount of such person's unused credit bears to the total amount of unused credits of all such persons. For purposes of this section, the unused credit of any person, as of any time, is the amount of the credit to which such person is entitled under subsection (a) reduced by the sum of (A) the credits allowable to such person for prior taxable years (determined without regard to the limitation contained in the last sentence of subsection (a)) and (B) the payments made to such person under this subsection.

"(3) Notwithstanding any other provision of law, payments from the War Claims Fund under paragraphs (1) and (2) shall have priority over all other payments from the Fund.

"(4) Payments made under paragraphs (1) and (2) shall be subject to the tax imposed by chapter 1 of the Internal Revenue Code of 1954.

"(e) At such time as no taxpayer described in subsection (a) has an unused credit to which he is entitled under such subsection, the Secretary of the Treasury shall transfer moneys from the War Claims Fund to the general fund of the Treasury, out of any moneys in such Fund at such time or thereafter covered into the Fund, until he has transferred an amount equal to the total credits allowed to taxpayers under subsection (a).

"(f) Terms used in subsections (a), (b), and (c) shall have the meanings assigned to them under the Internal Revenue Code of 1954.

"(g) The Secretary of the Treasury or his delegate shall prescribe such regulations as he determines necessary to carry out the purposes of this section."

Mr. WILLIAMS of Delaware. Mr. President, the purpose of the amendment is to strike from the bill section 2, which deals with the so-called war claims for 13 different taxpayers.

In arguing in favor of the amendment, the Senator from Louisiana suggested that there have been a series of precedents. He cited in particular as a precedent an amendment which I sponsored, dealing with hurricanes or disaster losses. I most respectfuly suggest to the chairman that there is no connection, no relationship, nor any comparison whatsoever between the two proposals.

The reason is, the amendment which I sponsored, and which dealt with disaster losses—and which, I might say, was not dealing with a particular, isolated case—is a part of the permanent law dealing with national disasters in any area of this country.

Recently, President Johnson, included as one of the great achievements of his administration the provisions dealing with disaster-stricken areas. I would not for a moment take any of the glory away from him, but the law was passed while his predecessor, President John F. Kennedy, was in office; nevertheless, it was supported unanimously. But so we can establish the difference between that provision and the proposed committee amendment, let us point out what we did then.

Mr. President, what that amendment did was to provide that if a national disaster—it referred only to disaster losses—which occurred during the first 3½ months of a calendar year in the case of individuals, or 2½ months in the case of corporations, whereby the amount of the loss would be known, the taxpayer could then use that loss in computing his income taxes for the preceding year, as if the disaster had happened on December 31. This treatment was available to every individual taxpayer in America.

Now, it did not give any taxpayer one single dime in tax credits; rather, it only allowed a taxpayer to take a deduction against income—not a credit against tax—1 year in advance. It was done that way because there were many people who had had a prosperous year prior to the disaster and who would owe income taxes on April 15, but who had had their businesses or homes completely washed out or destroyed, and were bankrupt. Yet they still would have a tax obligation on a profit which was earned the year before.

Without that amendment, they could not have deducted their losses until the succeeding year and then would have received a refund of their taxes, anyway. The amendment merely moved the process up by a year.

So not a taxpayer in America received one dime he would not have received without the amendment. The only thing was that he received the benefit a little sooner.

Now, what happens under this bill? Under this bill there is a direct payment or tax credit—there is no recovery—of $1,546,787.65 to 13 different so-called taxpayers. This is a tax credit which will never be recovered again by the U.S. Government. It is a payment, not one dime of which could be gotten without the enactment of the bill. The way it is done under the committee amendment is that, instead of paying these people x amount, they are allowed to deduct this amount from their tax liability this year, next year, and so on for 10 years. They get this amount as a tax credit until they have received the whole amount.

Even if these people are entitled to help, an amendment to the Internal Revenue Code is not the manner in which to do it.

The first item involves a payment to Aris Gloves, Inc., of $462,528.53. The second, a tax credit of $42,250. The third, a payment of $14,450. The fourth, a payment of $76,770, and so on down the line. I shall place them all in the RECORD.

No evidence was presented to our committee as to whether we owe these people this money or not. But if so, it should be paid by the War Claims Commission. That is what the Commission was set up for. If there is not enough money in the War Claims Fund, let us use the orderly processes of appropriation, to provide the funds. But we should not use the Internal Revenue Code to provide funds to these 13 people.

The Finance Committee, without any hearings, and without any knowledge as to the validity of the claims of these people, says these people are entitled to these claims, and that we should give them this tax credit totaling over $1½ million. To my knowledge, there has never been any such precedent. This would be a bad precedent. This measure is not endorsed by the Treasury Department, although their letter opposing it sounds more like "no—maybe." When I talked to the Treasury officials, they said they were opposed to it. There is no administration endorsement here. Heretofore the Department has taken such a strong position against tax credits, even amendments—sponsored by my friend from Florida and other Senators—which would give tax credits to parents sending children to college, that would have much more merit than this special privilege amendment. The administration has always taken a position against that type of tax credit.

In this particular case I see no reason why, in the closing days of the session of Congress, we should pass a bill which pays $1.5 million to 13 taxpayers, when, as far as I know—perhaps other members of the committee know more about it than I do—and as far as any evidence presented to our committee is concerned, there is no basis upon which we can determine the validity of these claims. This is not the time or the place to provide for this type of relief.

I hope the amendment deleting this section will be adopted before we turn

this bill into another Christmas tree affair.

I shall ask for the yeas and nays before we pass the bill.

Mr. LONG of Louisiana. Mr. President, the Senator from Delaware has made a very fine argument, and I shall state the case for the amendment.

UNANIMOUS-CONSENT AGREEMENT

Mr. President, I ask unanimous consent that further debate on the pending amendment be limited to 40 minutes, to be equally divided between the manager of the bill and the Senator from Delaware [Mr. WILLIAMS], 20 minutes to each side.

Mr. WILLIAMS of Delaware. Mr. President, I would have no objection to that request if it could be understood that we would have enough Senators present to get the yeas and nays ordered.

Mr. LONG of Louisiana. Mr. President, I make that request with the understanding that any time for quorum calls will not be charged to either side.

The PRESIDING OFFICER. Is there objection to the request? The Chair hears none, and it is so ordered.

Mr. WILLIAMS of Delaware. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LONG of Louisiana. Mr. President, protecting the rights of the Senator from Delaware, I shall——

The PRESIDING OFFICER. A quorum call is in progress.

Mr. LONG of Louisiana. I ask unanimous consent that the order for the quorum call be temporarily suspended.

Mr. FANNIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The call of the roll will continue.

The rollcall was resumed.

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

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Who yields time?

Mr. LONG of Louisiana. I yield 5 minutes.

Mr. President, what we have here is a bill that involves tariffs that would be worth literally hundreds of millions of dollars to the Aluminum Co. of America, Reynolds Aluminum, Kaiser Aluminum, Anaconda Copper Co., and nobody is really excited about what we are doing to these major corporations; but here comes some little fellow, who had his property seized by the Communists, never to be returned. Thank the merciful Lord he managed to escape from behind the Iron Curtain. He was an American citizen all the time, and we are proud to have him back here. And so here is a little something that for 13 American companies would be worth about $800,000—nobody has ever even bothered to calculate how much this bill is worth to Aluminum Co. of America. But when some little fellow had everything he owned in life captured by the Communists, never to be returned, sold out at Yalta, and that little fellow gets a break, then, oh, my goodness, this is terrible, this must never happen; so we try to get around it by passing a bill unanimously, which we did, through the Senate.

I doubt whether my good friend has any idea how much money this bill will cost the Government for the benefit of the Aluminum Co. of America, Alcoa—how much will this cost the Government for their benefit, might I ask my good friend?

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. Yes.

Mr. WILLIAMS of Delaware. I have not the slightest idea who benefits from the amendments in the committee bill and I doubt whether the Senator from Louisiana does, unless someone has been calling at his office and telling him something that was not told to the committee.

Furthermore, I think the RECORD ought to show that these 13 people we are discussing have already been paid 100 percent of their war claims. What this bill provides is in addition to what the War Claims Commission awarded them. This is a $1½ million bonus.

Mr. LONG of Louisiana. This is exactly the same proposition as if somebody stole your bond and, 20 years later, you got your bond back, but not the interest that accrued in the 20-year period. The interest might exceed the value of the bond, and you are entitled to get it back as well as the bond.

The Senator says he does not know the effects the bill on these big companies will be. Let me tell the Senator what effects the bill will have. The amendment waiving the tariff on imported aluminum could involve as much as $50,000 per shipload.

Mr. WILLIAMS of Delaware. Will the Senator yield further?

Mr. LONG of Louisiana. I yield.

Mr. WILLIAMS of Delaware. I am glad the Senator brought up that point. There will be another bill before the Senate later today dealing with the overexpanded ship subsidies. When that comes before us for consideration, I trust the Senator from Louisiana will join me in an effort to curtail that subsidy operation, too.

Mr. LONG of Louisiana. Well, Mr. President, my good friend, bless him, does not like the shipbuilders, and inasmuch as none of those people are in the State of Delaware, I think he is very wise. He would put them out of business any time for the benefit of the chicken industry; but if I do say it, he is a very avid fighter in behalf of the chicken industry, I applaud his efforts in behalf of the chicken industry of Delaware. We have some shipbuilders in Louisiana, and I like to protect their interests, if I can.

It is worth many millions of dollars to these big companies to pass this bill. That does not bother the Senator. If I do say it, he is the greatest man to swallow a camel and strangle on a gnat that I have met in some time.

So now we come to some little fellow who gets his property taken away, his business seized, some little fellow who managed to escape from behind the Iron Curtain, and the Senator from Florida [Mr. SMATHERS] offers an amendment to say that before we pay off the insurance companies, we pay off this little fellow who had his property seized and never got it back.

The Senator from Florida offered an amendment to say we will take care of these small war claims and small business people before we take care of the big ones.

Mr. President, I believe I can look on this matter in a somewhat judicious way. I suppose the biggest corporation in Louisiana, and one of my good friends, is Standard Oil of New Jersey. I want the Senator from Delaware to hear this.

These little people were denying the interest that they had a right to claim and here is the greatest corporation in my State—bless them, I love them with all my heart, they are good friends of mine, they have a plant right there in Baton Rouge, the biggest employer in my hometown—how much are they going to get, not out of this bill, but from war claims or settlements on their ships? $73,400,000. That does not bother the Senator from Delaware. All he is worried about is some little fellow whose property was seized, never to be returned, who was run out of his home, never to be able to go back, and the Senator is worried lest he get the interest——

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. LONG of Louisiana. I yield myself 2 more minutes.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. He would get what he is supposed to get under the amendment, and that really upsets the Senator. The fact that Standard Oil received $73,400,000 and the fact that we spend as much money as we do going over to liberate these people does not bother the Senator at all.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield for just a moment?

Mr. LONG of Louisiana. If the Senator will wait just a second, I will yield to him.

If I do say it, this money was taken away from the little people to give it to Standard Oil of New Jersey.

They are a wonderful company. I love them. Some of their executives are my best friends. However, it is difficult to justify paying them and not the small businesses. Who else is mentioned? Who is the No. 2 on the list? It is the International Telephone & Telegraph Co. It received $28,100,000.

If I really had to say it, as much as I love Harold Geneen—he is one of the best friends I have in business—I would have to say that I would not take that money away from the poor little war orphans to give it to Mr. Harold Geneen. He is a wonderful executive. It is not that hard for him to make money. He is a wonderful, courageous executive. He is one of the best in the world.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SMATHERS. Mr. President, will the Senator yield so that I might ask a question?

Mr. LONG of Louisiana. I yield.

Mr. SMATHERS. Mr. President, is it not a fact that the Senate originally approved in other legislation the claims of

these 13 small businessmen? That legislation was in the Judiciary Committee. It was passed by the Senate.

Mr. LONG of Louisiana. The Senator is correct.

Mr. SMATHERS. It was in conference between the Senate and House Judiciary Committees. Nothing came of it. However, the Senate approved it.

Mr. LONG of Louisiana. They approved it by a unanimous vote.

Mr. SMATHERS. Is it not a fact that the way this got to the Finance Committee was through an effort to try to give to the people some relief and get around the House position? We deemed it advisable to introduce an amendment which would give them a refund, in the form of a tax credit.

Mr. LONG of Louisiana. The Senator is correct.

Mr. SMATHERS. And at that point what happened was that we intended that they would also get the interest. However, that was not actually mentioned in the law. That is what this amendment is trying to do. It is trying to give the interest to these 13 small claimants, each of whom has to be certified by the Small Business Administration as qualifying as a small businessman. It also provides, does it not, that in the event they are repaid from the war claims fund, they then have to turn around and reimburse the Treasury for that amount which they receive?

Mr. LONG of Louisiana. The Senator could not be more correct. Furthermore, the Senator from Florida [Mr. SMATHERS] is a member of the Judiciary Committee and is also a member of the Finance Committee. The same thing is true with respect to the distinguished minority leader, the Senator from Illinois [Mr. DIRKSEN]. He, too, is on the Judiciary Committee and on the Committee on Finance.

The war claims settlement was held up so long that I found some way to bypass the Judiciary Committee and pass a war claims bill. And the Senator from Florida helped to bypass his own committee. So did the Senator from Illinois [Mr. DIRKSEN].

We wanted to provide that, after 17 long years, these people could get some relief instead of being victimized forever. And the Senator from Florida stood on his feet and said: "We ought to take care of these little people."

We found our purpose was frustrated because the War Claims Commission did not allow interest—which they should have allowed.

The Senator from Florida then proceeded to try to help these people. So did the Senator from Illinois. We then passed by a unanimous vote a bill to give the relief we sought to give to begin with. Nothing happened because we could not get approval of the House. These two Senators who serve on the same committee then said, "Why don't we try to give these people a benefit through a tax credit cut?"

They followed the able precedent set by the fine senior Senator from Delaware who provided for his citizens when a hurricane came ashore in Delaware. It probably did more good for Florida and Louisiana than it did for Delaware.

The Senator from Delaware showed us how to do it. If one cannot get the benefit he seeks through the House, then he should try the tax route. That is what we did.

Mr. WILLIAMS of Delaware. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Delaware has 10 minutes remaining. The Senator from Louisiana has 8 minutes remaining.

Mr. WILLIAMS of Delaware. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 5 minutes.

Mr. WILLIAMS of Delaware. Mr. President, it has always been said that figures do not lie; but individuals can do a lot of strange things with figures.

We have heard how much the Standard Oil and aluminum companies got here and there under the various proposals. The truth is Standard Oil and the aluminum companies are not involved in this amendment at all.

As with many of the oil companies, I agree that the Louisiana oil companies do not pay their proportionate part of their taxes.

I supported on several occasions amendments to make them pay their fair share of income taxes. With reference to the excessive large depletion allowance, I am glad that the Senator from Louisiana has seen the light. We need his assistance.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. WILLIAMS of Delaware. I yield on the time of the Senator.

Mr. LONG of Louisiana. Mr. President, I yield myself 10 seconds.

The Standard Oil Co. is one of the biggest taxpayers in Louisiana. I am sorry if they do not pay any money in Delaware, but they do pay very handsomely in Louisiana.

Mr. WILLIAMS of Delaware. Does your State recognize the same depletion allowance that the Federal Government does?

Mr. LONG of Louisiana. The State does recognize the same depletion allowance.

Mr. WILLIAMS of Delaware. I will welcome the Senator as a cosponsor of the amendment to reduce their depletion allowance.

Under the War Claims Act of 1948, there were 5,920 claimants who received $25,595,480. Included in that group were the same 13 mentioned today. And remember they have already been paid 100 percent of their claims. One hundred percent of their claims was paid but not the interest.

Mr. LONG of Louisiana. Mr. President, will the Senator yield further?

Mr. WILLIAMS of Delaware. I will yield later. I have listened to the Senator's arguments and enjoyed it. I hope that the Senator enjoys what I am telling him. I hope that he pays attention to it as well.

Under the War Claims Act of 1948, there were 7,034 claimants who received $309,204,000; 1,119 of these were paid only 61.3 percent of the amount of their claims. The other 5,635 were paid the principal of their claim in full. This measure would give these 13 claimants interest on their previously paid claims as a special bonus.

If they are entitled to it. why is it not done as a separate, special bill?

Mr. LONG of Louisiana. Mr. President, will the Senator yield on my time?

Mr. WILLIAMS of Delaware. I will yield in just a moment.

Mr. LONG of Louisiana. Mr. President, will the Senator yield on my time?

Mr. WILLIAMS of Delaware. I will not yield now.

Why is this not done as a separate bill? The Senator from Louisiana points out it was done as a separate bill and that it passed the Senate unanimously. It may be true that it passed the Senate as one of the calendar bills. So many bills are passed in that manner. And I for one should have known it was passed in that manner. However, I did not. Perhaps, it was one of those bills that looked very innocent and passed where we did not look closely enough at the bill. I will take my share of the responsibility for that. However, at least in conference the House conferees from the House Judiciary Committee rejected the bill.

So now these taxpayers are trying to bypass the Judiciary Committee.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Delaware has 4 minutes remaining.

Mr. WILLIAMS of Delaware. Mr. President, I yield the floor.

Mr. LONG of Louisiana. Mr. President, I yield myself 30 seconds.

The Judiciary Committee did not turn us down. They did not even talk to us at all. So we did not even get a chance to present an argument, even though the Senate had agreed to the bill by a unanimous vote.

The PRESIDING OFFICER (Mr. HATFIELD in the chair). Who yields time?

Mr. WILLIAMS of Delaware. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. You have 16 minutes.

Mr. WILLIAMS of Delaware. I yield myself 5 minutes.

Mr. President, certainly these people could not get their property back once it was destroyed. There is no argument about that. But they got paid for their property. They got paid 100 percent, and this amendment would give them an extra bonus.

I think it is a little early in the year to pass out Christmas presents. We had Christmas tree bills in the past, but I see no justification for acting in this manner with respect to these 13 so-called taxpayers. I do not even know whether they are citizens of this country, where they live, or where their property was. But they are not such little fellows. The interest alone on one's claim is $462,000. If his interest is $462,000, what was his principal? He is not such a little fellow. Let us not shed too many crocodile tears. A great many people in Louisiana could use this $1.5 million, to just as good an advantage as these people can use it. But they have been paid

100 percent of their claims already. Why pay this bonus?

There is no basis and no precedent for allowing these tax credits and paying interest on the claims in this manner. If there is a precedent, no one has advanced it.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a memorandum prepared by the staff of our committee, outlining the various payments that will accrue to the 13 taxpayers.

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

JULY 8, 1968.

MEMORANDUM

To the Honorable JOHN J. WILLIAMS.
From Staff, Senate Finance Committee.

Pursuant to your request, following is a list of the taxpayers who received awards under the War Claims Act of 1948 as amended for small business concerns which were taken by Germany during World War II and then were again immediately lost at the end of the war by reason of treaties made between the United States and the Soviet Union. These are the taxpayers to whom would go the modified tax credit in the amendment proposed. Along with the names of the taxpayers are the amounts of their awards upon which the credit would be based.

Aris Gloves, Inc	$462, 528. 52
Anny Barkowsky	42, 250, 00
Wiktoria Iwric Bibla	14, 450. 00
Max Curran-Wujesch	76, 770. 00
Louise Mary Hardy	264, 490. 00
Erwin John	16, 540. 00
Zigmunt Krakowiak	7, 547. 17
Maisie Lemlich	70, 000. 00
Sam Moskowitz, Mollie Moskowitz	16, 576. 00
Aron Perlman	133, 291. 42
Robert Reiner, Inc	238, 960. 98
Laura Lore Sonntag, Eva Luise Ezri, Marianne Caroline Hafner, Carl Wolfgang Sonntag	144, 000. 00
Eugene J. Schwabach	59, 383. 44
Total	1, 546, 787. 65

To the extent that payments can be made from the War Claims Fund (the money for which is not appropriated) the amount of the credit that can be taken by the taxpayers would be reduced. Presently there is in the Fund $375,000 which could be paid to the taxpayers in lieu of a portion of the credit available under the proposal.

Mr. WILLIAMS of Delaware. I also ask unanimous consent to have printed in the RECORD a letter from the Treasury Department stating that it is not right to use this tax credit approach for paying interest on these war claims.

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

TREASURY DEPARTMENT,
Washington, D.C., July 19, 1968.

Hon. JOHN J. WILLIAMS,
U.S. Senate,
New Senate Office Building.

DEAR SENATOR WILLIAMS: Secretary Fowler has asked me to reply to your letter of July 10 concerning the tax credit amendment added by the Senate Finance Committee to H.R. 7735. This amendment in effect provided a tax credit to 14 taxpayers to compensate them for interest on certain war claims arising out of World War II.

The amendment essentially provides for the payment of claims by the Government to a limited group of taxpayers through a reduction of their tax liability. Whether the payment of these claims involving interest on amounts paid for property lost in World War II is justified or desirable is a matter not within the jurisdiction of the Treasury Department and we defer to Agencies more directly concerned with this matter.

Your inquiry also raises the question of whether, assuming the objective of the bill is meritorious, this is an appropriate use of the tax system. Neither the objective of the bill nor the mechanics of its implementation have anything to do with the measurement of income or with the general application of the tax laws. It simply provides that in lieu of the Government making payments to the taxpayers concerned, the same effect will be achieved by an offsetting of the amounts involved against taxes which would otherwise be due. The Treasury Department feels, therefore, that this proposal represents an inappropriate and undesirable use of the tax structure to achieve a non-tax purpose.

The Treasury and the Bureau of the Budget are generally opposed to financing Government expenditures through the tax system, because it avoids the normal authorization and appropriation process, obscures the cost of the programs, and frequently means that those most familiar with the substance of the program do not consider it.

I am sending a copy of this letter to Chairman Long for his information.

Sincerely yours,

STANLEY S. SURREY,
Assistant Secretary.

Mr. WILLIAMS of Delaware. Mr. President, I hope that this amendment to delete the section referred to will be adopted.

I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. WILLIAMS of Delaware. I yield.

Mr. LAUSCHE. Mr. President, I was not present while the Senator made his presentation. Is there any precedent for the granting of this tax relief to persons occupying the positions of being recipients of awards on war claims or foreign claims?

Mr. WILLIAMS of Delaware. None whatever. It should be borne in mind that we passed the War Claims Act of 1948. That act as later amended in 1962 provided that small business concerns and individuals with claims up to x amount would be paid 100 percent of their claims. The remaining funds were to be prorated among the major claimants and it ended up that these latter claimants got approximately 61 percent of the amount they claimed.

Had there been enough in the war claims fund to have paid them 100 percent, and then enough for interest, it would have been paid. There is no question about that. But there was not enough in the fund.

Surely, they would like to have 100 percent of their claims, and they would like to have interest on the claims. But many people suffered—they lost their lives—during World War II. They are not being recompensed 100 percent. Why should these 13 people be singled out and be told, "You received your payment of 100 percent for your war claims under the 1948 act, but now we're going back retroactively and pay you all the back interest"?

Many religious and charitable organizations which were among the major claimants and did not fall into the small claims category were not paid 100 percent of their claims. They received only 61 percent. The claims of many of these religious organizations were settled with a payment of 61 percent. But would this amendment take care of them? Not at all. It just singles out 13 taxpayers and says, "You received a hundred percent of your claim, and now we're going to give you a bonus over that," without making up the claims of the religious organizations and colleges. In fact they will actually be penalized under the committee amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. WILLIAMS of Delaware. I yield myself 1 additional minute.

There can be no justification for such action. If these religious organizations were being paid it might be a different story. But even then the appropriate committee that approved the War Claims Act first should hear testimony on this matter.

Not one person has ever testified in favor of this amendment before the Committee on Finance and the only views offered in executive session were those favoring the 13 taxpayers.

Mr. LAUSCHE. Against what governments are these war claims existent?

Mr. WILLIAMS of Delaware. I do not know the answer to that question.

Mr. LAUSCHE. Is it a fact that there is a different type of treatment granted to these 13 or 14 than is granted to other claimants in the same category?

Mr. WILLIAMS of Delaware. That is correct; there is a difference, yes.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. WILLIAMS of Delaware. I yield myself 1 additional minute.

Mr. LAUSCHE. How many other claimants are in the same category that are being given discriminatory and prejudicial treatment, considering the fact that these people would be allowed this tax grant?

Mr. WILLIAMS of Delaware. I do not have that figure, but I understand there were about 6,000 of which number 251 were classed as small business operations.

Mr. LAUSCHE. So 13 have been picked out; 6,000 have been ignored.

Mr. WILLIAMS of Delaware. I do not see any basis for such action; nor was there any testimony before our committee which indicated why these 13 people should be singled out for special treatment.

Mr. LAUSCHE. The Senator has offered an amendment to strike this section from the bill?

Mr. WILLIAMS of Delaware. Yes—my amendment would strike the section which would give special payments to this group of 13 persons.

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

The PRESIDING OFFICER. Who yields time?

Mr. LONG of Louisiana. Mr. President, the issue here is very simple. It is the same situation as if one were holding a bond. He paid $75 for the bond, and when it matures, it is worth $100. Someone

steals the bond. When the bond falls due, the one who purchased it is entitled not only to the $75 he paid; he is also entitled to the interest.

The Senator from Illinois [Mr. DIRKSEN] offered an amendment to make it clear that these little people who were denied their property should be entitled to the interest on their war claim. But when the Interhandel matter was arranged a large amount was taken out of the war claims fund. Many companies got their property back, which, of course, they had to include in income and thus pay tax on. Now we are saying that these little people should be treated fairly and should get the same type of compensation according to preference they were supposed to have.

We passed by unanimous vote the Dirksen amendment to try to rectify the mischief that the War Claims Commission had committed. The House conferees from the Judiciary Committee would not even discuss the amendment with us.

Mr. DIRKSEN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Louisiana has 6 minutes remaining, and the Senator from Delaware has 9 minutes remaining.

Mr. LONG of Louisiana. I yield 3 minutes to the distinguished Senator from Illinois.

Mr. DIRKSEN. Mr. President, when this proposal was under consideration, I had no hesitancy in adding my name to it, because I thought it was a fair claim. It relates only to these 13 small business enterprises. To be sure, they received an award, but there was a long period when they received nothing for the use of their property; and, unlike so many other claimants, in this case under various treaties and agreements, those properties were finally given to the Soviet Union. That was one of the Yalta deals, and that left them high and dry.

Now, here comes a proposal to give back to them a tax credit over a 10-year period at the rate of 6 percent, so set up that, for practical purposes, the Treasury would lose virtually no revenue. Then, to make doubly sure that the Treasury would not lose, the Treasury will be reimbursed out of the war claims settlement fund if, as, and when more money is in that fund. My understanding is that while there presently is probably under $375,000 in the fund, at some time or other they likely will be able, in the liquidation of property, to get as much as $20 million. Therefore, the Treasury would be reimbursed. I think this claim has merit. I think it is perfectly equitable; and we try to do equity.

I served as chairman of the War Claims Committee for a long time. I went through many of these items, many of them difficult, with the State Department, the War Claims Settlement Commission, and others. In every case we sought to do equity, and that is what is sought to be done here.

That is the reason I support the amendment. I think in its present form it should be agreed to. I oppose the amendment to strike it out. I am talking about the amendment we wrote in the bill in the committee.

Mr. SMATHERS. Mr. President, will the Senator yield to me?

Mr. LONG of Louisiana. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Louisiana has 3 minutes remaining and the Senator from Delaware has 9 minutes remaining. Time will run equally unless someone is using it.

Mr. LONG of Louisiana. Mr. President, the Senator from Delaware has 9 minutes remaining. I suggest that he use some of his time. Then, we can use the remaining time.

The PRESIDING OFFICER. The Senator now has 2½ minutes remaining.

Mr. WILLIAMS of Delaware. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 1 minute.

Mr. WILLIAMS of Delaware. Mr. President, I want to save time and money. It should take me only 1 minute to point out and summarize why this committee amendment should not be agreed to.

First, no one knows who these people are—are they even American citizens today? Second, they already have been paid 100 percent of their claims. Third, there has been no testimony as to the merits of this further claim before any Senate committee. The only letter from the executive branch came from the Treasury Department which said it has no knowledge as to whether the claims were good or bad, but that in any event it was opposed to this tax credit as a means to pay these 13 persons. There can be no possible justification for this proposal, in my opinion, except that on the eve of an election, and as Christmas approaches, the Senate feels in a very generous mood and wants to put 13 bulbs on this Christmas tree.

I reserve the remainder of my time.

Mr. SMATHERS. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. Mr. President, I yield to the Senator from Florida. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2½ minutes remaining.

Mr. SMATHERS. Mr. President, the 13 people we are talking about in this bill are not getting treatment that others did not get. We passed a law in 1962, which is known as Public Law 87-846. It provided that under certain conditions there would be small business people who previously had not been paid for their war claim who would have some consideration provided for by Congress. That is what we are now trying to do.

We attempted to approach the matter through the Judiciary Committee route but the House Judiciary Committee would not move on it. Then, we thought the only fair and equitable course, because we had done so in previous cases, was to provide tax credits. That is what we decided to do here.

The statement was made that these people were fully paid. They were paid the principal but not the interest. Everybody else who was paid received both principal and interest. All we can do is give these people an opportunity to get their money through a tax credit, as provided in this law, which applies to those certified by the Small Business Committee as being small business people.

Mr. President, this is obviously a just and fair amendment and it should be agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. LAUSCHE. Mr. President, how much time does the Senator from Delaware have remaining?

The PRESIDING OFFICER. The Senator from Delaware has 7 minutes remaining.

Mr. WILLIAMS of Delaware. Mr. President, I yield myself 3 minutes, and then I shall yield to the Senator from Ohio.

Mr. President, the Senator from Florida said everyone else had been paid principal and interest. That is not correct. There were 5,920 claimants who were paid 100 percent of their claims: Of this number there were 251 small businesses who were paid 100 percent of their claims. They did not receive interest however, but they got 100 percent of the amount of their claims.

Another 1,119 with larger claims received only 61 percent of their claims. Included in this group were various religious organizations, many of which had lost their churches and various other properties in Europe. They received only 61 percent, along with all of the other business companies.

We have no knowledge where the properties, the subject of the amendment were located and no knowledge as to whether the claims in question are valid or not. There has been no testimony.

Mr. President, this is just an end run around the Judiciary Committee with a private claim bill. I repeat there has not been a single Government agency which presented testimony to the Finance Committee in support of this proposal.

Mr. President, at this time I shall make an additional short statement in opposition to the committee amendment contained in section 2 of the bill looking at the provision from the standpoint of the tax law.

Section 2 of this bill provides for the payment of interest to 13 taxpayers on certain war claim awards which arose out of World War II. It is dressed up as a tax credit all right, but that is the only connection it has with our tax system. It is just a disguised payment of interest—the matter is that plain and simple.

Section 2 of this bill is in reality the authorization and appropriation of governmental funds to 13 persons. And yet, because it is dressed up as a tax credit, it avoids all the steps of the authorization and appropriation processes which are normally required for governmental expenditures. Let me read to you what the Treasury Department has to say about this so-called tax credit:

> Neither the objective of the bill nor the mechanics of its implementation have anything to do with the measurement of income or with the general application of the tax laws. It simply provides that in lieu of the Government making payments to the taxpayers concerned, the same effect will be achieved by an offsetting of the amounts involved against taxes which would otherwise be due. The Treasury Department feels, therefore, that this proposal represents an

inappropriate and undesirable use of the tax structure to achieve a non-tax purpose.

The Treasury and the Bureau of the Budget are generally opposed to financing Government expenditures through the tax system, because it avoids the normal authorization and appropriation process, obscures the cost of the programs, and frequently means that those most familiar with the substance of the program do not consider it.

Mr. President, the fact that this tax credit has nothing at all to do with our tax system is clearly shown by the special repayment provision associated with it. That provision requires that after these taxpayers have been paid the interest through this tax credit, any moneys which come into the war claims fund are to be paid over to the general fund of the Treasury. This is to go on until enough funds have been transferred to pay the general revenues back for the credits which were allowed. Mr. President, whoever heard of providing a tax credit which reduces the general revenues and then requiring some other fund in the Government to reimburse the general revenues for the amount of credits. This repayment provision shows up the so-called credit for what it really is.

Mr. President, this payment of interest is dressed up as a tax credit for a very simple reason: because these taxpayers failed in their efforts to have the War Claims Act amended to allow direct payments of the interest. They could not get in the front door with a direct authorization so now they are trying to sneak in the back door with a tax credit. This is not only a completely unwarranted use of our tax structure, but an affront to the Judiciary Committees of the Senate and the House who have jurisdiction over the War Claims Act and the payment of interest on war claims awards.

Mr. President, in 1966 the Senate added a floor amendment which would have authorized the direct payment of this interest to a House bill. This was not a matter which had been considered by the Senate Judiciary Committee. The amendment was knocked out in conference because of the strong objections of the chairman of the House Judiciary Committee. That setback, however, does not seem to have discouraged these taxpayers. Instead, they devised this ingenious way to get the interest through a tax credit. By doing this, they make a mockery of the tax structure and, I am sure more importantly to them, they manage to completely avoid and bypass the Judiciary Committees of both the Senate and the House.

One of the arguments which is advanced for paying the interest through this tax credit is that there is not enough money in the war claims fund to pay the interest directly. Since when, Mr. President, do we enact a tax credit to make payments to private persons, instead of authorizing the payments and appropriating the necessary funds? Is this to be the new way of doing business? When a direct authorization and appropriation of funds to make payments to private persons fails to receive congressional approval, are we then to turn and enact a tax credit which does exactly the same thing?

Mr. President, if Congress wishes to expend Government funds to pay interest to these 13 persons on their World War II claims awards, it should be done through a private relief bill or an amendment to the War Claims Act, not through a tax credit.

Mr. President, section 2 of this bill should be vigorously condemned and I urge my colleagues to reject it.

Mr. LAUSCHE. Mr. President, may I have some time on the bill?

Mr. WILLIAMS of Delaware. There is no time on the bill.

Mr. MANSFIELD. There is only time on the amendment.

Mr. WILLIAMS of Delaware. Mr. President, how much time is remaining on both sides?

The PRESIDING OFFICER. The Senator from Delaware has 5 minutes remaining.

Mr. WILLIAMS of Delaware. Mr. President, I yield 2 minutes to the Senator from Ohio.

Mr. LAUSCHE. Mr. President, the reading of the report on page 5 shows that these claimants under the original bill passed years ago were not qualified to receive benefits. In 1962, according to the report, and set forth in Public Law 87–846, as mentioned by the Senator from Florida, they were qualified to make claims. I wish to read on page 5 of the report:

Background.—Public Law 87–846 (enacted Oct. 22, 1962) amended the War Claims Act of 1948 to provide relief to certain American claimants previously ineligible to receive benefits for their losses arising from World War II. Among the claims provided for in the 1962 amendments were those for the loss of property located in eastern Europe resulting from special measures directed against the property because of the enemy or alleged enemy character of the owner.

They are a special class. They were included because they suffered through special measures directed against the property because they were enemies or alleged to be enemies of the government that acted upon their property.

The point I want to make is that in 1962 we passed a special bill to give them special treatment. Now we are passing another bill, a special bill, again to give them special treatment—13 of them out of 6,000.

Why?

Mr. WILLIAMS of Delaware. The Senator is correct. These people originally were not eligible for 100-percent relief. Later, as a result of a 1962 modification of the law, they were made eligible. They were then paid 100 percent of their claims. Now they are here again wanting interest on their claims, as though we had not paid them anything before. This is something we do not do for other Americans. At a time when we are raising taxes by 10 percent on every American citizen, there is no possible justification for singling out these 13 individuals and giving them $1.5 million through income tax credits.

Mr. LAUSCHE. Who is able to tell what the special measures were which were directed against the property because of the enemy or alleged enemy character of the owners? They obviously were living there and yet special measures were taken. What were the special measures?

Mr. WILLIAMS of Delaware. Mr. President, I cannot answer that question, but——

Mr. SMATHERS. Mr. President, I will try to answer the question.

Mr. WILLIAMS of Delaware. Mr. President, I yield 3 minutes to the Senator from Florida.

Mr. SMATHERS. What happened was that there was an argument in Eastern Europe as to how that came about. The Germans wanted to claim that they owned the property the subject of the claim. What happened was that, as a result of the Potsdam and Yalta Conferences, the areas where these properties were located were placed under Soviet control and the property was given to the Soviet Union. There is no question on this point. This was clarified some time back by the War Claims Commission. That is why these claims are in a special category.

Mr. LAUSCHE. The facts are that in 1962 we passed a special law which was amended to give them special treatment again—the 13 claimants. Now we pass another special law to give them special treatment again, just to 13, while 6,000 were given entirely different treatment.

Mr. LONG of Louisiana. Mr. President, the Senator from Delaware asked for 3 additional minutes. I should like to ask for 3 additional minutes for my side.

Mr. WILLIAMS of Delaware. I did not ask for 3 additional minutes——

Mr. LONG of Louisiana. The Senator asked for 3 minutes.

Mr. WILLIAMS of Delaware. I asked for 3 minutes for the Senator from Florida. I did not ask unanimous consent for any additional time. I asked the Senator from Florida if he wished more time and then——

The PRESIDING OFFICER. The Chair informs the Senate that the time on both sides will be extended 3 additional minutes.

Mr. LONG of Louisiana. I want the Senator from Ohio to hear this. He talked about the special measures taken. Here is what happened. The people's property was taken and never given back to them. They were entitled to have it back, both the property and what the property would have earned for them if it had not been taken. That is the whole of the law, and the whole of the history of these war claims.

That is the special treatment these people got. We said: "All right, now, your claim will be paid. These little people, with their $800,000 will be paid." We did what we could to help these little people. All I am saying is that we intended to treat the little people fairly. Their property was gone as a result of the agreements at Yalta and Potsdam—and the Senator from Ohio was as much against that as any other man in America today. Having done that, we tried to restore to these people what they were supposed to have under the law as we passed it. We will try to do it again for them. It is just that simple.

Mr. LAUSCHE. I thank the Senator for trying to explain it. But I predict that there are other war claims that have not yet been settled—Rumania and others. There will be still others and we will have them asking for the same type of treatment.

Mr. LONG of Louisiana. There is absolutely no problem. We have paid off the claims in Italy and every other country we could find, with interest.

The PRESIDING OFFICER. The time of the Senator from Louisiana has expired.

Mr. WILLIAMS of Delaware. Mr. President, I have 4 minutes remaining. I promised to yield to the Senator from New York. He will be in the Chamber in just a moment; therefore, I suggest the absence of a quorum, with the time to be charged to neither side.

The PRESIDING OFFICER. The clerk will call the roll.

The bill 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.

Mr. MANSFIELD. I should like to make some requests outside the time limitation on the bill.

The ACTING PRESIDENT pro tempore. Without objection, the Senator may proceed.

ORDER FOR ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10:30 a.m. tomorrow.

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

ORDER FOR RECOGNITION OF SENATOR HOLLINGS AND SENATOR FANNIN TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that following the prayer and the disposition of the Journal, the distinguished Senator from South Carolina [Mr. HOLLINGS] be recognized for not to exceed 1 hour.

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

Mr. MANSFIELD. I ask unanimous consent that following the speech to be made by the Senator from South Carolina, the distinguished Senator from Arizona [Mr. FANNIN] be recognized for not to exceed one-half hour.

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

ORDER FOR TRANSACTION OF ROUTINE BUSINESS TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that following the speech to be delivered by the distinguished Senator from Arizona, there be a period for the transaction of routine business.

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

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1969

Mr. DIRKSEN. Mr. President, I should like to have the distinguished majority leader clarify something for me. Is it the intention to bring up the Department of Defense appropriation bill on Monday next?

Mr. MANSFIELD. It is. I understand that the full committee will report the bill favorably this afternoon.

Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator from Montana will state it.

Mr. MANSFIELD. How does the 3-day rule apply? Will Sunday count as one of the 3 days?

The ACTING PRESIDENT pro tempore. There must be 3 intervening days. Sunday will count.

Mr. MANSFIELD. I feel certain that we will be within the 3-day limitation, if necessary; nevertheless, I ask unanimous consent, if we are not, that if the bill is reported later than today, it may be called up on Monday next.

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

Mr. WILLIAMS of Delaware. Mr. President, I suggest the absence of a quorum, the time for the quorum call to be charged to neither side.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS of Delaware. 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.

DUTIABLE STATUS OF ALUMINUM HYDROXIDE AND OXIDE, CALCINED BAUXITE, AND BAUXITE ORE

The Senate resumed the consideration of the bill (H.R. 7735) relating to the dutiable status of aluminum hydroxide and oxide, calcined bauxite, and bauxite ore.

Mr. WILLIAMS of Delaware. Mr. President, I yield the remainder of my time to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, I am sure that with his great ability the distinguished Senator from Delaware has already adequately covered the situation. But sometimes in the Senate little things go through which represent the fact that people just are not looking at them and for them as does the Senator from Delaware, and as we try to do in my office.

The question before us is, What is equitable or what is equity? I heard a little of the argument of the Senator from Louisiana, which was that the purpose of the bill is to make small business completely whole, including interest on its losses. No one has argued about its having been paid 100 percent, or whether it should be paid interest, the same as business, religious, charitable, and nonprofit organizations.

The change which would be made by the bill is that instead of religious, charitable, and nonprofit organizations getting roughly 60 percent of their claims, the interest claims will, for practical purposes, wipe out that opportunity. The vote, therefore, on this amendment will raise that question very sharply. No effort is made to do any equity beyond that.

The essence of my argument—I shall not detain the Senate, since I was late because of other exigencies—the essence of my argument is, Will the status quo be maintained, so that perhaps at least some fairer arrangement can be made? Or is it proposed, at one stroke, to wipe out completely the opportunity for religious, charitable, and nonprofit organizations, which include many different fine organizations?

With respect to charitable deductions under our tax laws, many institutions have submitted facts and figures to us and to other Senators. They represent some of the primary religious and similarly oriented institutions of various branches of the faiths in the United States. It is in an effort, at least, to preserve the status quo that is there involved that I would urge the Senate to approve the action which the Senator from Delaware [Mr. WILLIAMS] has called for and to reject the concept which is contained in the bill, a concept which will change completely and irrevocably the situation as it affects these very desirable claimants, in my judgment.

I thank the Senator from Delaware for his sterling defense of the situation and hope that the Senate will follow his judgment.

Mr. LONG of Louisiana. Mr. President, let me say in my 1 remaining minute—and I shall not ask for additional time beyond that minute—that the bill before us provides hundreds of millions of dollars of tax advantage to aluminum and copper companies. But when we take care of the 13 little companies which were badly elbowed out, that disturbs the Senator from Delaware and the Senator from New York.

Mr. WILLIAMS of Delaware. Mr. President, I understand——

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent that I may have half a minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WILLIAMS of Delaware. The Senator from Louisiana keeps talking about this bill costing hundreds of millions of dollars which will go to aluminum companies and copper companies. Let us get one thing straight. There is nothing in the other sections of this bill except for 2-year extensions of the same tariff rates totaling less than $20 million that have been in effect in the past. So the Senator's boxcar figures have no connection whatsoever with what we are talking about. They are a red herring dragged across this effort to try to get these tax credits for these people.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LONG of Louisiana. Mr. President——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LONG of Louisiana. The Senator from Delaware talked beyond the allotted time. I ask unanimous consent that I may have 30 seconds.

The PRESIDING OFFICER. Is there

objection? Without objection, it is so ordered.

Mr. LONG of Louisiana. All I want to say is that the bill applies to companies that make money on their bauxite sites and copper companies that make money on their ore sites. That seems to be of no concern. Yet it concerns some people when a little fellow whose property has been stolen seeks to be paid for its use. That is all we want to do.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent that each side get 1 minute.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator have the same amount of time, 30 seconds.

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

Mr. WILLIAMS of Delaware. Mr. President, the Senator from Louisiana talks about hundreds of millions of dollars being involved in this bill. To my knowledge, that is not true. If it were true, the bill ought to be recommitted, because somebody gave the wrong information to the committee.

This amendment merely affects the one and a half million special tax credit for 13 taxpayers.

The entire bill itself affects less than $20 million in tariffs on various metals.

The PRESIDING OFFICER. All time on the amendment has expired.

The question is on agreeing to the amendment.

Mr. DIRKSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Illinois will state it.

Mr. DIRKSEN. The vote is on what?

The PRESIDING OFFICER. The question is agreeing to the amendment of the Senator from Delaware to strike.

Mr. LAUSCHE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LAUSCHE. A vote to reject the payment or grant this dispensation would require a "yea" vote, and that is on the amendment. Is that correct?

The PRESIDING OFFICER. The question is on the adoption of the amendment to strike out section 2, beginning on page 3, line 6, down through and including line 16 on page 7.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Tennessee [Mr. GORE], and the Senator from Missouri [Mr. LONG] are absent on official business.

I also announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Maryland [Mr. BREWSTER], the Senator from North Dakota [Mr. BURDICK], the Senator from West Virginia [Mr. BYRD], the Senator from Idaho [Mr. CHURCH], the Senator from Pennsylvania [Mr. CLARK], the Senator from North Carolina [Mr. ERVIN], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Washington [Mr. MAGNUSON], the Senator from Minnesota [Mr. MCCARTHY], the Senator from South Dakota [Mr. MCGOVERN], the Senator from Oklahoma [Mr. MONRONEY], the Senator from New Mexico [Mr. MONTOYA], the Senator from Oregon [Mr. MORSE], the Senator from Utah [Mr. Moss], the Senator from Maine [Mr. MUSKIE], the Senator from Wisconsin [Mr. NELSON], and the Senator from Connecticut [Mr. RIBICOFF] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. MORSE] would vote "nay."

Mr. KUCHEL. I announce that the Senator from Tennessee [Mr. BAKER], the Senator from Utah [Mr. BENNETT], the Senator from Kansas [Mr. CARLSON], the Senator from New Hampshire [Mr. COTTON], the Senator from Nebraska [Mr. CURTIS], the Senator from New York [Mr. GOODELL], the Senator from California [Mr. MURPHY], the Senator from Maine [Mrs. SMITH], the Senator from South Carolina [Mr. THURMOND], and the Senator from Texas [Mr. TOWER] are necessarily absent.

The Senator from Colorado [Mr. DOMINICK] and the Senator from Iowa [Mr. MILLER] are detained on official business.

If present and voting, the Senator from Iowa [Mr. MILLER], the Senator from California [Mr. MURPHY], the Senator from Maine [Mrs. SMITH], the Senator from South Carolina [Mr. THURMOND] and the Senator from Texas [Mr. TOWER] would each vote "yea."

On this vote, the Senator from Colorado [Mr. DOMINICK] is paired with the Senator from Nebraska [Mr. CURTIS]. If present and voting, the Senator from Colorado would vote "yea," and the Senator from Nebraska would vote "nay."

The result was announced—yeas 33, nays 33, as follows:

[No. 285 Leg.]

YEAS—33

Aiken	Hansen	Mundt
Allott	Hart	Pastore
Boggs	Hatfield	Pearson
Brooke	Hickenlooper	Pell
Byrd, Va.	Hruska	Percy
Cannon	Inouye	Prouty
Case	Jackson	Scott
Cooper	Javits	Spong
Fannin	Jordan, Idaho	Tydings
Fong	Lausche	Williams, Del.
Griffin	Mondale	Young, Ohio

NAYS—33

Anderson	Holland	Proxmire
Bayh	Hollings	Randolph
Bible	Jordan, N.C.	Russell
Dirksen	Kuchel	Smathers
Dodd	Long, La.	Sparkman
Eastland	Mansfield	Stennis
Ellender	McClellan	Symington
Harris	McGee	Talmadge
Hartke	McIntyre	Williams, N.J.
Hayden	Metcalf	Yarborough
Hill	Morton	Young, N. Dak.

NOT VOTING—34

Baker	Ervin	Montoya
Bartlett	Fulbright	Morse
Bennett	Goodell	Moss
Brewster	Gore	Murphy
Burdick	Gruening	Muskie
Byrd, W. Va.	Kennedy	Nelson
Carlson	Long, Mo.	Ribicoff
Church	Magnuson	Smith
Clark	McCarthy	Thurmond
Cotton	McGovern	Tower
Curtis	Miller	
Dominick	Monroney	

So the amendment of Mr. WILLIAMS of Delaware was rejected.

Mr. WILLIAMS of Delaware. Mr. President, I point out for the information of the Senate that this vote can be reconsidered later, as the Senator from Louisiana knows.

In order to correct the RECORD, just before the vote much was said about the hundreds of millions of dollars contained in the bill that will go to the large corporations. I said it was a lot of poppycock and a red herring.

Since that time I have had the staff compile the amount involved. It is a total of $19.5 million which, according to the Treasury Department, would be passed on to the consumers. It is a simple extension of existing tariff rates on three metals. It has nothing to do with the amendment.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. WILLIAMS of Delaware. I will yield in a moment. The Senator may have the floor in his own right.

Mr. LONG of Louisiana. The Senator did not like what I said. But if he will yield, I will tell him something else that he will not like.

Mr. WILLIAMS of Delaware. The Senator from Louisiana very seldom ever speaks that it does not amuse me and a lot of the others. I enjoy it.

Much has been said to the effect that the aluminum corporations would get hundreds of millions of dollars. The total tariff reduction on aluminum is only $4,300,000 and even that is passed on to the consumers. The tariff reduction for copper for the full year is less than $10 million with $5 million tariff reduction for bauxite ore.

This totaled $19.5 million for all ores.

If the Senator from Louisiana has any evidence whatever that this amount of $19.5 million is in error, I wish he would speak up. I might say that these figures were furnished to me just a moment ago by the staff of our own committee. If there is any $300 million or $400 million that the Senator knows about, I will join the Senator in asking unanimous consent that the bill be recommitted to the Finance Committee.

Mr. LONG of Louisiana. Will the Senator tell me how much the copper companies got? They are in here, too.

Mr. WILLIAMS of Delaware. Assuming that the copper companies kept all of this tariff reduction, it would be $9.9 million. That is the total amount involved with the copper companies. This represents the difference in the rates of 1.5 cents a pound. The Senator from Louisiana said that Anaconda would get $100 million and Kennecott would get $100 million. I do not know how they could get that much when the total for all copper companies is only $9.9 million. And that amount assumes that the companies keep all of it, which we know is not true.

The Defense Department testified that the existing tariff rates should be extended because, to the extent that we added to the tariff, it would increase the prices paid by the Defense Department.

All of the hundreds of millions of dollars that the Senator from Louisiana was talking about could not possibly be obtained from the $9.9 million.

Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LONG of Louisiana. Mr. President, that is a debatable motion.

The basic statement I made was that the Senator can swallow a camel, but he strangles on a gnat.

The Standard Oil Co. received $73 million, not under this bill, but in settlements. I love that company. Their biggest plant is in Louisiana.

International Telephone & Telegraph got $28.1 million.

Corn Products got $22.4 million.

General Electric got $17.6 million.

No one complains about all of that. I do not complain for a moment about that.

This bill involves only $800,000 for these small businesses spread over 10 years.

Treatment of this type has plenty of precedents. The Senate passed an amendment to take care of the people in Delaware when the hurricane hit Delaware. I voted for that bill. Having done so, I thought that was a good precedent. I pursued that. I put in a provision to take care of the Cuban expatriates' losses. The senior Senator from Wisconsin [Mr. PROXMIRE] and the junior Senator from Wisconsin [Mr. NELSON] put in a provision to take care of automobile manufacturers. There were other provisions.

The Senator from Delaware opposed those provisions, although we helped to pass the measure to take care of the people in Delaware.

We then passed a measure which gave corporations injured by imports a 5-year carryback instead of a 3-year carryback.

When we get down to it, it depends on whether one is for the big fellow or the little fellow.

I was proud to vote for the measure of the Senator from Delaware to help the people in Delaware who suffered from the hurricane. The same thing should apply here.

Mr. MILLER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS of Delaware. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Delaware to reconsider the vote by which the amendment was rejected. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of Virginia (when his name was called). On this vote, I have a pair with the Senator from Missouri [Mr. LONG]. If he were present and voting, he would vote "nay"; if I were permitted to vote, I would vote "yea." I therefore withhold my vote.

The legislative clerk resumed and concluded the call of the roll.

Mr. LONG of Louisiana. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Missouri [Mr. LONG] are absent on official business.

I also announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Maryland [Mr. BREWSTER], the Senator from North Dakota [Mr. BURDICK], the Senator from West Virginia [Mr. BYRD], the Senator from Idaho [Mr. CHURCH], the Senator from Pennsylvania [Mr. CLARK], the Senator from Mississippi [Mr. EASTLAND], the Senator from North Carolina [Mr. ERVIN], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], the Senator from Arizona [Mr. HAYDEN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Washington [Mr. MAGNUSON], the Senator from Minnesota [Mr. MCCARTHY], the Senator from South Dakota [Mr. MCGOVERN], the Senator from Oklahoma [Mr. MONRONEY], the Senator from New Mexico [Mr. MONTOYA], the Senator from Oregon [Mr. MORSE], the Senator from Utah [Mr. MOSS], the Senator from Maine [Mr. MUSKIE], the Senator from Wisconsin [Mr. NELSON], the Senator from West Virginia [Mr. RANDOLPH], the Senator from Connecticut [Mr. RIBICOFF], and the Senator from Georgia [Mr. RUSSELL] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. MORSE] and the Senator from West Virginia [Mr. RANDOLPH] would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Tennessee [Mr. BAKER], the Senator from Utah [Mr. BENNETT], the Senator from Kansas [Mr. CARLSON], the Senator from New Hampshire [Mr. COTTON], the Senator from Nebraska [Mr. CURTIS], the Senator from New York [Mr. GOODELL], the Senator from California [Mr. MURPHY], the Senator from Maine [Mrs. SMITH], the Senator from South Carolina [Mr. THURMOND], and the Senator from Texas [Mr. TOWER] are necessarily absent.

The Senator from North Dakota [Mr. YOUNG] is detained on official business.

If present and voting, the Senator from California [Mr. MURPHY], the Senator from Maine [Mrs. SMITH], and the Senator from Texas [Mr. TOWER] would each vote "yea."

On this vote, the Senator from South Carolina [Mr. THURMOND] is paired with the Senator from Nebraska [Mr. CURTIS]. If present and voting, the Senator from South Carolina would vote "yea," and the Senator from Nebraska would vote "nay."

Mr. WILLIAMS of Delaware. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The regular order is called for.

The result was announced—yeas 32, nays 30, as follows:

[No. 286 Leg.]

YEAS—32

Aiken	Hart	Pastore
Allott	Hatfield	Pearson
Boggs	Hickenlooper	Pell
Brooke	Hruska	Percy
Case	Javits	Prouty
Cooper	Jordan, Idaho	Scott
Dominick	Lausche	Spong
Fannin	Miller	Tydings
Fong	Mondale	Williams, Del.
Griffin	Morton	Young, Ohio
Hansen	Mundt	

NAYS—30

Anderson	Holland	McIntyre
Bayh	Hollings	Metcalf
Bible	Inouye	Proxmire
Cannon	Jackson	Smathers
Dirksen	Jordan, N.C.	Sparkman
Dodd	Kuchel	Stennis
Ellender	Long, La.	Symington
Harris	Mansfield	Talmadge
Hartke	McClellan	Williams, N.J.
Hill	McGee	Yarborough

PRESENT AND GIVING A LIVE PAIR—1

Byrd of Virginia, for.

NOT VOTING—37

Baker	Fulbright	Moss
Bartlett	Goodell	Murphy
Bennett	Gore	Muskie
Brewster	Gruening	Nelson
Burdick	Hayden	Randolph
Byrd, W. Va.	Kennedy	Ribicoff
Carlson	Long, Mo.	Russell
Church	Magnuson	Smith
Clark	McCarthy	Thurmond
Cotton	McGovern	Tower
Curtis	Monroney	Young, N. Dak.
Eastland	Montoya	
Ervin	Morse	

So Mr. MILLER's motion was agreed to.

Mr. WILLIAMS of Delaware. Mr. President, I understand the question now is on the amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. LONG of Louisiana. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

The question is on agreeing to the amendment of the Senator from Delaware. The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of Virginia (when his name was called). On this vote I have a pair with the Senator from Missouri [Mr. LONG]. If he were present and voting, he would vote "nay"; if I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

The bill clerk resumed and concluded the call of the roll.

Mr. LONG of Louisiana. I announce that the Senator from Tennessee [Mr. GORE], and the Senator from Missouri [Mr. LONG] are absent on official business.

I also announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Maryland [Mr. BREWSTER], the Senator from North Dakota [Mr. BURDICK], the Senator from West Virginia [Mr. BYRD], the Senator from Idaho [Mr. CHURCH], the Senator from Pennsylvania [Mr. CLARK], the Senator from North Carolina [Mr. ERVIN], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], the Senator from Arizona [Mr. HAYDEN], the Senator from Hawaii [Mr. INOUYE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Washington [Mr. MAGNUSON], the Senator from Minnesota [Mr. MCCARTHY], the Senator from South Dakota [Mr. MCGOVERN], the Senator from New

Hampshire [Mr. McINTYRE], the Senator from Oklahoma [Mr. MONRONEY], the Senator from New Mexico [Mr. MONTOYA], the Senator from Oregon [Mr. MORSE], the Senator from Utah [Mr. Moss], the Senator from Maine [Mr. MUSKIE], the Senator from Wisconsin [Mr. NELSON], the Senator from West Virginia [Mr. RANDOLPH], the Senator from Connecticut [Mr. RIBICOFF], and the Senator from Georgia [Mr. RUSSELL] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. MORSE], and the Senator from West Virginia [Mr. RANDOLPH], would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Tennessee [Mr. BAKER], the Senator from Utah [Mr. BENNETT], the Senator from Kansas [Mr. CARLSON], the Senator from New Hampshire [Mr. COTTON], the Senator from Nebraska [Mr. CURTIS], the Senator from New York [Mr. GOODELL], the Senator from California [Mr. MURPHY], the Senator from Maine [Mrs. SMITH], the Senator from South Carolina [Mr. THURMOND], and the Senator from Texas [Mr. TOWER] are necessarily absent.

The Senator from North Dakota [Mr. YOUNG] is detained on official business.

If present and voting, the Senator from California [Mr. MURPHY], the Senator from Maine [Mrs. SMITH], and the Senator from Texas [Mr. TOWER] would each vote "yea."

On this vote, the Senator from South Carolina [Mr. THURMOND] is paired with the Senator from Nebraska [Mr. CURTIS]. If present and voting, the Senator from South Carolina would vote "yea," and the Senator from Nebraska would vote "nay."

The result was announced—yeas 34, nays 27, as follows:

[No. 287 Leg.]

YEAS—34

Aiken	Hart	Pastore
Allott	Hatfield	Pearson
Boggs	Hickenlooper	Pell
Brooke	Hruska	Percy
Cannon	Jackson	Prouty
Case	Javits	Scott
Cooper	Jordan, Idaho	Spong
Dominick	Lausche	Tydings
Fannin	Miller	Williams, Del.
Fong	Mondale	Young, Ohio
Griffin	Morton	
Hansen	Mundt	

NAYS—27

Anderson	Hill	Metcalf
Bayh	Holland	Proxmire
Bible	Hollings	Smathers
Dirksen	Jordan, N.C.	Sparkman
Dodd	Kuchel	Stennis
Eastland	Long, La.	Symington
Ellender	Mansfield	Talmadge
Harris	McClellan	Williams, N.J.
Hartke	McGee	Yarborough

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUS RECORDED—1

Byrd of Virginia, for.

NOT VOTING—38

Baker	Goodell	Morse
Bartlett	Gore	Moss
Bennett	Gruening	Murphy
Brewster	Hayden	Muskie
Burdick	Inouye	Nelson
Byrd, W. Va.	Kennedy	Randolph
Carlson	Long, Mo.	Ribicoff
Church	Magnuson	Russell
Clark	McCarthy	Smith
Cotton	McGovern	Thurmond
Curtis	McIntyre	Tower
Ervin	Monroney	Young, N. Dak.
Fulbright	Montoya	

So the amendment of Mr. WILLIAMS of Delaware was agreed to.

Mr. JAVITS. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. WILLIAMS of Delaware. Mr. President, I move that the motion to reconsider be laid on the table.

The PRESIDING OFFICER. The Chair would inform the Senator that a motion to reconsider is not in order.

The bill is open to further amendment.

Mr. LAUSCHE. Mr. President, what was the vote on the motion to table?

The PRESIDING OFFICER. The Chair would inform the Senator from Ohio that a motion to reconsider is not in order.

AMENDMENT NO. 908

Mr. METCALF. Mr. President, on behalf of my colleague the distinguished majority leader [Mr. MANSFIELD], and the Senator from Utah [Mr. Moss], I call up my amendment No. 908, which is at the desk and ask that it be stated.

The bill clerk read as follows:

Beginning on page 7, line 24, strike out all through and including line 18 on page 8.

Mr. METCALF. Mr. President, as the chairman of the committee has noted, the bill which came over to suspend certain duties on aluminum, aluminum ores, and so forth, was amended in several respects.

One of the amendments was to suspend the duty on copper. The duty on copper had been suspended from time to time. The report on page 9 contains a history of these suspensions.

Many times I have participated in such suspensions. At one time, I was the author of a bill in the Ways and Means Committee by which a suspension took place.

But, at this time, the copper industry has just finished one of the longest and most disastrous strikes in its history. It has gone through 9 months of a strike. It is just 6 weeks out of settlement of the strike.

During the period of that 9 months, the importation of copper from abroad by the various agencies belonging to the Montana, Arizona, and Utah copper companies, reached a new high.

At the present time, I have been informed by the Steelworkers Union, which is the union that is in control of the men employed in the Anaconda mine, that the 2,000 men employed before the strike began have not yet been reemployed by the Anaconda Copper Co.

At the same time, all of the domestic producers are expanding their interests and expanding their mines abroad.

This is no time in our economy to pass this suspension on copper. Congress will be in session for a while and will be right back in January, and we will then have an opportunity to assess what has happened and what has been the effect of the long-time strike and the extraordinary acceleration of the importation of copper from abroad as a result of 9 months of unemployment and nonuse of our copper mines in the United States.

Thus, it would seem that at this time, when we have the Kennedy round going into effect and we will actually be reducing some of the tariffs on copper from 3 cents a pound to 1½ cents a pound, this is no time to suspend the tariff.

This is the time to give our domestic producers an opportunity to recover.

This is also the time to give our domestic labor time to recover from the long, drawn-out strike.

Now I am delighted to yield to my good friend from Arizona.

Mr. FANNIN. Mr. President, I oppose the amendment of the distinguished Senator from Montana.

The State of Arizona is by far the largest copper producer in the United States, being responsible for more than 50 percent of the country's primary production. Expansion programs and development of new mines, now underway in my State, will substantially increase present output over the next several years. For these reasons, I am deeply interested in any legislation that may affect this industry.

An import duty was first established on copper in 1932. The United States was then an exporter of copper and it was felt that because foreign copper was being produced at a lower price, it would cut into the domestic market and thus bring about a reduction in domestic production.

The original duty was 4 cents a pound. Through the application of the Reciprocal Trade Agreements Act, and the Trade Expansion Acts, this tax has since been reduced to 1½ cents per pound.

While copper production in this country has continued to rise, the domestic consumption of the metal has also increased at an even faster rate. As a result, and stimulated by World War II, the United States has been a net importer of copper since 1940. With the decline in the threat of foreign competition, the duty on copper has been suspended by acts of Congress no less than seven times since World War II.

In 1966, with a total consumption of refined copper in the United States of 2,400,000 tons, net imports accounted for 10 percent. The figures for 1967 and 1968 are not representative because of the heavy imports necessary to offset the loss of production during the 8½ months' copper strike. It is predicted that in 1969 it will be necessary to import 12 percent of the country's copper requirements.

We have in my State an organization known as the Arizona Tariff Board. The membership is made up of copper producers in the State and other producing areas. It has always taken an active part in copper tariff legislation.

When H.R. 16654 was introduced in the House last spring, to extend the suspension of the copper tariff which expired on the first of July, this organization—the Arizona Tariff Board—objected to an extension of more than 1 year. However, their opposition was withdrawn as the result of an amendment made by the Finance Committee. In the existing law there is a provision that if the domestic price of copper should fall below 24 cents a pound, any tariff suspension would automatically be revoked. This so-called peril point was raised to 36 cents a pound by the Finance Committee.

The dislocation of the normal sources of domestic supply, because of the 8½ months' strike called by the steelworkers, is no reason to object to the suspension of this tariff. Imports have now declined to their prestrike levels. Operations which are no longer economical have been shut down, but this would have occurred with or without a strike and even if the copper tariff had been in force.

None of the U.S. producers are opposing the continuation of this tariff suspension because foreign-produced copper today is not a threat to domestic production. Foreign-produced copper is selling in the European markets at more than 8 cents a pound above the domestic producers' price of 42 cents. The domestic price 2 years ago was 36 cents a pound. Should the unexpected happen, and the domestic price decline to below 36 cents, then the tariff would automatically be reinstated.

Therefore, I see no reason why those consumers who must import copper to fill their requirements should be obliged to pay 1½ cents a pound more than foreign copper would cost them. This does not benefit the producers nor provide any more jobs for the copper workers; it simply means an added cost in that amount which will be passed on to the final consumer.

I, therefore, oppose the motion to strike the copper tariff amendment and urge my colleagues to do likewise.

Mr. MORTON. Mr. President, I merely rise in opposition to the amendment. As has been so well pointed out by the Senator from Arizona, we are definitely importers of copper. I realize there have been certain dislocations as a result of the very long strike. Some of this copper comes from mine shafts of 5,000 feet. It just so happens it is almost economically impossible to do this job 5,000 feet underground when around the world there are sources of copper much nearer the surface.

I serve on the committee with the distinguished junior Senator from Montana. He has been responsible for a very constructive part of this bill, that is, to raise the so-called peril point from 24 to 36 cents. In that I supported him.

I do, however, rise in opposition to his amendment. We are importers of copper. We are now, however, beginning to export some copper. This might be a help in our balance of trade.

For years now we have suspended this duty. I think it is in the interest of the consumer. I understand the feeling of both Senators from Montana in this connection. I want to pay tribute to the junior Senator from Montana for raising the peril point, which I think is a very constructive thing. I was happy to support him in that, but I do not support the amendment.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. METCALF. I yield to my distinguished colleague.

Mr. MANSFIELD. Mr. President, I rise in support of the amendment now pending, offered by my distinguished colleague, the junior Senator from Montana [Mr. METCALF]. I agree with everything he says, and I point out, and with emphasis, that for some years, because of changing conditions, the tariff on copper was suspended; but I also emphasize the fact that just some months ago the copper miners, the smeltermen, as well as the companies, went through the longest and most difficult strike in the history of the copper industry. A settlement was finally achieved, but as a result of the settlement we find there are 1,000 fewer miners in Butte at the present time. We find a shift away from the shaft mining, and the open pit, the Berkeley pit, being enlarged; and I think some degree of protection should be offered to our own people, especially those who fit in this category.

Unlike some States, Montana is in the unfortunate position of having a company in control which is both a domestic producer and a foreign importer. So we have to look at this problem from two angles.

My colleague and I think this is the best way to face up to the problem. Furthermore, in our opinion, the imposition of this tariff, or the reimposition of it, will not hurt any of the foreign companies now producing, because the price of copper, as far as they are concerned, is considerably higher than that of domestic copper.

I would urge my colleagues to give support to the Metcalf amendment.

Mr. METCALF. Mr. President, I want to mention the peril point proposition which the Senator from Kentucky [Mr. MORTON] brought out. It was at my insistence, and by unanimous motion, that the peril point price was raised from the nonsensical and anachronistic price of 24 to 36 cents. Whether the tariff is suspended or not, it would go back in case the 36-cent price was reached.

But there is a reason why the 9-month strike should be taken into account at this time. The reason is that during those 9 months the domestic companies expanded their copper producing facilities abroad. They are still doing so. They are not taking care of domestic labor and domestic production. The way to require them to do so is to invoke the tariff that is already in effect and to turn down the proposed suspension.

We do not know what the copper situation is going to be in the future, but we do know it is imperative, both as a matter of national defense and as a matter of the economy of our Western States, to continue to produce and develop domestic copper. The way we can encourage the domestic companies to do so is to say, "Forget about this foreign development for a while and go ahead and hire the men, rehire them, and develop your own copper supplies and your resources in the States of the West."

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. METCALF. I yield.

Mr. MANSFIELD. Is it not true also that as a result of the strike, as well as for other reasons, the strategic stockpile in copper has been depleted considerably and needs replenishment?

Mr. METCALF. Of course it is true. Copper was released from the stockpile to permit industries that needed copper to go forward during the strike, for defense purposes and purposes of Vietnam. It is imperative that we continue to be a domestic producer of copper, imperative for our national defense and our national economy. That is why we think it unwise to suspend the tariff. We can take a look at the situation as it develops. We can take a look at the situation as they go back to work or as they continue to develop our domestic mines. The Senators from Montana would be among the first to help the Anaconda Co. in its foreign production.

Mr. FANNIN. Mr. President, will the Senator yield?

Mr. METCALF. I yield.

Mr. FANNIN. I would like to ask the Senator how he thinks this amendment will give any further incentive to copper companies to go into mines that they are not working at the present time. Does the Senator believe it is going to raise the price of copper?

Mr. METCALF. No; I do not think it will raise the price of copper, but it will raise the price of imported copper, and encourage the development of domestic copper.

Mr. FANNIN. If I thought that would be the result, naturally I would be in favor of the Senator's amendment. I am sorry; I certainly do not like to disagree with these two distinguished Senators, the majority leader and the distinguished junior Senator from Montana, but here we have a case where the consumer will pay the difference in the cost of the copper, because the amount of copper that must be imported would cost 1½ cents more.

Why does the Senator advocate that the consumer pick up that differential?

Mr. METCALF. On the amount of copper that will be imported, that is true.

Mr. FANNIN. That is correct.

Mr. METCALF. But this will be an incentive to start producing domestic copper, so that they will not have to charge the 1½ cents more.

Mr. FANNIN. I would remind the Senator from Montana that we have domestic companies that do not agree with that argument, and they are not in favor of the tariff, and want the suspension to continue.

Mr. METCALF. Let me say to my friend from Arizona—and he is a very able advocate of resources development throughout the West—that if the copper companies will put these people back to work, as they were working, in economically feasible mines, before the strike, and continue to expand and develop their domestic resources, we can come back here in January and all of us will be together on the suspension of this tariff.

There is a long history of suspension, as shown in the hearings report. There have been times when we have reinvoked the copper tariff, and have not disrupted the industry. We have suspended it time after time, but under special and emergency situations—and I regard this, after a 9-month strike, as an emergency situation. I think we should wait until the industry adjusts. This is not a time for premature action.

Mr. FANNIN. As the Senator knows, I certainly was opposed to the continuation of that strike, and I certainly understand the dire consequences in our particular States. I, too, favor developing new processes. We have mines in

Arizona closed down just a few months ago, which will not reopen. They will not reopen because they are not economically sound to produce. We have that problem, too, unfortunately. I am very sorry that miners were put out of work in Montana, as I am sorry they were put out of work in my State. I wish we could develop a program where those mines could be developed differently, in order that they might become economically sound producers. But, unfortunately, I do not think that will be effected with this tariff, whether or not the tariff is suspended. Consequently, I think it is far more important to think about the general public and the consumer, as far as this tariff is concerned.

Mr. METCALF. Of course, the Senator and I have different opinions on that.

Mr. LAUSCHE. Mr. President, will the Senator yield for a question?

Mr. METCALF. I yield.

Mr. LAUSCHE. The committee report, on page 9, states, under the heading "Committee Position" at the bottom of the page:

> The committee felt that the tight supply situation in copper which exists mainly because of defense requirements and growing industrial demands justifies a continuation of duty-free treatment for copper for an additional temporary period. The Commerce Department recommended this legislation and advises that we know of no adverse effect from the present suspension on the overall interests of domestic copper producers, and none is anticipated if the suspension period is extended to June 30, 1970."

To summarize, the committee says that because of war demands—and I suppose, though it does not say so, because of the scarcity in copper resulting from the 9-months strike—the demand is now much greater than it normally would be. What is the answer of the Senator from Montana to the statement of the committee and the statement of the Department of Commerce that we need no tariff now to insure an adequate supply of copper and a fair price for the consumer?

Mr. METCALF. I say to my friend from Ohio that the report that the Senator has read does not say anything about expansion of the domestic industry.

As I have pointed out, during this long, drawn out, 9-months strike, the various copper companies of America expanded and continued to develop their foreign operations, so that the importation of copper reached a new high point in the history of the United States during that period.

My answer is that the proper way to supply our military demands and take care of this industrial demand for copper is to expand our domestic industry, and the way to do that is to begin to hire men in our domestic mines.

While they see no adverse effect, overall, it is because the copper companies—Anaconda, Phelps-Dodge, Kennecott, and so forth—who, as my colleague from Montana stated, are also foreign producers—are expanding abroad, and failing to pick up, after the strike, domestically at home.

I think the greatest contribution that we can make to national defense is to further encourage the development of domestic copper supplies.

Mr. LAUSCHE. What answer will we give to the other segments of our economy that are wanting special treatment with respect to tariffs? What will we say to steel; what will we say to the shoe manufacturers; what will we say to the textile people?

Mr. METCALF. Is it suggested we will say we will take the tariffs off? We have a tariff on copper, and this bill suspends it. Are we going to say to the steel people, "We are going to remove your tariff"? Are we going to say to the shoe people, "We are going to remove any tariff you have"?

Mr. LAUSCHE. No; but they will want tariffs imposed.

Mr. METCALF. But we have a tariff. What I am saying is, let us keep the tariff we have.

Mr. LAUSCHE. By coincidence, I have a letter here dated September 14, in which a small steel man, now retired, points out what he says is a dangerous predicament in the steel industry, that will affect the workers and the steel structure, and therefore, he says, we should either fix quotas or impose a tariff.

Mr. METCALF. But are we going to say to steel, then, as the Senator is saying to the copper industry, "We are going to remove even the present protection you have"?

Mr. LAUSCHE. Yes; but the Department of Commerce, according to the committee, finds that the tariff is not needed to protect the copper industry of the United States.

Mr. METCALF. The committee may find a tariff is not needed to protect the steel industry, but at least they should have what protection they have, and not have it taken away from them.

Mr. COOPER. Mr. President, the Senate Finance Committee in amending H.R. 7735, provided for the suspension of duties on certain forms of copper to continue until June 30, 1970.

In turning to page 9 of the committee report I noted that the Senate Finance Committee reached a conclusion that because of "the tight supply situation in copper which exists mainly because of defense requirements and growing industrial demands justifies a continuation of duty-free treatment for copper for an additional temporary period."

In considering this matter the committee received the advice of the Department of Commerce and various Government agencies, and I understand that all support the committee amendment.

The committee reports that the Commerce Department advised concerning this legislation by the following comment:

> We know of no adverse effect from the present suspension on the overall interests of domestic copper producers, and none is anticipated if the suspension period is extended to June 30, 1970.

In lowering or suspending tariff schedules, Congress is always faced with the consideration that the tariff will result in a substantial increase in the supply of the product or commodity in this country to the detriment of domestic prices and the wage scales and employment of our workers. But to meet this possible objection, the committee amendment increases the "peril point" price of copper from 24 cents in the tariff schedule to 36 cents. With this provision we have the assurance that, if at any time, additional imports of copper result in domestic copper prices falling to 36 cents per pound, the tariff suspension provided by this bill would terminate and the higher tariff schedule of the present law would be reinstated. The committee report, on page 10, makes this clear:

> Under this amendment, if foreign copper is imported in such quantities as to depress prices below the level which existed when Congress last suspended the copper tariff, domestic miners would be protected by the restoration of the tariffs.

In summing up, Mr. President, I would point out that copper is in short supply in this country to meet our domestic requirements, and, of utmost importance, our national defense needs, which because of the war have increased substantially in the past 4 years, make additional demands on our existing supplies. The committee amendment would only provide a temporary suspension for a 2-year period. The appropriate committees of the Congress and the executive branch will review the situation in 1970.

My State is of course, a consumer of copper in various forms, and it has also a growing industry in the fabrication of copper wire of different types. Despite expansion programs now in progress in the production of primary copper in the United States, the demand exceeds the domestic supply. This has been true since 1940, and it may continue since the increase in copper consumption keeps rising faster than the production of this metal in the United States. I would like very much to see copper production increase in our own country.

For these reasons I urge that the amendment proposed by the distinguished Senator from Montana [Mr. METCALF], not be accepted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana. [Putting the question.]

The nays appear to have it.

Mr. METCALF. I ask for a division.

On a division, the amendment was rejected.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment in the nature of a substitute and the third reading of the bill.

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

The bill (H.R. 7735) was passed.

The PRESIDING OFFICER. Without objection, the title will be appropriately amended.

The title was amended, so as to read: "An act to continue for 2 years the existing suspension of duties on certain alumina and bauxite, and for other purposes."

AMENDMENT OF THE TARIFF SCHEDULES OF THE UNITED STATES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 1480, H.R. 653.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 653) to amend the Tariff Schedules of the United States with respect to the rate of duty on certain nonmalleable iron castings.

The PRESIDING OFFICER. The question is on agreeing to the request of the Senator from Montana.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Finance, with an amendment to strike out all after the enacting clause and insert:

That (a) schedule 6, part 4, subpart A of the Tariff Schedules of the United States (19 U.S.C., sec. 1202) is amended by striking out item 662.20 and inserting in lieu thereof the following:

"	Other:		
662.18	Cast iron (except malleable cast iron) parts, not alloyed and not advanced beyond cleaning, and machined only for the removal of fins, gates, sprues, and risers, or to permit location in finishing machinery	2.5% ad val.	10% ad val.
662.20	Other	10% ad val.	35% ad val. ".

(b)(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption, after the date of the enactment of this Act.

(2) Upon request therefor filed with the customs officer concerned on or before the 120th day after the date of the enactment of this Act, the entry or withdrawal of any article described in item 662.18 of the Tariff Schedules of the United States (as added by subsection (a)) which was made after August 30, 1963, and on or before the date of the enactment of this Act shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the day after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of an entry or withdrawal of any article made before January 1, 1968, the rate of duty in rate column numbered 1 of item 662.18 of the Tariff Schedules of the United States (as added by subsection (a)) shall be treated as being 3 percent ad valorem.

(c) Effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after January 1, 1969, January 1, 1970, January 1, 1971, and January 1, 1972, item 662.18 of the Tariff Schedules of the United States (as added by subsection (a)) is amended by striking out the matter in rate column numbered 1 and inserting in lieu thereof, respectively, "2% ad val.", "2% ad val.", "1.5% ad val.", and "1.5% ad val.".

(d) The rates of duty in rate column numbered 1 of the Tariff Schedules of the United States (as amended by the subsections (a) and (c) shall be treated as not having the status of statutory provisions enacted by the Congress, but as having been proclaimed by the President as being required or appropriate to carry out foreign trade agreements to which the United States is a party. The rate of duty in rate column numbered 1 of item 662.20 of the Tariff Schedules of the United States (as amended by subsection (a)) shall not supersede the staged rates of duty provided for such item in Annex III to Proclamation 3822, dated December 16, 1967 (32 Fed. Reg., No. 244, part II).

SEC. 2. (a) The headnotes for schedule 3 of the Tariff Schedules of the United States (19 U.S.C. 1202) are amended by adding after headnote 6 the following new headnote:

"7. With respect to fabrics provided for in parts 3 and 4 of this schedule, provisions for fabrics in chief value of wool shall also apply to fabrics in chief weight of wool (whether or not in chief value of wool). For the purposes of the preceding sentence, a fabric is in chief weight of wool if the weight of the wool componenet is greater than the weight of each other textile component (i.e., cotton, vegetable fibers except cotton, silk, man-made fibers, or other textile materials) of the fabric."

(b) Items 355.70, 356.30, and 359.30 of the Tariff Schedules of the United States are each amended—

(1) by striking out "32% ad val." and inserting in lieu thereof "37.5¢ per lb.+32% ad val."; and

(2) by striking out "50% ad val." and inserting in lieu thereof "50¢ per lb.+50% ad val.".

(c) The amendments made by subsections (a) and (b) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the 60th day after the date of the enactment of this Act.

(d)(1) For purposes of applying sections 256(4), 256(5), and 351(b) of the Trade Expansion Act of 1962 and section 350(c)(2)(A) of the Tariff Act of 1930—

(A) the rates of duty in rate column numbered 1 of the Tariff Schedules of the United States (as changed by subsection (b)) shall be treated as the rates of duty existing on July 1, 1962; and

(B) the rates of duty in rate column numbered 2 of such Schedules (as changed by subsection (b)) shall be treated as the rates of duty existing on July 1, 1934.

(2) The rates of duty in rate column numbered 1 of the Tariff Schedules of the United States (as amended by subsection (b)) shall be treated as not having the status of statutory provisions enacted by the Congress, but as having been proclaimed by the President as being required or appropriate to carry out foreign trade agreements to which the United States is a party.

SEC. 3. Part V of title III of the Tariff Act of 1930 is amended by adding at the end thereof the following new section:

"Sec. 625. State regulation of transportation of intoxicating liquors.

"No provision of this Act or of any regulation issued thereunder shall be construed to prevent any State from regulating the transportation or importation for delivery or use therein of intoxicating liquors."

SEC. 4. (a) The Secretary of the Treasury is authorized and directed to admit the following articles free of duty:

(1) not to exceed four hydraulic operating tables imported for the use of the Newington Hospital for Crippled Children, of Newington, Connecticut,

(2) one mass spectrometer imported for the use of Arizona State University, and

(3) one mass spectrometer imported for the use of Utah State University.

The Secretary of the Treasury shall also admit free of duty all equipment, parts, accessories, and appurtenances for the articles enumerated in the preceding sentence which accompany such articles and are imported for the use of the respective institutions.

(b) Upon request therefor filed with the customs officer concerned on or before the 120th day after the date of the enactment of this Act, the entry or withdrawal of any article described in subsection (a) which was made before the date of the enactment of this Act shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated in accordance with the provisions of subsection (a).

Mr. WILLIAMS of Delaware. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

What is the will of the Senate? The committee amendment is open to amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill 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.

The question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

Mr. LONG of Louisiana. Mr. President, H.R. 653, as it passed the House, would restore the tariff on certain nonmalleable iron castings used in bottling and packaging machinery which existed prior to August 31, 1963.

Prior to that date, the tariff on these castings was 3 percent but in the changeover to the new tariff structure at that time the duty was raised to 11.5 percent. Under the Kennedy round it is presently 10 percent and will ultimately be reduced to 5.5 percent.

In most instances specified in the tariff schedules, cast iron parts are subject to reduced tariff if they are not advanced beyond cleaning, or machined to remove fins, sprues, or risers, or to locate in finishing machinery. In addition to these general operations, however, the House bill would have permitted cast iron parts for bottling and packaging machines to be first, normalized by heat treatment; second, machined for the purpose of determining its porosity; and, third, painted for protection against oxidation. Enumerating these processes in the statute apparently was considered necessary to restore prior tariff treatment to these castings. Unfortunately, specifying these processes under one provision raised questions as to whether rough iron castings described in other tariff provisions could qualify for the lower tariff if they had been similarly processed.

The Bureau of Customs was also concerned that the specified processes involved concepts which were new to customs administration, and could lead to substantial litigation before their meanings were clarified.

After the bill passed the House, the Bureau of Customs indicated that these additional processes were not such ad-

vancements in the manufacturing process as to require specific mention in the bill. Accordingly, since the specificity of the House bill is now unnecessary to achieve its objective, the Committee on Finance has omitted the unnecessary language from the bill. These technical amendments do not alter the purpose of the House bill in any way. Rather, they carry out the objective sought by the House bill of conforming the treatment of these castings to that applicable to other castings dealt with by the last Congress.

Moreover, in recognition of the passage of time since the bill passed the House, and particularly to reflect the tariff concessions granted during the Kennedy round of trade negotiations, the committee has added amendments providing that for 1968 the tariff on these castings is to be 2.5 percent, for 1969 and 1970, 2 percent, and for 1971 and thereafter 1.5 percent. The House bill provided a flat 3-percent rate, which existed prior to August 31, 1963. The schedule of tariff reductions in the committee's bill parallels the concessions granted with respect to the iron castings dealt with in the 1965 amendments, and reflects the tariff cut negotiated with respect to the duty presently applicable to these castings.

In addition to these technical amendments, the committee also added amendments relating to other matters as follows:

WOOL TARIFFS: CLOSE LOOPHOLE

The first of these amendments deals with certain practices under which high-rate woolen tariffs have been circumvented by combining low-value processed wool with other materials in such a way as to make them dutiable under lower nonwool rates.

Mr. President, the Congress has a history of closing loopholes in our tariff schedules—particularly in the textile provisions—to prevent tariff avoidance by foreign producers. These foreign producers, however, have found new loopholes each time the Congress has acted to close existing ones. In the opinion of the Committee on Finance, this amendment should substantially and permanently solve the recurring problem of fabrics essentially of low-value reprocessed wool being manipulated by foreign producers in a way to avoid the regular tariffs on wool products.

Let me describe the manner in which foreign producers have circumvented the high tariffs applicable to woolen fabrics. In 1965 Congress closed what was referred to as the wool-ramie loophole. Under this device foreign producers combined a small quality of high-value ramie or flax with a large quantity of reused wool to create a fabric which appeared to be woolen. However, because this fabric was in chief value of flax or ramie the high wool rates were avoided in favor of the far lower rates applicable to fabrics of vegetable fibers.

Hardly had Congress acted on this device before a new loophole was found. This time, a small quantity of high-value rabbit hair was combined with the low-value reprocessed wool to blend a fabric in chief value of animal hair, again dutiable at rates far lower than the wool rates. To deal with this further tariff avoidance device, Congress enacted new legislation in 1966 to treat this fabric at rates comparable to the woolen tariffs.

However, once again the ingenuity of foreign producers was not lacking. In a further effort to avoid the high woolen tariffs they began combining the low-value reused or reprocessed wool with silk in such a way that although the resultant fabric was for practical purposes a woolen fabric it was in chief value of silk, and thus was dutiable at a lower rate than if it had been in chief value of wool. In addition they have begun to laminate this wool-ramie, or wool-flax, or wool-rabbit hair fabrics with rubber or plastics or with another fabric, such as scrim, to create a special fabric to which the wool rates enacted in 1965 and 1966 would not apply.

To deal with these further devices, the committee has approved an amendment to subject any fabric which for practical purposes is a woolen fabric to duties which should apply to woolen fabrics. Specifically, under the committee amendment, any fabric which is in chief weight of wool will be subject to wool fabric duties, even though the combining of chief value in the fabric is some other fiber. The committee amendment reflects one of two suggestions submitted in a 1967 Tariff Commission report to the Committee on Ways and Means of the House as to how these loopholes might be dealt with on a permanent basis so as to avoid having to legislate in this area every year or two.

LIQUOR: END TAX EVASION PRACTICE

The next committee amendment is directed at the practice in some border States under which alcoholic beverages are purchased without payment of Federal or State tax ostensibly for consumption in a foreign country, but then is reimported back into the State for consumption without payment of either tax or tariff.

The committee amendment is intended to make clear that even though the tax-free trade as it has developed involves foreign commerce, the States may apply reasonable regulations to assure that alcoholic beverages sold on a tax-free basis for consumption in a foreign country are not unlawfully diverted or returned into the internal commerce of the State.

The amendment is not intended to authorize the prohibition of any legitimate export business, but it is intended to assure that a State may reasonably regulate interstate or foreign shipments of liquor for a good cause, and that where such regulations are reasonable the burden placed on the trade will not require the State regulation to be struck down in the courts. By so clarifying the role of States in establishing reasonable licensing or other regulations to aid in the detection and punishment of those who seek to divert tax-free export beverages for unlawful consumption in this country, the amendment should also benefit Federal revenues.

DUTY-FREE TREATMENT: SCIENTIFIC INSTRUMENTS AND HOSPITAL EQUIPMENT

The final committee amendment permits Utah State University and Arizona State University each to import on a duty-free basis, one mass spectrometer and accompanying parts. It also allows the Hospital for Crippled Children in Newington, Conn., to import duty-free four hydraulic operating tables for use in the hospital.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

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

The bill (H.R. 653) was read the third time and passed.

The title was amended, so as to read: "An act to amend the Tariff Schedules of the United States with respect to the rate of duty on certain nonmalleable iron castings, and for other purposes."

AMENDMENT OF THE INTERNAL REVENUE CODE OF 1954

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 1481, H.R. 2767, that it become the pending business, but that no action be taken on the measure tonight.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (H.R. 2767) to amend the Internal Revenue Code of 1954 to allow a farmer an amortized deduction from gross income for assessments for depreciable property levied by soil or water conservation or drainage districts.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Finance, with amendments.

Mr. LONG of Louisiana. Mr. President, H.R. 2767 as passed by the House modifies the income tax treatment of a farmer who indirectly pays for depreciable property through assessments levied by a soil or water conservation or drainage district. The committee retained the basis approach of the House to this matter but made some perfecting amendments.

In addition, the committee adopted some seven amendments dealing with other matters. I shall deal first with the House-passed provisions and then with these other matters.

SOIL AND WATER CONSERVATION

Mr. President, the House bill provided that a farmer who pays an assessment levied by a soil or water conservation or drainage district for depreciable property which it buys may deduct this assessment for income tax purposes ratably over a 10-year period.

Under existing law a farmer generally may deduct capital expenditures he directly incurs for the purposes of soil or water conservation. He also may claim this deduction where he makes these expenditures indirectly through the pay-

ment of an assessment to a soil or water conservation or drainage district which has incurred the expenditure.

This similarity of treatment where the farmer makes these capital expenditures directly or through a conservation district does not extend, however, to expenditures for machinery or other depreciable property. In these cases the farmer is allowed a depreciation deduction if he owns the asset himself, but receives no tax benefit if the asset is owned by a soil or water conservation or drainage district even though the farmer indirectly pays for the asset through his assessments.

Mr. President, this disparity of treatment led the House to allow farmers who are members of soil or water conservation or drainage districts a ratable 10-year deduction for assessments which are made to cover the cost of depreciable property acquired by the district in connection with soil or water conservation.

The Finance Committee retained this approach but adopted perfecting amendments. One of these amendments provides that the full 10-year amortization of assessments is not to be required in cases where a conservation or drainage district makes multiple assessments for depreciable property. Thus the 10-year spread is not required if a particular assessment does not exceed, by more than $500, 10 percent of the total assessments which have, and will, be made against a farmer for any given depreciable property. A second of these amendments grants the deduction without the 10-year spread where the assessments are small in amount; that is, not over $500. In other cases, 10 percent of the total assessment is currently deductible and the excess is deductible ratably over the following 9 years.

As under the House bill the amount of the assessment for depreciable property which a farmer may deduct may not exceed 10 percent of the total amount of the assessments by the district against all its members.

The committee also adopted an amendment which provides for the case where the farm, with respect to which the assessments were made, is sold during the period over which an assessment is being deducted. In this case the amendment provides that the portion of the assessment not yet deducted is to be added to the cost or other basis of the land instead of being deducted in future years.

The deduction allowed by this provision applies to assessments levied after the date of enactment of the bill. Assessments before the date of enactment, as well as those after that date, are to be taken into account, however, in determining the total assessments made, and to be made, against a farmer by a district for its purchase of depreciable property.

The Treasury Department does not object to this provision as amended by the committee.

AGE OR SEX DISCRIMINATION IN RETIREMENT PLANS OR PRACTICES

Mr. President, one of the other amendments the committee added to this bill corrects an unfortunate interpretation of present law by the Equal Employment Opportunity Commission regarding differential treatment on account of age or between men and women under pension or retirement plans which are qualified under the tax laws or retirement practices.

At present discrimination in employment on account of age or sex, among other things, is prohibited by the equal employment opportunity title of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967. The latter act contains a specific exception where an employer's actions are necessary to comply with the terms of any bona fide benefit plan. Although the Civil Rights Act does not contain a similar exception, the committee believes that Congress did not intend to prohibit reasonable differences in the treatment of male and female employees under retirement or pension plans. This is also suggested by the fact that Congress itself provided for retirement differentiation by sex in the social security program.

Nevertheless, the Equal Employment Opportunity Commission ruled at the beginning of this year that employers could not differentiate between male and female employees with regard to either optional or compulsory retirement ages under pension or retirement plans. The committee adopted this amendment to clarify congressional intent in this area.

Under the amendment an employer is not to be considered as violating the employment discrimination laws because the terms or conditions of a qualified pension or retirement plan or retirement practice provide for reasonable differentiation in optional or compulsory retirement ages between male and female employees or provide for, or require, retirement at reasonable ages. This rule, however, does not excuse an employer's failure, or refusal, to hire persons nor does it excuse the discharge of persons prior to retirement age on account of either their sex or their age. Moreover, the rule does not apply where the terms or conditions of the plan or practice are merely a subterfuge to evade the basic purposes of these employment discrimination laws.

RETROACTIVE QUALIFICATION OF UNION-NEGOTIATED PENSION PLANS

Mr. President, the committee also adopted an amendment concerning the income tax treatment of union-negotiated pension plans. Under present law a pension trust qualifies for income tax exemption—and employer contributions to it are deductible—only if the trust meets certain requirements as to coverage of employees and nondiscrimination in contributions and benefits.

In 1964 Congress provided that a trust which is part of a union-negotiated pension plan which the Treasury Department finds is a "qualified trust" under certain circumstances is to be considered a "qualified trust" from the time contributions were first made to it. For this retroactive qualification to be available, the Treasury Department must be satisfied that three conditions have been met. First, the trust must have been created under a collective-bargaining agreement with two or more unrelated employers. Second, disbursements from the trust before its actual qualification must substantially meet the tests under which the plan qualifies. Third, contributions to the trust before it constituted a qualified plan must not have been used in a manner which jeopardized the interests of the beneficiaries.

This retrospective qualification provision was adopted because of a difficulty which arises with respect to union-negotiated plans. To qualify under the tax laws, a plan must have a definite written program which has been communicated to the employees. However, collective-bargaining agreements generally require employer contributions to begin immediately, and often take a while to reduce the benefits provided under the agreements to the required definite written program. Thus, in many cases there was not time to meet the written program requirement, and plans could not, in the absence of the provision I have referred to, qualify. Accordingly, no deduction would have been available for the required contributions.

The committee's attention was called to a case which indicates that these same difficulties have arisen in plans negotiated with single employers, as well as in the case of plans negotiated with several employers. The specific case called to the committee's attention involves a pension trust set up by the National Tea Co. for its employees.

Since the same difficulties arise with respect to single employers as with multiple employers, the committee believed it was desirable to extend the application of the retrospective qualification provision to single-employer pension plans. Under the committee's amendment, as is true in the case of multi-employer pension plans, various safeguards must be met for the provision to apply.

The effective date of this amendment is the same as that of the existing provision, which in general applies with respect to contributions made after December 31, 1954.

The Treasury Department does not object to this amendment.

ACCUMULATIONS OF INCOME BY TAX-EXEMPT TRUSTS

Another amendment adopted by the committee permits an irrevocable, tax-exempt trust to accumulate income without losing its exempt status, if the income is from property transferred to the trust by its creator before 1951 and the trust instrument requires the income to be accumulated.

In 1950 Congress added a provision denying tax-exempt status to a trust that unreasonably accumulates its income. However, this provision was made inapplicable to a trust created by will before 1951. This exception was provided for the obvious reason that these restrictions could not have been taken into account when the trust was created, since they were not then in existence.

It has come to the committee's attention that a similar problem exists where property was transferred to an irrevocable trust before 1951 by a living grantor, instead of by will, and the trust instrument requires income to be accumulated. One specific case called to the committee's attention involves the Duke endowment trust, although we understand that others may also have the same problem.

The committee concluded that there is no rational reason for distinguishing between testamentary and inter vivos trusts created before 1951 which are making mandatory accumulations of income. As a result the committee adopted an amendment which provides that the tax-exempt status of trusts is not to be lost because of income accumulations if three conditions are met: First, the accumulated income is attributable to property transferred to the trust before January 1, 1951, by the creator of the trust. Second, the trust was irrevocable on that date. Third, the trust instrument requires the income to be accumulated, and this requirement was in effect on that date and at all times thereafter.

The amendment applies to taxable years beginning after December 31, 1950, when the provision restricting accumulations went into effect.

The Treasury Department does not object to this amendment.

ADVERTISING REGULATIONS

Mr. President, the committee also adopted an amendment which postpones for 1 year the application of the new Treasury regulations regarding the taxation of advertising income derived by tax-exempt organizations from publishing periodicals.

Under present law tax is imposed on the unrelated business income of certain tax-exempt organizations. Included in this category are educational and charitable organizations, religious organizations other than church, labor and agricultural organizations, business leagues, chambers of commerce and certain others. The tax applies, however, only where the trade or business is not substantially related to the organization's exempt purpose.

Although the Treasury regulation in effect prior to December 2, 1967, did not specifically deal with the matter of advertising income, in fact tax was not asserted with respect to advertising income derived by an exempt organization from publishing a periodical where the editorial material in the periodical was related to the exempt purpose of the organization.

Mr. President, my colleagues will recall that last December new Treasury regulations were issued which, in general, treat the advertising income derived by a tax-exempt organization from publishing a periodical as unrelated business income.

Concern has been expressed by many that these regulations go beyond the intent of Congress as they relate to this advertising income. In addition, it is estimated that approximately 700 organizations are affected by the regulations. It will be recalled that because of these considerations the Senate adopted an amendment regarding this matter when we considered the Revenue and Expenditure Control Act of 1968. This amendment was deleted in conference with the understanding that the Ways and Means Committee would consider the matter later in the year. It has been necessary, however, for that committee to hold the intended hearings in abeyance because of the large number of people who indicated they wished to testify.

Mr. President, since these new regulations have a substantial impact and are the subject of widespread concern, the committee believed it appropriate to defer their application for 1 year. This will provide us an opportunity to examine the subject and to determine whether we believe legislation is desirable. Accordingly, the committee's amendment delays the effective date of these regulations for a period of 1 year—and therefore postpones for this period the taxation of income from commercial advertising in a periodical published by a tax-exempt organization which contains editorial matter related to the exempt purpose of the organization.

SPINOFF BY LIFE INSURANCE COMPANY

The committee also adopted an amendment postponing the so-called phase III tax effects when a life insurance company distributes, or, "spins off," the stock of a wholly owned subsidiary corporation to a parent holding company. This amendment is similar to three other exceptions which Congress has enacted in recent years to the basic rule, treating a distribution by a life insurance company to its shareholders as a distribution, first, out of the insurance company's "shareholders surplus account" and, to the extent the distributions exceed the amount in this account, then as distributions out of the company's "policyholders surplus account." It is the distributions from the policyholders surplus account which give rise to the so-called phase III tax on the life insurance company.

The prior exceptions deal with tax-free spinoffs by life insurance companies of the stock of other life or casualty insurance companies. This amendment differs from the earlier exceptions in that it deals with the tax-free spinoff of the stock of any wholly owned business subsidiary corporation. The amendment applies, however, only if the insurance company has owned all the stock of the subsidiary at all times since December 31, 1957—that is, from a time before the Life Insurance Company Income Tax Act first imposed the phase III tax on insurance companies or when a company could have distributed the stock of a subsidiary without phase III tax effects.

This amendment differs from the prior exceptions which we adopted in a second important respect. The prior amendments, in the case of pre-December 31, 1957, contributions to capital of a spun-off subsidiary corporation completely eliminated the phase III tax consequences resulting from the spinoff. This amendment does not eliminate these phase III tax effects. Instead it merely postpones these effects until the business subsidiary makes distributions to the parent holding company, or until the holding company disposes of the stock of the business subsidiary corporation. Either of these transactions then is to have the same phase III tax consequences, with one limitation, as would have resulted if the life insurance company had retained the stock of the business subsidiary and, upon receiving funds from the business subsidiary or from the sale of the subsidiary's stock, had distributed the funds to the parent holding company. The limitation which I have referred to is that the fair market value of the stock of the business subsidiary at the time of the spinoff—reduced by any post-December 31, 1957, contributions to its capital which result in phase III tax effects at the time of the spinoff—limits the phase III tax effects resulting from these subsequent transactions.

The amendment I have just described removes the only objection the Treasury Department raised to this provision.

LOSS CARRYOVER OF INSURANCE COMPANY ON CHANGE OF FORM OF ORGANIZATION OR NATURE OF INSURANCE BUSINESS

Another amendment adopted by the committee also relates to insurance companies. It permits an insurance company which, as a result of a change in the form of its organization or the nature of its insurance business—such as change from a mutual casualty company to a stock casualty company or to a life insurance company—also changes its tax status, to carry over and deduct, after the change, losses incurred before the change. The amendment permits the deduction of the loss in these cases generally subject to the same conditions and limitations as in case of other loss carryovers, but with one important exception. The loss carryover cannot exceed the lesser of the carryover determined before the company's change in tax status or the carryover determined after the change in tax status, that is, determined as if the company had been subject to the same tax rules before the change as after the change.

This limitation which I just described is important because of the reason why existing law does not permit the deduction of a loss carryover following a change in the tax status of a life insurance company. The reason is that, in enacting the life insurance provisions, we did not want to permit a loss carryover that would result in too generous tax treatment. That is, we did not want to allow a loss to be deducted by a life company, for example, if the loss was computed under rules applicable to a casualty company which might allow a more generous loss carryover, or vice versa. This limitation prevents any too generous treatment. At the same time, it does not make it impossible for an insurance company to use its loss merely because it changes its tax status.

This amendment makes deductions for loss carryovers available in taxable years beginning on and after January 1, 1967, with respect to losses incurred in periods beginning on or after January 1, 1963. This latter date was the time when a series of amendments to the insurance company tax provisions made the treatment of all insurance companies substantially alike for purposes of computing loss carryovers.

The Treasury Department does not object to this amendment.

DEVELOPMENT COMPANY TREATED AS REGULATED INVESTMENT COMPANY

The last amendment adopted by the committee relates to the asset diversification requirement for a development company qualifying for regulated investment company tax treatment.

A development company is a company principally engaged in furnishing capital to new, small businesses; that is, a corporation principally engaged in developing or exploiting new products. The

advantage to the company of qualifying for regulated investment company tax treatment is that by so doing it pays tax only on the income which it retains and not on the income it distributes to shareholders.

Present law generally requires a regulated investment company to diversify its investments within prescribed limits. A limited exception, however, is provided for development companies. A development company can rely on the exception, however, only if no more than 25 percent of the value of its assets represent securities of issuers in which the company has held an interest for 10 years or more and in which the development company's holdings represent more than 10 percent of the voting stock of the issuer. However, even after this 10-year period the company may retain its "excess holdings," and continue to qualify as a regulated investment company, by relying on a savings provision in present law.

A case has come to the attention of your committee where a development company is relying on the savings provision I have just described to continue to qualify as a regulated investment company. The company is continuing to so qualify, of course, even though it can no longer make "development company" type investments in small, new businesses. This situation frustrates the purpose of the present exception for development companies.

As a result, the committee decided to limit this general savings provision so that it can no longer apply to a development company. The result generally is to require a development company to dispose of its "excess holdings" if it is to continue to qualify for regulated investment company treatment.

Your committee believed that it would be unfair to companies which in good faith are relying on the general savings provision, however, to suddenly withdraw this right. The committee's amendment, therefore, permits a development company a 20-year period, as contrasted to the 10-year period of existing law, in which to dispose of its excess stock holdings. The company must evidence its intent to do so, however—if it wants to retain regulated investment company tax treatment—by disposing of 40 percent of its excess holdings at least by the close of the 15th year. In addition, the company must dispose of all its excess holdings by the close of the 20th year to continue to qualify for regulated investment company treatment.

The Treasury Department does not object to this amendment.

Mr. President, there will be some controversial amendments offered to the bill. And I am well aware of what some of those amendments will be. I have discussed the matter with the sponsors of the amendments. We all agree that at this time of the afternoon, it would be inappropriate to vote on them, because some of them are very controversial. That being the case, any Senator who desires to explain his position in support or opposition to an amendment may do so.

It was agreed between the distinguished majority and minority leaders that we should not vote on the bill at this time because some Senators have been led to believe that we will not have any further rollcall votes today.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

AMENDMENT OF FOOD AND AGRICULTURAL ACT OF 1965—CONFERENCE REPORT

Mr. ELLENDER. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 17126) to amend the Food and Agriculture Act of 1965. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The assistant legislative clerk read the report.

(For conference report, see House proceedings of September 25, 1968, p. 27990, CONGRESSIONAL RECORD.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. ELLENDER. Mr. President, the House bill would have extended the Food and Agriculture Act of 1965 for 1 year. It would also have limited payments under it to $20,000, and modified the law concerning base plans under milk marketing orders.

The Senate amendment would have extended the Food and Agriculture Act of 1965 for 4 years. It also contained a number of provisions relative to milk, feed grains, cotton, wheat, apples, and cropland adjustment, but these were not absolutely necessary.

The conference substitute extends the Food and Agriculture Act of 1965 for 1 year. It omits all other provisions of the House bill and of the Senate amendment. All it does is continue existing law for 1 additional year without other change. All conferees on the part of the Senate signed the conference report.

Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana.

The motion was agreed to.

Mr. HOLLAND. Mr. President, while I have been glad to work on the conference in reducing this bill to the form in which it is reported from conference, I am opposed to the bill; and I should like the RECORD to show that if a record vote were taken, I would be recorded as voting against the conference report.

COMMITTEE MEETING DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on the District of Columbia be authorized to meet during the session of the Senate today.

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

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

AMENDMENT OF CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT OF 1964 FOR CERTAIN EMPLOYEES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily and that the Senate proceed to the consideration of Calendar No. 1489, H.R. 18786.

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

The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (H.R. 18786) to amend the Central Intelligence Agency Retirement Act of 1964 for certain employees, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

AMENDMENT OF THE INTERNAL REVENUE CODE OF 1954

The Senate resumed the consideration of the bill (H.R. 2767) to amend the Internal Revenue Code of 1954 to allow a farmer an amortized deduction from gross income for assessments for depreciable property levied by soil or water conservation or drainage districts.

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is H.R. 2767.

Mr. MANSFIELD. I thank the Chair.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

AMENDMENT OF FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED—CONFERENCE REPORT

Mr. SPARKMAN. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15263) to amend further the Foreign Assistance Act of

1961, as amended, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The assistant legislative clerk read the report.

(For conference report, see House proceedings of today, pp. 27629–27634, CONGRESSIONAL RECORD.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. SPARKMAN. Mr. President, the conference report on H.R. 15263, the Foreign Assistance Act of 1968, represents a fair, and I believe generally satisfactory, compromise of the differences between the House and Senate bills. The differences to begin with, were not so great as they have been in past years, either with respect to money or substantive provisions.

The House bill authorized a total of $1,993,850,000; the Senate, $1,945,900,000. The conferees agreed on a total of $1,974,050,000. I ask unanimous consent that a table be printed at this point in the RECORD, giving a detailed breakdown.

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

AUTHORIZATION OF FUNDS—FOREIGN ASSISTANCE ACT OF 1968 (FISCAL YEAR 1969)

[In thousands of dollars]

Program	(1) House	(2) Senate	(3) Conference	(4) Difference (H=House; S=Senate)
Development Loan Fund	350,000	350,000	350,000	
Technical cooperation and development grants	200,000	200,000	200,000	
American schools and hospitals abroad	13,000	14,600	14,600	H+1,600
Local currency	5,100	5,100	5,100	
Survey of investment opportunities	1,250			H−1,250
Alliance for Progress	420,000	420,000	420,000	
Loans	(330,000)	(330,000)	(330,000)	
Grants	(90,000)	(90,000)	(90,000)	
Partners of the Alliance	500	200	350	H−150 S+150
International organizations and programs	130,000	135,000	135,000	H+5,000
Children's Fund	1,000	1,000	1,000	
Indus Basin [1]				
Supporting assistance	420,000	400,000	410,000	H−10,000 S+10,000
Contingency fund	10,000	10,000	10,000	
Administrative expenses:				
AID	53,000	50,000	53,000	S+3,000
Department of State	(2)	(2)	(2)	
Total, economic assistance	1,603,850	1,585,900	1,599,050	H−4,800 S+13,150
Military assistance	390,000	360,000	375,000	H−15,000 S+15,000
Total economic and military assistance	1,993,850	1,945,900	1,974,050	H−19,800 S+28,150

[1] The Foreign Assistance Act of 1967 authorized $51,220,000 for use beginning fiscal year 1969 for this purpose. The Executive requests $12,000,000 for fiscal 1969.
[2] Existing law contains permanent authorization.

Mr. SPARKMAN. Mr. President, the following are the more significant substantive provisions adjusted by the conferees:

Interest rates: The Senate bill increased interest rates on development loans and Alliance for Progress loans from 2 percent to 3 percent during the first 10 years and from 2½ percent to 3½ percent thereafter. The House bill did not change interest rates, and the House conferees were strongly opposed to changing them. In the end, it was agreed to leave interest rates at 2 percent during the first 10 years and to increase them from 2½ percent to 3 percent thereafter.

Investment guarantees: the Senate bill made no change in the existing ceilings on the total amounts of various kinds of investment guaranties which can be outstanding at any one time. The House bill increased all of these ceilings. The conferees agreed to raise the ceilings by one-half the amount provided by the House. This means that the new ceilings will be as follows:

Specific risk guarantees: $8.5 billion, compared to $8 billion in the present law.

Extended risk guarantees: $550 million, of which $390 million is for nonhousing guarantees and $1,250,000 is for credit union guaranties, compared to $475 million, $315 million, and $1 million, respectively, in the present law.

Latin American housing guarantees: $550 million, compared to $500 million in the present law.

In addition, under the present law, the authority to issue extended risk guarantees would expire June 30, 1970. The Senate bill left that unchanged; the House bill repealed the expiration date, thereby making the authority permanent. The conferees agreed to extend the authority 1 year to June 30, 1971.

Finally, the conferees accepted language in the Senate bill designed to prevent the issuance of guarantees to cover secondary investments—that is, reinvestments made by foreign financial institutions in which American investors have an interest.

Surveys of investment opportunities: The House bill expanded the authority to finance surveys of investment opportunities and provide a new authorization of $1,250,000 for use beginning in the fiscal year 1969. The Senate bill repealed this title of the act. The conferees agreed to leave the title in the act, but to provide no new money or additional authority. The effect is to permit the program to continue to operate with authorization of $850,000 remaining unappropriated from last year.

Utilization of Democratic institutions in development: The Senate conferees agreed to House language expanding title IX of the act to provide for more research and inservice training with respect to the utilization of democratic institutions in development.

Sophisticated weapons for underdeveloped countries: Both House and Senate bills had similar provisions; first, prohibiting the use of military assistance funds to furnish sophisticated weapons systems, such as missile systems and jet aircraft for military purposes, to certain countries; and, second, requiring the withholding of economic assistance in an equivalent amount from certain countries purchasing such systems. In both cases, provision was made for a Presidential waiver. The conferees agreed to the Senate language in both instances, with two minor changes. First, the Senate bill had referred to "advanced" jet aircraft; the word "advanced" was deleted by the conferees. Second, the Senate bill had referred to "any country"; this was limited by the conferees to "any underdeveloped country."

Military assistance to Latin America: The conferees agreed to a provision of the House bill authorizing the use of $10 million in grant military assistance to Latin America for strengthening coastal patrol activities. This is in addition to the law's limitation of $25 million on grant military assistance, other than training, to Latin America, but it is not in addition to the law's overall limitation of $75 million on military grants and sales to Latin America.

Assistance to countries trading with Cuba: The conferees agreed to delete a provision of the House bill prohibiting aid under the Foreign Assistance Act or sales under Public Law 480 to any developed country exporting to Cuba or permitting its ships or aircraft to trade with Cuba.

Pueblo crew: The conferees agreed to delete a provision of the Senate bill which, pending release of the crew of the *Pueblo*, would have prohibited a Presidential waiver of the general restrictions on aid to Communist countries.

Supplier eligibility: Both bills contained similar provisions making it easier to suspend the eligibility of AID suppliers. The conferees agreed to the Senate language, which in general gave AID broader authority to act promptly. The conferees also agreed to Senate language providing penalties for suppliers making false claims or furnishing ineligible commodities.

Strengthened management practices: The conferees agreed to a House provision for the application to foreign aid programs of advanced decisionmaking, information and analysis techniques such as systems analysis, automatic data processing, benefit-cost studies, and information retrieval.

Supersonic planes for Israel: Both bills contained provisions for the sale of supersonic planes to Israel. The conferees agreed to the Senate version, which expresses the sense of Congress in favor of

the sales—rather than directing the President to make the sales—and which does not specify either the number or type of planes to be sold. It does, however, call for the sale of such number "as may be necessary to provide Israel with an adequate deterrent force."

School assistance in federally affected areas: The conferees agreed to delete a Senate provision prohibiting the obligation of certain foreign aid funds until appropriations for school assistance in federally affected areas have been committed.

Gold sales: The conferees agreed to delete a Senate provision prohibiting the sale of gold to nations in arrears in payment of their obligations owing to the United States.

Log exports: The conferees agreed to a modification of a Senate amendment putting a limit of 350 million board feet a year on the sale for export of unprocessed timber from Federal lands west of the 100th meridian. As it passed the Senate, this amendment applied to each of the calendar years 1968 through 1972. As agreed to in conference, it applies to each of the calendar years 1969 through 1971. In addition, the conferees added a provision authorizing the exclusion from this limitation of sales with an appraised value of less than $2,000.

It must be emphasized that the log export amendment is not intended to be a restriction on trade, but only to divert rising foreign purchases from logs to finished lumber products. If we keep the logs at home, our mills can produce enough lumber both for our booming domestic market, and for the export trade.

Hopefully, with adoption of this provision, Japanese trading companies will recognize that some arrangement is desirable that will call for sale to Japan of a "mix" of U.S. logs and lumber products. To work out an appropriate mix of this kind will require a high degree of cooperation within the U.S. industry and leadership from the responsible Federal agencies, especially the Forest Service. It will be necessary for the industry to do everything it can to identify the problems that will arise in milling wood to Japanese dimensions, and shipping in quantities that are economical for Japan to buy.

It will be necessary for the Departments of Agriculture and Interior, especially the Forest Service, to act promptly under that section of the amendment which calls for a public hearing, and a finding of quantities and species surplus to domestic needs.

But the essential burden of assuring that this amendment has the desired effect will rest with the lumber industry itself. During its 3-year term of application, the Foreign Relations Committee will continue to follow carefully the progress made in achieving a wood fiber trade with Japan that will conserve timber for American needs and also provide Japan with a reasonable quantity of wood products.

Public Law 480 currency: The conferees agreed to delete a Senate provision which amended Public Law 480 to exclude foreign currencies for international education and cultural exchange activities from the requirements of section 1415 of the Supplemental Appropriation Act of 1953.

Peace Corps Act Amendments: The conferees agreed to delete Senate provisions making a number of technical amendments to the Peace Corps Act.

Reappraisal of foreign assistance programs: The Senate bill contained a new part providing for a reappraisal of foreign aid programs, both by the President and by a new committee to consist of public, executive branch, and congressional Members. The conferees agreed to a reappraisal by the President, but deleted the provisions for a new committee. The President is to submit an interim report by July 1, 1969, and a final report by March 31, 1970. He is particularly to take into account proposals for the establishment of a Government corporation or federally chartered private corporation to promote the economic development of underdeveloped countries.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. JAVITS. As I understand it, this report contains a provision which calls upon the President to send us proposals for a complete reappraisal of the foreign aid program, including the possibility of operating a significant element of the program—the mobilization of private U.S. capital and know-how for investment in developing countries through a corporate form. I was made acquainted with that agreement of the conferees at an early stage of their proceedings, and I should like the Senator from Alabama to confirm to me the fact that that is in the report—the acceptance in the report.

I should like the Senator to advise me whether it is within the concept of the conferees that this should really be the authoritative effort for which we have struggled so long, to see if the entire foreign aid program can be reoriented so as the amendment declares to make this program once again an effective instrument of U.S. foreign policy.

Mr. SPARKMAN. Mr. President, the Senator has on several occasions advocated this approach to the problem. This year, the Senator will recall, he offered on the floor of the Senate a very long amendment which really consisted of two parts. I accepted it and told him I would take it to conference. The conference agreed to this part of it. They were not ready to accept the other part, and I understood that this is really the gist of what the Senator has been trying to do.

Mr. JAVITS. It is.

Mr. SPARKMAN. I believe he will find that we accepted it in almost the same words that he had—probably the same.

Mr. JAVITS. Does the Senator feel that the temper of the conferees is such that this really can be the basis for a major new departure in the foreign aid program?

Mr. SPARKMAN. Yes. That was the purpose of our acceptance.

Mr. JAVITS. I am very grateful to my colleague. He always handles these matters in not only the most statesmanlike way but also in the most gracious way personally, because I was kept informed at every stage of the conference as to just what was happening to this amendment.

Mr. SPARKMAN. I thank the Senator.

Mr. JAVITS. I ask unanimous consent that the original text of the amendment, my explanation of the need for this amendment and the subsequent discussion on the amendment may be made part of the RECORD at the end of my remarks.

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

[From the CONGRESSIONAL RECORD, July 31, 1968]

AMENDMENT NO. 920

Mr. JAVITS. Mr. President, I call up my amendment (No. 920), and ask that it be stated.

The PRESIDING OFFICER (Mr. MONTOYA in the chair). The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is, at the end of the bill add the following:

"PART V—REAPPRAISAL OF FOREIGN ASSISTANCE PROGRAMS

"DECLARATION OF POLICY

"SEC. 501. The Congress declares that, in view of changing world conditions and the continued need to make United States foreign assistance programs an effective implement of United States foreign policy, there should be a comprehensive review and reorganization of all United States foreign assistance programs, including economic development and technical assistance programs, military assistance and sales programs, and programs involving contributions and payments by the United States to international lending institutions and other international organizations concerned with the development of friendly foreign countries and areas.

"REAPPRAISAL BY PRESIDENT

"SEC. 502. In furtherance of the policy of this part, the President is requested to make a thorough and comprehensive reappraisal of United States foreign assistance programs, as described in section 501, and to submit to the Congress, on or before March 31, 1970, his recommendations for achieving such reforms in and reorganization of future foreign assistance programs as he determines to be necessary and appropriate in the national interest in the light of such reappraisal. The President is requested to submit to the Congress, on or before July 1, 1969, an interim report presenting any preliminary recommendations formulated by him pursuant to this section. In formulating his recommendations, the President shall take into consideration any advice and recommendations submitted to him by the National Foreign Assistance Review Committee pursuant to section 504.

"ESTABLISHMENT OF COMMITTEE

"SEC. 503. (a) There is hereby established a National Foreign Assistance Review Committee (hereinafter referred to as the 'Committee') which shall consist of sixteen members, to be selected as follows:

"(1) Four members to be appointed by the President from appropriate departments and agencies of the executive branch concerned with activities in the field of foreign assistance or international development;

"(2) Four members to be appointed by the President from among private citizens of the United States who are widely recognized for their broad knowledge of or for their pro-

found interest in the field of foreign assistance or international development;

"(3) Four members of the United States Senate to be appointed by the President of the Senate, two of whom shall be members of the minority party appointed after consultation with the minority leader, and not more than two of whom shall be members of the Foreign Relations Committee of the Senate; and

"(4) Four members of the House of Representatives to be appointed by the Speaker of the House of Representatives, two of whom shall be members of the minority party appointed after consultation with the minority leader, and not more than two of whom shall be members of the Foreign Affairs Committee of the House of Representatives.

"(b) Members of each class described in clauses (1), (2), (3), and (4) shall serve at the pleasure of the authority empowered to appoint such members.

"(c) The Committee shall select a Chairman and Vice Chairman from among its members.

"(d) The Committee shall be organized and shall hold its first meeting as soon as possible after the date of enactment of this part.

"(e) Any vacancy in the Committee shall not affect its powers and shall be filled in the same manner, and be subject to the same limitations, as in making the original appointment.

"FUNCTIONS AND DUTIES OF COMMITTEE

"SEC. 504. (a) It shall be the function of the Committee to assist and advise the President in formulating the recommendations referred to in section 502.

"(b) In carrying out its function, the Committee shall make such studies, with respect to United States foreign assistance programs, as are necessary to enable it to develop and submit to the President recommendations with respect to any needed reforms in and reorganization of such programs. Such studies shall include, but not be limited to, an analysis and consideration of—

"(1) the objectives and nature of United States foreign assistance programs and the extent to which such programs are related to and harmonious with vital United States interests;

"(2) the relationship of and experience derived by the various departments, agencies, and other instrumentalities of the United States engaged in or concerned with such programs and any duplications and overlapping of jurisdiction with respect to such programs, and the relationship of such departments, agencies, and instrumentalities of the United States to international agencies, banks, and other international organizations engaged in or concerned with development or relief programs;

"(3) the ways and means by which such programs might be improved, amended, or supplemented so as to provide for the most efficient, economical, and effective administration and operation of such programs;

"(4) the relationship of foreign trade to foreign assistance, and the extent to which private trade and private investment can and should complement or replace government-to-government assistance; and

"(5) the ways and means by which private enterprise and private sources, alone and in partnership with the Government, can participate in contributing to the flow of technology and capital to the less developed friendly countries and areas.

"(c)(1) The recommendations submitted to the President by the Committee shall include specific proposals concerning the establishment of a Government corporation or a federally chartered private corporation designed to mobilize and facilitate the use of United States private capital and skills in less developed friendly countries and areas.

"(2) In preparing such proposals the Committee shall consider whether such corporation should be authorized to—

"(A) utilize Government guarantees and funds as well as private funds;

"(B) seek, develop, promote, and underwrite new investment projects;

"(C) assist in transferring skills and technology to less developed friendly countries and areas; and

"(D) invest in the securities of development financing institutions and assist in the formation and expansion of local capital markets.

"(d) The Committee shall submit an interim report to the President on its recommendations not later than on June 1, 1969, and shall submit a final report to the President on its recommendations not later than on February 28, 1970. Upon the filing of its final report the Committee shall cease to exist.

"POWERS AND ADMINISTRATIVE PROVISIONS

"SEC. 505. (a) The Committee is authorized to appoint and fix the compensation of such secretarial, clerical, and other staff personnel as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(b) The Committee may procure such temporary and intermittent services as are authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

"(c) The Committee or, on the authorization of the Committee, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this part, hold such hearings, administer such oaths, take such testimony, and sit and act at such times and places in the United States or abroad, as the Committee, Subcommittee, or member deems advisable.

"(d) Upon request made by the Committee, each department and agency of the Federal Government, including independent agencies, is authorized and directed (1) to furnish to the Committee such information, suggestions, or estimates as the Committee may determine to be necessary or desirable for the performance of its functions, and (2) to the greatest extent practicable, and with or without reimbursement as may be determined by such department or agency, to make its services, personnel, and facilities available to the Committee in the performance of its functions.

"COMPENSATION OF MEMBERS OF COMMITTEE

"SEC. 506. (a) Any member of the Committee who is appointed from any branch of the Federal Government shall serve without compensation in addition to that received in his regular employment, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by him in the performance of his duties as a member of the Committee.

"(c) Members of the Committee, other than those referred to in subsection (a), shall receive compensation at the rate of $100 per day for each day they are engaged in the performance of their duties as members of the Committee and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Committee.

"EXPENSES OF THE COMMITTEE

"SEC. 507. There are authorized to be appropriated such sums as may be necessary to carry out this part."

Mr. JAVITS. I yield myself 10 minutes.

Mr. President, the amendment I have proposed is, I believe, very important. I hope that Senators will agree. It seeks, at long last, to bring about a review and reappraisal of the foreign assistance programs of the United States and to provide by law for definitive recommendations to be made on the subject by the President, with a view toward formulating a totally new program and a totally new approach.

The President is requested to submit to Congress on or before June 30, 1969, an interim report, and approximately 1 year later, on or before March 31, 1970, a final report.

The amendment proposes the appointment of a National Foreign Assistance Review Committee to advise Congress and the President on this subject.

The committee is to be composed of 16 members, four from the executive branch, four from the Senate, four from the House, and four from the public domain, to be appointed by the President.

The purpose of this amendment is to recognize what is a situation, not a theory. It is well known that for many years—20 years now—including my service in the House of Representatives, I have been very favorable to the foreign aid program, and I believe it is indispensable to the public policy of the United States. Indeed, the committee says so in its report.

Also, we all know—we have been told many times, and there is no question about its truth—that the developing areas of the world are slipping behind instead of moving forward. They probably would have slipped behind much more had we not had some form of foreign aid. But the fact is that the gap between the rich and the poor nations is increasing, not decreasing, with tremendous danger that the world sweep of revolution is more likely to engulf them now than it otherwise would.

Notwithstanding these truths, the fact is that we now have such a severe cut in the foreign aid program—a billion dollars—as really to make Americans question whether it is meaningful at all in the form in which we actually pass it, and to dictate very strongly that there should be a complete review and an effort to come out with some kind of new plan.

Mr. President, members of the Committee on Foreign Affairs of the House and of the Committee on Foreign Relations of the Senate know that periodically the administration has promised to come in with a new plan for foreign aid. But always the pressure of events, the fact that the year's estimates almost come upon the heels—if they often do not anticipate—of the appropriations for the foreign assistance program, aborts the effort of the administration to come in with anything really new or different. So we have gone on from year to year very much like the elephants, locked tail and trunk together, without taking some stock of what we are doing and how me might do it better, and with a diversity of programs, including food aid, direct aid, technical assistance, the Alliance for Progress and military assistance, all lumped into one, and handled pretty much the same way and under the same heading.

Mr. President, it is time to stop and take notice, and review what we have done and plan something new for what we have to do in order to bring about a changed situation with respect to the foreign aid program.

This approach should be especially appealing to those who are for the program and who are deeply worried about seeing the program eroded to the point of ineffectiveness, and also to those who are in the middle of the road and who are willing to go along but not quite sure as to how to go about it. This is a way to provide a reassessment for foreign aid.

One of the major ideas in the foreign aid field has been the idea of a corporation to be organized by Government, essentially, but to operate with the flexibility of a corporation with the ability to seek, develop and underwrite view investment projects, uti-

lizing Government guarantees and funds as well as private funds, to assist in the transferring of skills and technology to developing nations and possibly to invest in the securities of development financing institutions and to assist in the formation and expansion of local capital markets.

West Germany runs a part of its foreign aid program through such a corporation. If Senators will refer to the hearings held before the Committee on Foreign Relations, at page 385 they will find an analysis of the German plan. On page 387 of the same hearings Senators will find an analysis of the British plan. The German plan is called the German Corporation for Development Cooperation. The British corporation is called the Commonwealth Development Corporation. Both of these programs are new approaches along the lines of trying to bring about a partnership between Government and business for the purpose of pursuing the foreign aid program.

Mr. President, the amendment I have proposed also contains a provision calling for a report by the review committee on the question of whether a corporation should be organized by the United States to carry on certain basic elements of the foreign aid program. This particular section has been the subject of consideration with the officials of AID themselves and we have done our utmost to draft the provisions with respect to calling for recommendations on a Government corporation or a federally chartered private corporation to mobilize and facilitate use of U.S. private capital and skills in developing countries in a manner satisfactory to them and which they would be willing to support. To me that represents one of the most important aspects of this amendment.

We all love the Senator from Alabama because he is honest and fair with all of us. He has told me directly he is willing to take that part of this amendment which relates to review. He has some reservation about the question of whether or not a review committee should report on the corporation idea.

I feel that the review committee is fine. I am all for it and I am pleased that he is willing to take it. I hope he stays with it in conference.

However, to me the innovative part of the amendment relates to—and I do not commit the country to it—a specific report on this corporation idea. It is a new and enterprising idea and has been followed in both Germany and Great Britain.

I would say to the distinguished Senator from Alabama if he would just as soon do it this way I would be perfectly willing to have him take the amendment for a review committee, and to excise out of it the provision requiring a report on the corporation and let the Senate vote yea or nay on a rollcall vote on the corporation idea.

If the Senate thinks there is something in it, then the Senate will support it and there would then be a lot more chance of surviving in conference. If the Senate thinks there is nothing in it, the Senate will reject it and that will be the end of the matter for this session as far as I am concerned. I think these ideas are relatively separable to the extent I have gotten different cosponsors for the corporate idea than for the review committee idea.

I hope we might have the expression of opinion from the Senator from Alabama on this question.

To rephrase the matter so we can understand it, I think the idea of the review committee, which appeals to him is great. I hope very much he can take it and keep it in conference. As to the idea of a corporation, which is all this expresses, if the Senator does not feel the same way about that, I would be willing to excise it from the amendment he takes and submit it as a separate amendment, debate it for one-half hour or so, and vote on it, because I feel strongly that that is the innovative part of my proposal. The creativity of the corporate idea is something I worked on for years. I had it in separate bills with great specificity of what it should be and how it should be financed. I had about 12 cosponsors in the Senate. We have a report from the Foreign Affairs Committee in the other body by Representative FARBSTEIN of New York endorsing the idea of carrying on the foreign aid program of the United States.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Mr. President, I yield myself 3 additional minutes.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, this is an idea which is of great importance and significance. I would not wish to feel that it is just being cursorily accepted and then dropped in conference and that would be the end of that. I would rather take my chances on a rollcall vote.

Now, I would like to have an expression of opinion from the Senator from Alabama.

Mr. SPARKMAN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SPARKMAN. Mr. President, I wish to say to the Senator from New York that I fully subscribe to the idea of the reassessment. We have had many studies of foreign aid over the years. However, I think everyone must realize that we are in a time of change, a time of change that is indicated by the action of the Committee on Foreign Relations on this particular bill.

I would welcome a new study of it made in light of the new conditions. I can easily subscribe to that. As far as I am concerned, I would be glad to recommend to the Senate that we accept that.

On the second part, regarding the corporation, that is something I have not had occasion to study or think through as I should. I have indicated to the Senator from New York that I would be glad to let that stay with the amendment and take the whole thing to conference.

In the meantime, I would hope to do some study into the proposal for the corporation. Of course, we know that we must reckon with the House conferees. I have no idea how the House conferees would take to it. However, if the Senator is willing to go on that condition, I will assure him that I would be glad to recommend it be taken.

Mr. JAVITS. Mr. President, I think that is very kind. On that basis, I think I should, as I was concerned that the Senator might have some more definite feeling about it than he expressed. But the expressions of the Senator reassure me, knowing his character as well as I do. I know the amendment will have a fair shake in conference.

Mr. President, both the House of Representatives and the Senate Foreign Relations Committee have made clear by their overwhelming approval of major cuts in the foreign aid authorization bill that they have grave questions about this program.

Their action came as no surprise to those of us who have followed the annual authorization process in recent years. The severe budget deficit and balance-of-payments problems facing the country today and the heavy drain imposed on our resources by the war in Vietnam are largely responsible for this situation.

I have supported our foreign aid program as long as I have been a Member of Congress. I continue to favor U.S. aid to developing nations. I am prepared to face the fact, however, that for a variety of reasons, support for foreign aid in its present form has been so reduced in the Congress and among the public that the foreign aid program in its present form can no longer be maintained so as to perform a useful service to the Nation. We must revise the program to reflect current world conditions and make it again an effective tool of U.S. diplomacy.

It is important to note that the opposition to foreign aid is directed against its effectiveness and the economical use of its means rather than against the specific uses of the program—aid for agricultural development, technical assistance, loans to developing banks, saving and loan associations, cooperatives, the investment guarantee program.

While we have domestic troubles of our own, we remain a world power, with all the responsibilities that these responsibilities imply. We cannot expect to live in peace while two-thirds of mankind lives in abject poverty and hunger. We will have to do our share to alleviate these conditions and as the leading democratic nation we must inspire our fellow democracies to do their share. I believe the American people recognize this and are willing to do their fair share. It is fair to conclude that their reluctance to support foreign aid is not directed against our basic responsibility but that they want to find a way to make it more effective with the means we can devote to it.

It is for these reasons that I propose a basic reappraisal of foreign aid by the President, with the advice of a review committee composed of representatives of the President, Congress, and the public so that it may reflect the cooperation of all three which is needed to develop a new foreign aid program that will have the renewed support of the American people.

But I assure the Senator that the corporate concept is the creative aspect of the amendment. It has had many refinements and much study. I am not pressing the specifics of the corporation idea, which I had originally sponsored and have for many years, and which is the development of the thinking of my brother, Benjamin Javits, and of Leon Keyserling, but I do think the concept of the corporation is really the creative power of the amendment.

Mr. SPARKMAN. I know something about the German trading corporation and the British Government's operations in this field. The Senator will recall that we had hearings in the Joint Economic Committee, in which these matters were discussed.

Mr. JAVITS. That is correct.

Mr. SPARKMAN. So I am not making an empty statement that I will be glad to take the amendment to conference. I mean to give it real consideration. I am not so prepared to go all out on the Senator's other amendment for the reform.

Mr. JAVITS. I understand. Whether we have a rollcall vote on it or not, it will still be up to the Senator from Alabama. I have had much experience with him in conferences. I am going to submit the whole amendment.

The PRESIDING OFFICER. The time of the Senator from New York has expired.

Mr. JAVITS. Mr. President, I yield myself 3 additional minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 3 additional minutes.

Mr. JAVITS. I wish to spell out the cosponsors of the two amendments I introduced in this connection.

The amendment No. 919 which deals only with the corporation concept and calls for a report by the President on the corporation by June 30, 1969, is sponsored by Senators BROOKE, HARTKE, HATFIELD, MAGNUSON, MILLER, PELL, and PERCY. It has very important bipartisan sponsorship.

The amendment with relation to the review committee, but which also calls for a report on the corporation, has the sponsorship of Senators BROOKE, COOPER, HATFIELD, KUCHEL, and MUNDT. It is interesting to me that bipartisan sponsorship came—and we offered both to our colleagues—with the corporate idea which represented a matter of the greatest interest to me. I feel that we can turn to a new path in the foreign aid field. We are now beginning to appreciate the enormous resources available in the private field, both from investors and from the business

concerns which are available. It is well known that I am considered to be the father of something called the Adela Investment Co., which was one of the really great creative efforts of private enterprise of the great industrial countries of the world to do something with respect to private enterprise efforts in Latin America. It has been supremely successful; and the concept which is contained in this corporate idea follows very much along the lines of the Adela Investment Co.

Thus, I shall rest my case at this point, and greatly appreciate the attitude of the Senator from Alabama. He gives me great faith that both of these ideas, the one he is sufficiently acquainted with and the one toward which he does not feel entirely oriented in terms of knowledge, will have very just treatment at his hands.

Mr. BROOKE. Mr. President, I am pleased to be a cosponsor of the amendment being offered today by my colleague from New York [Mr. JAVITS]. His proposal to establish a bipartisan committee, composed of members of the executive branch, the legislature, and private citizens, to reappraise our entire foreign assistance program, is worthy of our full support.

Foreign aid can be, and should be, an effective instrument of foreign policy. Foreign aid should supplement our economic policy, not be a substitute for it, as has been the case in our relations with all too many of the developing nations of the world. Foreign aid should be an arm of our military policy, it should not make that policy by involving us in areas where we had not planned to establish a deep involvement. Foreign aid should support our political objectives, not subvert them by creating hard feelings when projects are delayed or when funds are suddenly cut back. Foreign aid, like foreign policy itself, must be long range and consistent. It must have a wide area of flexibility, and it must be adaptable to the particular needs of a wide variety of recipient states.

Mr. President, there are many doubts about the effectiveness of our foreign aid program. There are many complaints from recipient countries about the funds expended on surveys and administration, and the relatively small amount which is actually allocated to tangible development projects. There are many reports indicating maladministration and waste in a variety of foreign assistance programs. We are beginning to hear criticisms on our Public Law 480 program, on the grounds that it represents unfair competition with the commodity exports of developing countries. Increasingly, we hear countries asking for trade, not aid, for private investment rather than public loans. Yet the need for public assistance persists.

In the light of this discontent with the foreign aid effort, I would wholeheartedly agree with those who contend that our aid program should be reexamined and revised. Perhaps we have been wrong to expand rather haphazardly a program designed originally to supplement the efforts of our European allies. Perhaps we have overemphasized loans for construction of infrastructure, while overlooking the necessity for larger markets for the products which can thus be produced and transported. Perhaps we are simply not sufficiently aware of the needs of the new nations and our role in meeting them: Maybe we have expected too much progress in too short a time; maybe we have been unnecessarily disturbed when our efforts met with criticism and distrust.

As a government and as a nation, we need a clearer understanding of the goals each nation seeks to achieve. We need a deeper appreciation of our own interests and how they can be achieved. We need, in short to re-examine our foreign aid objectives and to review carefully the accomplishments and failures of the program to date. Then, and only then, can we begin to offer the orderly, well-conceived and well-administered program required and expected of a great nation.

I hope that the amendment of the Senator from New York will be adopted.

THE PROPOSED FOREIGN ASSISTANCE REVIEW COMMISSION

Mr. KUCHEL. Mr. President, for many years there has been growing concern about the course of our foreign assistance program. There are many who feel that in the priorities of our national budget it has a low claim on our national resources. Indeed, the pending legislation before the Senate is a strong reflection of the weight which that point of view is gaining in the public dialog. There are many, on the other hand, who recognize that poverty breeds conflict and hostility and that it requires substantial capital investment to eliminate it. That simple relationship is valid in the urban ghetto of Watts, and equally so in the slums of Calcutta or Istanbul. The question then is how much we allocate for the relief of poverty outside our own country.

I do not intend to dwell on the merits of a foreign aid program. Let me simply state my point of view, which rests on two premises. First, there will be no infusion of capital to alleviate poverty in other nations of the world unless the rich nations of the world, led by the United States, take up the cause, Secondly, as Gen. Lucius Clay concluded following his study of the program in 1963, foreign assistance is a necessary adjunct to the collective security of the free world and the defense of the United States.

But, Mr. President, I do not vow to debate the merits of the program, or even of the foreign-aid idea. The amendment which I have joined the distinguished Senator from New York [Mr. JAVITS] in offering is aimed at resolving the questions surrounding the program in its present form—questions that all of us have in one form or another.

Let me point out that the proposal for a National Review Commission is not simply a question of studying the foreign aid program. As others in this body have pointed out, there have been many studies of the program. Some of these have been extremely complete and worthwhile. I cite particularly the work of the Special Committee on Foreign Aid under a series of distinguished chairmen, and whose chief consultant was our good friend, Mr. Frank Valeo, now the distinguished Secretary of the Senate. The issue is not whether we need a study. Of course we need information and recommendations. But more than that we need sound proposals that would not be ignored. That has been the problem too often in the past.

What we propose today is to create a special body bringing together the foremost representatives of the executive and the legislative branches of the Government to determine what the future of this program shall be. It is necessary to do this, not only because there are divergent points of view as between the Congress and the administration, but because both branches of the Government are closely involved with the problem. It is the hope of those of us who have put this proposition forward that the commission can reach a national conference which we can all accept. This commission may decide that there need not be more foreign aid. Or, it may decide that the program should be reviewed. The point is that whatever stand it takes will have the firm and united support of both Congress and the administration, and of both political parties.

Some may contend that this commission will tie the hands of a future President. This is indeed a grave constitutional problem. The author of this amendment in looking to the future recognizes that any new administration will immediately be seized with this problem. They also recognize that in the first 3 or 4 months of a new administration it will be extremely difficult to tie together all of the extraneous elements necessary to reach a full conclusion. They also recognize that it is quite possible that one political party may not control both the administration and the Congress—so that any effective programing will require a bipartisan approach.

Mr. President, I believe that this amendment is the most realistic way to deal with the continuing agony of the annual foreign aid bill and to resolve it in a manner most closely fitting the needs and desires of the American people.

Mr. SPARKMAN. Mr. President, I yield back the remainder of my time.

Mr. JAVITS. I yield back the remainder of my time, Mr. President.

Mr. SPARKMAN. Mr. President, I move adoption of the amendment.

The motion was agreed to.

Mr. JAVITS. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. SPARKMAN. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

Mr. SPARKMAN. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama.

The motion was agreed to.

ORDER OF BUSINESS

The PRESIDING OFFICER. What is the will of the Senate?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT OF THE INTERNAL REVENUE CODE OF 1954

The Senate resumed the consideration of the bill (H.R. 2767) to amend the Internal Revenue Code of 1954 to allow a farmer an amortized deduction from gross income for assessments for depreciable property levied by soil or water conservation or drainage districts.

AMENDMENT NO. 940

Mr. MILLER. Mr. President, I send to the desk my amendment No. 940, and I ask that it be stated and made the pending business.

The PRESIDING OFFICER (Mr. SPONG in the chair). The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MILLER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 16, immediately after line 12, add a new section 9 reading as follows:

"CROP INSURANCE PROCEEDS

"SEC. 9. Section 451 of the Internal Revenue Code of 1954, as amended (relating to gen-

eral rule for taxable year of inclusion), is amended by adding the following subparagraph:

"'(c) In the case of insurance proceeds received as a result of destruction or damage to crops, a taxpayer reporting on the cash basis of accounting may elect to include such proceeds in income for the year following the year of destruction or damage provided he establishes to the satisfaction of the Secretary or his delegate that, under his practice, income from such crops would not have been reported in the year in which raised'."

Mr. MILLER. Mr. President, my purpose in calling up the amendment at this time is to enable Senators to have the opportunity to look it over in the RECORD tomorrow morning before we come in so they will understand it.

I believe my amendment is a simple amendment. It is designed to take care of a hardship situation which occurs in the case of some farmers.

Farmers who are on a cash basis of accounting quite often will raise a crop in one year and not sell it until the following year. They do this as a matter of practice, and have done so down through the years. It readily can be seen that where a farmer is in that situation, has sold a crop from the preceding year, and suffers hail or storm damage to his crop, and then receives insurance proceeds to cover loss, if he is on a cash basis, he must report the insurance proceeds the same year and this results in a doubling up of income from 2 years into 1 year.

My amendment would provide in this type situation, where the farmer has been following this type procedure consistently of raising a crop one year and selling it the following year, that where insurance proceeds are received in the year in which a crop was raised, he may elect to defer the reported proceeds of the insurance to the following year when he would normally have sold the crop.

I believe the amendment would take care of a hardship situation which arises only because of an act of God and not due to any fault of the farmer at all. I understand there have been a number of these hardship situations, not only in the Midwest, but also in other areas such as the citrus growing area, the wheat production area, the corn production area, and the cotton and rice areas.

I have discussed this amendment informally with the manager of the bill. I believe that Senators, when they read the amendment, will appreciate the fact that while the amendment is relatively simple, it is very fair and is necessary to cover an oversight which has occurred in the tax law down through the years.

Mr. President, I shall not discuss the amendment further at this time because I believe the explanation I have made covers the amendment sufficiently.

DOROTHY GORDON'S YOUTH FORUM OF THE AIR HAS 25TH YEAR ON RADIO AND TELEVISION

Mr. JAVITS. Mr. President, while open discussion and a free exchange between the youth of our Nation and their elders is essential in our society, yet the channels of communication are often not adequately open. Had honest free expression of dissent been permitted in Chicago during the Democratic National Convention, some of the tension and bloodshed might well have been avoided. If we used our stadiums as platforms for debate, then perhaps our streets would not be arenas for assault and violence.

A healthy and fresh skepticism exists among our young people—a desire to question ideas many of which are indeed now obsolete. We should explore with young people the questions arising out of America's past and present, so that we may share with them a more promising future.

If we are to realize the possibilities of the future, we must give our youth the opportunity to be heard; we must provide forums for their questions as well as channels for their dissent. Of those who have been working effectively toward this end, one of the pioneers of an open exchange between young people and their older fellow Americans is Dorothy Gordon.

Dorothy Gordon, a devoted champion of young people, is a believer in their potential wisdom and insight. She has directed her energy to providing them with an effective platform for their questions and their views. In 1945 she founded what is known now as the "Dorothy Gordon Youth Forum," a weekly television and radio show, which allows young panelists to question leading personalities in varying disciplines.

Dorothy Gordon's program has received national acclaim. She has been presented numerous awards, citing her unique contribution to the discussion of ideas and the enrichment of human relations. It is with great pleasure that I note the 25th anniversary of an enterprise that reflects a fine public service and a high degree of genuine community concern.

ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. WILLIAMS of Delaware. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10:30 a.m. tomorrow.

The motion was agreed to; and (at 5 o'clock and 15 minutes p.m.) the Senate adjourned until tomorrow, Friday, September 20, 1968, at 10:30 a.m.

NOMINATIONS

Executive nomination received by the Senate after adjournment of the Senate on September 18, 1968, under authority of the order of the Senate of September 18, 1968:

FEDERAL POWER COMMISSION

Albert Bushong Brooke, Jr., of Maryland, to be a member of the Federal Power Commission for the remainder of the term expiring June 22, 1969, vice Charles Robert Ross.

Executive nominations received by the Senate September 19, 1968:

POSTMASTER

The following-named persons to be postmasters:

CALIFORNIA

Arthur I. Montoya, Palm Desert, Calif., in place of C. A. LaJaunie, resigned.

GEORGIA

Thomas E. Lacy, Jr., Cuthbert, Ga., in place of W. W. Wood, deceased.

Edwin J. Dye, Griffin, Ga., in place of J. W. Hammond, Jr., deceased.

HAWAII

Barbara M. Okita, Paauilo, Hawaii, in place of M. S. Ramos, Jr., retired.

IDAHO

Seth R. Bailey, Bancroft, Idaho, in place of J. H. Toolson, deceased.

IOWA

Robert Clark, Centerville, Iowa, in place of B. L. Evans, resigned.

Donald F. Tierney, Chariton, Iowa, in place of E. H. Curtis, retired.

KANSAS

Theresa Rupp, Ellis, Kans., in place of G. H. Niesley, retired.

LOUISIANA

Julia E. Farthing, Ball, La., in place of L. N. Davis, retired.

MAINE

Stanley J. Borodko, Searsport, Maine, in place of G. H. Jordan, retired.

MARYLAND

Irvin R. Walker, Colora, Md., in place of C. L. Liddell, retired.

MICHIGAN

Jean M. Cook, Homer, Mich., in place of F. H. Shear, retired.

MINNESOTA

Kenneth L. Storm, Cook, Minn., in place of C. F. Ardin, retired.

MISSOURI

Carol J. Freeman, Brighton, Mo., in place of F. E. Gabriel, retired.

NEBRASKA

Lawrence L. Waring, Bloomington, Nebr., in place of B. A. Hogeland, transferred.

NEW YORK

Stanley J. Orenkewicz, Bayport, N.Y., in place of G. W. Dedrick, retired.

Edwin R. Kilmer, Johnstown, N.Y., in place of G. D. McMillan, retired.

NORTH DAKOTA

John P. Severson, Minot, N. Dak., in place of W. H. Dunnell, retired.

OHIO

Arthur D. Dick, Mount Sterling, Ohio, in place of G. E. Pfeil, deceased.

William C. Baker, Tiro, Ohio, in place of J. B. Hilborn, retired.

Raymond F. Diersing, Twinsburg, Ohio, in place of F. P. Jung, retired.

PENNSYLVANIA

James S. Gaughan, Olyphant, Pa., in place of J. B. Lawler, deceased.

VIRGINIA

Marjorie M. Simpkins, Aylett, Va., in place of T. B. Simpkins, deceased.

WASHINGTON

Mildred A. Eller, Twisp, Wash., in place of G. I. Manning, retired.

WISCONSIN

Chester G. Hoel, Cottage Grove, Wis., in place of E. M. Reynolds, retired.

Arthur J. Stepenske, Fontana, Wis., in place of R. P. Porter, retired.

Dallas E. Dimmer, Stanley, Wis., in place of H. B. Ver Weyst, transferred.