million Americans are injured annually by accidents in their homes, their offices, on the highways and elsewhere. The No. 1 killer, cardiovascular disease, still wipes out over a million lives a year, accounting for more than one-half of all deaths. Diseases which can be effectively controlled still strike the unsuspecting: there are, for example, an estimated two million undetected diabetics.

Recent reports about malnutrition, especially among the poor, but also in the middle-income group, offer a grim paradox in our affluent nation. Preventive medicine and health information could spare millions of Americans infinite grief and cost.

The lack of adequate care can be the most tragic at that stage when life is most vulnerable—in the mother's womb and in the first year after birth. Twelve countries have lower infant mortality rates than ours.

Nowhere is promise greater or the shortage more severe than in rehabilitation personnel and facilities. The emotionally disturbed, the physically handicapped, the mentally retarded face long, long waiting lines wherever they turn, and all society is the loser.

Man, himself, is causing health problems of mammoth proportions. Pollution fills millions of lungs with chemicals; noise jars ears and minds. By the end of this century, we will be 90 per cent urbanized and crowding will multiply the daily stresses of life.

Already jam-packed in urban ghettos and spread out in rural slums, the poor—one fifth of our nation—lag in health standards from birth onward. Their poverty makes them more vulnerable to disease and disability. Their illnesses make them poorer. Cause and effect intertwine and only our combined attack on both poverty and disease can break the tragic cycle.

Pioneering facilities like the neighborhood health center are beginning the counter-attack. Meanwhile, another vast backlog—of mental illness—is being reduced by bold experimentation in community mental health centers and outpatient clinics.

The costs of illness are beginning to be brought under control by prepaid insurance. Earlier, Blue Cross, Blue Shield and other private insurance eased financial burdens on millions of our citizens; Medicare and Medicaid added significantly to coverage. But the problem of rising health and hospital costs remains a challenge to creative, voluntary partnership between the professions, our private enterprise system and government.

Fortunately, we don't have to look for "miracles" arriving in some far-off "someday." Many of the answers to today's health problems are no farther than your family doctor, neighborhood clinic or community pharmacy. Having been trained as a pharmacist, I take pride in our profession's accomplishments.

It is only factual to note that ten years ago the wealthiest king could not have commanded the new life-giving, pain-relieving medications which are now routinely stocked in your corner drugstore. And available with the pharmaceuticals is the friendly counsel, the understanding and the interest of dedicated professionals: the pharmacist and the doctor.

Each does his best in serving your health. And all America does its best when it strives for a healthier tomorrow. This is a crucial part of our pursuit of happiness. And, with its success, there will be fewer letters of heartbreak in tomorrow's mailbag.

THE HONORABLE WILLIAM V. ROTH

HON. ALEXANDER PIRNIE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 22, 1969

Mr. PIRNIE. Mr. Speaker, the announcement of our good friend, BILL ROTH of Delaware, that he would forego return to the House and campaign for election to the Senate came as a shock. While I wish him every success in this effort, I am very loath to lose him from this body. In the brief span of 3 years BILL has established himself as a competent and tireless legislator. In individual and cooperative efforts, he has worked smoothly and diligently. The stature of the House is raised and the Nation is well served by such service. We are proud of BILL's record and will follow his further career with confidence and deep interest. Our best wishes will be with him.

SENATE—*Monday, May 26, 1969*

The Senate met at 12 o'clock noon, and was called to order by the Vice President.

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

O Father of our spirits, we need Thee every hour and the land Thou hast given us needs Thee in this hour of history. Forsake us not however far our roving takes us from Thy love and from our true home which is in Thee. Turn our fugitive spirits to Thee for renewal and strength. Vouchsafe Thy light and Thy truth to us in our daily duties. Make us vigilant in pursuit of eternal values. Accept our lives and all the resources of our Nation entirely for Thy service. May we go from strength to strength assured that Thy goodness and mercy follows us all our days and we may abide with Thee forever.

Through Jesus Christ our Lord. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, May 23, 1969, be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

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 VICE PRESIDENT laid before the Senate sundry messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

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

WAIVER OF CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

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

The VICE PRESIDENT. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

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

The VICE PRESIDENT. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider one nomination on the Executive Calendar, that of Mr. Thompson, of Massachusetts.

There being no objection, the Senate proceeded to the consideration of executive business.

The VICE PRESIDENT. The nomination on the Executive Calendar will be stated, as requested by the Senator from Montana.

ATOMIC ENERGY COMMISSION

The legislative clerk read the nomination of Theos J. Thompson, of Massachusetts, to be a member of the Atomic Energy Commission.

The VICE PRESIDENT. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

The VICE PRESIDENT. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 193 and 194.

The VICE PRESIDENT. Without objection, it is so ordered.

AUTHORIZING THE VESSEL "ORION" TO ENGAGE IN THE COASTWISE TRADE

The bill (S. 133) to authorize the vessel *Orion* to engage in the coastwise trade was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 133

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the vessel now known as the Orion (ex-Trinidad), owned by the Orion Towing Company, Inc., of Bartow, Florida, shall be entitled to engage in the coastwise trade upon compliance with the usual requirements and so long as such vessel is owned by a citizen of the United States. For the purposes of this Act, the term "citizen of the United States" includes any corporation, partnership, or association which is a citizen within the meaning of section 2 of the Shipping Act, 1916 (39 Stat. 729), as amended (46 U.S.C. 802).

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–203), explaining the purposes of the bill.

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

PURPOSE AND EXPLANATION OF THE BILL

S. 133, introduced by Senator Holland, would authorize the vessel *Orion* to engage in the coastwise trade. The *Orion* is a tug, 127 feet in length, with a beam of 29 feet, 10 inches, and an average towing speed of 9 knots. The vessel, which is now owned by the Orion Towing Co., Inc., of Bartow, Fla., was built in American territory (Panama Canal) by the U.S. Government for the use of the Government. Because of the provisions of our coastwise trade laws, the vessel is now ineligible for coastwise privileges because it was not built within the United States. A bill identical to this measure was enacted by the Senate in the 90th Congress, but was not acted upon by the House of Representatives.

In view of the hardship that would otherwise be imposed and because of the limited size and employment of the vessel, the committee recommends approval of the bill. The committee believes that this exception is of such a limited and restricted nature that it will pose no threat to the general goals of our coastwise restrictions or to the American shipbuilding industry.

COST OF LEGISLATION

Enactment of this bill would involve no expense to the Government.

DOCUMENTATION OF THE VESSEL "CAP'N FRANK" WITH FULL COASTWISE PRIVILEGES

The bill (S. 753) to authorize and direct the Secretary of Transportation to cause the vessel *Cap'n Frank,* owned by Ernest R. Darling, of South Portland, Maine, to be documented as a vessel of the United States with full coastwise privileges was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 753

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 4132 of the Revised Statutes of the United States, as amended (46 U.S.C. 11), the Secretary of Transportation is authorized and directed to cause that certain vessel now known as the Cap'n Frank, built in 1958 in Nova Scotia, and now owned by Ernest R. Darling, of South Portland, Maine, to be documented as a vessel of the United States with full coastwise privileges upon compliance with the usual requirements so long as the vessel is owned, and shall continue to be owned, by a citizen of the United States.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–204), 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 BILL

The bill directs the Secretary of Transportation to document as a vessel of the United States with coastwise privileges the 38-foot, 6-inch vessel *Cap'n Frank.*

REASON FOR THE BILL

The *Cap'n Frank* was built in Nova Scotia, Canada, in 1958. The vessel is therefore ineligible to be documented for operation in the coastwise trade under section 27 of the Merchant Marine Act, 1920, and under section 4132 of the Revised Statutes (46 U.S.C. 11). A bill identical to this measure was enacted by the Senate in the 90th Congress but was not acted upon by the House of Representatives.

The purpose of restricting documentation with coastwise privileges to vessels built in American shipyards is to encourage ship construction in the United States. It has been the policy of the United States since 1789 to reserve the coastwise trade to vessels constructed in U.S. shipyards. However, from time to time and under special circumstances, Congress has passed legislation authorizing the documentation of vessels for use in the domestic trades although the vessel was built in a foreign country or otherwise lost its documentation because of a transfer to foreign registry. The committee considers each proposal for such documentation on its own merits.

This vessel is owned by Ernest R. Darling of South Portland, Maine. Mr. Darling is a citizen of the United States and plans to use the 38-foot, 6-inch vessel for chartering fishing parties and other passenger service. In view of the hardship that would otherwise be imposed and because of the limited size and employment of the vessel, the committee recommends approval of the bill. The committee believes that this exception is of such a limited and restricted nature that it will pose no threat to the general goals of our coastwise restrictions or to the American shipbuilding industry.

MILITARY DECISIONS IN VIETNAM

Mr. TOWER. Mr. President, I am dismayed by the recent attack on a tactical decision of our field commanders by the Senator from Massachusetts (Mr. KENNEDY) on the 20th of May.

In my estimation, the Senator was wrong, not only in the substance of his assertions, but also in the tone of his criticism.

In advocating that our troops assume a static defensive posture, he is advocating a policy that, if pursued, would result in loss of thousands of more lives of our people than are lost by offensive action.

Further, the Senator seems to accept the somewhat naive—and dangerous—assumption that by giving up the military initiative, we can hasten a negotiated settlement. Nothing could be further from the truth—unless we are prepared to surrender to the enemy. We must negotiate from a position of strength. The enemy knows that he cannot defeat us militarily so long as we remain in Vietnam, but he hopes to prolong the war to the extent that he can collapse the will of the American people to any longer tolerate our presence there. Unfortunately, such remarks as the Senator made keep alive that hope. I must regretfully draw the conclusion that such remarks, however honestly motivated, may cost far more American lives than were lost in assaulting Hill 937.

It is very easy for those of us enjoying the lofty sanctuary of the U.S. Senate to revile dedicated military men risking their lives and doing their job in the defense of our country, but in the process we assault the morale of our troops and undermine public confidence in the finest class of military leadership the world has seen.

By any objective military standard, the battle for Hill 937 was a success for our side, and our troops are to be commended rather than castigated for it. Winning a battle in the strategic Ashau Valley will bring the war closer to an end and will, over the long pull, reduce the potential loss of American life.

I can think of nothing more stultifying to our commanders in the conduct of the war than to have the tactical decisionmaking process subject to constant Monday morning quarterbacking on the part of Members of Congress.

CONGRESS AND THE ARTS

Mr. DIRKSEN. Mr. President, Howard Mitchell, the musical director for the National Symphony, has called my attention to an article entitled "The Congress and the Arts," published in the Washington Post of May 25. It is a rather provocative article, for one thing, but I think its wide currency could have some real influence.

I have read the article with a great deal of interest, and I think it merits a place in the RECORD. Therefore, I ask unanimous consent that the article be printed at this point in the RECORD.

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

THE CONGRESS AND THE ARTS

(By M. Robert Rogers)

The 91st Congress will have to tussle with the issue of Federal participation in the arts in each of its two sessions. In the next few weeks it will be asked to vote on extensive additional funds needed by the Kennedy Center, and it will have to push through an appropriation for the National Endowment for the Arts. In addition, in the next session it will have to decide whether or not the National Endowment survives, since the enabling legislation expires in June, 1970.

Congress will have to make these difficult decisions at a time when the prestigious Ford Foundation has drawn national attention to a mounting economic crisis among performing organizations and museums. Part of the crisis arises from the inability of many artistic endeavors to increase or even hold the

audiences in a time of population and economic growth. "Where are the (concert) customers?" asks the American Musical Digest, published in New York under contract to the National Arts Endowment. "Where are the people?" might ask the National Gallery of Art, which reports that it has been losing attendance since 1963.

In recent times the concept of a Federal bureau devoted to the development of the "arts" was first proposed unsuccessfully to Congress by the Eisenhower Administration in 1957. The idea was revived by President Kennedy. But even he was unable to get favorable action even from a Congress controlled by his own party.

Prodded by Kennedy's cultural aide, Roger L. Stevens, President Johnson used his own legislative skills during the honeymoon period of his Administration to bring about the creation in 1965 of a National Endowment for the Arts. It absorbed the National Council on the Arts (authorized by Congress in 1964) along with Stevens, who was legislated in as chairman of the new agency while continuing as chairman of the John F. Kennedy Center for the Performing Arts. Congress was wary in setting up the new agency, limiting its life to three years and insisting on relatively modest funding.

Last year, when its initial three years of life were about to expire, the Johnson proposal to extend the Endowment came in for tough sledding in the House, with members challenging the method of making grants and the character of many of the subsidized projects. There was particular dissatisfaction with the large proportion of Federal funds (20 per cent) handed out to individuals. Later, through the appropriations procedures, the funding of grants was cut back to $5.9 million, from $6.5 million in 1968.

Federal arts executives were quick to express their disappointment and to accuse Congressmen of being culturally backward. Curiously, by standards set by President Johnson himself, Congress was acting rationally in its cautious skepticism. In the longest statement the President had made on artistic policies (Dec. 2, 1964), he had said quite flatly, "The role of Government must be a small one." He continued, "No Act of Congress or Executive Order can call a great musician or poet into existence . . . We can seek to enlarge the access of all of our people to artistic creation."

Johnson's culture chiefs did not systematically use their limited means to carry out his mandate of accessibility. A numerically large scattering of projects was initiated. A few succeeded, especially those initiated directly by State Arts Councils under a program urged by Sen. Jacob Javits (R–N.Y.). Others still in progress may yet succeed. But there were alarming and, to some observers, predictable failures. Among the more expensive of these was the Metropolitan Opera National Company, a junior touring subsidiary which Rudolf Bing and many Met trustees accepted with doubts. They folded it up on their own motion after two years of operations.

A would-be successor was the American National Opera Company, founded with National Endowment backing by Sarah Caldwell of Boston. Despite generous Federal funding, it went literally bankrupt during its first tour.

The essential missing ingredient in each of these cases was the ability to attract audiences. Access of itself is not useful to all the people if the subsidized performance is of interest to only a restricted minority.

Even though some may try to hide it, members of Congress are better educated than the average of their constituents. It follows that a convincing, logical case for the right kind of Federal participation in the arts can be made more easily to the lawmakers than to the voters themselves. Indeed, when the voters of swinging San Francisco recently had direct access through referendum to a proposal for more municipal investment in the arts, they turned it down.

So President Nixon, to the extent that his Administration may be formulating a Federal arts policy, would be well advised to win the support of Congressmen by offering them a program based on the broadest possible participation by the communities that sent them to Washington. According to competent research, about five percent of Americans are responsive to the so-called performing arts. Unless ways and means are found to start to involve the other 95 per cent, it's going to be increasingly hard to convince the elected representatives of the people that the field should not be returned entirely into the hands of private enterprise.

Perhaps President Nixon may well be able to promote an audience-oriented arts program that will win the confidence of Congress and the increasing interest of the American people.

INEQUITIES IN THE INCOME TAX SYSTEM

Mr. YOUNG of North Dakota. Mr. President, there are many inequities in our present income tax system. There are advantages to certain taxpayers and disadvantages to others. I am hopeful, together with other Members of Congress, that these inequities will be corrected by new legislation during this session of Congress.

One group that is actually being discriminated against are the single taxpayers. A person may be a heavy taxpayer, either single, widowed, or a widower; and, although he may be the head of the household, he cannot take advantage of the "head of the household" exemption.

This is a tax inequity that most Members of Congress recognize, but somehow it has never been corrected. This is an inequity that this Congress must wipe out in the new tax legislation.

Mr. President, a very excellent article on this subject appeared in the Washington Star on May 21, 1969, written by the noted tax authority Slyvia Porter, entitled "Single Taxpayer Needs Help." This is a very powerful argument in behalf of this change in the law. I ask unanimous consent to have the article printed at this point in the RECORD.

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

SINGLE TAXPAYER NEEDS HELP

(By Sylvia Porter)

Single taxpayers have almost no chance of relief from discrimination in the initial installment of the tax reform bill. The administration did not offer any such proposal in its reform package. And there is no sign that the House Ways and Means Committee is considering this aspect.

In the second installment, there is reason for single taxpayers to expect adjustments in the rates and personal exemption rules which so heavily discriminate against the never-married, the widow and the widower. A Treasury spokesman says, "The need for this reform is very much recognized." A powerful congressman adds that "heavy pressures" from representatives of the single taxpayer "are being felt."

In fact, it could be that if the tax package is delayed until 1970–71, this reform might be part of it. Here, therefore, is a progress report.

The discrimination against the single taxpayer is obvious, harsh—and apparent not only in the tax rate structure but also in the system for personal exemptions. To be specific:

1. Rates. The married couple has the enormous advantage of being able to split income for tax purposes. If you are married, you pay taxes at substantially lower rates than if you are single. There is no logic to this and it is unfair.

2. Personal exemptions. The single taxpayer has one personal exemption of $600. The married couple has a minimum of two, or $1,200. Again, the logic is questionable; it is nonsense to assume that it costs twice as much for the married couple to live as it does for a single person—and the more children, the more exemptions and the bigger the inequity.

3. Dollar totals. The $600 exemption was voted in 1948. Relentlessly rising living costs since then have reduced it in effect to under $400. That is pitifully outmoded—and especially for the single person with few other deductions to claim.

When you get to the details, the injustice is even clearer. To illustrate, an unmarried woman supporting an elderly aunt who raised her in a separate household is taxed at a much heavier rate than an unmarried woman supporting her elderly mother in a separate household.

To illustrate further, the personal exemption system was created to protect very low income people and couples with many children; it ignores the middle-income single person. Income splitting was adopted in 1948 to equalize the situation between community property and non-community property states; it also ignores the single person.

The most popular proposals to erase the inequity would broaden the head of household status, with particular reference to the single individual 35 years of age and older.

But a more intelligent approach might be through the system of personal exemptions. By varying person exemptions according to marital status and income levels, the discrimination might be automatically wiped out.

What should a single taxpayer do? Join a group which already has organized to lobby for this reform or organize one on your own. Sign petitions if you prefer this approach. Mail your protests to your congressmen and senators—and keep mailing. Send copies of your protests and/or petitions to the House Ways & Means Committee and the Senate Finance Committee. Make your voice heard!

This is what other groups lobbying for tax laws do, and their success may be measured by the extent to which the tax laws favor them. You deserve to win this relief—and if you fight, you will.

S. 2241—INTRODUCTION OF REMOTE AREA MEDICAL FACILITIES ACT OF 1969

Mr. BIBLE. Mr. President, on behalf of myself and Senators BURDICK, GRAVEL, HANSEN, HATFIELD, JORDAN of Idaho, MCGOVERN, METCALF, MONTOYA, MOSS, NELSON, PROXMIRE, YARBOROUGH, RANDOLPH, and STEVENS, I am today introducing the "Remote Area Medical Facilities Act of 1969."

The purpose of this legislation is to authorize the Secretary of Health, Education, and Welfare to make remote Indian medical facilities available to non-Indians under certain conditions, with the consent of the major Indian tribes served by the facility, and provided that priority is given the needs of Indian people.

The high cost of medical resources and the scarcity of professional skills have clearly delineated the need for more effective utilization of existing health centers and health manpower skills. Throughout the United States there exist

pockets of medical care deprivation, not caused by the lack of resources, but by lack of legislative authority to make existing health resources available to those in need. For example, there are approximately 655 non-Indians residing within a 50-miles radius of the Owyhee, Nev., Indian Hospital and the nearest hospital for these people is at Elko, Nev., approximately 90 miles away.

While other hospitals of the Division of Indian Health located in remote areas are made available to Federal employees and their dependents under existing law, no provision, except for emergencies, has been made for private citizens who reside in the vicinity.

There is legal precedent for extending health care in Public Health Service Indian hospitals to nonbeneficiaries. In Alaska, such care is provided pursuant to 48 United States Code 49. The State of Alaska has designated certain areas as "remote" with reference to the availability of health services, and in these areas the Public Health Service hospitals provide health services on a reimbursable basis to nonbeneficiaries.

The present proposal will extend the Alaska program to all other remote areas in the continental United States.

The use of remote Indian health centers will promote greater areawide health programing where restricted access exists at present. Additionally, the use of such facilities by nonbeneficiaries will assure fuller utilization of these expensive facilities, thereby achieving operating economies. Control of the hospitals would remain the responsibility of the Division of Indian Health thereby maintaining the desired quality of care. The primary mission of the hospital would remain the quality medical care of the Indian community.

Under the proposed bill, the health services provided would be supportive in nature. The bill does not in any way anticipate Federal usurpation of State, local, community, or private prerogative and responsibilities.

It is not anticipated the enactment of this proposal would add to the costs of the Federal Government as services would be provided on a "space available basis" and would be reimbursable.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 2241) to authorize the Secretary of Health, Education, and Welfare to make Indian hospital facilities available to non-Indians under certain conditions, introduced by Mr. BIBLE (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

STATEMENT OF SENATOR BIBLE, CHAIRMAN OF COMMITTEE ON SMALL BUSINESS, ON COSPONSORSHIP OF AGRICULTURAL STATISTICS BILL

Mr. BIBLE. Mr. President. I would like to comment briefly on the reintroduction, by the distinguished senior Senator from Alabama (Mr. SPARKMAN), of legislation to establish an annual agricultural trade statistics reporting procedure.

When this measure was initially proposed in June 1966 I was pleased to join in its introduction and cosponsorship then as I am again at this time. I was likewise glad to cosponsor the annual cattle conference bill which was first put forward in August 1967, and reintroduced on May 8 of this year.

It is gratifying to me, as chairman of the Small Business Committee, out of whose investigations these measures arose, that they have attracted broad support in the Senate from both parties and many regions of the country. This year, to date, 20 Senators have cosponsored the conference bill and 17 the statistics bill, which is somewhat more technical.

Unfortunately, in the past there has not been a comparable interest in the executive branch which would enable us to enact these measures.

There are several important reasons why I believe that this interest should develop.

Livestock raising and processing is widely distributed throughout the United States. Sales of cattle and calves represent, on a national average, one-fourth of all cash income received by the farming community. In some States this proportion is even higher. Senator MONTOYA points out that the figure in New Mexico is around 58 percent. In Nevada it is 65 percent. In Colorado it is 69 percent.

As domestic and foreign markets for meat products grow, these regions, and the farmers, ranchers, and meat processors throughout the country, who are overwhelmingly small businessmen, benefit accordingly.

We know that 93 percent of the world's population is located outside of the United States. Many of our farmers and farm organizations have recognized this fact and are profiting by it. The Small Business Committee found, in 1965, that export markets provided U.S. farmers with an outlet for two-thirds of the rice and nonfat dry milk produced in this country, over half the wheat, half the dried peas, two-fifths of the soybean crop, and about one-third of the cotton, rye and prunes.[1]

In contrast, only 2 to 3 percent of the total utilization of most livestock products has been marketed overseas in 1967.[2] A large amount of this 2 to 3 percent total is made up of inedible tallow, lard, hides, and offal or variety meats of which we now export 10 percent of our production.

As our committee has long been saying, the exporting of U.S. quality table meats has been nonexistent for 50 years prior to the committee investigation of 1964–67. It thus appears that livestock, and particularly beef, is a highly underutilized resource in the export trade. A proper export development program would plainly have advantages for small businessmen in the livestock industry and for the U.S. balance of payments. The measures we have introduced during the past week are designed to begin the process of making improvements in this area.

I have described the features of the cattle conference bill in my previous statement—CONGRESSIONAL RECORD, May 8, 1969, page S4809. The Trade Statistics Reporting Act would allow Members of Congress to gain a clearer understanding of the trends in agricultural trade and what effect this trade is having on our balance of payments. It would put us in a sounder position to make policy decisions on matters of export and import trade policy.

As I observed, upon the filing of the report which recommended these bills:

> While the legislation recommended by this report does not provide an instant answer to the trade and structural difficulties faced by the farmer and the rancher, it does propose a step in that direction, by bringing together those whose experience and judgment are capable of dealing with these problems.
>
> Furthermore, the thrust of the report is that these problems be attacked—in a concerted manner, on a national scale, over the longterm, and within a framework that offers some assurance that appropriate solutions will be proposed and discussed.[3]

The members of our committee have a responsibility to see that such steps are taken. We intend to pursue these matters. We hope that others in Congress and the executive branch will join us so that all who are concerned with the well-being of small businessmen in the American beef industry can work together for the passage of this and other needed legislation.

THE EFFECTS OF THE UNDERGROUND DETONATIONS AT NEVADA TEST SITE

Mr. MOSS. Mr. President, on April 14 Mr. John H. Meier, executive aid of the Hughes-Nevada Operations at Las Vegas, Nev., sent a letter to the Director of the Atomic Energy Commission in Las Vegas asking 18 questions regarding the effects of the underground detonations carried on the Nevada Test Site. The questions, which are the second of a group to be asked, indicate the deep concern of the Hughes-Nevada Operations on the possible relationship between these detonations and seismic disturbances.

This is a concern shared by many, and only last week the Senator from Alaska (Mr. GRAVEL) introduced a joint resolution to provide for a study and evaluation of this relationship—an objective with which I associate myself wholeheartedly.

Because it has now been over a month since the Meier letter was sent to the Atomic Energy Commission, and there has been no reply, I ask unanimous consent that the questions, which I feel are most pertinent, may be printed in the RECORD.

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

HUGHES-NEVADA OPERATIONS,
Las Vegas, Nev., April 14, 1969.

Mr. ROBERT MILLER,
Director of Nevada Operations, Atomic Energy Commission, Las Vegas, Nev.

DEAR MR. MILLER: After carefully reviewing the answers given to our recent questions, I

[1] "Expansion of Beef Exports," Senate Report 939, 89th Cong., 1st sess., p. 2.

[2] "National Food Situation," NFS–124, Economic Research Service, U.S. Dept. of Agriculture, May 1968, p. 33.

[3] Additional Views of Senators Morse and Bible, "Expansion of Livestock Exports," Senate Report 343, 90th Congress, 1st Sess., p. 35.

would appreciate a prompt answer to eighteen additional questions. This will preserve the basic agreement we have in arriving at decisions based upon objective, scientific approaches and help immeasurably in perfecting communications between A.E.C. and the Hughes-Nevada Operations:

1. The U.S. Geological Survey from recent contacts has informed us that the following reports covering underground water from the Nevada Test Site are still in process and may be ready from three to five months from now:

A. "Ground Water Hydrology of the Nevada Test Site."

B. "Water Supply Potential for the Nuclear Rocket Development Station."

C. "Geohydrology of the Eastern Part of the Pahute Mesa."

D. "Geohydrology of Oasis Valley."

How, therefore, can justification for the calculated risk be taken by A.E.C. for any megaton plus tests conducted at the Pahute Mesa or at Hot Creek Valley until these definitive reports on passage of tritium into other parts of Nevada are completed?

2. Is it true that the new Administration Budget for weapons testing to be conducted by the A.E.C. has completely deleted any expenditures for: (A) Plowshare, (B) Feasibility studies on the Peaceful Uses of Atomic Energy, and that this is the reason for some persons wanting to set up another agency to handle the funds?

3. In view of the high probability of venting from extended Plowshare feasilibity studies is the A.E.C. prepared to establish and fund a radiation network stretching from North to South in Utah and telemetered into the University of Utah Radiological Laboratory to provide independent information for the State Department of Health in Utah?

4. In view of the A.E.C. and E.S.S.A.'s analysis of the inadequacy of the seismological equipment at the University of Utah to monitor earthquake epicenters and their size in Utah is the A.E.C. prepared to fund an adequate seismological array along the Wasatch Fault which extends vertically throughout Utah? We have been informed that this area contains serious seismic strains which might be released.

5. In view of the acknowledged inadequate seismological equipment of the Seismological Laboratory of the University of Nevada which is unable to determine the epicenter or size of an earthquake in Nevada (to within 20 to 30 miles) would the A.E.C. fund an adequate telemetered array for the University of Nevada to properly monitor the earthquake effects from future escalation of underground explosions? (It is currently impossible to calibrate the findings of Nevada University with the E.S.S.A. daily earthquake reports for location or size).

6. If Plowshare and other Peaceful Uses of Atomic Energy are to be offered to other countries under agreements of the Non-Proliferation Treaty recently signed, why should the desired additional feasibility tests be conducted exclusively at the Nevada Test Site?

7. As the Nevada State Government has no expert on radiation effects in the State Department of Health does the A.E.C. intend to supplement the state's monitoring capability for the X-ray problems in relationship to total radiation problems for the State of Nevada? Are these reports available for public examination?

8. How big will the underground D.O.D. weapons tests go at the Pahute Mesa approximately 105 miles from Las Vegas? How big and when will the tests go at Hot Creek Valley 165 miles from Las Vegas? How big and when will the tests go at Little Smokey Valley approximately 200 miles from Las Vegas? How big and when will the tests go at Amchitka, Alaska? Will these tests be done simultaneously or incrementally by progressive stages before being relocated to the more remote areas?

9. What will be the total megatonage of all projected tests for Plowshare and for the Department of Defense weapons in 1969? What was the total megatonage for Plowshare, Peaceful Uses of Atomic Energy and for the Department of Defense in 1968?

10. If Sudan at 100 Kilotons produced 12,000,000 tons of earth removed, of which 4,000,000 formed the lip of the crater and 8,000,000 were sent around the world with various radionuclides, and a Metagon Plowshare with venting takes place will this release proportionate tonnage of contaminated earth to the upper atmosphere?

11. If the actual and projected costs of safety monitoring and probable damage payments are included in the projected Plowshare experiments will it still be economically feasible and cost competitive compared with standard engineering methods? Particularly in the Canal studies?

12. Was Benham merely a repeat of Boxcar required by the recommendations of the *ad hoc* President's Scientific Advisory Committee headed by Dr. Kenneth S. Pitzer of Stanford last November because of the failure to properly monitor the earthquake, hydrological, and atmoshperic effects from Boxcar?

13. As the 800,000 Kiloton Faultless shot placed in a known earthquake fault produced a 5 mile long escarpment rising 16 feet at the middle is similar to the Dixie Valley escarpment from a 7.4 earthquake in 1954 near Fairview Peak, will additional megaton shots produce similar escarpments and seismic vibrations into Carson City, Winnemucca and Salt Lake City?

14. It was stated at the Plowshare Symposium "that it would be necessary to test the new "Safeguard" A.B.M. Missile at the Pahute Mesa by steps". As either Benham or Boxcar were at 1.25 does this mean stepping up the size for the next test at Pahute Mesa to 1.5 and then to 1.75 before going to Hot Creek Valley at 2.00 in volcanic tuff?

15. In view of the international seminar called S.I.P.R.I. agreeing that it would be possible to hide 3 times the nuclear explosion judged by the seismic shock in the volcanic tuff at the Pahute Mesa this can be interpreted that already we have been subjected to 3 megaton firings there although hidden by the marshmallow volcanic material and that if this factor is factual the next tests are in reality going up to 6 megatons of nuclear energy?

16. Is it possible for the A.E.C. to obtain permission from the Department of Defense to allow the U.S. Geological Survey to drill sufficient wells in the "Walker Lane" Fault as suggested by Hughes-Nevada Operations six months ago to definitively determine if tritium and other water borne contaminants flow from the Pahute Mesa into water systems below the Nevada Test Site?

17. Is the A.E.C. prepared to fund the U.S. Public Health Pacific Southwest Radiological Health Laboratory to conduct tritium studies at deeper wells than the shallow surface wells now being tested after we suggested this be done?

18. Will the A.E.C. fund a complete study of the radioactive contamination by the uranium mills and tailings piles along the Colorado River for the presence of Radium^{226} in the water serving the entire Southwest area of the United States?

Inasmuch as these are questions of general public interest and based upon unclassified information available to you, it is our opinion that our request should not be considered confidential but in the public domain.

Respectfully yours,

JOHN H. MEIER.

THE CIGARETTE ADVERTISING CONTROVERSY

Mr. MOSS. Mr. President, as the date—June 30—approaches for the expiration of the provisions of the Cigarette Labeling and Advertising Act which prevent the Federal Trade Commission, the Federal Communications Commission, and other Federal, State, and local agencies from regulating cigarette advertising on the basis of its health hazard to the American people, more and more observers are trying to assess the relative strength of the tobacco and antitobacco forces in the House of Representatives.

Elizabeth Drew, Washington editor of Atlantic Monthly, recently wrote a two-part series of articles outlining the situation as she sees it after extensive interviews on both sides of Capitol Hill, and with tobacco industry spokesmen.

I found the second of her series of articles, which deals partly with the Senate, most interesting. I ask unanimous consent to have printed in the RECORD the second series of articles as published in the Denver Post on May 5, 1969.

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

HOSTILE SENATE: TOBACCO INDUSTRY FACES MORE OPPOSITION THIS TIME

(By Elizabeth Drew)

WASHINGTON.—The cigarette companies are presenting their case both through their own public-relations men and through the Tobacco Institute. The institute's public relations are handled by William Kloepfer, a former newspaperman who has held a number of public-relations jobs, most recently with the drug industry.

A tall, deep-voiced chainsmoker, Kloepfer explained: "We are going to do a little more in the way of public communication than there has been in the past. The content is not going to be cigarette promotion. That's not our bag. I think it can be characterized as an effort to promote objectivity in this controversy."

The institute's major activities thus far have been the widespread advertising of a Council for Tobacco Research pamphlet, which it describes as a "white paper," entitled "The Cigarette Controversy: Eight Questions and Answers."

CONNECTION DENIED

Says Kloepfer: "The issuance of it has nothing to do with the congressional hearings. It is a document that we have worked on for a very long time. It has been very thoroughly examined by people in the industry and scientists who are involved in smoking and health research." He declined to give the names of the scientists. "Just people here and there," he said.

The gist of the "white paper" is that the casual relationship has not been proved, particularly how it works. "Too many factors are involved. And until their roles and their relationships are understood no one can be sure about the role of smoking."

FAVORABLE GROUND

The House Interstate and Foreign Commerce Committee, to which the industry chose to take its case first in this year's battle, has always been sympathetic toward the tobacco business. (When it decided to hold hearings on the industry's bills, the committee didn't inform a member who is its leading opponent of the industry, Rep. Frank Moss of California—a distant relative of Sen. Frank Moss of Utah, and not a Mormon. This is reminiscent of industry tactics in 1965, when company spokesmen persuaded House leaders to call the cigarette-labeling bill up on the House floor while the plane returning Moss from Europe was circling Dulles airport.)

EXPERIENCED HANDS

Both the industry and the antismokers consider the House committee and perhaps also the House floor as the most favorable terrain for the cigarette companies. A former senior member of the House committee, Horace Kornegay of North Carolina, now works for the Tobacco Institute as Earle Clements' second-in-command.

(Among other things, this means that through House and Senate rules extending special privileges to former members, Clements and Kornegay have access to the floors of each chamber during maneuvers over the smoking bills.)

Both sides also agree that the Senate will be more hostile. The antismoking Senate strategists are planning on delaying tactics to kill off the industry bill and if all else fails, Senator Moss has threatened to lead a filibuster on the Senate floor.

GROWING SENTIMENT

"I think there's a growing sentiment in the Senate," Moss says, "that, at least tobacco is indeed injurious." Moss claims some 40 to 45 Senate allies on the issue.

In order to shut off a Moss filibuster, Southerners would have to vote for the "gag" rule they despise and there would be the widely publicized spectacle of an industry organizing the Senate against one of its members defending, as he would undoubtedly put it, the women and children of this country.

There are other reasons why the industry will have more trouble this time. A great deal has happened since 1965. Ralph Nader, for one, has happened, and a number of politicians have learned that defending the consumer is good politics.

SENATORS ANNOYED

A number of senators are annoyed and embarrassed that they were had the last time around. Clements is ailing, and some of his most important congressional allies four years ago have died or retired, and his administrative contacts are not nearly so impressive.

Some White House aides hint that President Nixon will take a firm stand on the side of the health forces, pointing out that the President isn't a smoker. (Neither was Johnson.) Asked at a Feb. 6 press conference what he thought about the just-announced FCC proposal to ban TV and radio advertising, the President commented that "as a nonsmoker, it wouldn't pose any problems to me."

MADE PROMISE

Characteristically, he said he would have an announcement on it later, but as of this writing his position, if any, hasn't been made known.

All that the industry will concede is that, as Kloepfer put it, "The greatest difference since 1965 is the multiplicity of hearsay. There may be a different climate popularly, but there won't be when it comes to a careful adjudication of the facts." Or, as one cigarette company executive suggests, "Perhaps this is no more than a political platform where people can grab headlines and make points at home. What are the motivations of the Mosses and the Hydes? Is it because they are Mormons? I think it's a fraud."

BETTER PREPARED

By this time four years ago, the industry had designed its position in detail and made elaborate arrangements to sell it to Congress, and to some observers it is dangerously, from its own point of view, under-prepared and overconfident. It has done far less than it had before to contact congressmen and smooth the way.

There is a feeling among the industry's Washington strategists that they've done it before and they can do it again. Their attitude is similar to that of the automobile companies in 1966; they couldn't believe until it was almost too late that congress would move against a great American industry.

MINORITY VIEW

Robert Wald, a longtime Washington attorney for one of the cigarette companies, believes that the industry's strategy to date has been shortsighted. "It is inevitable that TV advertising is going to end, one way or another," he says. "The industry should have been working out an orderly withdrawal with the congressional staffs and the agencies. Warren Magnuson and Bob Kennedy offered them the chance. Instead, the sentiment is to fight this down to the wire and it could end up in a mess, with the industry the likely loser.

Right now, they're getting hammered by the antismoking ads, which are better than their own, and by the antismoking people who are increasingly effective. Most of the industry's own advertising is pretty silly.

NEEDS STABILITY

"What this industry needs is a period of stability, which it probably won't have until the advertising brouhaha is settled." This is the sort of astute advice, offered more in sorrow than anger, which the industry does not yet show signs of accepting.

An increasing number of congressmen are urging that the Department of Agriculture cease supporting and promoting tobacco and instead plan for an orderly transfer to other crops. At this time, the department spends $1.8 million a year to support the price of tobacco, $28 million a year to sudsidize its export, $240,000 a year to advertise and promote the sale of cigarettes abroad and $30 million a year worth of tobacco is sent overseas to developing countries through the "Food for Peace" program.

PERSISTENT RUMORS

There are persistent rumors drawn up on the basis of no cigarette ads in the near future. The loss, one netework representative claims, could easily be compensated for with other advertisers. CBS, as a matter of public posture, didn't join with the other two networks and the National Association of Broadcasters in fighting to the Supreme Court alongside the cigarette industry to overturn the FCC's fairness-doctrine ruling. The Straus Broadcasting Group in New York has already imposed limits on cigarette advertising, and recently the Washington Post Co. announced that after June 1 it would no longer accept contracts for cigarette advertising on its AM and FM radio stations. Another indication that a trend might be under way came a little more than a week ago when Westinghouse Broadcasting stopped cigarette ads.

The antismokers would not only like to have cigarette advertising dropped from television, and a tough warning in all ads, but also a continuation of the antismoking ads as a public service. This is undoubtedly more than they can win.

There are, too, mixed opinions as to what effect a ban on TV advertising would have on cigarette use. In Great Britain such a ban has not been reflected in a decrease in smoking. This may be why, despite the strong front in Washington and the complaints of harassment in the executive suites, the cigarette industry is not altogether in tears. Asked what he felt would be the effect of a ban on broadcast advertising, one company executive replied, "I would have a lot of money."

ORDER OF BUSINESS

The VICE PRESIDENT. The time of the Senator has expired.

Mr. MOSS. Mr. President, I ask unanimous consent that I may proceed for 10 additional minutes.

The VICE PRESIDENT. Without objection, it is so ordered.

S. 2246—INTRODUCTION OF THE DECEPTIVE SALES ACT OF 1969

SENATE JOINT RESOLUTION 113—INTRODUCTION OF A JOINT RESOLUTION TO INTENSIFY AND EXPAND ENFORCEMENT ACTIVITIES IN COMBATING HOME IMPROVEMENT FRAUDS

Mr. MOSS. Mr. President, I introduce for appropriate reference two measures which would increase the ability of the Federal Trade Commission to fight consumer fraud. The first bill, the Deceptive Sales Act of 1969, which is introduced on behalf of myself, Mr. CANNON, Mr. HART, Mr. INOUYE, Mr. MAGNUSON, and Mr. PASTORE, would empower the Commission to seek a preliminary injunction against a person who it has reason to believe is engaged in an act or practice which is unfair or deceptive to the consumer. The second measure, a joint resolution, which I am introducing on behalf of myself, Mr. CANNON, Mr. HART, Mr. HARTKE, Mr. INOUYE, Mr. MAGNUSON, Mr. PASTORE, Mr. SCOTT, and Mr. SPONG, would direct the Federal Trade Commission to intensify and expand its enforcement activities in home improvement frauds. Both of these proposals passed the Senate in slightly altered form last year.

At the present time, when the Federal Trade Commission takes action against a person whom it believes is defrauding consumers, it may be 3 to 5 years before the matter is finally adjudicated. During this time large numbers of additional consumers may be lured into participating in the seller's deceptive scheme. And the seller, realizing that his profits may increase by prolonging the legal proceedings as much as possible, will employ every dilatory tactic available in order to postpone being placed under a final Commission order. If the Commission has the power to seek preliminary injunctions, however, in many of these cases it will be able to go to court and obtain an order prohibiting the seller from employing the challenged sales practices until the formal Commission proceedings are concluded. This additional authority will assist the Commission greatly in stopping unscrupulous sales practices as soon as they are discovered, and it should save numerous consumers from sustaining unnecessary and substantial financial losses.

Similarly, the home improvement resolution will enable the Commission to crack down on a particular type of consumer fraud where personal losses are estimated to range from $500 million to $1 billion annually. The resolution would authorize the Commission to conduct a detailed 1-year investigation of deceptive practices employed in the home improvement industry, including a thorough study of the relationship between fraudulent home improvement contractors and their finance companies and between fraudulent home improvement contractors and their product suppliers. In addition, it would authorize the Commission, over a 3-year period, to intensify its enforcement program against

those home improvement schemes which involve violations of the FTC Act. The study will be used to identify those areas where the Commission's resources can be expended with the maximum degree of effectiveness.

Last year, in hearings before the Commerce Committee, both consumer and industry witnesses supported this resolution. Particularly impressive in establishing the need for this program, was testimony by the consumer credit commissioner of the State of Texas, Mr. Francis Miskell. He indicated that home improvement frauds in his State cost consumers $20 to $30 million annually. In a survey of 400 fraudulent home improvement transactions which his office conducted, they discovered that 68 percent of the persons affected were employed as blue collar workers; 40 percent earned less than $400 per month; 40 percent had three or more dependents; and nearly 25 percent had become involved in transactions costing $2,500 or more. These figures, which probably could be repeated in every State of the Union, give a startling indication of the degree to which fraudulent home improvement contractors focus upon those persons least able to afford their deceptive schemes. The poor, the uneducated, the unsophisticated, and the elderly all need additional protection against the unscrupulous home improvement salesman. Yet at the present time the Trade Commission has, on the average, only a single attorney spending two-thirds of his time on home improvement frauds. This resolution will markedly expand that enforcement effort. It is the first step toward launching a meaningful program to deal with a type of consumer fraud which has already escalated into a national scandal.

Mr. President, I hope that after the extensive hearings which the Commerce Committee held on these bills last year, and after the favorable action by the Senate on both these proposals late in the last session, that we shall be able to quickly enact these measures during 1969. The longer we delay, the more consumer dollars are wasted on fraudulent selling schemes.

I ask unanimous consent to have printed in the RECORD the text of the measures I have introduced.

The VICE PRESIDENT. The bill and joint resolution will be received and appropriately referred; and, without objection, the measures will be printed in the RECORD.

The bill (S. 2246) to amend the Federal Trade Commission Act, as amended, by providing for temporary injunctions or restraining orders for certain violations of that act; and the joint resolution (S.J. Res. 113) to authorize and direct the Federal Trade Commission to conduct a comprehensive investigation of unfair methods of competition and unfair or deceptive acts or practices in the home improvement industry, to expand its enforcement activities in this area, and for other purposes, introduced by Mr. Moss (for himself and other Senators), were received, read twice by their titles, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

S. 2246

A bill to amend the Federal Trade Commission Act, as amended, by providing for temporary injunctions or restraining orders for certain violations of that Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Deceptive Sales Act of 1968".

SEC. 2. That section 13(a) of the Federal Trade Commission Act (15 U.S.C. 53(a)) be amended as follows:

"SEC. 13. (a) Whenever the Commission has reason to believe—

"(1) that any person, partnership, or corporation is engaged in, or is about to engage in, the dissemination or the causing of the dissemination of any advertisement in violation of secton 12, or any act or practice in commerce within the meaning of section 5 which is unfair or deceptive to the consumer, and

"(2) that the enjoining thereof pending the issuance of a complaint by the Commission under section 5, and until such complaint is dismissed by the Commission or set aside by the court on review, or the order of the Commission to cease and desist made thereon has become final within the meaning of section 5, would be to the interest of the public,

the Commission by any of its attorneys designated by it for such purpose may bring suit in a district court of the United States or in the United States court of any territory, to enjoin such dissemination or the causing of such dissemination or any act or practice in commerce within the meaning of section 5 which is unfair or deceptive to the consumer. Upon proper showing a temporary injunction or restraining order shall be granted without bond. Any such suit shall be brought in the district in which such person, partnership, or corporation resides or transacts business."

S.J. RES. 113

Joint resolution to authorize and direct the Federal Trade Commission to conduct a comprehensive investigation of unfair methods of competition and unfair or deceptive acts or practices in the home improvement industry, to expand its enforcement activities in this area, and for other purposes

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Trade Commission is authorized and directed to—

(a) conduct a full and complete investigation of the purchasing, processing, marketing (including advertising and franchising), pricing, and financing practices of persons, partnerships, and corporations engaged in producing, selling, installing, or financing home improvement products, or services in connection therewith, in commerce (as that term is defined in section 4 of the Federal Trade Commission Act) with a view to determining whether any such practices are in violation of the provisions of the Federal Trade Commission Act, and whether further legislation is needed to protect competitors and consumers adequately from such practices;

(b) transmit to the Congress within one year after the effective date of this joint resolution, a report which shall include a comprehensive statement of (1) the facts and circumstances disclosed by such investigation, (2) the action taken and contemplated by the Commission with respect to violations of law disclosed by such investigation, and (3) such recommendations for further legislation as the Commission may deem appropriate;

(c) undertake an intensified and expanded enforcement program with respect to any such violations of the Federal Trade Commission Act within the home improvement industry; and

(d) transmit to the Congress within six months after the effective date of this joint resolution and annually thereafter for three years, a report which shall include a comprehensive statement of (1) the status of these enforcement activities, including a brief description of the action taken and contemplated by the Commission under its enforcement program, and (2) such recommendations for further legislation as the Commission may deem appropriate.

SEC. 2. (a) The Commission is authorized, whenever it has reason to believe—

(1) that any person, partnership, or corporation is engaged in, or is about to engage in, an unfair method of competition in commerce, or an unfair or deceptive act or practice in commerce within the meaning of section 5 of the Federal Trade Commission Act, and in connection with the production, sale, installation, or financing of home improvement products, or the performance of any services in connection therewith, and

(2) that the enjoining thereof, pending the issuance of a complaint by the Commission under section 5, and until such complaint is dismissed by the Commission or set aside by the court on review, or the order of the Commission to cease and desist made thereon has become final within the meaning of section 5, would be to the interest of the public,

to bring suit, by any of its attorneys designated by it for such purpose, in a district court of the United States or in the United States court of any territory, to enjoin such unfair method of competition or such unfair or deceptive act or practice. Upon proper showing a temporary injunction or restraining order shall be granted without bond. Any such suit shall be brought in the district in which such person, partnership, or corporation resides or transacts business.

(b) Authorization conferred upon the Commission by this section shall not continue in effect after a date which follows by three years and six months the effective date of this Act. Nothing contained in this subsection shall be effective to abate any proceeding instituted by the Commission during the effective period of this section, or to prevent the enforcement of any injunction or order issued by any court in any such proceeding.

SEC. 3. There is hereby authorized to be appropriated to the Federal Trade Commission the sum of $300,000 each year for three years to carry into effect the provisions of this joint resolution.

SEC. 4. This joint resolution shall take effect on the date on which funds to carry into effect the provisions of this Act first become available to the Federal Trade Commission pursuant to an appropriation Act enacted after the date of enactment of this Act.

FINANCIAL DISCLOSURE BY ALL GOVERNMENT OFFICIALS

Mr. MOSS. Mr. President, I rise to support the majority leader, the Senator from Montana (Mr. MANSFIELD) in his call for legislation to require all Government officials in all branches of the Federal Government who make more than $18,000 a year to disclose all outside sources of income.

There is no question but that we need a general standard which applies to all branches of the Government—executive, legislative, and judicial—and which will inform the public completely and fully on all outside income, including outside honorariums—which high public officials receive. In fact, no person should be allowed to ask for election to high public office, or to accept Presidential appointment and ask for Senate confirmation for that office, without making public all

sources of the income which he or she receives. I think Senator MANSFIELD'S suggestion that all officials who make more than $18,000 be included in this disclosure requirement is a good one, because many jobs compensated over this level are political jobs, and all of them are jobs of responsibility, and often of some sensitivity.

For several years I have made a practice of fully disclosing all of my outside income, and have made this disclosure in the form of a statement here on the Senate floor on several occasions. I shall most certainly do so again before I ask reelection to the Senate.

Mr. President, the time has long since passed when Federal officials have the right to hold high office without telling the public where their outside financial interests lie, so the public may weigh their votes and their other actions in the light of these interests.

Public officials who hold high offices should, and must, be above suspicion.

CAMPUS DISORDERS

Mr. MOSS. Mr. President, the continuing turmoil and disorder which is sweeping the Nation's colleges and universities has been too long endured. It must cease.

When small groups of students and nonstudents seize buildings, shut down classes, hold hostages, steal records, destroy property, and commit other violent acts which clearly are criminal, they should be treated as criminals.

What is happening today on American campuses is a national tragedy, but to me its most grievous aspect is that we are permitting our young people to break the law—and get away with it.

Adequate local and State laws and law-enforcement machinery exist for dealing with students and others who violate the criminal laws through trespass, conversion, and destruction of property and intimidation, assault, coercion or restraint of university officials, students and faculty. There must be prompt and effective enforcement of these laws.

The school administrations have the power to call in the peacekeeping authorities and to request full enforcement of the law. They can also make use of the courts through injunction proceedings and contempt findings.

They likewise have in their own hands the ultimate weapon for dealing successfully with campus turmoil. That weapon is expulsion of each person found guilty of breaking the law or, indeed, school regulations. There may be a few tough-skinned militants who care not if they are booted out of half a dozen universities, but many students do not want "expelled" on their record any more than they would want to have to answer the rest of their lives as to why they received a "dishonorable discharge" from military service.

We are finding that in most instances when university and college authorities act decisively and with firmness, the campus crisis ebbs. Notre Dame, Dartmouth, and more recently, George Washington are examples. And, as more and more institutions show capacity to deal effectively with student unrest, campus disorders seem to be leveling off.

Now, I do not mean to say here that all we have to do to end dissatisfaction and disorder on our university and college campuses is to call in the local police or the National Guard. There are times when the only thing which can be done, and which must be done at the moment, is to restore law and order. But the full formula—the long-term formula—which universities must apply to deal effectively with student unrest requires that the firmness necessary to end militancy be combined with improved communications among students, administrators, and faculty, and quick acceptance of reasonable and justified student requests.

I am sure there is no thoughtful, well-informed person in America who is not aware that some student demands are justified, and this bright, aggressive, nonsense generation of young Americans now in college is well qualified to make recommendations which will improve and make more relevant our institutions of higher learning.

And I am confident that no one wants to deny these students the privilege of making these recommendations. Our universities have traditionally been the place where there is full freedom of expression and where the right to dissent has never been questioned. It is only through the interaction of questioning minds and open discussion that we have, through the years, arrived at some measure of truth in various fields of learning.

We must preserve this atmosphere and underline these rights. We must encourage students to keep open, questioning minds, not only about what they are being taught, but how the teaching is being done. We must reserve to them the privilege of intellectual challenging of the actions and the decisions of faculty and college administrations—actions and decisions about curriculum, methods of teaching, and priorities in all aspects of college life.

However, no institution can endure if the right to question is interpreted as the right to physical violence or obstruction of the rights of others. Academic freedom is one thing. Academic anarchy is another.

A list of grievances presented in an intellectual nonviolent way is commendable. A list of "nonnegotiable demands," presented on a wave of physical violence, is intolerable.

It helps a little, I believe, to understand what is happening if we put the campus disorders in perspective. Only a small percentage of the overall national student population actually participates in the turbulence and turmoil. A hard corps of activists or militants on our college campuses are the center of disorder. Their objective, I am convinced, is not administrative reorganization of our colleges or improvement of the curriculum, but revolution for revolution's sake. They seek complete overthrow of the existing system.

This group is sharp enough to keep its finger on the student pulse, and to include in its unreasonable and nonnegotiable demands some requests which have the support and backing of large numbers of the rank-and-file students. This serves to swing blocs of student opinion behind the rioters when peacekeeping authorities are brought into the picture—particularly if someone cries "police brutality," whether this is true or not.

I am frankly very much concerned, Mr. President, about the built-in antagonism of many of our people, including many students, to the use of police. Why? Police are essential in a civilized country. We must have law and order. Without it modern society cannot endure.

All too often calling in the police in a college disorder turns otherwise passive students into active revoltists. Thus, college administrators hesitate—and often hesitate too long—before calling in peacekeepers. They say that to defy the radicals means campuswide chaos. Yet, I would point out that to appease these radicals only invites further assault. Reasonable authority exercised in a firm and commanding way is the best way to end the strife.

And I would ask students who are outraged when the police are called in seriously to consider what will happen to their future if peace is not restored to the campus—and if the university itself is not preserved?

Many people in Utah have written me to ask that the Federal Government intervene in campus disorders. I have told them I believe this should not happen. Basically, the problem of revolt on the American college campus is one which college administrators must meet and handle. The only way I think the Federal Government can rightfully be involved is to make sure that no one who is convicted of a criminal act in a campus disorder continues to stay in school at the expense of the Federal taxpayer.

I supported the amendments enacted last Congress to withdraw Federal grants or scholarships of research assistance from any student convicted by due process of campus riot. If these amendments are not enforceable—and I understand there are some problems—I stand ready to strengthen them. It grieves me to acknowledge that perversion of Federal aid to education evidently does exist on some campuses. This must not be allowed. Federal assistance to students, however small the amount, must not be used to harm or destroy our educational system.

We have been fortunate in Utah that we have had no substantial college disorders. I consider this a tribute to our college administrators, to our faculty members, to our students, and to our citizens. They have adhered to the high purposes of education even though they sense and feel the ferment on campuses in other States. It may also be a testimonial to the discipline inherent in the value systems of our people. No less than others, Utah students want changes, improved curricula, freedom from meaningless restraints, but they have shown maturity, wisdom, and good sense to pursue these goals by persuasion and participation, without violence, disorder, and destruction.

But our own good fortune does not lessen our concern for other States where student disorders do appear. Without denying students the right to dissent, debate, and peaceably to assemble, these riots must cease.

MONTANA'S SMOKEJUMPERS

Mr. MANSFIELD. Mr. President, in Missoula, Mont., we have the Smoke Jumping Center of the Forest Service. It is one of the most efficient and effective organizations that I know of.

Two smokejumpers made the first airborne assault on forest fire, in 1940. Since that time, more than 84,000 jumps have been made.

The personnel at the Smoke Jumping Center consist on the average of about 425 of the Nation's most rugged and daring young men, many of them college students, but not all of them. For their work they receive on the average of between $125 and $150 a week, working long hours and being prepared at all times to go by plane, by helicopter, or other means to put out forest fires in remote areas.

With smokejumpers and scientific firefighting equipment and techniques such as aerial chemical drops, helicopter supply flights, and radio communications, the Nation's annual forest fire loss has been whittled from 30 million acres to 5 million acres a year. That is still entirely too much, but I suppose it is to be anticipated, considering the growth in population and the use by our people of the scenic resources of our country—especially in the western Rocky Mountain area.

Mr. President, these men, who are known as "Smokies," have done a magnificent job. They have earned more for the Nation than what the Nation has expended on them.

I ask unanimous consent to have printed in the RECORD an article entitled "Smoke Jumping—What a Way To Make a Living," written by Bill Nelson, and published in the Christian Science Monitor of Friday, May 23, 1969.

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

[From the Christian Science Monitor, May 23, 1969]

SMOKE JUMPING—WHAT A WAY TO MAKE A LIVING

(By Bill Nelson)

The wisps of smoke curling up from the Kootenai National Forest are unmistakable. A United States Forest Service spotter quickly phones in the report.

Fire in the Parsnip Mountains (of Montana).

This will be a tough one; the roadless site and rugged terrain make it difficult to reach.

The alarm is flashed 250 miles away—to the smoke-jumper base in Missoula. Just two hours later, the silence of the mountainside forest is broken by the throb of an airplane engine. The plane circles the fire, then 12 parachutists leap out, their chutes billowing in a splash of orange and white nylon.

Minutes later, the men are on the ground, battling the fire. They pitch dirt at it, dig trenches around it, spray it with creek water, chop down burning trees, set backfires to rob the oncoming blaze of fuel.

A forest fire is a terrifying spectacle—balls of flame leaping from treetop to treetop, a scorching heat (sometimes as hot as 1,400 degrees), smoke masking the burning sun, the eerie whistling of a ravenous monster devouring billions of pine needles.

A call goes out for more help. Soon, 48 other jumpers drop down to the Parsnip Mountain inferno. The battle is grueling—sweaty, grimy, bone-wearying work—but the fire-fighting crews stop the hungry red foe.

The airborne fire fighters—the mobile, first-on-the-scene attack force—have put the brakes on another of the summer fires spawned by lightning in the tinder-dry forests of the West. These bold young men are the commandos, the shock troops, of the forest service's fire-fighting corps. Their ranks contain 425 of the nation's most rugged and daring men.

Since a July day in 1940, when two smoke-jumping pioneers made the first airborne assault on a forest fire, more than 84,000 smoke jumps have been made. The savings—in back-country timber, wildlife habitats, watersheds, spectacular mountain scenery that American tourists so enjoy—have been enormous.

Through smoke jumpers and scientific fire-fighting equipment and techniques (such as aerial chemical drops, helicopter supply flights, radio communications), the nation's annual forest-fire loss has been whittled from 30 million acres to 5 million.

The men who comprise the "smokies," as they're called, are trim, tough, and in peak condition. Their ages range from 18 to 28 and they weigh less than 180 pounds each.

The ratio of applicants to qualifying smoke jumpers sometimes runs as high as 6 to 1. The men must pass a four-week training course so rigorous that scores of talented men wash out.

Many of the jumpers are college students and teachers looking for an exciting and constructive vacation job. Others are athletic young men with a yen for adventure.

Smokies aren't lured by the money. Starting pay is less than $3 an hour—and it gets only a little better with experience. Most jumpers earn less than $150 a week—despite the long hours, peril, and back-breaking work.

But the thrill of parachuting into the nation's most rugged mountain country and of protecting nature's masterwork is incomparable, they say. And the pride a man feels when he qualifies for one of the toughest jobs in the country is another incentive.

Smoke jumper Mike Cook of Fairfield, Idaho, puts it another way: "I decided there had to be a better way to get to a fire than walking, so I joined the smoke jumpers."

Despite the arduous work, the fatality rate is virtually zero. The only blot on the record occurred in August, 1949, in the Mann Gulch fire near Helena, Mont. A shift of wind trapped 12 smoke jumpers, and they were unable to escape the ravaging flames.

Since jumpers often land in trees (some of them towering, 100-foot pines), they wear nylon jump suits and wire-mesh facemasks attached to plastic helmets for protection against branches. Each man carries a nylon line coiled in a leg pocket. If he gets snagged in a tree (jumpers often must aim for postage-stamp-size clearings), the jumper uses the line to lower himself from a tree like a mountain climber rappelling down a cliff.

Ex-military planes, many of World War II vintage, take the smoke jumpers to fires. They lumber along at 1,500 feet, then slow almost to stalling speed as they circle. A spotter checks the wind by throwing out a streamer and instructs the pilot on the best glide path. He briefs jumpers on what they can expect in the way of wind, fire, terrain, and timber.

Spotter Bob Montoya, a seven-year veteran, says the responsibility can be overwhelming.

"Being a spotter scares me more than jumping," he admits. "You've got to gauge the winds perfectly so that jumpers won't be blown into the fire or into the trees."

In time, spotters develop a sense of timing so precise they can amost drop a jumper on a dime.

Now the calculations have all been made. Jumpers hear the magic words: "Hit the silk." They're out of the plane . . . falling, falling, falling.

Trees swirl below. They see a kaleidoscope of color—smoke, flames, blue sky, fluffy white clouds, the ground rushing up.

Jumpers come down as close on the upwind side of the fire as they can, landing with the Allen roll (a twist and back somersault) they've practiced so many hours—to spread out the shock over the whole body.

Then down float the cargo parachutes, carrying the fire pack (with shovel, ax, sleeping bag, flashlight, and sometimes a chain saw, plus two days' rations and radiophones).

Unlike the early fire fighters who spent weary hours hiking to a fire, smoke jumpers are fresh when they arrive. And they have had a chance to observe the fire from the air and judge its probable course. But jumping is only a means to an end. Now the jumper must be able to follow a compass course, compute the area of the fire, carve out firelines, use a radio, operate a marine pump.

The well-padded nylon suit comes off and the orange hard hat goes on (jumpers also wear fire-resistant orange shirts).

To build a fireline, smoke jumpers cut away brush, logs, and trees, and scrape away the burnable litter on the forest floor. Many lines are 8 to 20 feet wide—a barren stretch that most blazes cannot hurdle.

The philosophy of the jumpers is simple: "Hit hard and hit fast." Their tactic: Put out the fire while it's small, before it has a chance to make headway.

When their work is done, the jumpers clear an area for a helicoptef to land and take them back to their bases, strategically located near forests. The bases are clearly of western origin—Cave Junction, Ore.; Silver City, N.M.; McCall, Grangeville, and Idaho Ccity, Idaho; Missoula, Mont.; Winthrop, Wash.; and Redding, Calif.

On busy days, some smokies may make two jumps.

In 1967 they logged more than 7,500 jumps during the fire season. But despite the rigors of the job, it has light moments too.

Jumping on an Alaskan fire last summer, Mike Cook saw a "big, black thing on the ground." Must be a boulder, he thought, and landed only inches away.

"My boulder turned out to be a black bear," Mr. Cook said. "But it was as frightened as I was; took offi like a scared rabbit."

Three-year veteran Bill Weaver still gets ribbed about his jumping debut.

"I came down quite a distance from the other jumper," he recalls. "It was a small fire, and I got twisted around and never did find the fire."

But mental lapses are few and far between with the well-trained smokies. The caliber of men remains high year after year.

"It's quite a way to make a living," says one veteran, "but it sure gets in your blood."

MILITARY POLICY IN VIETNAM

Mr. BYRD of Virginia. Mr. President (Mr. Moss in the chair), I have long felt that the Congress of the United States has abdicated many of its responsibilities.

I have long felt that the U.S. Senate has an obligation to give more than perfunctory consideration to foreign affairs.

I have long felt that the Senate of the United States has a joint responsibility with the President in the making of foreign policy. That is why I shall strongly support Senate Resolution 85 introduced by the distinguished Senator from Arkansas (Mr. FULBRIGHT).

But while the Senate has a definite responsibility in the field of foreign policy, I feel equally strong that it has no business in attempting to determine military tactics; it has no business in attempting to determine what methods and procedures should be used in protecting the lives of American soldiers on the battlefield in a far-off land.

In my judgment, the United States has made two fundamental errors in regard to Vietnam.

First, it was a grave error of judgment to become involved in a ground war in Asia; second, that error was compounded by trying to run the war out of Washington.

Former Secretary of Defense McNamara, who recommended the sending of large numbers of troops to Vietnam, simultaneously recommended to President Johnson that these same troops be required to fight the war with one hand tied behind their backs.

There are 100 Members of the Senate; and those who wish to do so can defend Mr. McNamara, but the Senator from Virginia will not be one of them.

While I disagreed with the McNamara-Johnson policy approach, I recognized the President as the Commander in Chief of our Armed Forces.

But in recent days some seem to feel that military tactics and military strategy affecting our troops in Vietnam should be determined on the floor of the U.S. Senate.

I submit we cannot logically have 100 commanders in chief.

It may be that one or more Senators may have greater military ability than the professional military leaders on the scene in Vietnam.

But can any Member of the Senate logically believe that he can determine from the floor of the Senate, or from the banquet hall of a leading U.S. hotel, battlefield tactics 9,000 miles from the scene?

I am deeply concerned as to the safety of the 540,000 Americans in Vietnam.

I am convinced that trying to run this war out of Washington, such as did Mr. McNamara, prolonged the war and increased the casualties. If, at this point, we try to run the war from the U.S. Senate, the results may be even more disastrous.

I say again that from the beginning I have felt it an error of judgment to become involved in a ground war in Asia.

But so long as we have vast numbers of American military personnel there, I would strongly recommend that we permit the military leaders in the field to determine how best to protect those men, subject only to the orders of the duly elected Commander in Chief.

PRESIDENT JOHNSON AND PRESIDENT NIXON HAVE KEPT FAITH WITH THE LATE PRESIDENT JOHN F. KENNEDY

Mrs. SMITH. Mr. President, the safe return of the Apollo 10 astronauts today comes almost to the day on the eighth anniversary of the pronouncement and commitment by the late President John F. Kennedy to giving top priority to landing a man on the moon and returning him safely to earth.

Too many of the critics of the space program have forgotten that it was just 8 years ago yesterday—on May 25, 1961—that President John F. Kennedy committed our Nation to this goal. He made that commitment under rather serious and special circumstances—before Congress in a joint session—and even more pointedly in a joint session on what he termed to be urgent national needs and when he said:

> First, I believe that this Nation should commit itself to achieving the goal, before this decade is out, of landing a man on the moon and returning him safely to earth.

The successful completion of the Apollo 10 mission is the last step prior to achieving the top priority goal set by President Kennedy 8 years ago—a goal on which both of his successors, President Johnson and President Nixon, have kept the faith with John F. Kennedy.

In like manner, Presidents Johnson and Nixon kept the faith with the late President John F. Kennedy on another extremely serious commitment that he made—the commitment of defense of freedom in South Vietnam just as President Truman committed our Nation to defense of freedom in South Korea. And as the late President Eisenhower brought the fighting in South Korea to an end by his firmness as well as patience, so is President Nixon trying to end the fighting in Vietnam by firmness and patience and refusing to make a surrendering unilateral withdrawal.

Yes, the safe return of the Apollo 10 astronauts today is most gratifying to all Americans. While we are proud of them for their courage and for their spectacular achievement for the United States—and, yes, for the world—our greater feeling is our relief and gratitude to God that they have returned safely.

On their return, I say to them that I believe in what they have done; and, like John F. Kennedy, I believe in the space program to which they are so dedicated and on which they have risked their lives. I want to say this because they will learn that while they were on their mission the accelerated manned space prorgam was questioned and criticized, and it was suggested that its importance, vigor, and priority be downgraded. That challenge to the space program went to the brink of suggesting, in effect, that we yield technological supremacy in space to the Soviet Union.

I wish to disassociate myself from the challenge to their mission and the challenge to the mission of those brave soldiers who were trying to take the Hamburger Hill fortress overlooking the Ashau Valley in South Vietnam. Instead, I prefer to give to both missions, and the men committed to those missions, moral support from back here at home.

Challenges, whether they be dissent from the loyal opposition or not, can be valuable and constructive. They are not to be denied. They are not to be discouraged. But it is hoped that they are to be constructive and positive rather than negative in character.

That is why I was gratified when, this past Friday, the leader of the loyal opposition in the Senate—the Senate majority leader (Mr. MANSFIELD)—when asked to comment on the Hamburger Hill battle in Vietnam, was reported to have said that he could understand the necessity for the attack if the military is to continue to keep the military pressure on the North Vietnamese as indicated when they last determined to cease bombing.

I commend him for refusing to grasp a partisan advantage—for refusing to second guess—for executing his responsibility of loyal opposition on such a high level. I thank him for the judiciousness and the discretion of his response when asked about the Hamburger Hill mission. His maturity, his sense of responsibility, his resistance to unfair partisanship—and his own military experience and knowledge—were reflected in his statement.

Since our commanders deemed the taking of Hamburger Hill to be vital for the protection of our soldiers in the valley below the hill, it serves no useful purpose to second guess that mission as senseless. In my reservation to dissent from the dissent expressed, I must say that, while I uphold the right to dissent, as I did in my declaration of conscience. I question not only the justification and responsibility of the words of the dissent to which I refer, but I question the timing of the challenges to the missions in space and on Hamburger Hill.

On the other hand, I am grateful for the timing, as well as the spirit, of the expression of the Senate majority leader. He has done so very much to bring current loyal opposition back to balance and responsibility.

COAL MINE HEALTH AND SAFETY LEGISLATION

Mr. WILLIAMS of New Jersey. Mr. President, the Senate Subcommittee on Labor has recently concluded 9 days of hearings on coal mine health and safety legislation. The House subcommittee has held equally extensive hearings. Since this legislation is so vitally needed to protect the health and safety of our men who go down in the mines, I as chairman of the subcommittee, invited everyone who was concerned to submit ideas to the subcommittee and to introduce bills embodying their proposals. Our hope was to have the benefit of every conceivable proposal before we reported out legislation.

I issued a special invitation to the Secretary of Labor to testify before the subcommittee since we are dealing with the welfare of working people. Mr. Shultz, however, elected to file a statement for the record and then only after the hearings had concluded. Last Friday the reason for Mr. Shultz' reluctance to appear became apparent.

The Congress, in considering this legislation, is concerned with many aspects of health and safety. One of the most important issues, however, is how to prevent coal workers' pneumoconiosis—"black lung." Witness after witness has testified that we can eliminate black lung and save thousands upon thousands of miners from the constant pain and

suffering of 20 years of breathlessness and even death if we introduce proper methods of coal dust suppression.

After extensive study and hearings and close consultation with the Surgeon General, during 1968, the Department of the Interior, under Secretary Udall, advanced a proposal which would have required coal mine operators to reduce the coal dust level to 3.0 milligrams of dust per cubic meter of air.

Also, after very careful study and after public hearings, Secretary of Labor Willard Wirtz issued regulations which would have set a 3.0 level for coal mine operators who do business with the Federal Government. The Surgeon General, as recently as March of this year, testified before the Subcommittee on Labor that not only is a 3.0 level attainable but that from a medical standpoint it is preferable because the health of the coal miner is better protected. As a matter of fact, "ideally" he would "recommend no dust."

This is the testimony of the Nation's highest medical official.

Now comes a new Secretary of Labor. One of his first actions is to defer the effective date of the Wirtz regulations for 90 days in order to study the problems. Although those of us working to prevent black lung regretted the delay, I felt there was justification for Mr. Shultz' delaying order because he was so new to the job.

Since that time, however, events have demonstrated that the Nation's coal miners will not be protected from the dreadful black lung disease if matters are left unchallenged in the hands of Mr. Shultz and the Nixon administration.

On March 4, 1969, the Nixon administration bill on coal mine health and safety was introduced in the Senate. Despite the prior findings of the Surgeon General, the Nixon administration's proposal would allow the dust level to reach 5.5 milligrams per cubic meter before miners "shall be withdrawn from" the mines. Then corrective action has to be taken to reduce the dust level to 4.5. While the Congress is debating this vital issue, vital in every sense of the word, this issue of life or death to our coal miners, Mr. Shultz, by administrative fiat, rescinds the Wirtz regulations of 3.0 for mines producing coal for the Federal Government and sets a new, higher level consistent with the administration proposal.

Does Mr. Shultz hold hearings on his proposal, as did Secretary Wirtz and the Congress? He does not.

Does he make extensive study or invite the medical profession to testify? He does not.

Does he come before the Subcommittee on Labor to offer us the benefit of his newly acquired wisdom? He does not.

Does he even share any of his wisdom with the subcommittee in his statement on the pending legislation filed for the record only 2 weeks ago? He does not.

Does he publish the full report of his advisory committee? He does not.

And do you know the reason he does none of these things. Because, in the words of his advisory committee, the change is "not major enough to make desirable a reopening of public hearings." This should not surprise us. For Mr. Shultz is not yet convinced that black lung is caused by coal dust. In Mr. Shultz' words, "Overexposure to excessive coal dust is apparently a cause of pneumoconiosis," and I emphasize the word "apparently."

I find the medical opinion of the Surgeon General more concerned with the health of the Nation's coal miners than that of Secretary of Labor Shultz.

The Surgeon General knows for a certainty that black lung is caused by coal dust and he knows that 50 percent more miners will get black lung if you increase the level from 3.0 to 4.5.

Mr. Shultz' actions have greatly fortified my resolve to write legislation which places the responsibility for setting the coal dust level in the hands of the Surgeon General. This resolve, I might add, is supported by every doctor who has taken a position on this issue, by rank and file miners, by the United Mine Workers of America, and by small coal mine operators.

Only the operators of the large mines and the Department of Interior want to take this vital health consideration away from the Surgeon General. And I will do all within my power to enact legislation which calls for a level of 3.0 to start with and an unambiguous mandate to the Surgeon General to reduce that level even further as early as possible.

Mr. President, if I sound extremely disturbed by Mr. Shultz' decision, it is not only because 50 percent more miners producing coal for the Federal Government will be subject to "black lung," although, Lord knows, that is reason enough. But the decision further demonstrates the philosophy and methods of operation of the administration.

According to the New York Times:

> Coal industry leaders have testified this year that a savings of millions of dollars in coal dust suppression costs lies between the 3.0 and 4.5 milligram standards.

But coal mine safety is not the only area in which Mr. Shultz has gutted safety standards. He also has reduced the decibel rating standards which are designed to protect workers supplying goods to the U.S. Government from the very real hazards of noise.

Is this administration determined to trade dollars for human lives and safety? It would appear so.

I feel that the administration's actions show clearly that it is committed to Government by fiat; a course specifically designed to remove Congress from the decisionmaking process.

While the Congress had before it the proposed Job Corps budget, the administration, by fiat, gutted the program without giving Congress the time to consider the matter. This was done despite the specific request that no action be taken without prior consultation with Congress.

Then while Congress is debating one of the most important issues ever confronting mankind, the ABM, the administration, by fiat, begins the procurement process, without giving Congress the time to consider the matter. This was done despite the specific promise that no action would be taken without prior consultation with Congress.

Now, while Congress is preparing to act on an issue vital to the health of miners, the administration, by fiat, sets its own standards without giving Congress the time to consider the matter. This, too, was done without prior consultation with Congress.

We, as elected Representatives of the people, must make it crystal clear to those executives that we will not tolerate such blatant disregard for the democratic process upon which our republican form of Government rests. We must, regardless of political affiliation, oppose Government by executive fiat, regardless of which party controls the executive branch. We must fulfill our obligations to the citizens we represent, to see to it that the laws that we the Congress, enact, are faithfully, not surreptitiously, executed.

PRESIDENT NIXON SUPPORTS THE CONSUMER REVOLUTION

Mr. PROXMIRE. Mr. President, the President's recent appointee to the job of Special Assistant for Consumer Affairs, Mrs. Virginia H. Knauer, demonstrates the growing and bipartisan support for consumer legislation.

In testimony before the Committee on Banking and Currency, Mrs. Knauer came out squarely for S. 823, the Fair Credit Reporting Act, which I introduced on January 31. Moreover, in calling for a strong bill she clearly indicated that she was speaking not only for herself, but for the Nixon administration.

Mrs. Knauer also testified before the National Commission on Product Safety on May 1 and suggested that mandatory Federal safety standards might be needed if industry itself does not do a better job in promoting product safety.

The strong support given by the administration to consumer issues and consumer legislation is a clear indication that the consumer revolution has become a permanent part of our public policies. It is most encouraging to those of us in the Congress who have sponsored consumer legislation in the past to note the strong endorsement which is apparently being given to such legislation by the present administration. Given this record of bipartisan cooperation, I am confident that the 91st Congress can equal or surpass the giant strides made by the 90th Congress in enacting consumer legislation.

Mr. President, as evidence of the momentum being developed for consumer legislation, I ask unanimous consent to have printed in the RECORD an article about Mrs. Knauer and her activities on behalf of consumer causes, published in the New York Times of May 26, 1969.

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

NIXON'S CONSUMER AFFAIRS AIDE OFF TO GOOD START: MRS. KNAUER DRAWS PRAISE AFTER SENATE TESTIMONY

(By John D. Morris)

WASHINGTON, May 25.—Virginia H. Knauer, who says she is an activist, has been doing her best to prove it during her seven weeks as President Nixon's special assistant for Consumer Affairs.

She has also been trying to dispel the notion that the Nixon Administration is insensitive to what is called the "consumer revolution" and that it has downgraded the Federal role in protecting consumers' rights.

On both counts—following a rash of speeches, testimony at hearings and television appearances—Mrs. Knauer is credited with a good start, even by some of the most ardent consumer advocates.

Her most convincing performance, in the estimation of many observers, took place last week when she testified before a Senate banking subcommittee on a bill for the Federal regulation of private credit investigating and reporting concerns.

Mrs. Knauer not only endorsed the bill but also proposed stiffening amendments. Significantly, she made it clear under questioning that she was speaking for the Administration.

Officials reported later that Mrs. Knauer had received specific White House authorization to give the testimony on behalf of the Administration.

This was the first concrete evidence since her appointment April 9 that Mrs. Knauer would be granted the same degree of authority as her predecessor in the Johnson Administration, Betty Furness.

It was also regarded as an indication that the Nixon Administration, as long as Mrs. Knauer is its spokesman on such matters, will be bolder than anyone had expected in dealing with the sensitive issue of Federal regulation on business to protect the consumer.

Senator William Proxmire, author of the "Fair Credit Reporting" bill and chairman of the subcommittee considering it, expressed surprise and delight at Mrs. Knauer's testimony.

"President Nixon," the Wisconsin Democrat said in a press release, "deserves great praise for appointing this fine and very able lady to the difficult and demanding job of consumer adviser.

"Mrs. Knauer's testimony is an indication that the Nixon Administration intends to make a significant effort on behalf of the consumer—an effort many of us feared might not be forthcoming."

In another performance, Mrs. Knauer made a hit with the consumer-oriented National Commission on Product Safety at a Chicago hearing on May 1.

SEALS HELD MEANINGLESS

She described "safety seals and standard-certification seals emblazoned on the finish of many consumer products" as "meaningless at best and deceptive at worst." She suggested that mandatory Federal safety standards might be needed unless industry did a better job voluntarily.

In a speech in Philadelphia two weeks later, Mrs. Knauer indicated that her conception of the job was perhaps even broader than Miss Furness's. Moving into the field of environmental health, she said:

"We are surrounded by potential hazards to our health and life in the environment in which we live. Of what use is the financial and economic protection of the marketplace if we do not have the elementary and basic protection of clean air to breathe, pure water to drink and uncontaminated food to eat?

"If we cannot live and function in our environment, it becomes pretty academic as to how we spend our money or whether the right label is on the right can. Our over-all concern must be environmental health."

PESTICIDE PERIL-X

Mr. NELSON. Mr. President, 5 years ago the Federal Government initiated a program to wipe out a yellow fever-carrying mosquito, even though not a single case of yellow fever had been reported in the United States in the last 40 years.

The program, which cost the taxpayers $53 million, was supposed to prevent the possibility of any future outbreak and to end migration of the Aedes Aegypti mosquito in Latin America. However, it has now been decided that the insect is not so very dangerous after all and that it probably could not be eradicated anyway, and so the Government is discontinuing the program next month.

It seems to me that this is just another example of badly confused priorities and inadequate research and planning in the field of pest control. Pesticide residues are prevalent throughout our environment—in the soil, air, water, wildlife, fish, and humans. In more recent years scientists have become alerted to the potential dangers to human health and to our environment from the use of persistent pesticides, but true knowledge of the extent of those dangers is still not certain. A great deal of research is needed, but the funds available for pest control research are sparse.

We must bring the matter of pesticide use and pesticide control into better perspective and utilize all available moneys to a better understanding of the issue and to more effective, safer alternatives, including biological and other nonchemical means to control pests.

I ask unanimous consent to have printed in the RECORD an article written by H. L. Schwartz III, reporting the Government's decision to discontinue the Aedes Aegypti eradication program, and published in the St. Paul, Minn., Dispatch

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

COSTLY PLAN TO END YELLOW FEVER "THREAT" FEELS FEDERAL BITE

(By H. L. Schwartz III)

WASHINGTON.—The federal government spent $53 million over the past five years to stamp out a yellow fever-carrying mosquito only to decide the insect wasn't all that dangerous and probably could not be eradicated anyway.

Although there had not been a case of yellow fever reported in 40 years in the United States, the program was begun in 1964 to prevent the possibility of any future outbreak and to end migration of the Aedes Aegypti mosquito in Latin America.

From a modest $3 million start in 1964, the U.S. antimosquito program grew to $16.5 million in 1968. It jumped more than $8 million in fiscal 1966, alone.

In last year's governmental economic squeeze this figure was cut back to $6.9 million.

Former President Johnson asked for $905,000 for fiscal 1970, but the new Republican administration decided to junk the program altogether, effective June 27.

"Using the existing eradication methods, continuation of the program would have required hundreds of millions of dollars in future U.S. expenditures without any real assurance of success," Nixon officials said.

At its peak, the program had more than 300 federal employees, most in the Communicable Disease Center in Atlanta, Ga.

There were thousands of others employed in Texas, Alabama, Georgia, Florida, South Carolina, Hawaii, Puerto Rico and the Virgin Islands under federal contracts to state or territorial health departments.

But in spite of the $53 million expense and the thousands of man hours that went into a program aimed at preventing a disease unknown in this country for four decades, there were those who defended the project.

Former director Dr. James V. Smith, said the program's value is "probably in relation to our commitments to South and Central America."

Officials say prevention of an outbreak here was a "secondary" objective, although the Aedes Aegypti was generally referred to in budget outlines only as "a carrier of yellow fever."

The chief aim, officials now say, was to prevent migration south.

Another official described the program as "sort of good neighborly thing" to South and Central America where some countries have complained that the pest was coming from the United States and infesting their areas.

However, some U.S. officials expressed doubt that migration from North America was the main cause of infestation in the Latin countries.

In El Salvador, for instance, there was infestation blamed on a shipment of old tires. "But that was questionable," said one official.

There were also indications that the U.S. eradication efforts, aimed mostly at killing the pests or keeping them from nesting in ships heading south, were not working and the mosquitos were just flitting across the border.

Besides the international good will claims for the program there was another possible benefit from the project.

Some of the warriors who honed their skills in the battle against the Aedes Aegypti mosquito will be putting them to use in a new multimillion dollar effort to wipe out another pest—the common rat.

It could not be learned just who made the decision to kill the mosquito program. But the move touched off the usual battle accompanying any attempt to scuttle any federal program.

"A number of people were unhappy. They were devoted to the project," said Wil Johnson, program director in Washington.

And the states?

"Some of them were quite unhappy," he said.

EULOGY TO LILIUOKALANI KAWANANAKOA MORRIS, A DIRECT DESCENDANT OF HAWAIIAN ROYALTY

Mr. FONG. Mr. President, I should like to pay tribute to the memory of a distinguished and beloved citizen of Hawaii.

She is Mrs. Liliuokalani Kawananakoa Morris, one of the few remaining direct descendants of Hawaiian royalty. She died in Honolulu on May 19, 1969, at the age of 63.

She might have been a queen of the Islands had Hawaii remained a monarchy.

What is perhaps notable about Mrs. Morris is that she had ties, too, although quite indirectly, with the Congress of the United States.

She was the niece of Prince Jonah Kuhio Kalanianaole, who became a Delegate to Congress shortly after the annexation of Hawaii to the United States in 1898. He was, in fact, the second person to have served in the House of Representatives as a Delegate of Hawaii.

Prince Kuhio was elected Delegate to Congress in 1902, and he served in Congress with distinction until his death in 1922. He is remembered particularly for his work in getting Congress to enact the Hawaiian Homes Commission Act, which authorized a plan for the rehabilitation of the Hawaiian people through homesteading.

Among her many varied activities, Mrs. Morris was a member of the Hawaiian Homes Commission.

Many of the people whom Mrs. Morris served so devotedly in order to improve their lot are homesteaders today.

She is held with great affection and respect by her people because of her quiet works of philanthropy, and also because of her intense and abiding interest in the preservation and perpetuation of the rich traditions, lore, and culture of the Hawaiian people—a people who have known tremendous and constant pressures upon their relaxed way of life.

She has also been acclaimed for her untiring efforts in the founding of Hawaiian civic clubs dedicated to the preservation of Hawaiiana.

Hawaii's present Governor, John A. Burns, often called on her to lead or participate in Hawaiiana projects and encouraged her to found the "Friends of Iolani Palace," a group formed to maintain and protect the only royal structure in America.

She was a director of the State Association of Hawaiian Civic Clubs, a regent of a society known as Hale O Na Alii, and a life member of the Daughters of Hawaii and the Kaahumanu Society.

Perhaps as a result of her royal lineage, Mrs. Morris throughout her lifetime reflected a regal demeanor. The last male King of Hawaii—King David Kalakaua—was her grand uncle. Her grand aunt, and her namesake—Queen Liliuokalani—was Hawaii's last reigning monarch.

She was the daughter of Prince David Kawananakoa and Abigail Wahiikaahuula Campbell, and the granddaughter of James Campbell, who established one of Hawaii's largest landed estates.

She is survived by her husband, Charles E. Morris, a daughter Abigail K. Kawananakoa; two aunts, Mrs. Alice Kamokila Campbell of Honolulu, Mrs. Frances Wrigley of California, and a nephew and two nieces.

Hawaii has lost a dear and charming citizen. Her warmth, compassion, and graciousness were precious traits symbolic of her time and of her royal ancestors.

ED WALL AND THE CATHOLIC REVIEW

Mr. TYDINGS. Mr. President, the May 10 issue of America magazine pays tribute to one of Maryland's outstanding newspapermen, A. E. P. "Ed" Wall, editor of the Catholic Review. Under his leadership and with the complete cooperation of Lawrence Cardinal Shehan, the archbishop of Baltimore, the Review has become much more than just a great Catholic newspaper. It is, as S. J. Adamo says in the article of Wall himself, "a living reality and source of unity and brotherhood."

So that all can know of the accomplishments of Mr. Wall and the Catholic Review, I ask unanimous consent that the America article be printed in the RECORD.

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

BALTIMORE'S WALL

Unlike the Berlin Wall, which is a deadening sign of division and enmity, Baltimore's Wall is a living reality and source of unity and brotherhood. This is a roundabout way to introduce one of the most dynamic lay editors in the Catholic press today: A. E. P. Wall, editor of the *Catholic Review* of Baltimore.

Few editors enjoy the fine rapport he has fashioned with his boss, Cardinal Lawrence Shehan. In fact, Wall refers to him enthusiastically as "the world's greatest publisher." As he explains it: "When I was hired, he told me he wanted an honest, balanced newspaper. I haven't had any instructions since. He takes a strong, continuing interest in the *Review* and supports it in every possible way—but he does not want to have anything to do with editing it. . . . Recently, he commented to me that he did not agree with one of my editorials, 'But,' he said, 'you're the editor and you should do what you think is proper.'" Sounds almost like a journalistic Utopia.

Getting along with the hierarchy is a special talent of Wall's. To date he has written in-depth interviews on Cardinal John Cody, Cardinal John Wright, Archbishop Ferdinando Lambruschini (who announced the publication of the encyclical *Human Life*) and, most surprisingly, Archbishop Luigi Raimondi, the Pope's man in Washington. The quality of the interviews may be gauged by the fact that the one on Wright was frontpaged over a year ago in the *National Catholic Reporter* with the NC tag on it.

How can Wall do all this? One reason is that he is backed up by a solid staff of five in the editorial department. So he can spread the work as he produces a 20-page vital and informative weekly for his 75,000 subscribers. (The readers are amassed through a "no-pressure parish coverage plan.")

Probably the main reason he accomplishes so much is that he enjoys his job. You have to get pleasure from your work to be able to put in a 10-hour day regularly. Because of that he can also say: "I answer every complaint in detail. If a reader writes a letter complaining about something, he gets a letter back from me—sometimes two or three pages long. I close every letter with an invitation to telephone me if I haven't given a satisfactory answer." As they say, success is 99 percent hard work and the remainder is luck and inspiration.

Obviously, the paper's readers throughout the rambling Archdiocese of Baltimore must like what they're being served. Why shouldn't they? Each week they get a nice mixture of international, national and regional news. Special correspondents are posted in Rome and London. Nor are the special needs of the young and the inquiring ignored. Public service reports, plays and book reviews are also prominently featured. Who wouldn't welcome such a news-weekly?

What does Wall think about the future of the diocesan press? He writes: "I talked with an old hand in the field not long ago. He told me that within 10 years no fewer than 50 diocesan newspapers would bite the dust. He may be right, and it is a sad thing. There simply isn't any more practical or economical way to provide continuing adult education in religion and social issues than the diocesan press."

Furthermore, he adds: "People can read the diocesan paper at their leisure, at any hour of the day or night. In it they can get full texts of important documents, movie ratings, news of bull roasts and chicken dinners, instruction on changes in the Church, answers to all sorts of questions. Not even the Baltimore *Sun*, in all its excellence, can provide the detailed information we offer."

Perhaps if the Catholic press had more editors of the califer of A.E.P. Wall, there would be less danger of widespread demise over the next decade.

TRANSATLANTIC FLIGHT INNOVATION

Mr. ALLOTT. Mr. President, I was delighted to learn of a new transportation innovation which will be extremely helpful to passengers using Denver's Stapleton International Airport. I feel that innovation is such a valuable concept for the traveling public, that I wanted to make it a point to call it to the attention of the Senate.

Pan American Airways and United Airlines have devised a program for passengers traveling to Europe this summer that will enable them to bypass the tedious check-in procedures at New York's Kennedy Airport. Under the program developed by the two carriers, the normal ground congestion that one faces when checking in at the heavily used J. F. K. terminal will be circumvented by the use of a special Pan Am counter at United's terminal at Kennedy.

With the new plan, travelers on United flights from Denver, Salt Lake City, Cleveland, and Pittsburgh to New York will select their Pan Am seat for the transatlantic portion of their trip in the United terminal. A Pan Am limousine will transfer the passengers to Pan Am's terminal, where they will go directly to the boarding gate, thus bypassing all check-in procedures.

Passengers will not have to worry about transfer of baggage because once it is checked at the city of origin, the traveler does not have to handle it again until he claims it at his final destination in Europe.

Although the program will initially encompass only transatlantic flights from New York, plans are being studied to expand the service to include other transatlantic U.S. gateway cities.

So, it is plain to see that this plan of cooperation between United and Pan Am will undoubtedly diminish one of our biggest headaches—airport congestion. I am eagerly looking forward to the expansion of this cooperation for the benefit of Coloradans, and I hope that this arrangement will signal a new era of mutual arrangements between airlines for the benefit of the traveling public.

JAKE FRIEDRICK: OUTSTANDING LABOR LEADER

Mr. NELSON. Mr. President, many tributes have been justifiably paid to Jacob F. Friedrick, an outstanding representative of labor, a progressive leader in education, and spokesman for the poor, who recently concluded 9 years of distinguished membership on the board of regents of the University of Wisconsin. What sets Mr. Friedrick above and apart from any of his contemporaries is his ability to listen patiently to the problems of the laborer; the student; and the poor; those persons to which too many have turned a deaf ear too often.

For 50 years Jake Friedrick has responded to and spoken out for the rights of labor. He coauthored the first bill to provide unemployment compensation for the State of Wisconsin—a measure which became the model for the entire Nation. During the thirties, Jake served as labor editor of the Milwaukee Leader, and then later became regional director of the American Federation of Labor in Wisconsin.

His ability to reduce complex issues into simple terms combined with dedica-

tion resulted in his becoming, in 1959, the president of the Milwaukee Labor Council. He recently retired from that position after setting a record which will be difficult to follow. His ability to persuade while at the same time accommodating diverging views has brought deep respect for the labor movement in Wisconsin.

As University of Wisconsin regent, Jake Friedrick has been sensitive to the needs of the student and has responded with understanding and positive action. His progressive achievements and contributions speak for themselves.

I ask unanimous consent that an article summarizing his outstanding career, published in the Madison Capital Times of April 12, 1969, be printed in the RECORD.

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

[From the Madison (Wis.) Capital Times, Apr. 12 1969]

SPOKESMAN FOR STUDENTS—FRIEDRICK, REGENT OF POOR, ENDS 9 YEARS ON UNIVERSITY BOARD

(By Matt Pommer)

RACINE.—The poor have lost their University of Wisconsin Regent.

Jacob F. Friedrick, 76, attended his last regular meeting of the Board of Regents on Friday. He was appointed nine years ago by then Gov. Gaylord Nelson.

A longtime labor figure, Friedrick has recently served as president of the Milwaukee Labor Council.

But in nine years as Regent, "Jake" has been more a spokesman of students and the poor than a representative of labor.

He advocated low cost education for Wisconsin residents. He has been a voice of reason at the height of dismay over student disrupters. And "Jake" has been an incurable optimist that the vast majority of U. W. students are good.

At the peak of Regent unhappiness with the Daily Cardinal, he reminded the board he had served stint as a writer for the old Milwaukee Leader, the Socialist newspaper. The period was around World War I when the Socialist cause was controversial.

Readers, through their purchase of newspapers, exercise their own control, Jake reminded the board.

Friedrick came to this country from his native Hungary at the age of 13. His formal education never went beyond the 10th grade.

But a string of accomplishments led the University of Wisconsin to award him an honorary degree in 1955.

With the late Prof. John R. Commons, Friedrick helped write the first Wisconsin law on unemployment compensation. He also helped found the U. W. School for Workers.

In a tribute Friday his fellow Regents praised him as "a self-educated individual who has won universal respect through his deeds, his integrity, and his personal wisdom."

Friedrick replied that the University owed him nothing, his gratitude belongs to the University.

In giving him the honorary degree in 1955, then U. W. President Edwin B. Fred said Friedrick had "always acted in the great tradition of Ely and Commons."

After Friday's meeting another labor economist, Madison Chancellor H. Edwin Young, came up to extend thanks and a form of good bye to Friedrick.

Obviously moved, Young gave Friedrick a firm handshake. But the lump in his throat echoed the sentiments of the poor and the students whom Regent Friedrick had championed.

JAPAN'S TRADE POLICIES

Mr. PERCY. Mr. President, once again Japan has proved that it has too narrow a view of the realities of world trade and investment. The announcement last week that the Japanese Government disapproves of the Chrysler Corp.'s plan to form a joint car manufacturing company with Mitsubishi is the latest in a long series of refusals by the Japanese to liberalize their trade and investment policies.

Ever since coming to the Senate, I have warned the Japanese, both publicly and privately, that failure to liberalize their numerous series of quota restrictions and limitations on private foreign investment in Japan could only have serious trade repercussions for them in the markets of other countries.

Last week I was encouraged to read that Chrysler was planning to form a joint venture with Mitsubishi to build automobiles in Japan. The very next day a high official of the Japanese Government said the venture, already agreed to by the two companies, would not be allowed. This cannot be condoned.

Japanese automobiles, for instance, are allowed to enter the U.S. market freely. Twenty-five percent of the California automobile market is now supplied by foreign imports, mainly Japanese. Yet American automobile manufacturers are not allowed to sell their cars in Japan or even to invest in automobile manufacturing facilities in Japan. For 1 day last week it appeared that at least American companies would be allowed to invest in Japan, but 24 hours later the Japanese made it clear they do not believe trade and investment is a two-way street.

Trade to be fair must be reciprocal. The continual Japanese refusals to liberalize economic policies can only bring them to grief. Immediate short-run gains should be weighed against potential major adverse effects in the future.

I ask unanimous consent that two articles detailing the unhappy saga of last week's events be printed in the RECORD, along with another article from the Christian Science Monitor relating to Japan's trade policies in general.

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

[From the Wall Street Journal, May 19, 1969]

CHRYSLER, MITSUBISHI SLATE JOINT VENTURE; FIRM ULTIMATELY MAY ENTER JAPAN MARKET

Chrysler Corp. and Mitsubishi Heavy Industries Ltd., a major Japanese auto maker, have agreed to set up a joint venture that ultimately could lead to Chrysler's entry into the Japanese market.

Irving J. Minett, Chrysler's group vice president in charge of international operations, said in Detroit that activities of the new unit "might involve collaboration in research and development related to automotive products and joint distribution arrangements in various world markets not yet defined."

Chrysler, he said, would have a 35% interest in the venture. Mitsubishi would have a 65% share. The executive said the amount of the original investment hasn't been determined.

Mr. Minett, who announced the agreement in the U.S. after Mitsubishi officials disclosed the accord in Japan, said "the extent to which the agreement might lead to direct Chrysler participation in any form in Japan would depend not only on a further development of the agreement, but also on the extent to which the Japanese government would permit."

In Tokyo, according to an Associated Press dispatch, a government official said the announcement took him by surprise. Yoshifumi Kumagai, a vice minister of the Japanese Ministry for International Trade and Industry, said the venture appeared to be unfavorable for Japan's auto industry. He said he would examine the proposal in close detail before deciding whether to approve it.

The Chrysler-Mitsubishi agreement was announced in Tokyo by Yoichiro Makita, a vice president of the Japanese company who said he had just returned from conferences in the U.S. with Chrysler officials. He said the venture will be inaugurated as soon as Japan liberalizes its rules for foreign capital investment in Japan's auto industry. The Japanese government, he predicted, will ease the controls at an early date.

Late last week, however, Mr. Kumagai had announced that the Japanese government hadn't any plans to immediately permit Japan's auto producers to establish joint ventures with foreign capital. This, he said, would be "tantamount to actual capital decontrol."

[From the Washington Post, May 20, 1969]

JAPAN COLD TO CHRYSLER JOINT PLAN

TOKYO, May 19.—The Japanese government cannot approve a plan for Chrysler Corp. and the firm of Mitsubishi to form a joint car manufacturing company, a senior government official said today.

Hisasasahi Yoshimitsu, the director of the heavy industry bureau of the Ministry of International Trade and Industry, said officials were shocked by the announcement of the plan last night.

He said it came at a time when the ministry had just started to examine the question of consolidating the Japanese car industry before it was opened to foreign capital investment.

FORMER PACT CITED

An official agreement concluded between Japan and the United States in 1968 provided that capital liberalization for the automobile industry should come sometime after March 1972, Yoshimitsu said.

This was one of the reasons why the ministry would be unable to approve a joint venture at the present time, he said.

A spokesman for the Japan Automotive Industry Association said the Mitsubishi-Chrysler plan seemed to run counter to a resolution adopted by the association in 1968 that the Japanese car industry should develop along the lines of national capital.

The spokesman said the association would withhold official comment until its president returns from the United States later this week.

DETAILS OF PLAN

Mitsubishi vice president Yoichiro said at a news conference in Tokyo when he announced the plan that Chrysler cars would be distributed in Japan and Mitsubishi vehicles in the U.S. under the joint venture company.

Irving Minette, a Chrysler vice president, said in Detroit that the new company might involve collaboration in research and development related to automotive products and "joint distribution in various world markets not yet defined."

Chrysler would have a 35 per cent interest in the joint venture company. The amount of its capital was not determined.

[From the Christian Science Monitor, May 6, 1969]

JAPAN KEEPS GRIP ON TRADE POLICIES

(By David K. Willis)

"The Japanese are a controlled society. They simply won't let us in to compete on

equal terms, yet we let them in. They sold about $1 billion more to us than they bought last year. They're not weak any longer. And still they don't play ball!"

The American was voicing a mixture of annoyance, irony, and resignation as he gave vent to his complaints in his office in Tokyo the other day.

Later, in another office at the other end of the city, a Japanese replied by listing his own complaints about the United States:

"Our gross national product is only about one-eighth the size of yours, and our per-capita income is 21st in the world. You say you want us to let you in—but look at how you still keep us out in various ways! Anyway, we are liberalizing import and investment controls. Slowly, maybe, but we're doing it. We've read Servan-Schreiber's book, 'The American Challenge,' about Europe. We don't want American giants coming in and taking over our economy."

RAPIDLY CHANGING SCENE

The two men were giving both sides of difficulties that have arisen between Tokyo and Washington as two-way trade between their countries has soared to about $7 billion per year.

The heat in their opinion is shared by other businessmen of both sides. Yet despite it, many observers believe that the pressure points of which they speak are short term, rather than long term, and are signs of health.

Japan has ceased to be a junior partner in trade with the United States. Its spectacular postwar boom has brought with it not only demands by its own businessmen for greater access to foreign markets but equally insistent demands by other countries—particularly Western Europe and the United States—for an easing of Japanese restrictions on imports and investment from abroad.

Americans are worried because Japanese exports to the United States jumped by a mammoth 35 percent in 1968. Japan's exports that year exceeded its imports from America by $1.13 billion. American steel and textile makers led a protectionist rush in Congress.

To avoid legislation, the Japanese reluctantly agreed to hold down steel exports voluntarily to 5.2 million tons this year. Soon United States Commerce Secretary Maurice H. Stans will be in Tokyo asking local chemical and woolen textile companies for a similar voluntary restraint.

The Japanese companies strongly object. So far they have refused all approaches.

Japan argues that the American textile industry is still earning profits, that its own industry is in the midst of restructuring, and that besides, Americans are violating their own principle of allowing free competition full rein.

The Japanese still maintain import controls on 120 items, despite a stern American effort to break them down. The current effort began last November in Geneva. The first Japanese responses were regarded by Washington as extremely disappointing.

Then, in March of this year, Tokyo came up with another offer. Leaving untouched what Americans really want—such as computers, aircraft, and footwear for example—it either decontrolled or relaxed restrictions on glass, outboard motors, pet food, sausage casings, some color films, grapefruit, oranges, processed tomatoes, and fruit juices.

Washington is asking for much, much more. American sources here point to a long list of indirect controls used to keep foreigners out. These range from an import deposit system of 5 percent on manufactured goods (one percent on raw materials) to joint efforts by government and industry, or between industry and industry.

TRADITIONAL WAYS DEFENDED

Japan is particularly wary of sales techniques which upset traditional methods.

Recently an air-conditioning company with a large American holding began offering free trips abroad to its most successful dealers. Thirteen competitors, wholly Japanese owned, obtained a ruling from the local Fair Trade Commission outlawing the practice. The joint company has appealed.

The Japanese way is to employ a series of middlemen, and not to resort to methods that give one company such an outright advantage over others—who, after all, are also entitled to a living, the reasoning goes.

On direct investment, the Japanese Government began to ease restrictions in July, 1967, only to have Americans retort that only companies of no interest to outsiders had been opened up.

American sources say that really attractive companies—such as automobiles, computers, and supermarkets—are still lacking. They add that definitions of categories are too tightly drawn, making it difficult for large American conglomerates to obtain a foothold.

The Japanese Government says it plans two more liberalizations—in the autumn of 1971 and in March, 1972—so that judgments ought to wait until then.

Americans and Japanese have distinctly different points of view. Americans are free-wheeling, rich in capital and know-how, accustomed to believing their country helped Japan recover after the war, and confident that their government gives Japan great freedom to export to the United States.

The Japanese are wary and cautious. Their GNP is strong but their per-capita income is low (about 21 in the world). Government controls industry, and the two work together for the enhancement of Japan's stature in the world.

POLLUTION AT PINEY POINT

Mr. TYDINGS. Mr. President, the proposal of a petroleum company to construct a major facility at Piney Point, Md., has generated considerable opposition in St. Mary's County and throughout my State.

The county commissioners oppose the facility, and I strongly support their position.

St. Mary's is a lovely, quiet, and pollution-free part of southern Maryland adjacent to the magnificent Chesapeake Bay. It is a haven for those who seek beauty, peace, and an environment free of manmade contaminants. It is a type of county we as an urban society must protect and develop with care.

The oil company has twice sought permission to build the plant. The first was by application to the Foreign Trade Zone Board to establish a foreign trade zone at Piney Point. The second was by application to the Department of the Interior for a license to import oil. The first was fruitless, since by Maryland law such an application must be made by the Maryland Port Authority which will not act contrary to the wishes of the county commissioners involved. The second has not been acted upon pending an administration review of the entire oil import question during which Interior's authority to issue such permits has been suspended.

I have written both the Foreign Trade Zone Board, which consists of the Secretaries of the Treasury, Commerce, the Army, and the Interior, expressing my concern over the proposal to construct a major petroleum facility at Piney Point and urging them to prevent it.

I ask unanimous consent that the texts of my letters to Secretary Kennedy and Secretary Hickel and the text of the letter sent by the St. Mary's County Commissioners be printed in the RECORD.

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

APRIL 28, 1969.

Hon. DAVID M. KENNEDY,
Secretary, Department of the Treasury, Washington, D.C.

DEAR MR. SECRETARY: I am writing to you, as a member of the Foreign Trade Zones Board, to express my firm opposition to the establishment of a Free Trade Zone at Piney Point, St. Mary's County, Maryland for the purpose of permitting construction of a $40 million oil "topping" plant.

This project would threaten the blue water, clean air, and lovely countryside of St. Mary's County. An attractive peaceful setting like Piney Point is hardly the proper location for a major petroleum facility. It would disrupt the community, destroy wildlife, and foul the marine environment of the Potomac River and the Chesapeake Bay.

We cannot afford to have these Maryland waters go the way of the Patapsco, Hudson, and Delaware.

The project is opposed by the elected County Commissioners of St. Mary's and I support their responsible decision wholeheartedly.

I believe it is time our country became more critical of schemes which in the name of economic development threaten the quality of our environment.

Best wishes.

Sincerely,

JOSEPH D. TYDINGS.

MAY 19, 1969.

Hon. WALTER J. HICKEL,
Secretary, Department of the Interior, Washington, D.C.

DEAR MR. SECRETARY: Recently, you received a letter from Mr. F. Elliott Burch, President of the County Commissioners of St. Mary's County, Maryland urging you to deny the Steuart Refining Company's application for a General Allocation of residual fuel oil at Piney Point, Maryland.

I wish to endorse the position of the County Commissioners and urge you to refuse the license for a project which, if permitted, would have an adverse impact on the environment of Maryland's most precious natural resource, the Chesapeake Bay.

The quiet, attractive countryside of St. Mary's County is not suitable for an oil refinery and desulphurization plant. Air pollution, water pollution and the very real threat of a catastrophic oil spill cannot be permitted.

I understand that your authority to consider such applications has been stayed pending a review of our oil import policies. I urge you, when the stay has been lifted, to deny this application.

May I take this opportunity to say that I agree with your actions regarding Hunting Creek. I was delighted to read that you had requested the Corps of Engineers not to issue the permit.

Best wishes.

Sincerely,

JOSEPH D. TYDINGS.

THE COUNTY COMMISSIONERS
OF ST. MARY'S COUNTY,
Leonardtown, Md., April 12, 1969.

Subject: Application of Steuart Refining Company for General Allocation of Residual Fuel Oil.

Hon. WALTER J. HICKEL,
Secretary of the Interior, Washington, D.C.

SIR: The County Commissioners are alarmed to learn that the Steuart Refining Company has made application to your Department for a General Allocation of up to 100,000 barrels per day of imports of residual

fuel oil, for use in a refinery and desulphurization facility to be constructed and operated by the Applicant, said allocation to remain in effect for a period of ten (10) years.

In the Summer of 1968, the Steuart Refining Company submitted an application to the Maryland Port Authority for a permit to establish a Foreign Trade Zone and an oil refinery at Piney Point, Maryland. The Maryland Port Authority would not issue said permit without the approval of the County Commissioners. After a very lengthy in-depth study by a special committee appointed by the Commissioners, the committee, the Board of County Commissioners, and our legislators deemed it would not be in the best interests of the people and the County to have such an establishment in the County, and subsequently denied approval of the application. The Maryland Port Authority honored our decision and concurred in this action.

St. Mary's County has over 400 miles of waterfront. The excellent quality of our seafood enjoys world renown, and approximately 2,000 watermen and their families depend largely on this fine natural resource for a living. Our fine beaches and camping facilities bring many vacationers during the summer months to enjoy our peaceful atmosphere. St. Mary's County and the State of Maryland are spending considerable money annually for development of our waterfront for recreational purposes. In April of 1968, a Comprehensive Park and Recreation Plan was prepared for St. Mary's County by the Allen Organization, Park and Recreation Planners, Bennington, Vermont St. Mary's County is the Mother County of the State of Maryland, and has great historical significance, attracting literally thousands of visitors each year to specific points of interest where our proud heritage is being preserved.

We are aware of the vital concern of both Federal and State agencies to preserve the nation's precious natural resources. St. Mary's County is rich with such resources. It is one of the few remaining areas with clean water and clean air. We, and our citizens, are of the opinion that St. Mary's County is not the place for heavy industry, especially an oil refinery and desulphurization plant. Further, we are of the firm conviction that the County Commissioners and the people who live here should have a voice in deciding what is or is not allowed to come into the County.

We respectfully request that you carefully consider our foregoing statements, and the adverse effect that an oil refinery and desulphurization facility would have on the general physical characteristics of St. Mary's County, and deny the Steuart Refining Company's application for a General Allocation of residual fuel oil.

Very truly yours,

F. ELLIOTT BURCH, *President.*

FEDERAL REGULATIONS FOR CONTROL OF WATER POLLUTION

Mr. MONDALE. Mr. President, at the recent Duluth, Minn., Interstate Enforcement Conference on Lake Superior, Representative JOHN BLATNIK, from the State's Eighth Congressional District, traced the history and present state of our Federal regulations designed to meet the problems of water pollution.

I believe that Senators will find a great deal of worthwhile information in these remarks. I ask unanimous consent that the address be printed in the RECORD.

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

ADDRESS BY THE HONORABLE JOHN A. BLATNIK, LAKE SUPERIOR ENFORCEMENT CONFERENCE, DULUTH, MINN., MAY 13, 1969

I first became acquainted with Lake Superior more than 34 years ago when I was working in the old CCC Camps near Isabella and Finland on Highway 1 between Ely and Lake Superior. I don't ever think I'll forget the first time I saw the big lake. It was a bright, sunny day, much like this morning, and when I came over the hill near Ilgen City there in front of me was that huge, magnificient, glittering fresh water lake. That was quite a thrill back in the old days when travel was so difficult, and I've had a warm spot for Lake Superior ever since.

That first, exciting experience with the lake had a great impact on me, such an impact that in later years I made it part of my life's work. There I was, standing in front of one of the largest bodies of fresh water in the world. To me, it looked like an ocean.

The lake's unsurpassed beauty, purity and clarity were then, and still are, resources to be preserved and protected. The unique quality of its water transcended anything I had ever seen before, and I could feel the richness of the lake's heritage all around me. But I never really appreciated this great pristine resource, this lovely northern lake and forest country until I went to Washington in January 1947, after the war when I first came to Congress.

I was named to the Public Works Committee, which deals directly with many aspects of water use—navigation, flood control, hydroelectric power, harbors, channels, and pollution. I was also named to the subcommittee on rivers and harbors which was working on the problems of the St. Lawrence Seaway.

While reviewing all of the Great Lakes ports, channels and harbors and studying the St. Lawrence Seaway problems, I saw first hand and was appalled at the unbelievable pollution of the harbors of Chicago, Gary, Detroit, Cleveland and Buffalo, and the major rivers, such as the Ohio, Mississippi, St. Claire, River Rouge, as well as practically all of the major seacoast ports—Boston, New York, Philadelphia, Baltimore, New Orleans, San Diego, San Francisco, etc.

It was then that I began my fight to clean up the Lower Great Lakes, the Mississippi River and the great pollution problems throughout the nation.

It was a lonely fight back in those days. Pollution was not the popular issue that it is today. Back then the clean water advocates in Congress could have caucussed in a telephone booth. The clean water fighters were few and far between.

But we didn't get discouraged, because it was clearly evident that water pollution was a national problem that was bad and getting worse and that it could only be solved through cooperation by the federal government, the state governments, local governments and industry, and with the understanding and broad-based support of a vast majority of the nation's citizens.

We needed and got the complete support of the conservation organizations—such as National Wildlife Federation, now under the leadership of Tom Kimball, the executive director, who is here with us today; Bill Magie and the Friends of the Wilderness, the Izaak Walton League, the United Northern Sportsmen and many other dedicated groups.

Especially helpful in the early days and right up to the present was the League of Women Voters. Without this kind of determined, grass roots support, we couldn't have done the job.

The big break-through came when I was made chairman of the subcommittee on rivers and harbors, and in 1956 was able to author the Federal Water Pollution Act. I conducted the hearings on the bill in the Public Works Committee and managed it on the House floor.

This was the first permanent national law for the prevention, control and abatement of water pollution. And it was imperative that it be enacted into law. After passing the House by a vote of 338 to 31, following Senate action on the bill, I filed the report of the Conference Committee and President Eisenhower signed the Bill into Law on July 9, 1956.

The Federal Water Pollution Control Act laid the groundwork for the start of a joint effort by the federal government in full partnership with the states and localities in the clean water fight. The accomplishments of the law were many:

1. It recognized and preserved the primary responsibilities and rights of the states in preventing and controlling water pollution.
2. It authorized continued federal-state cooperation in the development of comprehensive river basin programs for water pollution control.
3. It authorized increased technical assistance to the states, and stepped up research.
4. It authorized the collection and dissemination of basic data on water quality relating to the prevention and control of pollution.
5. It encouraged the continued formation of interstate compacts and uniform state laws.
6. It authorized for five years grants to states and interstate agencies for their water pollution control programs.
7. It authorized federal grants for the construction of municipal waste treatment works.
8. And, Ladies and Gentlemen, it set up procedures for enforcement action against interstate pollution—Yes, the enforcement conference you are sitting at today would not have been possible without the passage of my bill in 1956.

My original bill asked for $100,000,000 in construction grants. The 1956 Act, as finally passed, authorized annual appropriations of $50 million for federal waste treatment construction grants of 30 per cent or $250,000, whichever is less. This was a very modest start indeed—but it was the best we could get through at that time, and it was a start in the right direction.

In 1960, during the 86th Congress, to try to make further improvements and to spur more local effort in the federal program, I introduced a bill to increase the annual grant authorization. This bill also provided for an increase in the dollar ceiling for a single project, and encouraged efficiency and economy by permitting two or more communities to join in a project.

Though we got the bill through the committee, the House and Senate and the Conference Committee, President Eisenhower vetoed it on grounds that this was a local problem. By a vote of 249 to 157 the House fell short of the necessary two-thirds vote needed to override the veto.

In 1961, I again introduced legislation to strengthen the Federal Water Pollution Control Act. I also presided at those Committee Hearings, and managed the bill on the House floor, with passage coming on a vote of 307 to 110.

The Bill, signed into law by President Kennedy on July 21, 1961, increased the appropriations authorization for construction grants to $100 million a year, finally reaching the $100 million level we first sought in 1956. It also increased the dollar ceiling for a single project to $600,000, and authorized multi-municipal projects with a dollar ceiling of $2.4 million. As you can see, the effect of this bill was to increase the incentive to local anti-pollution efforts.

But I accomplished one other important job in this new law—direction of a continuing study of the quality of the waters of the Great Lakes to protect them from pol-

lution caused by population growth, industrial growth, and increased shipping.

At this time we knew very little about water quality, and it became very evident that an enormous amount of scientific and technological research was needed to answer the many complex questions.

During the 89th Congress I moved again to strengthen the Water Pollution Legislation and introduced the Water Quality Act of 1965 with Senator Ed Muskie as the lead off witness. By 1965 we clean water fighters were getting good support; the Bill passed the House by a unanimous vote, and got overwhelming approval in the Senate as well. It was made Law by President Johnson on October 2, 1965.

This landmark legislation created the Federal Water Pollution Administration, and it also provided for the establishment of water quality standards for interstate waters and stated for the first time that the purpose of the Federal Water Pollution Control Act is to enhance the quality and value of our water resources and to establish a National Policy for the prevention, control and abatement of water pollution.

Under this new law we also increased the annual appropriations authorization for construction grants from $100 million to $150 million, doubled the dollar ceilings, afforded more realistic assistance to populous areas and gave new incentives to state participation in waste treatment plant financing.

In 1966 we took another big step toward increasing the quality of this Nation's water during the 89th Congress with the passage of the Clean Water Restoration Act, of which I was the author.

The most significant provision of the 1966 Act was the vast increase in the authorized level of federal support for municipal waste treatment plant construction, the grant program begun in 1956 under my original legislation.

The 1966 Act also removed the dollar ceilings on projects, provided new incentives for state participation in fiancing and for the application of water quality standards to receiving waters.

Among its other provisions, the law authorized 50 per cent federal grants to planning agencies for the development of comprehensive basin plans for water quality control; doubled the level of federal support for the strengthening of state and interstate water pollution control programs; provided for research and demonstration grants in the areas of advanced waste treatment and waste water renovation and the control of industrial pollution, plus many other new provisions.

In addition the 1966 Law transferred to the Secretary of Interior responsibility for administration of the Oil Pollution Act of 1924, and expanded its application to include the Great Lakes and other nontidal navigable waters.

The successive amendments to the Federal Water Pollution Control Act and related law reflect the response of Congress to the magnitude of the total water pollution problem, its complexity, the emergence and recognition of new problem areas, and the mounting public demand for clean waters.

Congress has not only been responsive with Legislation on the enforcement and construction aspects of the programs, it has also authorized millions of dollars in research, development and demonstration projects.

In 1956 the appropriation for these projects was $443,219. This has grown to $43,668,846 in 1969. Waste treatment construction grants grew from $50 million in 1957 to $214 million in 1969.

This winter I personally conducted an investigation and hearings in Santa Barbara following the disastrous oil spills off the coast of that City. This catastrophe underscored the need for more effective control of pollution of waters and shorelines by oil.

We returned to Washington, conducted hearings on the Water Quality Improvement Act of 1969 and passed it through the House of Representatives on April 16 by a vote of 392 to 1. I expect early action by the Senate.

This bill would provide for the control of pollution by oil and other matter from vessels, offshore facilities and onshore facilities; from acid and other mine drainage; and from activities operating under federal licenses and permits as well as from federal installations. It also authorized more intensive work on the Clean Lakes Program.

The Federal Water Pollution Control Act, enacted in 1956, strengthened in 1961, 1965 and 1966, and the expected enactment of the Water Quality Improvement Act of 1969 all came under my chairmanship of the rivers and harbors subcommittee.

This was work, hard work. It took years of study, hundreds of hours of committee hearings and volume after volume of testimony. But it is all worth it if we can help the Lower Lakes and keep Lake Superior the clean beauty that she is.

Back in 1962, I realized that the best way to preserve Lake Superior was through preventive measures. But nobody knew enough about pollution to establish a comprehensive preventive program. The problems of water pollution are so complex, so varied, and so numerous that existing knowledge and techniques are not adequate to deal with all of them. This is where the idea of the National Water Quality Laboratory came in. We simply needed more scientific information about pollution.

I obtained federal authorization for the laboratory, and the City of Duluth donated the building site in March of 1962. The lab was dedicated on August 11, 1967.

What does this all mean? It means that on the shore of Lake Superior standing like a watchful, protective beacon, is a $2.2 million structure which houses $1 million worth of the most sophisticated, advanced scientific and technical equipment that American science can produce in this field.

Now we have the most scientifically advanced fresh water laboratory in the world to study and research the environment of Lake Superior waters and determine in a scientific manner the best preventive methods to avoid pollution of Lake Superior.

We also have, as I outlined earlier, a good legislative base from which to embark on an orderly, responsible program of water pollution control, and effective enforcement where necessary.

Since early this year there has been considerable intensive, often emotionally supercharged discussion about pollution of Lake Superior and about this Enforcement Conference. Many well-meaning but ill-informed statements have been made proposing action that should be taken by the federal government or the State of Minnesota, some even calling for *legislation* to stop pollution of Lake Superrior.

This kind of talk has confused the people and created a misunderstanding about the Water Pollution Control program and has even led to rumors that attempts are being made to whitewash this enforcement procedure.

As author of the first permanent, comprehensive law to control water pollution and manager in the House of all its major amendments, I feel it is most important to set the record straight on the whole enforcement procedure.

First, let me point out that no *new* legislation is needed now to cope with Lake Superior problems. *That authority has been* on the federal statute books for 13 years. All we need to do is implement and enforce the law, and that is precisely what we are here to get underway today. This Conference, with official status in the eyes of the law, sets in motion the Federal, and I hope State, legal machinery to abate, prevent and stop pollution in Lake Superior.

Few people realize that this Enforcement Conference was called and that our meeting today is being held under the authority of the basic 1956 Blatnik Water Pollution Control Act, and that whatever cleanup action this Conference determines should be taken will be taken under the authority of that law. The objective is to reduce pollution to tolerable, permissable, harmless limits, and if that can't be done, then to stop it entirely.

Second, I want to emphasize that the Enforcement procedure has proved to be both workable and effective in cleaning up polluted waters throughout the United States. Let me underscore this point with a few facts:

This Enforcement Conference is the 46th in the past 13 years:

Preceding Conferences have issued cleanup orders to: 42 States and the District of Columbia, 1,300 municipalities, 1,800 industries, 89 federal installations, 73 State or private institutions, and, 11,168 miles of riverway.

America's most populous states have figured in previous enforcement actions, as have our largest metropolitan areas, such as New York City, Chicago, Detroit, Cleveland, St. Louis, Minnesota's own Minneapolis-St. Paul and the giants of industry: United States Steel, General Motors, Chrysler, Ford Motor Co., Standard Oil Corporation, Youngstown Sheet and Tube, Republic Steel, International Paper Company, Weyerhauser, Crown Zellerbach, Scott Paper Co., and a long list of others.

Corrective action called for by those conferences is underway and in many cases already completed at a total cost of some $10 billion invested in municipal and industrial treatment plants.

To give you some recent examples of the magnitude of the cleanup effort resulting from an enforcement proceeding, the Lake Erie Conference involved five states, 115 municipalities, 101 industries, and 11 federal installations. A complete cleanup schedule was agreed upon by all the participants at a total estimated cost of $5 billion.

The Lake Michigan Conference held just last year affected 4 states, 174 municipalities, 53 industries, 20 federal installations, and is expected to cost some $4 billion.

Of all the Great Lakes, the waters of Lake Erie are in the most advanced state of pollution—perhaps irreversibly so—and many call it a dying lake. Lake Michigan, though sick, is not anywhere near the degree of aging and decay of Lake Erie and the enforcement action taken there still has a chance of reversing the pollution.

Lake Superior is unique among the Great Lakes—the least polluted: the largest body of fresh water: the most to be gained from early action. The action on Lake Erie could be termed "stop gap" at best: In Lake Michigan, remedial and restorative: In Lake Superior, preventive and preservative. We must, by acting now, prevent pollution from destroying this priceless resource.

And we will do it under the three step enforcement procedure I wrote into the 1956 Law: (1) Conference, (2) Public Hearing, (3) Court Action.

Today we are participating in the first, or conference, stage of the enforcement procedure. The role of the Conference, which, by the way, is conducted on an informal basis and is not an adversary proceeding, is to establish the facts, such as: the nature and extent of pollution, whether measures now being taken to abate pollution are adequate, and the kinds of problems expected to be encountered in preventing pollution. With all the facts before them, the conferees will try to reach agreement on a remedial program of pollution abatement.

If this doesn't work then we go on to Stage 2, the Public Hearing, which is a formal proceeding directed at individual, alleged polluters. A formal hearing is held before a five member board appointed by the Secretary of the Interior and sworn testimony is taken. The Board's findings and recommen-

dations are sent to the polluters—whether state or federal government, municipal or private—and to the state with a time table for compliance.

Stage 3, Federal Court Action, is the last resort in the enforcement procedure. The court has jurisdiction to enter whatever judgment or order may be necessary to safeguard the public interest.

However, so successful is the conference stage of the enforcement procedure that in the 13 years of the Federal Water Pollution Control Program, a public hearing has been required in only 4 cases, and court action only once.

The purpose of this Duluth Enforcement Conference is to study the pollution problems of the entire Lake Superior Basin.

However, because of the close coverage by the news media and a concerned public, the focal point of the conference is the discharge of tailings from Reserve Mining Co.'s E. W. Davis Works at Silver Bay.

The report indicates that Reserve's tailings discharge do have an adverse effect on the quality of the Minnesota waters of Lake Superior. If this is determined to be a fact during the conference or at a later date, then the Governor, the Minnesota Pollution Control Agency—with the help of the federal government—and the Mining Company should and must take corrective measures.

Although the Government report indicates that at the present time there is not enough scientific evidence on which to base a finding of interstate pollution, it does recommend that the FWPCA and the State keep the discharge of tailings under continuing surveillance and report back to the conferees at six month intervals.

I wholeheartedly support this action.

I will go further and say that with the help of the National Water Quality Laboratory, if there is pollution anywhere in the Lake we're going to find it and when we find it we are going to stop it under the enforcement section already in the law.

If there is interstate pollution then the Federal Government can move in at once to take action. If there is intrastate pollution there is still no excuse for delay as the Governors of the three states can act under state law. If they have a problem or need help they have only to ask the Federal Government for help and I assure you help will come.

All of us—the Federal Government, the State Government, local government and industry—have a tremendous responsibility in keeping Lake Superior as clean as possible. We must protect the high quality of her water and as long as I have anything to do with it, it will be protected.

I want our sons and daughters, their sons and daughters, and generation after generation to experience the exhilaration I did when I got my first look at that beauty out there. This can be accomplished and this Enforcement Conference here today is a big step toward determining the best method of preserving Lake Superior as the beauty that she is.

RESTORATION OF U.S.S. "ENTERPRISE"

Mr. INOUYE. Mr. President, early this year on January 14, disaster struck the U.S.S. *Enterprise* during a practice bombing mission off the coast of Hawaii. My colleagues will recall that an accident started a series of serious fires and explosions which took the lives of 28 men and did extensive damage to the ship.

At the time, it was estimated that it would take up to 9 months to complete repair work on the *Enterprise*. However, the workers of the Pearl Harbor Naval Shipyard put the full thrust of their efforts into the emergency repair work and restored the ship in a record time of 49 days, 41 days before the projected completion date.

Leading the men at the Pearl Harbor Naval Shipyard was Mr. William D. Bennett. In recognition of his years of invaluable service to the U.S. Navy and in appreciation for his outstanding service in restoring the U.S.S. *Enterprise*, the Department of the Navy presented him with the Distinguished Civilian Service Award.

For their outstanding performance in this monumental undertaking, the Secretary of the Navy presented the Special Commendation Award to the leadership and personnel of the Pearl Harbor Naval Shipyard.

It is with great pleasure and pride in the men of the Pearl Harbor Naval Shipyard that I ask unanimous consent that the remarks of the Assistant Secretary of the Navy, James D. Hittle, and the citations of the awards presented to Mr. Bennett and the personnel of the Pearl Harbor Naval Shipyard be printed in the RECORD.

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

REMARKS BY JAMES D. HITTLE

Ladies and Gentlemen: I am honored to be with you today as the representative of the Secretary of the Navy. I have come to express to you the Secretary's personal appreciation and that of the entire Department of the Navy for your magnificant performance in accomplishing the repair of the U.S.S. *Enterprise*. This task, achieved by the workers of the Pearl Harbor Naval Shipyard, should be a source of pride to everyone gathered here today—and I'm sure it is.

The job which confronted this shipyard on that fateful day when the *Enterprise* come limping into harbor was urgent. As you all know, on 14 January, while operating at sea, disaster struck the *Enterprise*. During a practice bombing mission, preparatory to her deployment to her fourth tour of duty in Vietnam waters, an accident occurred near an aircraft on the flight deck. This accident started a series of fires and other explosions throughout the ship. Only the heroic efforts of the ship's crew brought the fires under control. Although the crew reacted with amazing speed, serious damage was caused. The flight deck was cluttered with demolished aircraft; there were gaping holes in the ship's decks and her casualty list stood at more than 100 men dead and injured.

You well know the story from that point on. You were close to the tragedy.

You were part of the subsequent achievement. The original estimate of the time required to return the *Enterprise* to service ranged as high as 3 months. But those who had predicted that it would take this long to complete the repairs had, apparently, underestimated one factor—the shipyard workers at this activity.

With a full realization of the importance of your mission and of the necessity to return the *Enterprise* to service as soon as possible, you the workers of the Pearl Harbor Naval Shipyard, demonstrated what the real "can do" spirit is. For it was the shipyard workers who spearheaded an effort which completed the necessary repairs in a record breaking 49 days—not in the original estimate of 90 days—but in an actual 49 days.

Of course, the full story of the team work that went into the repair of this great ship involves the cooperative efforts of private industry, other naval shipyards, and certain naval activities in the continental United States.

But the keystone of the entire achievement was this shipyard and you, the members of the shipyard team.

It was here that your skill, hard work and dedication forged in a coordinated and cooperative effort, proved effective as well as inspirational.

Your accomplishment in putting the U.S.S. *Enterprise* in condition for sea was in keeping with the spirit and the records of the World War II era. Then, this shipyard established records on damage repair, records that were broken only by its own later efforts.

Your achievement with the *Enterprise* have already been recognized in part when Admiral John J. Hyland, Commander in Chief, Pacific Fleet, presented a number of personal awards to your key military and civilian leaders.

But we all realize that any effort, as large in scale as the repair of the *Enterprise*, is a collective effort.

That is why the Secretary of the Navy has asked me to travel to Pearl Harbor to be with you today. I have come to show you the Navy's respect for all of you as members of the Navy-Marine Corps team.

I have come to thank you on behalf of the Secretary of Defense, the Honorable Melvin R. Laird, and the Secretary of the Navy, the Honorable John H. Chafee, and to present to all of you as evidence of the Navy's appreciation through Captain Barnhart as your representative, this Special Commendation from the Secretary of the Navy.

I highly regret that it is not possible for us to reward each of you individually but the Navy's appreciation is no less real.

You performed an important mission and you did it in a manner better than anyone had the right to expect.

Please accept our thanks, and particularly—from the Secretary of the Navy—accept this time honored commendation of duty precisely performed—"Well Done."

CITATION BY SECRETARY OF THE NAVY

The Secretary of the Navy takes pleasure in presenting the Distinguished Civilian Service Award to William D. Bennett in recognition and appreciation of the distinguished services set forth in the following citation for outstanding service to the Department of the Navy for many years and for his valuable contributions to the Fleet in production and ship repair operations. Mr. Bennett has served the Navy with distinction in many capacities ranging from shipfitter to Group Master. Through his unwavering dedication and excellent leadership he has inspired hundreds of others to perform in a manner which surpassed their own expectations. His vast and detailed knowledge of ships and their construction and equipment have enabled the Pearl Harbor Naval Shipyard to meet seemingly impossible deadlines for ship restoration and repair under emergency conditions. The most recent example of his ability to act under adverse conditions was his remarkable performance as Production Manager for emergency repairs of fire damage sustained by the U.S.S. *Enterprise* (CVA(N)65) on 14 January 1969. As a result of his incredible foresight, initiative, and enthusiasm, the emergency repairs were completed in only seven weeks. Mr. Bennett's superlative efforts and untiring devotion to duty have brought the highest prestige and honor to the Navy. He is richly deserving of the Navy Distinguished Civilian Service Award.

JOHN H. CHAFEE,
Secretary of the Navy.

APRIL 9, 1969.

SECRETARY OF THE NAVY SPECIAL COMMENDATION AWARDED TO PEARL HARBOR NAVAL SHIPYARD

Citation for outstanding achievement from 14 January 1969 to 4 March 1969 in accomplishing repairs to the U.S.S. *Enterprise* (CVA(N)65) which was damaged by fire and explosion. Under extremely adverse conditions and facing pressures involving short

deadlines, material shortages, and skill scarcities, the leadership and personnel of the Pearl Harbor Naval Shipyard demonstrated a high degree of competence, pride of workmanship, and dedication to duty in accomplishing the repairs in record time, thus enabling the *Enterprise* to return to the fleet with a minimum disruption of operations. With a keen appreciation of the many sacrifices and extraordinary effort involved in such a monumental undertaking, the personnel of the Pearl Harbor Naval Shipyard are commended for their superlative performance.

JOHN H. CHAFEE,
Secretary of the Navy.
JAMES D. HITTLE,
Assistant Secretary of the Navy,
(Manpower and Reserve Affairs).

APRIL 9, 1969.

ARROGANCE

Mr. YOUNG of Ohio. Mr. President, Pentagon officials are guilty of disservice to Americans through censorship by classification. Some of these top officials in the Pentagon and, in fact, even field grade officers—majors and lieutenant colonels—seeking to withhold from the public information which discredits the Department of Defense and certain generals or indicates laxity in connection with military contracts, term this "classified information." They stamp "top secret" or "secret." These officers by this questionable procedure block the flow of information prejudicial to the Department. They arbitrarily select only information favorable to our Armed Forces. They exclude from the public that which is unfavorable. Officers and Pentagon officials defiantly conceal information to which our people are entitled.

Let us not have in addition to our three equal coordinate branches of Government—legislative, executive, and judicial—a fourth branch, "sacrosanct military general staff." We in the Congress have an obligation to inform ourselves how it comes that this military censorship by classification has grown to an extent no longer acceptable. The end result gives to the military domination over the civilian branches of our Government.

President Eisenhower in his farewell address warned the Nation to "guard against the acquisition of unwarranted influence whether sought or unsought by the military-industrial complex." Long before that, President George Washington counseled the Nation "to avoid the necessity of those overblown military establishments which, under any form of government are inauspicious to liberty and which are to be regarded as particularly hostile to republican liberty."

THAT DOMINO THEORY

Mr. YOUNG of Ohio. Mr. President, the domino theory states that if the Communists take over one country of Southeast Asia then all the other countries of Asia would fall like dominos. The largest domino in all Asia is Communist China with a population of 800 million. This vast area populated by one-fourth of the people of the entire world fell to the Communists in late 1949. If the domino theory were at all valid it would seem that 20 years later all the dominos should have fallen. Not one country in Southeast Asia has gone Communist since the advent of Red China. In fact, Indonesia, Malaysia, Singapore, and other countries have on their own crushed Communist partisans within their countries.

It is claimed that Ho Chi Minh has been stirring up trouble in remote areas in Thailand and Laos. The facts are we Americans have penetrated Thailand in depth. We are maintaining air bases throughout Thailand and have 54,000 men of our Armed Forces stationed there. We have men of our Armed Forces in Laos and we are penetrating the air space of that Asiatic nation, whose neutrality we guaranteed, with our warplanes and are overflying that area quite constantly and our napalm and other bombing has devastated some areas of Laos particularly during recent months.

MATT WERNER RETIRES AFTER DISTINGUISHED CAREER

Mr. NELSON. Mr. President, few men have achieved the respect and stature of A. Matt Werner, who recently retired from the University of Wisconsin Board of Regents after 30 years of distinguished service.

It is a rare and outstanding person who can claim that partisan Democrats, Republicans, and independents listen to him and react positively to his advice. Although a dedicated Democrat and delegate to the 1932 convention which nominated Franklin D. Roosevelt, Matt Werner was originally appointed to the board of regents by a Republican Governor in 1939, and subsequently reappointed by Republican and Democratic Governors.

As an editor of the Sheboygan Press, Matt Werner published one of the finest small city newspapers in the Midwest. His wise judgments and thought-provoking views were reflected in his editorials and recognized throughout the State.

During his years as university regent, Mr. Werner helped direct the progressive course of the university, recognizing the need for decisive change and responding to it. Through his calm deliberative ability, he has led the board of regents through debate, shaping the university into a modern, responsive community.

I ask unanimous consent that an editorial describing Matt Werner's career published in the March 14 issue of the Milwaukee Journal, be printed in the RECORD.

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

THIRTY YEARS A REGENT

A. Matt Werner is more than just the record holder for long and diligent service on the University of Wisconsin board of regents. He has been a valuable member wielding constructive influence in that unpaid, and mostly unrewarded, civic position.

One measure of the man is that he, a lifelong Democrat, was first appointed, in 1939, by a Republican governor, and twice reappointed by Republican governors, before a Democrat happened to be in office to do the honors the last time, in 1963. They recognized the Sheboygan publisher as an educational statesman in helping guide the affairs of a great university.

Werner might best be called a liberal conservative or vice versa. He was receptive to change and progress whenever reason pointed that way. At the same time he cherished traditional and basic values and was careful not to let them get lost in the shuffle. This quality of mind, with his experience and wisdom, made him effective on the board for so many years, giving it balance and calm deliberation.

Not the least mark of his wisdom, and of his devotion to UW, is his voluntary request now, at 75, to let a younger man replace him and finish out his term. Both the UW community and the people of Wisconsin owe honor to a true pillar of the university, Matt Werner.

RUSSIAN APPEAL FOR PROTECTION OF HUMAN RIGHTS IN THE U.S.S.R.

Mr. PROXMIRE. Mr. President, the Washington Post of Friday, May 23, contains an article pertaining to an appeal to the United Nations for the protection of human rights in the U.S.S.R. A group of 55 Russians, the most notable being Pyotr Yakir, the son of a Russian general who was executed during the Stalin purges of 1937–39, made the appeal saying they were concerned over the rise of political persecution and the return of the tactics used during the Stalinist terror in their nation. They also stated that they feared that their right to hold and speak out about their private views had been placed in peril by recent actions of the Soviet Government.

Unfortunately, the United States has put itself in a difficult position to rise to the defense of those in the U.S.S.R. who are demanding their basic human rights. Despite the allegiance of the American people to the concept of human rights and the historical tradition of this nation, we number among those countries that have failed to ratify some of the United Nations conventions on human rights. Those conventions which are unratified as of this date are the United Nations Convention on Forced Labor, on Political Rights for Women, and on Genocide. If we are to, in the future, be able to stand up and point with pride to our own accomplishments and be able to deplore the failure of others in the field of human rights, we must ourselves take immediate positive action. To date there has been no strong opposition to ratification of these conventions by the United States. Rather it has been our negligence and apathy which have led to our failure.

It is now time for the United States to act to erase this failure and to reassert our deep commitment to the idea of human rights for everyone. This can only be achieved if we act now to ratify the human rights conventions.

MORRIS SCHAPIRO: A GREAT BALTIMOREAN AND AN AMERICAN SUCCESS STORY

Mr. TYDINGS. Mr. President, many Marylanders including my own family were deeply saddened recently by the death, on May 3, of Mr. Morris Schapiro. He was 86 years old.

Mr. Schapiro's life is a classic American success story. He came to the United States from Latvia in 1902 at the age of 19 to avoid religious persecution under the Russian Czar. He came to Baltimore in 1904 at the time of the great fire, and

made a livelihood by hauling metal and lumber from the burned out areas at 2 cents a load.

With $300, he and two relatives then started the Boston Metals Co., which is today a $10 million a year business, and the largest exporter of American-built diesel parts and the world's biggest machinery replacement firm.

Mr. Schapiro was also director and a principal stockholder of Laurel Race Track and a principal stockholder in Maryland Shipbuilding and Drydock Co. In addition to a very strong role as chairman of Boston Metals, Mr. Schapiro maintained an active membership in many Maryland Baltimore civic groups, and was a member of Oheb Shalom congregation.

An editorial in the Baltimore Evening Sun best summarized the importance of this creative man of imagination and organizational genius:

He became a towering figure on the Baltimore waterfront and the name, Schapiro, spoke for itself wherever shipping men gathered from Hong Kong to Genoa.

I ask unanimous consent that the editorial and two articles about Mr. Schapiro, published in the Baltimore Morning Sun of May 4 and the Washington Post of May 5, be printed in the RECORD.

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

[From the Evening Sun, May 5, 1969]

MORRIS SCHAPIRO

Morris Schapiro wasn't the last tycoon, but this crusty, often creative tribe is waning fast in a day when strong men are at least half-convinced that part of their job is to look out for lesser men. Morris Schapiro had to look out for himself. Was Baltimore burning? This kid fresh out of his teens, his grasp of the English language still uncertain, looked doubtfully at the flames gobbling the city he had just chosen for his new home. Better he'd stuck out Latvia after all and the life which in 1904 awaited Jews at the hands of the Russian Czar.

Bit by bit, literally, Morris Schapiro picked up his new Baltimore life. The charred smoking fragments of the Great Fire brought him 2 cents a load; in time, he built a vast business of fragments—his Boston Metals company bought, broke up and re-sold ships throughout the world. He became a towering figure on the Baltimore waterfront and the name, Schapiro, spoke for itself wherever shipping men gathered from Hong Kong to Genoa. No Baltimore businessman grew too big to fail to nod in deference to the organizational genius and imaginative gambles which, together, lifted this man from nowhere to the highest level where financial strength is flexed.

Morris Schapiro was a man of his time, for it was a time when Baltimore was still open to a businessman who could build a national organization and keep the home office, the power, in Baltimore. Now we are overwhelmingly a city of branch offices, of subsidiaries and offshoots from elsewhere. The old Baltimore independents who stood on their own two feet, the Morris Schapiro, are down to a handful.

[From the Washington Post, May 4, 1969]

M. SCHAPIRO OF LAUREL DIES AT 86

BALTIMORE, May 3.—Morris Schapiro, 86, former president of Laurel Race Course and father of the current president, John D. Schapiro, died today at Sinai Hospital.

Survivors include his widow, Rebecca; a son, Joseph S. Schapiro of Beverly Hills, Calif., and two daughters in Baltimore, Mrs. Joseph S. Cascarella and Mrs. Doris Gillman.

Funeral plans are incomplete but interment service will be private.

Mr. Schapiro bought Laurel in 1950 after rising from an itinerant junk peddler to head a multi-million dollar scrap-iron business.

He came penniless from Latvia to America in 1902 and was a peddler in Georgia until he and two relatives pooled $200 to start the Boston Metals Co. in 1904.

This became the largest firm of its type in the Nation and also one of the largest in the ship-scrapping business.

Mr. Schapiro once sold a Canadian frigate to Aristotle Onassis, who converted it into the famous yacht Christina.

Mr. Schapiro became involved with racing in 1943 when he and a partner bought Gulfstream Park at Hallandale, Fla. He sold out five years later.

[From the Baltimore Morning Sun, May 4, 1969]

MORRIS SCHAPIRO, 86, DIES; OWNED LAUREL RACE COURSE

Morris Schapiro, who arrived in Baltimore with 75 cents and started hauling junk from the Great Fire of 1904, died yesterday at the age of 86, the owner of a prosperous scrap metal business and Laurel Race Course.

Mr. Schapiro, who lived on Folly Quarters Farm in Howard county, died early yesterday afternoon in Sinai Hospital of complications from a broken leg.

Services will be held at 3:30 p.m. tomorrow at the Oheb Shalom Temple, 7310 Park Heights avenue, with burial following in his Mausoleum at the Druid Ridge Cemetery.

Mr. Schapiro came to the United States in 1902 at the age of 19 from Latvia to avoid religious persecution by the Russian Czar.

After wandering around the Atlantic seaboard for two years, Mr. Schapiro came to Baltimore in February, 1904, and began hauling junk—metal and lumber—from the ruins of the burned out city at 2 cents a load.

TEN-MILLION-DOLLAR BUSINESS

With two relatives, Mr. Schapiro started the Boston Metals Company with $300.

Today, it is a $10 million-a-year business, the largest exporter of American-built diesel parts and the world's biggest machinery replacement firm.

Boston Metals has also scrapped in its 65 years more than 1,500 ships—including the old U.S.S. Pennsylvania on which Mr. Schapiro sailed from Riga to the United States.

At the time of his death, Mr. Schapiro was chairman of the firm and still active in it.

He was also a director of the Laurel Race Course and a principal stockholder there. It was the fifth race track in which he had held an interest. The others had been Gulfstream in Florida and Pimlico, Bowie and Havre de Grace in Maryland. In the early 1950's he was perhaps the most powerful man in Maryland racing.

A smiling, pink-cheeked man, Mr. Schapiro worked from an office at 313 East Baltimore street where the walls were covered with photographs of the ships he had scrapped and of his family.

GAVE OUT $100 BILLS

Each birthday for the past decade, he gave each of his employees a $100 bill.

Mr. Schapiro began making multimillion-dollar real estate deals around 1920 both in Baltimore and in Howard County, where he had extensive land holdings.

Modest about his Horatio Alger rise from an immigrant ragamuffin to a multimillionaire businessman well known in international shipping circles, Mr. Schapiro attributed it "mostly to luck . . . and a little management sense. That's all."

STRONGEST ALLEGIANCE

Although his family has financial interests across the country and overseas, Mr. Schapiro's strongest allegiance was to Baltimore and Maryland.

A few years ago, when there was a chance the Maryland Shipbuilding and Drydocking Company might be taken over by the Fifth Avenue Coach syndicate of New York, for which he had little liking, Mr. Schapiro declared he would put up $1 million and recruited the late Thomas Nichols, head of Olin-Mathieson Chemical Corporation, to put up $1 million to save the firm.

Mr. Schapiro also had his share of passing controversies. He fought with the United States Maritime Commission, when it was first formed, over buying old ships.

In the early 1950's he was accused of being Maryland's racing czar because of his extensive race track holdings.

He fought his fights vigorously and later shrugged them off. "Money is sometimes controversial, too," he told one interviewer.

Mr. Schapiro was active in a host of civic groups and was a longtime member of Oheb Shalom. He also established the Morris Schapiro and Family Foundation in 1943 to make religious, educational and charitable contributions.

He is survived by his wife, the former Rebecca Samler; two sons, John D. Schapiro, of Baltimore, and Joseph S. Schapiro, of Beverly Hills, Calif.; two daughters, Mrs. Doris Gillman and Mrs. Jerry Cascarella, both of Baltimore; by seven grandchildren and seven great-grandchildren.

DR. LESLIE KOLTAI, ADMINISTRATOR, METROPOLITAN JUNIOR COLLEGE, KANSAS CITY, MO.

Mr. EAGLETON. Mr. President, when the Metropolitan Junior College of Kansas City is constructed in downtown Kansas City, it will become the first junior college to have a new campus in midcity. Metropolitan Junior College also possesses another rare commodity, Dr. Leslie Koltai, a man who combines the lofty idealism of the academic world with the realism of an able administrator.

I ask unanimous consent that an article published in the Kansas City Jewish Chronicle regarding Dr. Koltai and the Metropolitan Junior College of Kansas City, be printed in the RECORD.

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

DYNAMIC JUNIOR COLLEGE HEAD HAS GREAT PLANS FOR COMMUNITY

(By Lorraine Raskin)

Bricks and mortar will soon rise on the Kansas City horizon to form the three separate campuses which will make up the Metropolitan Junior College of Kansas City; and, figuratively speaking, the man wielding the trowel will be Dr. Leslie Koltai, the chief executive of MJC–KC.

Being a modest man, Dr. Koltai is somewhat embarrassed by the impact his presence has made upon the local scene. He is, nevertheless, elated that the publicity encompasses the growth of Junior College, and marks it as an institution destined to benefit the growth of the community.

Challenge and impossible odds are the components that make up this 38-year-young man. The image of the Hungarian Freedom Fighter comes through clearly despite the fashionably custom-tailored suit and the impeccable manner of the man.

Dr. Koltai's innate modesty commands that emphasis be placed on his present work, rather than on his past personal accomplishments—an instant insight into the man who was named in 1968 as President of Metropolitan Junior College. It is an important and sensitive position, with great import for the future of the entire urban community.

Dr. Koltai's exciting background has been recounted often, despite his obvious reluctance to dwell upon it. In 1956, he was a professor of the Russian language at the

University of Budapest, when the Hungarian revolt rocked his country, as the people sought to overthrow the puppet government established by the Soviets.

Koltai promptly joined the Hungarian Revolution Radio Committee, and broadcast news of the revolt and appeals for aid to the world outside the Iron Curtain. These activities earned for him a place on the Russian's most-wanted list.

When the revolution collapsed, Koltai, with his young son Steven, who was doped with sleeping pills to keep him quiet, and his wife, Katherine, walked through mine fields to escape into Austria. There he joined the Voice of America in Vienna.

He and his family emigrated to the United States in 1957, with distant relatives in Denver helping to make a new home for the Koltais.

The following year the family moved to Los Angeles, where Koltai entered the journalism school of UCLA. He worked as a clerk by day, and attended classes at night. In his second year there, he taught the Russian language at night at Los Angeles Valley College in Van Nuys, and went to day classes.

Koltai received a master's degree from UCLA in 1960 and his doctorate in education from UCLA in 1967. He also holds bachelor's and master's degrees from the University of Budapest.

Before coming to Kansas City, Dr. Koltai served for 8 years as dean of institutional research at the Pasadena City College.

Dr. Koltai and Kansas City joined forces in July, 1968. Katherine Koltai, the truly feminine and lovely counterpart to Dr. Koltai, arrived in the city the following month.

Steven, now a tall, handsome, 14-year-old, is big brother to a blonde, pigtailed sister, Marian, age 7, and a gremlin with a "dare you" grin, Robert, 5. They attend Central South junior high, Red Bridge elementary school, and Temple B'nai Jehudah nursery school, respectively.

Mrs. Koltai is contentedly happy to be a housewife and hostess for her husband, and an understanding, available mother to her children. The entire family is actively affiliated with Temple B'nai Jehudah.

To talk with the Koltais is to talk of the junior college expansion plan. Dr. Koltai's habits of efficiency and industry take the lead even in conversation, and the topic of the hour is the teaching-oriented institution. Facts about the college seem to take on the aura of glowing compliments.

Junior colleges are considered the "wonder child" of American education, and in 1969 comprise almost one-third of the establishments of higher education.

Limited to a 2-year program, the junior college gives its graduating students an Associate in Arts degree and a feeling of success and completion. In contrast, the student in a 4-year college, who may leave at the end of his sophomore year, often feels like a dropout.

The greatest student attraction is the nondistinction between professional and technician. Those students who are not dedicated to 4 years in a conventional college, may leave school after 2-years in a junior college, fully confident in their ability to enter the labor market.

Other junior college graduates may transfer, with no credit loss, to a 4-year college. The latter, as expected, is determined by grades and quality of courses taken.

"Kansas City's Metropolitan Junior College is a rare commodity in its field," says Dr. Koltai, "for it is the first junior college to have a new campus in mid-city."

The 30-acre site of the central campus near 31st Street and Pennsylvania, adjacent to Penn Valley Park, will eventually be the hub of a complex of 26,000 students and a vast faculty. By contrast, the student body now numbers some 6,000.

"This will be the beginning of the re-creation of the inner city," says Dr. Koltai, to whom the vision quickly becomes a reality. He tells with great and infectious enthusiasm about the suburban campuses, too, one to be located in the growing area north of the Missouri River, the other to be on land of the beautiful old Longview Farm, near Lee's Summit.

"The Metropolitan Junior College," Dr. Koltai points out, "is a publicly controlled institution which can add to the earning potential of the community, and can serve as a long-needed deterrent to the 'brain-drain' of our young citizens.

Also in the junior college blueprints is an "On Broadway" theater for public use. Drama, music, and ballet are but a few of the cultural facets to be pursued.

The direction of some of these innovations may well be toward a proposed convention center. The junior college will be so situated as to be ideally available for use as forum buildings and lecture halls.

Dr. Koltai and the board of Metropolitan Junior College, which is now unanimously focused upon a future of positive growth after putting behind it the controversies of the past, plan to introduce and familiarize the Greater Kansas City community with the multi-high campus facilities and the contemplated program which was never before offered in a junior college in this area.

Many Kansas Citians who have already met Dr. Koltai will agree that he combines with good balance the lofty idealism of the academic world, with the realism and the quiet confidence of a skilled craftsman in the tools of his trade.

MONITOR ARTICLE POINTS UP NEED FOR CONGRESS TO ACT NOW ON DIRECT POPULAR ELECTION AMENDMENT

Mr. BAYH. Mr. President, Richard Strout's article entitled "Computers Signaled No Win in Great Unelection of 1972," published recently in the Christian Science Monitor, vividly depicts one of the fatal flaws in our antiquated electoral machinery. Mr. Strout centers his attention on the undemocratic procedure that must follow when no candidate receives a majority of the electoral vote. The choice of a President by the House of Representatives, on the basis of one State, one vote, was described by Thomas Jefferson as "the most dangerous blot on our Constitution." Yet 150 years later, that "dangerous blot" remains.

But that is far from the only serious shortcoming of the present system. As dangerous and undemocratic as an election by the House of Representatives is the election of a President who is not the first choice of the American people. The present "winner take all" system cannot guarantee the election of the popular vote winner; nor, for that matter, can the often proposed district and proportional plans. In fact, direct popular election is the only system that accurately reflects the will of the electorate. It is the only fail-safe system.

As the Strout article points out, Mr. President, the House Committee on the Judiciary, under the able direction of Chairman CELLER, has favorably reported a direct election proposal. I am hopeful that the Senate will have an opportunity to consider this vital matter shortly. Prompt action is necessary if the Nation is to avoid the type of situation depicted in Mr. Strout's scenario.

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

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

COMPUTERS SIGNALED "NO WIN" IN GREAT UNELECTION OF 1972

(By Richard L. Strout)

WASHINGTON.—Very well, then, the ballots of the electoral college are brought into Congress on Jan. 6, 1973. Nobody will ever forget that day.

The election of 1972, it is agreed now, was one of the most spectacular in history. Most of the nation, that election night, never went to bed at all.

Around 11 the first wild surmise took shape. "How's it going?" People would ask coming in from the theater. At the startling answer they would gape, take a pillow, and settle down for the night.

Naturally the computers were unprepared. Nobody had really thought it possible. It was NBC's Univac which seemed dimly to sense it first. It kept signaling "no win" which didn't make sense.

EXCITEMENT DIMINISHES

By 7 next morning the haggard broadcasters with cracked voices and shaded jowls faced the horrid fact.

No candidate had an actual majority of electoral-college votes! The election would go into the House of Representatives for the first time since 1824.

For a few startling hours on the night of Nov. 5, 1968, it seemed there would be no election. Then Richard M. Nixon slowly pulled ahead. . . . Never again, the nation said!

But then the excitement diminished. As with the national effort to get gun control, the attention of the people turned to other things. There was a modest gun law, to be sure—but the battle to reform the electoral college was much more difficult because this was a constitutional amendment.

Not only did it require a two-thirds vote of House and Senate, but after that a three-fourths approval from the 50 states—that is 38 of them. Many of the smaller states felt that they would lose power under the proposal. Half a dozen could be counted against the plan almost from the start. Thirteen could block it.

So without any change in the electoral college the great unelection of 1972 was held. The civil-rights agitation had not ended, and again there were three candidates, Richard M. Nixon, Edward M. Kennedy, and George C. Wallace. It was California that finally tipped the balance.

POLL CLOSINGS DIFFER

Polls on the West Coast close three hours after the East, and by 1 a.m. it was evident that the Democrats were in trouble. The state wavered like a leaf in the gale. "It's like 1968 all over," husbands muttered to wives as they sat glued to the TV. Some added grimly "only more so."

In 1968, indeed, George Wallace got 9,900,000 popular votes and 46 electoral votes; Hubert H. Humphrey 31,200,000 and 191; Richard Nixon 31,700,000 and 301. Without an absolute electoral-college majority of 270 by Mr. Nixon the 1968 contest would have gone into the House.

California at 4 o'clock on that wild morning unofficially put its 40 electoral votes into Mr. Kennedy's pile. The other states did not follow the same 1968 pattern exactly, but the total number of electoral votes, amazingly enough, totaled almost the same.

Next morning the unofficial score (to be followed by weeks and months of inflammatory disputes over the count) stood like this:

Total electoral votes	538
Necessary to elect	270
President Nixon	262
Edward M. Kennedy	231
George C. Wallace	45

No one had been elected.

The most powerful nation in the world did not know who its next president would be.

"Election Goes to House!" shouted the normally sedate New York Times.

"Candidates plead for calm," said the conscientious Christian Science Monitor.

"What a Mess!" ejaculated the irrepressible New York Daily News.

AMENDMENT TRIED

They had tried to amend the Constitution in 1969 and hadn't. And so the Constitution said the House should "chuse" the president from the top three contestants.

It had happened in 1800, and again in 1824, and it had almost happened several times since. Though nobody noticed it at the time, in 1948, a shift of 0.6 percent of the popular vote away from Harry S. Truman in two states would have made an unelection. (And if it had gone into the House in 1948, scholars noted afterward, scratching their heads they couldn't have figured what would have happened.)

The point was, of course, that under the quaint constitutional provisions each state in the House would have just one vote—Vermont one, California one. Each state would cast its single vote in accordance with the majority of its members in the chamber.

BOOKSTORES BOOM

The trouble in 1972 was that the legislative delegations of several states were evenly divided. Unless one side or another gave way it would be like a hung jury—the state would lose its vote. After subtracting these evenly divided states, there was a tie between Messrs. Nixon and Kennedy, with Mr. Wallace holding the balance of power with apparent control of five Southern states.

But how about the vice-president? people asked hopefully.

In the week after the unelection millions read the Constitution for the first time, and some bookstores made modest fortunes by selling a document suddenly as popular as Mao's "thoughts."

They discovered that while the House is picking the president from the highest three, the Senate is picking the vice-president from the highest two. Would it be Spiro T. Agnew or Mr. Kennedy's running mate, Sen. Edmund S. Muskie of Maine?

The Constitution provides that the vice-president shall be acting president if for some reason (a deadlock, perhaps) there is no president. . . .

Who can complete the scenario?

The suppositious election of 1972, thrown into the House, might end with the ultimate degrading spectacle of the two principal candidates making secret deals with the third and the presidency bartered off.

POSSIBILITIES SEEN

Or on the other hand, fortunately, it probably won't happen. Some candidate in 1972 will get a majority of the electoral votes. Or, perhaps, the Constitution may be amended to remove this preposterous possibility of a deadlock for all time.

On Tuesday, April 29, 1969, the House Judiciary Committee approved, 28 to 6, a proposed constitutional amendment providing for the direct, popular election of the president. Would it run the gauntlet of two-thirds vote in Congress, and a three-quarters vote in the states? Nobody knew.

Even so there was a tiny hole in it. The committee voted to delay its effective date till a year after ratification. This meant that it was unlikely to be in force in 1972.

And so the strange tale with its extraordinary possibilities begins again. "On the evening of Nov. 5, 1972, the American nation settled before its television sets to await the election result dimly aware of the kind of Russian roulette it was playing. And then. . . ."

STUDENT UNREST IN PERSPECTIVE

Mr. MONDALE. Mr. President, the Nation has experienced an extended period of protest, demonstration, and violence on its campuses.

In my address to the graduates of St. Olaf College, in Northfield, Minn., on Sunday, May 25, I tried to put this general unrest into perspective. In the process, I arrived at several conclusions:

The Nation cannot tolerate either violence or lawlessness on its campuses.

Forcible suppression of unrest, without attention to its causes, is just as deadly as violence.

The American student generation is not irrelevant, mentally ill, or suicidal, but is fast becoming the most dynamic element of the American political system.

This generation of 7 million students has many legitimate complaints about campus life.

Much of student unrest has nothing to do with the campus itself, but is a reflection of the unrest, the contradictions, and the disarray of American life.

Mr. President, my remarks may be helpful to others who are disturbed by the difficulties on our campus, and they are directly relevant to my proposal to establish a National Commission on Campus Unrest. I ask unanimous consent that the text of these remarks and an editorial from this morning's St. Paul Pioneer Press, which refers to the speech, be printed in the RECORD.

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

REMARKS OF SENATOR WALTER F. MONDALE, 1969 COMMENCEMENT, ST. OLAF COLLEGE, NORTHFIELD, MINN., MAY 25, 1969

It is not difficult to pick a commencement topic this year.

It is chosen for us. It is campus unrest.

Already rocked by the turbulence of our cities, the Nation now is staggered by the explosion of our campuses.

There have been instant demands and instant responses. And now we hear instant theories of what it all means.

We are told that our unhappy young people are historically irrelevant in an age of technocrats, or victims of widespread mental instability brought on by the never-ending adolescence of the modern world. Or they suffer a kind of group Oedipus complex—violence and self-destruction that springs from hatred of father-generations.

There is a common thread in these theories—little time need be wasted on the complaints of the historically irrelevant, mentally ill, or suicidal. We can only protect ourselves from them.

So how can a nation deal with such young people?

Some members of Congress want to cut off their federal aid. That was only the wealthy can riot.

The President of the United States asks administrators to show more "backbone."

The Attorney General says that it is clearly time to get tough.

The Deputy Attorney General suggests that those who demonstrate in a manner to interfere with others "should be rounded up and put in a detention camp."

The Director of Selective Service likes to draft them.

There were also instant theories when our cities blew up.

Then, as now, we threshed around for quick definitions and solutions.

Then, as now, there were demands to stop the disruption some way, any way, so that all of us—and our nation—could go back to sleep.

Fortunately, some sought to understand, to find out why. The Nation created a remarkable investigative body to seek an end to urban violence and keep our cities alive.

The Kerner Commission, to be sure, concluded that wise and effective law enforcement was a key to urban order. But it also exposed what is now widely accepted as the truth about our cities. And it insisted that fundamental reform is an absolute necessity if we are to avoid the disaster of two Americas—one black, one white; separate and unequal.

I do not want to give that Commission or the Nation more credit than they deserve. Our cities are not free from the threat of violence and our urban problems clearly have not been solved.

But I believe the Kerner Commission did settle a profound debate about the tactics this Nation must use if its cities are to live.

As you may know, I have proposed the creation of a similar Commission on Student Unrest. With your permission, I'd like to speculate about what such a Commission might conclude.

1. Its first conclusion will be a warning—*the nation cannot tolerate either violence or lawlessness on its campuses.*

This is not just a matter of personal safety or the protection of valuable property, important as those are. The very processes of education and humane development are destroyed when fear and hate inhibit the quality of encounter.

The business of the campus is confrontation—between minds and knowledge and ideas. There can be no real confrontation in an atmosphere of intimidation. The inevitable victims of violence are freedom of expression and open debate, mutual respect and trust, reason and communication. Violence closes doors that must remain open.

As Paul Goodman has put it, "out of the shambles can come only the same bad world."

2. But the second finding of the Commission—as important as the first—will be that *forcible suppression of unrest, without attention to its causes, is just as deadly as violence.*

Nothing is more peaceful than a cemetery. The problem is not only to stop violence, but also to preserve the vitality of the campus. The use of force on the campus is an admission of defeat, another form of intimidation that inhibits real confrontation.

The campus is much like a family.

All of us who are parents know that sons and daughters in college can't be paddled on their behinds like kindergarteners—at least not with the same effect. They've reached a degree of maturity now, when authority depends on mutual respect and trust. Resorting to force does not preserve authority. It destroys it. Young people become defiant, obedience requires harsher measures, and finally authority breaks down.

If the university, like the family, seeks to create independent men and women, it must take a lesson from the family. It must recognize that its authority is in direct proportion to the mutual respect and trust developed with its students. Otherwise there is no community.

3. The third conclusion of the Commission will be that *the American student generation is not irrelevant, mentally ill, or suicidal. Instead, it is fast becoming the most dynamic element of the American political system.*

During the past twenty years, enrollment on the nation's campuses has tripled. This coming fall, more than 7 million Americans will be students on our campuses. By 1976, the figure will be 10 million. There are at

least twice as many college students as farmers in the United States.

These students constitute what Kenneth Keniston calls a new "youth" stage in American life. They have opportunities for intellectual and moral development which have been available to no other large group in history.

College attendance is a major part of their lives. In that environment they are free to examine the assumptions of the past and the supersitions of childhood. The campus allows them more open expression of feelings and frees them from what Keniston calls "irrational bondage to authority."

They "take the highest values of their societies as their own . . . and . . . are willing to struggle to implement them."

American affluence and education have, in Keniston's words, created our "own critics on a mass basis."

We have done much for these young people.

In our smugness about America's wealth, we have taught them not to be smug about America's poverty.

In our satisfaction with power, we have taught them to be dissatisfied with our practice of power.

In compromising our ideals, we have taught them to be firm.

In struggling to serve ourselves, we have made them altruistic.

We have given them the conviction and determination not to fail.

In our weakness, we have made them strong.

They number in the millions.

They are bright and sophisticated and economically secure.

Our young are permanent, not temporary. They are stable, not insecure. They are no passing phenomenon.

Just as our society has adjusted previously to the demands of militant farmers, organized workers, suburbanites, and ghetto dwellers, so the young will also seek and win their right to participate in the decisions of America. It is a new group, but an old process.

4. The Commission's fourth conclusion will be that *this generation of 7 million students has many legitimate complaints about campus life.*

Many of their colleges and universities are ill-equipped to cope with either their numbers or their needs.

Their classrooms are crowded. Their libraries are inadequate. Their programs of study are badly out of date.

Too many of their administrators hide behind bureaucratic barricades. Too many of their teachers are preoccupied.

Their legitimate pleas for reform are too often met with tokenism or rhetoric—or the reformers are lumped with the extremists they detest.

Though they are serious, they do not find themselves taken seriously. And while the campus exists for them, they do not feel it is theirs.

5. Finally, a responsible Commission will find that *much of student unrest has nothing to do with the campus itself. It is a reflection of the unrest, the contradictions, and the disarray of American life.*

The President of Amherst College described this manifestation of student unrest in a recent letter to President Nixon.

"Much of the turmoil," President Plimpton said, "will continue . . . until political leadership addresses itself to the . . . huge expenditure of national resources for military purposes, the inequities practiced by the present draft system, the critical needs of America's 23 million poor, the unequal division of our life on racial issues . . ."

"Unrest," he said, "results, not from a conspiracy by a few, but from a shared sense that the nation has *no adequate plans* for meeting the crises of our society."

Vietnam. The draft. Defense spending. Poverty. Racism.

This is the litany of our shared unrest.

I cannot express how deeply I believe the war in Vietnam has wounded the capacity and the spirit of the Nation. It is, as it should be, at the heart of the student unrest.

I once supported our effort there. But whatever commitment we had to South Vietnam has long since been fulfilled. We must now turn the war back to the South Vietnamese, fairly and systematically, but completely. It is clear that the nation still has no adequate plan for that.

In the meantime, our young men die—12,000 since the Paris talks began. In the meantime, the costs and inflation brought by the war strip us of our ability to deal with other problems.

And while the war takes wealth from all of us, it costs the young their bodies, lives, and souls. For it is they who must finally serve or disobey.

They suffer an outrageous selective service system over which they have absolutely no control though they make up its entire constituency. They recognize that the system draws an unfair sample of the population. They know certain privileges are available to the able, the affluent, and the befriended, while the average, the poor, and the friendless take most of the risk.

The faults of the system and its director leave the young in jeopardy for years and make federal criminals of many who profoundly question the morality of war.

But as President Plimpton says, the nation has no adequate plan.

The war, our frantic efforts to prepare for all imaginable future military contingencies, our debts for past wars and support of veterans—these will cost the nation at least 100 billion dollars this year.

That is a stupefying amount of money. Even a billion is incomprehensible. But a billion dollars would operate St. Olaf at its present budget level, tuition-free, for 125 years. A billion dollar endowment, returning five percent a year, might finance six colleges the size of St. Olaf, tuition-free, forever.

Yet a billion dollars pays for less than two weeks of the war in Vietnam. It is just one percent of the true annual defense budget for the United States.

But in spite of its tremendous size, there is no systematic examination of that defense commitment. Except in the Pentagon, there is no analysis of outmoded defense systems, troop assignments, and base commitments. There are no talks with the Soviet Union about weapons control.

We might save billions of dollars, improve our defense capability at the same time, and reduce the threat of international holocaust. But the nation has no adequate plan.

Defense spending is clearly bleeding the nation of its resources to deal with poverty and deprivation in America. As cartoonist Herb Block pointed out in his recent book, some "can hear the distant drum more clearly than the cry of a hungry child."

Well, I have heard—and seen—those hungry children. I have found housing unfit for pigs, where children and rats "live" side by side.

Millions of American children are destroyed physically and mentally by hunger and cultural deprivation before they ever enter the first grade, and even then their schools too often have nothing to offer them.

Millions of unemployed young men and women could and would hold jobs with proper education and training.

Millions of older men and women suffer on inadequate pensions because they have been unfortunate enough to grow old while the rest of the Nation was growing rich.

Many suffer because they are in large and fatherless families, or because they are physically or mentally disabled.

But the nation has no adequate plan.

A year ago the Kerner Commission concluded that we were becoming two nations—one white, one black; separate and unequal.

In its follow-up study, "One Year Later," Urban America concludes that the nation has not reversed the movement: ". . . a year later, we are a year closer to being two societies, black and white, increasingly separate and scarcely less unequal."

But the nation has no adequate plan.

This is the country so many of our young are asking us to explain. Their questions trouble us. For however we may rationalize the failures of the past, the young believe this nation has lost its excuses.

And so do I.

How can it be so?

We are as free a people as exists.

We are as educated a people as the world has ever seen.

We are now the wealthiest people in history, and perhaps the wealthiest that can be imagined.

We have proclaimed the noblest objectives of all time.

How then can we continue with "no adequate plans"?

With the candor of their young and honest eyes, our youth are telling us that we cannot. They insist that the ideals they have learned from us must be lived—now.

What makes us so uneasy is that we know that they are right, and we know that our excuses are gone.

We must face that simple truth, learned from the young.

But having said what I believe we must learn from the young. I would close by saying what I believe we must all learn about the institutions of this society. I believe, with Urban Coalition Chief John Gardner, that "demands for instant performance (can) lead to instant disillusionment." What do we do, in a free nation, when our aspirations leap ahead of the capacity of our institutions to respond?

Last year at this time, speaking at Cornell University where his words should be echoing this spring, Gardner described two great threats to the institutions of America:

Some "uncritical lovers" would stagnate our institutions in a smothering embrace, loving their rigidities more than their promises.

Other "unloving critics," skilled in demolition and untutored in the art of reform, would destroy all we have through disruption, intolerance, and violence.

Just as we reject the uncritical lovers of our institutions, so we must reject the unloving critics who preach that only destruction will do. As Mayor Lindsay says, the tactics of destruction "promise not an end to manipulation and rigidity, but only another color robe for the executioner to wear."

What we desperately need are Gardner's "loving critics"—"sufficiently serious to study their institutions, sufficiently dedicated to become expert in the art of modifying them."

But we will not make "loving critics" of our young unless we show them that we share their sense of urgency as well as their ideals.

We will not teach them to be patient, so long as patience means delay.

I think we can expect a great deal of this new, dynamic generation.

It will be no more than they expect of themselves.

They said so in the student prayer delivered at the Radcliffe College commencement a year ago. It ends this way:

"Let there be born in us a strange joy that will help us to live and to die and to remake the souls of our time."

That prayer unites us with the young of this nation, and lies at the root of the tra-

dition that formed St. Olaf College and set it forth on its holy business.

So, let there truly be born in *all* of us a strange joy that will help us to live and to die and to remake the souls of our time.

LESSONS OF CAMPUS UNREST

In his commencement address at St. Olaf College, Sen. Walter Mondale drew some conclusions about college students that are worth noting by people both on and off our campuses.

Mondale, who has proposed the creation of a President's Commission on Student Unrest, speculated that such a commission would find that:

The nation cannot tolerate either violence or lawlessness on its campuses.

Forcible suppression of unrest, without attention to its causes, is just as deadly as violence.

The American student generation is not irrelevant, mentally ill or suicidal. Instead, it is fast becoming the most dynamic element of the American political system.

This generation of 7 million students has many legitimate complaints about campus life.

Much of student unrest has nothing to do with the campus itself. It is a reflection of the unrest, the contradictions and the disarray of American life.

The points are well taken. Violence and vandalism crushes freedom of expression, respect and communication, all of which are vital in academic life. And while there is an irrational element on some campuses that cannot be reasoned with, but seeks only acquiescence to demands that lead to anarchy, most dissatified students are willing to settle their problems through reasonable conversation.

There are now twice as many college students as farmers in this country. If all were made, as some critics imply, the chaos would be far greater than it is. Most of our young people are responsible citizens who are aware that life both on and off the campus can be improved. There would be cause for concern if they did not recognize the need for improvement.

Students who have this awareness should be encouraged to express their ideas in a reasonable manner without trampling on the rights of others. These young people are our country's greatest resource. They should not be wasted by a deaf society. Neither should they waste themselves in violence.

ADDITIONAL COVERAGE AND PROTECTION FOR NATION'S WORKERS

Mr. WILLIAMS of New Jersey. Mr. President, I have recently introduced two bills which I believe to be of vital importance to the Nation's working men and women.

One of them, S. 2070, would broaden the coverage of the Fair Labor Standards Act so as to reach an additional 13 million workers, and increase the minimum wage to $2 an hour, in order to guarantee a decent wage to the more than 2 million Americans who, even though fully employed, do not now earn enough to meet the needs of their families.

The other bill, S. 2193, provides a workers' health and safety bill of rights, designed to stem the increasingly heavy toll being taken by occupational accidents and illnesses.

I hope that after having had an opportunity to examine their provisions, many Senators will want to join as cosponsors of either or both measures. Senators who wish to have their names appear on the next printing of the bills are invited to call extension 3674 for this purpose.

EXECUTIVE COMMUNICATIONS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

PROPOSED SUPPLEMENTAL APPROPRIATION—COMMUNICATION FROM THE PRESIDENT

A communication from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1969 in the amount of $45,000,000 for the Atomic Energy Commission, for the restoration and replacement of the weapons production facility at Rocky Flats, Colo., which was damaged by fire, which with an accompanying paper was referred to the Committee on Appropriations, and ordered to be printed.

PROPOSED LEGISLATION TO AUTHORIZE IN THE DISTRICT OF COLUMBIA A PROGRAM OF PUBLIC DAY CARE SERVICES

A letter from the assistant to the Commissioner of the District of Columbia, transmitting a draft of proposed legislation to authorize in the District of Columbia a program of public day care services; and to amend the District of Columbia Public Assistance Act of 1962 so as to relieve certain adult children of the requirement of support and to provide public assistance in the form of foster home care to certain dependent children (with accompanying papers); to the Committee on the District of Columbia.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a secret report on the review of the effectiveness of the Air Forces systems for managing manpower resources at air bases in Thailand (with an accompanying secret report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the examination of the financial statements of the Virgin Islands Corp. (inliquidation), Department of the Interior, for the fiscal years ended June 30, 1967 and 1968 (with an accompanying report); to the Committee on Government Operations.

PROPOSED LEGISLATION TO READJUST THE COMPENSATION OF THE ADVISORY BOARD FOR THE POST OFFICE DEPARTMENT

A letter from the Postmaster General, transmitting a draft of proposed legislation to readjust the compensation of the Advisory Board for the Post Office Department (with accompanying papers); to the Committee on Post Office and Civil Service.

REPORT TO CONGRESS ON THE NATIONAL VISITOR CENTER

A letter from the Secretary of the Interior, transmitting, pursuant to law, an annual report to the Congress on the National Visitor Center and all other visitor facilities authorized (with an accompanying report); to the Committee on Public Works.

PROPOSED ALTERATION OF PUBLIC BUILDINGS

A letter from the Administrator, General Services Administration, transmitting, pursuant to law, prospectuses which propose alteration of public buildings (with accompanying papers); to the Committee on Public Works.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the PRESIDING OFFICER:

A Senate concurrent resolution adopted by the Legislature of Hawaii; to the Committee on Armed Services:

"S. CON. RES. 16

"Concurrent resolution petitioning the President and the Congress of the United States to reconsider the deployment of anti-ballistic missiles and the location of an anti-ballistic missile system in the State of Hawaii.

"Whereas, the United States is devoted to furthering world peace, and to decreasing the tensions of the world's arms race, and to preventing nuclear weapons proliferations; and

"Whereas, eminent nuclear physicists, including Nobel prize winners, science advisers to Presidents Eisenhower, Kennedy and Johnson, and scientists who have been active in developing the Nation's weapons system, as well as personnel of the Department of Defense have stated that no anti-ballistic missile system can adequately protect a country from sophisticated nuclear attack and that the present United States superiority is a deterrent to both sophisticated and simple offensive nuclear threats; and

"Whereas, hunger and disease are as great a danger to peace and internal security as hostile arms, and huge military expenditures for quickly obsolete weapons systems present the use of funds to alleviate poverty, thereby increasing world insecurity; and

"Whereas, the orderly development of the State of Hawaii lies in its potential to create and expand understanding and trade among diverse cultures and peoples rather than its being an armed outpost of American power; now therefore,

"Be it resolved by the Senate of the Fifth Legislature of the of the State of Hawaii, Regular Session of 1969, the House of Representatives concurring, that the President and the Congress of the United States be, and they are, respectfully petitioned to reverse the decision to deploy an anti-ballistic missile system and to locate a part of the system in the State of Hawaii; and

"Be it further resolved that the President and the Congress of the United States be, and they are, respectfully requested to explore actively all possibilities which would lead to reduction of both offensive and defensive nuclear missile systems among nations, a nuclear non-proliferation treaty and gradual multilateral disarmament, and expanded non-military efforts to alleviate poverty and hunger at home and abroad; and

"Be it further resolved that duly certified copies of this Concurrent Resolution be transmitted to the President of the United States, the President of the United States Senate Pro Tempore, the Speaker of the United States House of Representatives, the Secretary of the United States Department of Defense, Senator Hiram L. Fong, Senator Daniel K. Inouye, Representative Spark M. Matsunaga, and Representative Patsy T. Mink.

"Attest:

"DAVID C. MCCLUNG,
"President of the Senate.
"SEICHI HIRAI,
"Clerk of the Senate.

"Attest:

"TADAO BEPPU,
"Speaker, House of Representatives.
"SHIGETO KANEMOTO,
"Clerk, House of Representatives."

A concurrent resolution adopted by the Legislature of Massachusetts; to the Committee on Finance:

"RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION PROVIDING FOR GENERAL AID TO STATE AND LOCAL GOVERNMENTS THROUGH THE SHARING OF FEDERAL INCOME TAXES

"Whereas, There is legislation pending before the Congress of the United States which

provides for the sharing of a fixed percentage of revenues from the individual federal income tax with state and local governments for purposes determined by them; therefore be it

"*Resolved,* That the General Court of Massachusetts hereby respectfully urges the Congress of the United States to enact pending legislation providing for the sharing of a fixed percentage of revenues from the individual federal income tax with state and local governments; and be it further

"*Resolved,* That copies of these resolutions be transmitted forthwith by the Secretary of the Commonwealth to each Senator and Representative in Congress from the Commonwealth.

"Senate, adopted, May 6, 1969.

"NORMAN L. PIDGEON,
"Clerk.

"House of Representatives, adopted in concurrence, May 8, 1969.

"WALLACE C. MILLS,
"Clerk.

"Attest:

"JOHN F. X. DAVOREN,
"Secretary of the Commonwealth."

A concurrent resolution adopted by the Legislature of Massachusetts; to the Committee on the Judiciary:

"RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO RECOGNIZE THE ONE-HUNDRED MILE SEAWARD BOUNDARY OF THE COMMONWEALTH OF MASSACHUSETTS

"Whereas, The Commonwealth of Massachusetts was granted a seaward boundary to one hundred (100) miles offshore by the First Virginia Charter in the year 1606 and by the Council Charter in the year 1620; and

"Whereas, The Federal Submerged Lands Act of 1953, Subchapter I, expresses federal recognition of state seaward boundaries claimed prior to their entering the Union, '—(A)nd to the boundary line of each such state where in any case such boundary as it existed at the time such state became a member of the Union . . .'; and

"Whereas, The First Virginia Charter of 1606 and the Council Charter of 1620 grant a seaward boundary of one-hundred miles to the Commonwealth of Massachusetts prior to its entering the Union in 1789; and

"Whereas, The Federal Submerged Lands Act presently favors only two Gulf of Mexico states and confines all other coastal states to a three-mile seaward limit; and

"Whereas, The Commonwealth of Massachusetts appears to have a strong historic claim to a seaward jurisdiction beyond three miles, which has not been considered by Congress or adjudicated by the courts; and

"Whereas, There is no evidence of Massachusetts surrendering this extensive seaward jurisdiction upon entering the Union; now, therefore, be it

"Resolved, That the Massachusetts General Court respectfully urges the Congress of the United States to recognize and to honor the one-hundred mile seaward boundary of the Commonwealth of Massachusetts; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the Secretary of the Commonwealth to the President of the United States, to the Secretary of Interior, to the presiding officers of each branch of the Congress and to the members thereof from the Commonwealth.

"Senate, adopted, May 12, 1969.

"NORMAN L. PIDGEON,
"Clerk.

"House of Representatives, adopted in concurrence, May 15, 1969.

"WALLACE C. MILLS,
"Clerk.

"Attest:

"JOHN F. X. DAVOREN,
"Secretary of the Commonwealth."

A resolution adopted by the Navy League of the United States, Beverly Hills Council, Beverly Hills, Calif., regarding the persecution of ROTC and NROTC programs on college campuses; to the Committee on Armed Services.

A resolution adopted by the Kamimotobu Village Assembly, Kamimotobu, Okinawa, concerning request for return of Okinawa to Japan; to the Committee on Foreign Relations.

REPORT OF A COMMITTEE

The following report of a committee was submitted:

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

S. 1193. A bill to authorize the Secretary of the Interior to prevent terminations of oil and gas leases in cases where there is a nominal deficiency in the rental payment, and to authorize him to reinstate under some conditions oil and gas leases terminated by operation of law for failure to pay rental timely (Rept. No. 91–205).

BILLS AND A JOINT RESOLUTION INTRODUCED

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

By Mr. BIBLE:

S. 2240. A bill for the relief of Nelson Braz de Campos; to the Committee on the Judiciary.

By Mr. BIBLE (for himself, Mr. BURDICK, Mr. GRAVEL, Mr. HANSEN, Mr. HATFIELD, Mr. JORDAN of Idaho, Mr. MCGOVERN, Mr. METCALF, Mr. MONTOYA, Mr. MOSS, Mr. NELSON, Mr. PROXMIRE, Mr. RANDOLPH, Mr. STEVENS, and Mr. YARBOROUGH):

S. 2241. A bill to authorize the Secretary of Health, Education, and Welfare to make Indian hospital facilities available to non-Indians under certain conditions; to the Committee on Interior and Insular Affairs.

(See the remarks of Mr. BIBLE when he introduced the above bill, which appear under an earlier heading.)

By Mr. MAGNUSON (by request):

S. 2242. A bill to amend section 17 of the Interstate Commerce Act to provide for judicial review of orders of the Interstate Commerce Commission, and for other purposes;

S. 2243. A bill to amend the Interstate Commerce Act to enable the Interstate Commerce Commission to utilize its employees more effectively and to improve administrative efficiency;

S. 2244. A bill to amend section 212(a) of the Interstate Commerce Act, as amended, and for other purposes; and

S. 2245. A bill to authorize the Interstate Commerce Commission, after investigation and hearing, to require the establishment of through routes and joint rates between motor common carriers of property, and between such carriers and common carriers by rail, express, and water, and for other purposes; to the Committee on Commerce.

(See the remarks by Mr. MAGNUSON when he introduced the above bills, which appear under a separate heading.)

By Mr. MOSS (for himself, Mr. CANNON, Mr. HART, Mr. INOUYE, Mr. MAGNUSON, and Mr. PASTORE):

S. 2246. A bill to amend the Federal Trade Commission Act, as amended, by providing for temporary injunctions or restraining orders for certain violations of that Act; to the Committee on Commerce.

(See the remarks of Mr. Moss when he introduced the above bill, which appear under an earlier heading.)

By Mr. MONDALE:

S. 2247. A bill for the relief of Maria T. Coenen; and

S. 2248. A bill for the relief of Jam Hon Jung Toy; to the Committee on the Judiciary.

By Mr. EAGLETON:

S. 2249. A bill for the relief of Dr. Young Wung Rhee; to the Committee on the Judiciary.

By Mr. PERCY:

S. 2250. A bill to amend part A of title IV of the Social Security Act to provide a more realistic standard of need in determining the amount of aid to be furnished an individual under a State plan approved under such part, and to provide additional financial assistance to States meeting such standard;

S. 2251. A bill to amend title IV of the Social Security Act to repeal the provisions limiting the number of children with respect to whom Federal payments may be made under the program of aid to families with dependent children; and

S. 2252. A bill to amend title IV of the Social Security Act to provide that State plans approved under such title must include, among the children eligible for aid and services thereunder, children in need because of the unemployment of their father; to the Committee on Finance.

(See the remarks of Mr. PERCY when he introduced the above bills, which appear under a separate heading.)

By Mr. KENNEDY:

S. 2253. A bill to amend the Act of August 7, 1961, providing for the establishment of Cape Cod National Seashore; to the Committee on Interior and Insular Affairs.

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

By Mr. HARRIS:

S. 2254. A bill for the relief of Pun Yik San; and

S. 2255. A bill for the relief of Yah Pin Eng; to the Committee on the Judiciary.

By Mr. MOSS (for himself, Mr. CANNON, Mr. HART, Mr. HARTKE, Mr. INOUYE, Mr. MAGNUSON, Mr. PASTORE, Mr. SCOTT, and Mr. SPONG):

S.J. Res. 113. A joint resolution to authorize and direct the Federal Trade Commission to conduct a comprehensive investigation of unfair methods of competition and unfair or deceptive acts or practices in the home improvement industry, to expand its enforcement activities in this area, and for other purposes; to the Committee on Commerce.

(See the remarks of Mr. Moss when he introduced the above joint resolution, which appear under an earlier heading.)

S. 2242, S. 2243, S. 2244, AND S. 2245—INTRODUCTION OF FOUR BILLS AMENDING THE INTERSTATE COMMERCE ACT

Mr. MAGNUSON. Mr. President, I introduce, by request, four legislative proposals recommended by the Interstate Commerce Commission. The proposals deal with four subjects; namely, motor carrier through routes and joint rates; suspension and revocation of motor carrier operating authority; delegation of authority to qualified individual employees; and revision of procedures for judicial review of the Commission's proceedings.

I ask unanimous consent that the letter of transmittal and the statements of justification together with the bills be printed in the RECORD at this point.

The PRESIDING OFFICER. The bills will be received and appropriately referred; and, without objection, the bills, letter of transmittal, and statements of justification will be printed in the RECORD.

The bills (S. 2242) to amend section 17 of the Interstate Commerce Act to provide for judicial review of orders of the

Interstate Commerce Commission, and for other purposes; (S. 2243) to amend the Interstate Commerce Act to enable the Interstate Commerce Commission to utilize its employees more effectively and to improve administrative efficiency; (S. 2244) to amend section 212(a) of the Interstate Commerce Act, as amended, and for other purposes; and (S. 2245) to authorize the Interstate Commerce Commission, after investigation and hearing, to require the establishment of through routes and joint rates between motor common carriers of property, and between such carriers and common carriers by rail, express, and water, and for other purposes, introduced by Mr. MAGNUSON (by request), were received, read twice by their titles, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

S. 2242

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 17 of the Interstate Commerce Act (49 U.S.C. 17) is amended—

(1) by redesignating subsections (10) through (12) as subsections (11) through (13), respectively; and

(2) by inserting immediately after subsection (9) the following new subsection:

"(10)(a) the United States courts of appeals shall have exclusive jurisdiction to enjoin, set aside, annul, or suspend, in whole or in part, all final orders of the Interstate Commerce Commission made reviewable in accordance with the provisions of subsection (9) of this section: *Provided,* That orders of the Commission involving only the payment of money shall be subject to judicial review only in the district courts of the United States pursuant to sections 1336(a) and 1398(a) of title 28, United States Code, and orders of the Commission made pursuant to the referral of a question or issue by a district court or by the Court of Claims shall be subject to judicial review only in accordance with sections 1336 (b) and (c) and 1398(b) of title 28, United States Code. The jurisdiction of the courts of appeals shall be invoked by the filing of a petition as provided in this subsection.

"(b) The venue of any proceeding under this section or principal office of any of the parties filing the petition for review is located.

"(c)(i) Any party aggrieved by a final order reviewable under this subsection may, within sixty days from the date of service, file in the court of appeals, in which the venue prescribed by paragraph (b) lies, a petition to review such order: *Provided,* That, upon the filing of a petition within sixty days of the date of service of the order complained of, the court, for good cause shown, may extend the time for filing a petition to review such order for an additional period not exceeding sixty days. The clerk of the court of appeals shall serve, by registered or certified mail, a true copy of the petition upon the Commission and the Attorney General of the United States.

"(ii) Unless the proceeding has been terminated following grant of a motion to dismiss the petition, the Commission shall file in the office of the clerk of the court of appeals in which the proceeding is pending the record on review, as provided in section 2112 of title 28, United States Code. Until such record has been filed by the Commission, the Commission may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any order, report, or decision made or issued by it and which is attached in a petition for review. Upon the filing of such record with it, the jurisdiction of the court of appeals to enjoin, set aside, annul, or suspend orders of the Commission shall be exclusive.

"(d) Petitions to review orders reviewable under this section, unless determined on a motion to dismiss the petition, shall be heard in the court of appeals upon the record of the pleadings, evidence adduced, and proceedings before the Commission. If a party to a proceeding to review shall apply to the court of appeals, in which the proceeding is pending, for leave to adduce additional evidence and shall show to the satisfaction of such court (1) that such additional evidence is material, and (2) that there were reasonable grounds for failure to adduce such evidence before the Commission, such court may order such additional evidence and any evidence the opposite party desires to offer to be taken by the Commission. The Commission may modify its findings of fact, or make new findings, by reason of the additional evidence so taken and may modify or set aside its orders and shall file in the court such additional evidence, such modified findings or new findings, and such modified order or the order setting aside the original order.

"(e) The Commission may be represented by its own counsel, and the United States, through the Attorney General, shall be entitled to intervene in any proceeding. Any party or parties in interest in the proceeding before the Commission whose interests will be affected if an order of the Commission is or is not enjoined, set aside, or suspended, may appear as parties of their own motion and as of right, and may be represented by counsel in any proceeding to review such order. Communities, associations, corporations, firms, and individuals whose interests are affected by the Commisison's order may intervene in any proceeding to review such order.

"(f) The filing of the petition to review shall not of itself stay or suspend the operations of the order of the Commission, but the court of appeals or a judge thereof in its discretion may restrain or suspend, in whole or in part, the operation of the order pending the final hearing and determination of the petition. Where the petitioner makes application for an interlocutory injunction suspending or restraining the enforcement, operation, or execution of, or setting aside, in whole or in part, any order reviewable under this section, at least five days' notice of the hearing thereon shall be given to the Commission and to the Attorney General of the United States. In cases where irreparable damage would otherwise ensue to the petitioner, the court of appeals may, on hearing, after reasonable notice to the Commission and to the Attorney General, order a temporary stay or suspension, in whole or in part, of the operation of the order of the Commission for not more than sixty days from the date of such order pending the hearing on the application for such interlocutory injunction, in which case such order of the court of appeals shall contain a specific finding, based on evidence submitted to the court of appeals, and identified by reference thereto, that such irreparable damage would result to the petitioner and specifying the nature of such damage. The court of appeals, at the time of hearing the application for an interlocutory injunction, upon a like finding, may continue the temporary stay or suspension, in whole or in part, until decision on the application. The hearing upon such an application for an interlocutory injunction shall be given preference and expedited and shall be heard at the earliest practicable date after the expiration of the notice of hearing on the application provided for above. Upon the final hearing of any proceeding to review any order under the provisions of this subsection, the same requirements as to precedence and expedition shall apply.

"(g) An order granting or denying an interlocutory injunction under paragraph (f) of this subsection and a final judgment of the court of appeals shall be subject to review by the Supreme Court of the United States upon writ of certiorari as provided in section 1254 (1) of title 28, United States Code: *Provided,* That application therefor be duly made within forty-five days after the entry of such order and within ninety days after entry of the judgment, as the case may be. The United States, the Commission, or an aggrieved party may file such petition for a writ of certiorari. The provisions of sections 1254(3) and 2101(e) of title 28, United States Code, shall also apply to proceedings under this subsection.

"(h) The orders, writs, and process of the courts of appeals arising under this subsection and, of the district courts in cases arising under sections 20, 23, of this Act and section 3 of the Act of February 19, 1903 (48 U.S.C. 43) may run, be served, and be returnable anywhere in the United States."

SEC. 2. Chapter 157 of title 28, United States Code and any other provision of law inconsistent with this Act are hereby repealed: *Provided,* That any proceeding or case pending before a district court under such chapter on the effective date of this Act shall remain under the jurisdiction of such court until a final order, judgment, decree, or decision is rendered by such court: *Provided further,* That any such cases or proceedings referred to in the first proviso may be appealed to the Supreme Court as provided by section 1253 of title 28, United States Code, and, if remanded, such case may be referred back to the court from which the appeal was taken or to the court of appeals for further proceedings as the Supreme Court may direct.

SEC. 3. This Act shall take effect on the sixtieth day after the date of the enactment of this Act.

The material presented by Mr. MAGNUSON follows:

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., April 24, 1969.

HON. SPIRO T. AGNEW,
President, U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I am submitting herewith for your consideration four legislative recommendations of the Interstate Commerce Commission. Our four recommendations are on the following subjects:

1. Motor Carrier Through Routes and Joint Rates.

2. Suspension and Revocation of Motor Carrier Operating Authority.

3. Delegation of Authority to Qualified Individual Employees.

4. Revision of Procedures for Judicial Review of the Commission's Proceedings.

A copy of a draft bill and supporting justification for each proposal is enclosed. We would appreciate your assistance in having these proposals introduced and in having hearings scheduled on them.

The Commission is also considering additional legislative proposals for transmittal to Congress at a later date. Of prime consideration in this group is a proposal dealing with railroad passenger service. Although expected to be somewhat similar to a passenger service proposal submitted to Congress last year, this year's recommendation will not be forwarded until at least the Commission's current rail passenger cost study is completed.

Sincerely,

VIRGINIA MAE BROWN,
Chairman.

JUDICIAL REVIEW OF ORDERS OF THE INTERSTATE COMMERCE COMMISSION

The Interstate Commerce Commission recommends that section 17 of the Interstate Commerce Act be amended so as to provide for judicial review of the Commission's orders by the United States Courts of Appeals.

Judicial review of orders of the Interstate Commerce Commission is governed presently

by 28 U.S. Code §§ 1253, 1336, 1398, 2284, and 2321–2325. Briefly, such review is in a district court of three judges, at least one of whom shall be a circuit judge. The decisions of such courts are reviewable in the Supreme Court by appeal, rather than by certiorari.

The present statutory provisions for judicial review of the Commission's orders originated in the Urgent Deficiencies Act of 1913 (38 Stat. 219) which, in abolishing the Commerce Court, transferred its jurisdiction to the district courts. The following year, in the Federal Trade Commission Act of 1914, the Congress designated the Circuit Courts of Appeals to review orders of that agency. Thereafter, as new regulatory agencies were created, Congress usually provided for judicial review of their orders in the Courts of Appeals. At the same time, certain orders of the Federal Communications Commission, Maritime Commission, and the Department of Agriculture were made reviewable under the Urgent Deficiencies Act procedure. The so-called Hobbs Act or Judicial Review Act of 1950, 28 U.S.C. § 2341–52 (Supp. II. 1967) transferred review of the orders of these agencies to the courts of appeals, thus leaving only orders of the Interstate Commerce Commission reviewable in the three-judge district courts.

The existing procedures for judicial review of the Commission's orders have been subject to considerable criticism by members of the bar and the judiciary who have recommended that the Commission's orders be subject instead to review by the several United States courts of appeals. This change was also recommended in 1962 by the Special Advisory Committee on Interstate Commerce Commission Practices and Procedures (an advisory committee on practitioners established by the Commission) and the Administrative Conference of the United States in 1961. In 1968, it was also generally endorsed by the Judicial Conference of the United States and the Association of the Interstate Commerce Commission Practitioners, an organization representing a substantial segment of the Commission's bar.

In providing for judicial review in courts of appeals, with review in the Supreme Court by the discretionary writ of certiorari, enactment of this recommendation would make orders of the Commission reviewable in the same general manner as all other major federal regulatory agencies, i.e., CAB, FCC, FMC, SEC, FTC, and NLRB.

There are certain advantages in providing for judicial review in the courts of appeal. Those courts are regularly engaged in the review of orders issued by various Federal agencies while most district courts rarely do so. The courts of appeal also operate under the uniform Federal Rules of Appellate Procedure, promulgated in 1968 by the Supreme Court under 28 U.S.C. § 2072 (Supp. III 1967). In contrast, there are no specific rules governing review proceedings in three-judge district courts, with the result that procedures in such courts are on an *ad hoc* basis.

The attached draft bill, implementing this recommendation, is cast as an amendment to section 17 of the Interstate Commerce Act so that the statutory provisions for the review of the Commission's orders will appear in the same statute which gives the Commission authority to make such orders. In this respect, it follows the general pattern with respect to statutes creating administrative agencies and providing for judicial review of their orders. See, for example, section 1006 of the Federal Aviation Act, 49 U.S.C. 1486 (1964); section 5, as amended, of the Federal Trade Commission Act, 15 U.S.C. 45(b)-(j) (1964); and section 9, as amended, of the Securities Act of 1933, 15 U.S.C. 77i (1964).

Specifically, the draft bill amends section 17 of the Act by redesignating the present subsections 17(10) through 17(12), 49 U.S.C. 17(10)-(12) as subsections 17(11) through 17(13) respectively and inserting immediately after subsection 17(9) a new subsection 17(10) which sets forth the provisions, more particularly described below, for judicial review of the Commission's orders.

In general, these provisions have been written so as to conform with the Federal Rules of Apellate Procedure* since the statute, 28 U.S.C. § 2072 (Supp. III, 1967), authorizing the establishment of these rules provides, in pertinent part, that "all laws in conflict with such rules shall be of no further force or effect after such rules have taken effect." These rules are subsequently referred to as the Appellate Rules.

JURISDICTION

Paragraph (a) of the draft bill generally sets forth the provisions for judicial review of all Commission proceedings arising under subsection 17(9) except reparations and other cases involving the payment of money and orders of the Commission made pursuant to the referral of a question by a district court or the United States Court of Claims. Cases involving the payment of money would still be reviewable in a single-judge district court in accordance with present practices, as would cases involving fines, etc.

VENUE

The draft bill provides that a petition for review shall be filed in the judicial circuit which is the residence or principal office of any of the parties filing the petition. This is derived from the present venue provisions in 28 U.S.C. § 1398(a) (1964) governing review of orders of the Commission. As pointed out below, if the Commission's orders are made reviewable in the courts of appeals, 28 U.S.C. § 2112 (1964) will automatically provide a desirable procedure for consolidating into a single court multiple suits in different courts against the same order. It has been held that such a consolidation procedure is not available under existing law in many situations. *New York Central R. Co.* v. *United States*, 200 F. Supp. 944 (S.D.N.Y. 1961).

PETITIONS FOR REVIEW

Paragraph (c)(1) of the draft bill sets out the manner for review of the Commission's orders. First, it provides that a petition for review must be filed within 60 days from the date of service of the order complained of. Under present law, except for the uncertain and rarely applied doctrine of laches, there is no limit upon the time within which judicial review of the Commission's orders must be sought. The 60-day limitation proposed by the draft bill is found in the Hobbs Act and many other modern judicial review provisions. It will be useful in protecting, after a reasonable opportunity for challenge, the security of transactions authorized by the Commission. To avoid the working of any injustice in situations where the 60-day limitation provides insufficient time for the bringing of an appeal, this provision also provides for the filing of a petition by an appellant with the court for an extension of time, not exceeding 60 additional days, within which to file a petition for review. Second, the bill does not provide for the proceeding to be brought against the United States as presently required by 28 U.S.C. § 2322. Any petition for judicial review thus will be brought automatically against the Commission as the named respondent. This change brings the Commission into conformity with the present practice of such agencies as SEC, NLRB, FPC, CAB, and FCC in that those agencies are named as the respondents in suits seeking judicial review of their orders. It will reflect the fact that the Commission's attorneys today assume the primary and principal responsibility for the defense of its orders in the courts. The draft bill would also provide that the petition for review must be served upon both the Commission and the Attorney General. The draft bill does not attempt to prescribe the contents of the petition for review, this matter being covered by Appellate Rule 15 which simply requires the filing of a simple petition specifying the parties seeking review, the respondent, and the order or decision to be reviewed.

RECORD ON REVIEW

Under existing case, though not statutory, law, a person seeking judicial review of an order of the Commission has the burden of filing with the three-judge court a certified copy of the record of the proceedings before the Commission. *Mississippi Barge Line Co.* v. *United States*, 292 U.S. 282, 286; *Visceglia* v. *United States*, 24 F. Supp. 355, 356. The draft bill provides that the Commission shall file in the office of the clerk of the court of appeals in which the proceeding is pending the record on review, as provided in 28 U.S.C. § 2112 (1964). Providing for review of the Commission's orders in the courts of appeals would make applicable automatically (i.e., without specific reference) the provisions of 28 U.S.C. § 2112 and the provisions of Appellate Rules. This change would bring about the following changes in procedures for judicial review of the Commission's orders:

(a) It would provide a procedure for the consolidation of multiple suits against a single Commission order. Such suits would be consolidated in the court in which the first suit is filed, although this court, for the sake of convenience, could transfer the proceeding to another court of appeals. This is clearly a desirable procedure.

(b) Upon the commencement of a review proceeding, the Commission would be required to file with the court the original or a certified copy of the record of the proceedings before the Commission, except that the court may permit the filing of a certified list of the contents of the record in lieu of the record itself under Appellate Rule 17(b). Under our present review procedure, the plaintiff bears the burden of filing with the three-judge court a certified copy of the record before the Commission. Although this change may impose some additional burden on the Commission, it will bring its practice into line with present procedures for the review of all other Federal agency orders.

(c) In the first instance, it might be thought that placing upon the Commission the burden of supplying the record will encourage court challenges to Commission orders. However, any such tendency will be offset by the requirements of the Appellate Rules that the parties reproduce, by printing or otherwise, those portions of the Commission record upon which they are relying. Under the present three-judge court procedure, reproduction of the record is not required. In the experience of other agencies, most of this reproduction cost falls upon the private appellants.

The record filing and reproduction requirements of the various courts of appeals have been standardized by virtue of the promulgation of the Appellate Rules. Appelate Rule 32 permits reproduction of briefs and records by "any duplicating or copying process capable of producing a clear black image on white paper," thus sharply reducing the expense involved to parties seeking review of a Commission order.

PETITIONS TO REVIEW—PROCEEDINGS

Paragraph (d) provides that the proceedings in the court of appeals shall be based upon the record made in the proceedings before the Commission. It would further provide that the court may require the Commission to receive additional evidence where it is shown that there were reasonable grounds for failure to adduce it earlier.

REPRESENTATION: INTERVENTION

Because the bill does not provide, as does the present 28 U.S.C. § 2322, (1964) that such

*The Appellate Rules together with the notes of the Advisory Committee on Appellate Rules are reproduced in 43 F.R.D. 61–62 (1968). See also Symposium on Federal Rules of Appellate Procedure, *28 Fed. B. Jr.*, (Spring 1968).

proceedings shall be brought against the United States, it follows automatically that petitions to review must name the Commission as respondent. The United States would not be a party, but the bill would provide that "the United States, through the Attorney General, shall be entitled to intervene in any proceeding." The Commission and other parties may be represented by their own counsel. The provision for intervention is taken from 28 U.S.C. § 2323 (1964).

JURISDICTION OF PROCEEDING

Paragraph (c)(ii) of the draft bill would clarify and define the Commission's power under Section 15(2) in Part I of the Interstate Commerce Act and comparable provisions in Parts II, III, and IV of the Act to modify an order which is attacked by a petition to review. Some doubt was created as to the propriety of such an assertion of power in *Atchison, Topeka & Santa Fe Ry. Co.* v. *United States*, 231 F. Supp. 422, 426 (N.D. Ill., 1964); however, the exercise of such power was approved in *Aberdeen & Rockfish R. Co.* v. *United States*, 270 F. Supp. 705 (E.D. La. 1967). The bill would provide that the filing of a petition for review shall not cut off the Commission's power to modify its order, but that the filing of the record with the court of appeals will terminate such power except with leave of the court. In brief, the Commission would have a reasonable but not unlimited opportunity to correct its own errors.

STAYS: INTERLOCUTORY INJUNCTIONS

Paragraph (f) of the bill deals with the question of stays and interlocutory injunctions pending review of Commission orders in substantially the same manner as existing law, 22 U.S.C. § 2284 (1964). This subject is governed by Appellate Rule 18 which in pertinent parts states:

"The motion [for a stay] shall be filed with the clerk and normally will be considered by a panel or division of the court but in exceptional cases where such procedure would be impractical due to the requirements of time, the application may be made to and considered by a single judge of the court."

REVIEW IN THE SUPREME COURT

Under the present law, 28 U.S.C. 1253 (1964), a decision of a three-judge district court is subject to a right of direct appeal to the Supreme Court. This is a so-called appeal as of right, in the sense that the Supreme Court does not purport to exercise a discretion as to whether or not to review the case on its merits. Instead, if the Supreme Court does not set the case for briefing and argument (i.e., plenary consideration), it will issue an order summarily affirming or reversing the decision of the lower court. In most of the appeals from the three-judge courts, the Supreme Court issues a brief order, reading as follows: "The motions to affirm are granted and the judgment is affirmed." Thus, whether cases come to the Supreme Court by appeal or by the discretionary writ of certiorari, the Court selects the cases which it considers to warrant full briefing and oral argument.

Paragraph (g) of the proposed bill would provide for Supreme Court review by certiorari, rather than be appeal. This conforms to the method of seeking Supreme Court review which is applicable to all other Federal agencies.

Paragraph (g) would also preserve the Commission's present right to seek review in the Supreme Court with or without the concurrence of the Department of Justice by stating that, "The United States or the Commission or an aggrieved party may file such petition for a writ of certiorari."

Paragraph (h) of the draft bill preserves the second paragraph of 2321 of the Judicial Code, 28 U.S.C. § 2321 (1964) the balance of which is repealed by section 2 of the draft bill. The section provides for nationwide service of process for orders and writs issued by the courts of appeals in cases arising under section 1 of the draft bill and proceedings arising in the district courts under sections 20 and 23 of the Act and section 3 of the Elkins Act,. 49 U.S.C. § 43 (1964), all of which deal with the enforcement of various accounting, reporting, and tariff requirements of the Act and the rights of shippers to nondiscriminatory treatment by carriers subject to the jurisdiction of the Commission.

This provision is an exception to the general rule that a court's process does not run outside the State in which it is located, in the case of the district courts, or the circuit, in the case of the courts of appeals. Its retention is believed desirable because of the widespread operations of the nation's carriers.

Section 2 of this bill repeals sections 2321–2325 of the Judicial Code, 28 U.S.C. § 2321–25 (1964), which set out the present procedure for the review of the Commission's orders in the district courts. With the exception of the second paragraph of section 2321, which is preserved as paragraph (h) of this bill, all of these sections of the Judicial Code would be superseded by the provisions of section 1 of this bill and thus be rendered obsolete unless repealed. No change is required in other sections of the Judicial Code, e.g., sections 1336 and 1398 which also deal with the review and enforcement of the Commission's orders since they will still be applicable to cases involving reparations, fines, penalties and forfeitures which are not transferred to the courts of appeals by this bill. In order to insure an orderly transition from the present mode of review in the district courts to the courts of appeals, this bill provides for a 60-day transitional period and that cases pending in the district courts on the effective date of this Act will be processed to conclusion in such courts with the right of direct appeal to the Supreme Court as under the present law.

S. 2243

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 17(2) of the Interstate Commerce Act (49 U.S.C. 17(2)), is amended by inserting immediately after the second sentence therein the following: "The Commission may also refer to individual qualified employees for decision those matters which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits. In cases where such matters are assigned to individual employees of the Commission, any order or requirement of such individual employee shall be subject to the same provisions with respect to reargument and reconsideration, with respect to reversal or modification, with respect to stay or postponement pending disposition of the matter by the Commission or appellate division, and with respect to suits to enforce, enjoin, suspend, or set aside such order or requirement in whole or in part, as are contained in paragraphs (6), (7), (8), and (9) of this section with respect to orders or requirements of a board."

The material presented by Mr. MAGNUSON follows:

DELEGATION OF AUTHORITY TO QUALIFIED INDIVIDUAL EMPLOYEES

The Interstate Commerce Commission recommends that section 17(2) be amended so as to authorize the Commission to delegate to qualified individual employees, including transportation economists and specialists, those matters which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

In addition to a voluminous number of formal cases, the Commission's responsibilities under the Act extend to numerous matters of relatively routine and specialized nature. For example, matters relating to extensions of time for filing annual, periodical, or special reports; rejection of tariff publications for failure to give lawful notice or failure to comply with the Commission's regulations; and orders assigning cases for hearing, extending dates for the filing of pleadings and postponing compliance dates. Except with respect to assignments to a Division or an individual Commissioner, under the present provisions of section 17(2), the Commission may delegate such functions only to three-man boards.

When applied to matters of the type described above, we believe that the mandatory requirements of section 17(2) are unnecessary and unduly limit our authority in what essentially is an administrative area.

The proposed recommendation has been narrowly drawn so as to affect only the processing of matters which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.[1] It would authorize the Commission to refer such matters to individual employees who in its judgment would be qualified to receive such delegations. In addition to directors and assistant directors of bureaus, examiners, chiefs of sections and attorneys who are now eligible under existing law to serve on employee boards and could also receive individual delegations, such personnel as accountants, economists and other transportation specialists as the Commission might designate could receive individual delegations to handle the limited range of matters covered by this recommendation. See Senate Report No. 117 on S. 758 (90th Congress, 2nd Sess.), p. 4. This recommendation also makes it clear that the right of any party to appeal a decision of an individual employee to the Commission or an appellate division thereof is specifically preserved in the same manner as appeals from decisions of employee boards under existing law.

In our judgment, enactment of the proposed legislation would enable us to utilize key employees more effectively and would contribute significantly to improved over-all administrative efficiency. A draft bill implementing this recommendation is attached.

EXHIBIT—EXAMPLES OF COMMISSION WORK, BUSINESS AND FUNCTIONS WHICH COULD BE DELEGATED TO INDIVIDUAL EMPLOYEES

OFFICE OF PROCEEDINGS

1. Areas where orders now are entered in the name of a single Commissioner or Division, such as orders assigning cases for hearing, orders extending dates for the filing of pleadings, orders postponing compliance dates, effective dates, and orders authorizing the changing of a name of a carrier, etc. This item would relieve Commissioners of the possibility of dealing personally with up to 10,000 items a year.

BUREAU OF ACCOUNTS

1. Authority to permit the use of prescribed accounts which by provisions of their own texts require special authority.
2. Authority to permit departures from general rules prescribing uniform systems of accounts.
3. Authority to prescribe by order, rates of depreciation to be used by individual carriers by railroad, water, and pipeline.
4. Authority to issue special authorizations permitted by the prescribed regulations governing the destruction of records of carriers.
5. Annual valuation of pipelines.
6. Approval of protective service contracts.
7. Authority to permit departures from the Regulation to Govern the Forms and Recording of Passes for carriers and other persons under Parts I and II.

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[1] Matters of a type included in this category, together with brief comments pertaining thereto, are listed in an attached appendix.

It is apparent that matters arising under items 1 through 6 are of a highly technical nature; and, in this circumstance, we believe that the professional judgment of the bureau director or qualified members of his staff could be relied upon for their disposition.

8. Matters relating to annual, periodical or special reports of carriers, lessors, brokers, freight forwarders, and other persons under Parts I, II, III and IV, presently assigned to Division 2, for example: approval of changes in the reporting forms and other requirements which often are made to conform them to corresponding changes in the Commission's accounting rules governing the respective types of carriers.

9. Extensions of time for filing annual, periodical, or special reports; exemption of individual carriers and others from reporting requirements now assigned to the three-member Accounting and Valuation Board.

Items 8 and 9 are routine in nature. For example, the extension of filing dates is essentially an administrative matter. These delegations would relieve Division 2 of the necessity of passing upon some 25 report matters each year, and the Board of acting on some 50 applications per year in matters currently assigned to it.

BUREAU OF TRAFFIC

Approval of special permission applications, now handled by the Special Permission Board, consisting of three members.

There are about 6,800 of these items coming before the Special Permission Board each year. If this work is delegated to individuals, it probably would be divided among as many as three persons because of the volume. However, rather than have two or three board members look at each request for special permission, each of three individual delegates would look at one third of the total number.

S. 2244

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 212 of the Interstate Commerce Act (49 U.S.C., sec. 312(a)), is amended as follows:

(1) The second sentence is amended by inserting after the phrase "promulgated thereunder", the words "or under sections 831–835 of title 18, United States Code, as amended."

(2) The first proviso is amended by inserting immediately after the phrase "or to the rule or regulation thereunder", the words "or under sections 831–835 of title 18, United States Code, as amended."

(3) The second proviso is amended by inserting "215", immediately after "211(c)".

The material presented by Mr. MAGNUSON follows:

SUSPENSION AND REVOCATION OF MOTOR CARRIER OPERATING AUTHORITY FOR NONCOMPLIANCE WITH RULES, REGULATIONS OR ORDERS

The Interstate Commerce Commission recommends that section 212(a) of the Interstate Commerce Act be amended in the following respects: (1) to make motor carrier operating authorities subject to suspension, change, or revocation for willful failure to comply with any provision of Chapter 39, title 18 United States Code, Explosives and Other Dangerous Articles; and (2) to provide that the Commission may, upon reasonable notice, suspend motor carrier operating authorities for failure to comply with insurance regulations issued by it pursuant to section 215 thereof.

The purpose of this recommendation is to subject motor carrier operating authorities to suspension, change, or revocation for willful failure to comply with any provision of the Explosives Act. It is also designed to permit suspension of motor carrier operating rights, upon notice for failure to comply with the Commission's insurance regulations.

Section 6(e)(4) of the Department of Transportation Act transfers the Commission's authority relating to explosives and other dangerous articles to the Department of Transportation. Neither the Department of Transportation nor the Commission has the authority to suspend and revoke certificate of any carrier for violation of the Explosives Act. However, we believe that to effect compliance with the Explosives Act it is essential that the Commission be given the authority to suspend and revoke certificates for serious violations of such Act. Consequently, we request that section 212(a) be amended to give the Commission this authority.

The second proviso in section 212(a) provides for the suspension, upon notice, but without hearing, of motor carriers' and brokers' operating authorities for failure to comply with brokerage bond regulations and tariff publishing rules. It does not, however, provide for suspension on short notice for failure to maintain proof of cargo, public liability, and property-damage insurance under section 215. As a result, the only remedy presently available under section 212(a) is revocation of the carriers' authority. All insurance filings made with the Commission are on a "continuous until cancelled" basis with a minimum 30-day cancellation provision. The motor carrier is immediately notified of an insurance cancellation and has ample time to make new arrangements. If replacing insurance is not received by the cancellation date, we now must commence lengthy and time-consuming show cause proceedings to obtain compliance or to revoke the operating authority. Approximately 400 such proceedings are commenced annually. The public may be adversely affected should losses occur during these proceedings. Section 410(f) is a counterpart of section 212(a) and contains a provision similar to the second proviso of section 212(a). The second proviso in section 410(f), however, provides for suspension on short notice of freight forwarder permits for failure to comply with the cargo insurance provisions under section 403(c) and the public-liability and property-damage insurance provisions under section 403(d). Our recommendation would bring section 212(a) into further conformity with section 410(f) by removing this distinction.

From the standpoint of the traveling and shipping public there is as much reason to require motor carriers to keep their cargo and public-liability and property-damage insurance in force as there is to require freight forwarders to keep their insurance in effect. It is therefore desirable in the public interest that the Commission have the authority to suspend motor carrier rights, on short notice, when insurance lapses, or is cancelled without replacement, until compliance is effected. The prospect of such action by the Commission should act as a deterrent to violations of this nature. An investigation under section 204(a) is not a satisfactory answer to the problem since such proceedings are sometimes necessarily lengthy and the public may be adversely affected should losses occur while it is pending.

The amendments proposed in this recommendation would enable the Commission to administer the enforcement provisions of part II of the Act more effectively.

Attached is a draft bill giving effect to the above recommendation.

S. 2245

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

That section 216(c) of the Interstate Commerce Act (49 U.S.C. 316(c)) is amended to read as follows:

"(c) It shall be the duty of common carriers of property by motor vehicle to establish reasonable through routes and just and reasonable rates, charges, and classifications applicable thereto with other such carriers and/or common carriers by railroad and/or express and/or common carrier by water subject to part III; and it shall be the duty of common carriers by railroad and/or express and/or common carriers by water subject to part III, to establish reasonable through routes and just and reasonable rates, charges, and classifications applicable thereto with common carriers of property by motor vehicle. Common carriers of passengers by motor vehicle may establish reasonable through routes; joint rates, fares, or charges with common carriers by railroad and/or common carriers by water. Common carriers of property by motor vehicle may establish through routes and joint rates with common carriers by water other than those subject to part III; and in the case of through routes and joint rates so established with common carriers by water subject to the Shipping Act of 1916, as amended, or the Intercoastal Shipping Act of 1933, as amended (including persons who hold themselves out to transport goods by water but do not own or operate vessels) between Alaska or Hawaii on the one hand, and, on the other, between the other States of the Union such through routes and joint rates and all classifications, regulations, and practices in connection therewith shall be subject to the provisions of this part. In the case of joint rates, fares, or charges, it shall be the duty of the carriers party thereto to establish just and reasonable regulations and practices in connection therewith, and just, reasonable and equitable divisions thereof as between the carriers participating therein which shall not unduly prefer or prejudice any of such participating carriers."

SEC. 2. Section 216(e) of the Interstate Commerce Act (49 U.S.C. 316(e)) is amended to read as follows:

"(e)(1) Any person, State board, organization, or body politic may make complaint in writing to the Commission that any such rate, fare, charge, classification, rule, regulation, or practice, in effect, or proposed to be put into effect, is or will be in violation of this section or of section 217. Whenever, after hearing, upon complaint or in an investigation on its own initiative, the Commission shall be of the opinion that any individual or joint rate, fare, or charge, demanded, charged, or collected by any common carrier or carriers by motor vehicle or by any common carrier or carriers by motor vehicle in conjunction with any common carrier or carriers by railroad and/or express and/or water for transportation in interstate or foreign commerce, or any classification, rule, regulation, or practice whatsoever of such carrier or carriers affecting such rate, fare, or charge or the value of the service thereunder, is or will be unjust or unreasonable, or unjustly discriminatory or unduly preferential or unduly prejudicial, it shall determine and prescribe the lawful rate, fare, or charge or the maximum or minimum, or maximum and minimum rate, fare, or charge thereafter to be observed, or the lawful classification, rule, regulation, or practice thereafter to be made effective.

"(2) The Commission shall, whenever deemed by it to be necessary or desirable in the public interest, after hearing, upon complaint or upon its own initiative without a complaint, establish reasonable through routes and joint rates, fares, charges, regulations, or practices, applicable to the transportation of passengers by common carriers by motor vehicle, or to the transportation of property by common carriers by motor vehicle or by common carriers of property by motor vehicle and/or common carriers by railroad and/or express and/or common carriers by water subject to part III, or the maximum or minimum, or the maximum and minimum, to be charged, and, when the carriers involved cannot agree, the divisions of such rates, fares, or charges as hereinafter provided, and the terms and conditions

under which such through routes shall be operated. In the case of any such through routes established by the Commission between common carriers of property by motor vehicle and/or common carriers by railroad and/or express and/or common carriers by water subject to part III, the Commission shall not (except as provided in sections 3, 216(d), or 305(c)), require any carrier without its consent to embrace in such route substantially less than the entire length of its route and of any intermediate carrier operated in conjunction and under a common management or control therewith, which lies between the terminal of such proposed through routes, (a) unless such inclusion of lines would make through route unreasonably long as compared with another practicable through route which could otherwise be established, or (b) unless the Commission finds that the through route proposed to be established is needed in order to provide adequate and more efficient or more economic transportation: *Provided*, That in prescribing through routes the Commission shall, so far as is consistent with the public interest, and subject to the foregoing limitations in clauses (a) and (b), give reasonable preference to the carrier which originates the traffic. In the case of any through route established by the Commission between common carriers of property by motor vehicle and other such carriers, the limitations in this section on the Commission's power to establish through routes shall apply only to the carrier originating the traffic. No through route and joint rate applicable thereto shall be established by the Commission for the purpose of assisting any carrier that would participate therein to meet its financial needs. To enable the provisions of coordinated interline service by any common carrier or carriers of property subject to the provisions of this section for which there is an immediate and urgent need or other emergency as determined by the Commission, the Commission, upon complaint or its own initiative, may, in its discretion and without hearings or other proceedings, require the establishment of temporary reasonable through routes to a point or points or within a territory having no coordinated service capable of meeting such need. Such through routes may be established, under such rules and regulations as the Commission may prescribe, for such time as the Commission shall specify but for not more than an aggregate of sixty days: *Provided, however*, That such through routes may be continued for a period beyond an aggregate of sixty days until further order of the Commission where a formal proceeding is instituted under the first sentence of this paragraph within the time such through routes are in effect and the Commission finds that the continuance of such temporary through routes is necessary or desirable in the public interest: *And provided further*, That, the establishment of such temporary through routes by the Commission shall create no presumption that such through routes will be prescribed thereafter on a permanent basis or will be found to be otherwise necessary or desirable in the public interest.

"(3) If any tariff or schedule canceling any through route or joint rate, fare, charge, or classification, whether established under the first sentence of section 216(c) or prescribed hereunder, without the consent of all carriers parties thereto or authorization by the Commission, is suspended by the Commission for investigation, the burden of proof shall be upon the carrier or carriers proposing such cancelation to show that it is consistent with the public interest.

"(4) Nothing in this part shall empower the Commission to prescribe, or in any manner regulate, the rate, fare, or charge for intrastate transportation, or any service connected therewith, for the purpose of removing discrimination against interstate commerce or for any other purpose whatever."

The material presented by Mr. MAGNUSON follows:

THROUGH ROUTES AND JOINT RATES

The Interstate Commerce Commission recommends that part II of the Act be amended to authorize the Commission, after investigation and hearing, when necessary and desirable in the public interest, to require the establishment of through routes and joint rates between motor common carriers of property and between those carriers and common carriers by rail, express, and water.

With the growth of the Nation's economy, the expansion of the motor carrier industry, and technological improvements in the transportation field, greater stress has been placed upon the importance of having a more coordinated national transportation system. Of fundamental importance to the accomplishment of this objective is the establishment of through routes and joint rates within and between the various modes of carriage. It follows, therefore, that in many instances the failure or refusal of carriers to enter into such arrangements is contrary to the public interest in the furtherance of a more coordinated national transportation system.

The availability of through routes and joint rates inures to the benefit of the shipping public in numerous ways. It enables a shipper to make one contract with the originating carrier on behalf of all carriers participating in the arrangement. In addition, the shipper may ascertain the rate for a through movement by consulting a single tariff instead of many. Both shipper and consignee also have the advantages provided by section 20(11) and similar provisions in other parts of the Act of recovering from either the originating or delivering carrier for loss or damage caused by any carrier participating in the through movement. Moreover, experience has shown that because of the economy of established channels of commerce through which substantial amounts of traffic may flow, and reduced freight rate calculation costs, joint rates are generally lower than a combination of local rates of connecting carriers not participating in such through service arrangements.

At present, the only common carriers of different modes which may be required by the Commission to establish through routes and joint rates with each other are railroads, pipelines, and express companies subject to part I of the Act; and railroads subject to part I and common carriers by water subject to part III. The only intramodal joint-rate arrangements that may be required by the Commission are between railroads, pipelines, and express companies, respectively, subject to part I, common carriers of passengers by motor vehicle subject to part II, and common carriers by water subject to part III. Common carriers of property by motor vehicle subject to part III are permitted, but may not be required to enter into joint-rate arrangements with other such carriers or with common carriers of other modes; nor, on the other hand, may common carriers of other modes be required to establish through routes and joint rates with motor carriers. Our recommendation would close this gap in existing law.

In the case of through routes among motor common carriers of property, most of the regular-route, general commodity motor carriers participate in agency tariffs and are parties to the joint rates published therein. Tariffs filed under such voluntary joint arrangements often contain many restrictions as to individual carriers or classes of commodities, thereby limiting the availability of through interline service to the shipping public as to points of interchange. At the present time, the Commission's authority over motor carrier through routes and joint rates is limited. Since existing law neither imposes a positive duty on the carriers to establish such joint arrangements nor authorizes the Commission to order their establishment, the Commission's present authority is essentially confined to situations where tariffs containing through routes and joint rates voluntarily established are subsequently cancelled by one or more of the participating carriers. In such situations, the Commission has found in certain cases that such actions constitute an unreasonable, and therefore unlawful, practice within the meaning of section 216(b) of the Act or an undue and unreasonable disadvantage under Section 216(b) of the Act as to certain classes of commodities and/or shippers. In a recent decision [1] applying these principles to a tariff rule providing that the carrier publishing the rules maintained no through routes, joint rates or interchange arrangements on shipments of furniture, the Commission upon finding the tariff rule in question unlawful, pointed out:

"Our decision herein in no way lessens the overall need as we see it for through route-joint rate legislation. Our decision herein will curb the practice of extreme selectivity, but will fall short of the goal of placing a positive duty upon rail, water and motor common carriers to promote coordinated through service."

Absent the special circumstances present in this or similar situations, or in the absence of the establishment of joint-rate arrangements among motor common carriers of property on a voluntary basis, the only feasible way in which the Commission may provide for through motor carrier service under existing law is by granting extensions of operating rights to existing carriers or by approving consolidations and mergers of connecting carriers. The granting of such extensions is not always desirable, however, since it may result in a surplusage of carriers over certain routes. Many shippers have demonstrated their reluctance to rely on voluntary arrangements by prevailing upon motor common carriers to file applications to extend their operating authority to include every point to which the shipper's traffic moves. Shippers justify their position, in many instances, by claiming that they are entitled to hold one carrier responsible for the safe and efficient transportation of their freight. Frequently, the Commission finds it necessary to grant such authority because of the failure of connecting carriers to adduce evidence of their willingness and ability to participate in joint-line service.

As noted, the fundamental purpose of this proposal is the advancement and promotion of a coordinated transportation system by common carriers of all modes subject to the Commission's jurisdiction on an intra and intermodal basis. Although the economic advantages of coordination have served to stimulate considerable voluntary action by the carriers, the full benefits of coordination have not been evenly distributed among the carriers or the shipping public. Indicative of the difficulties in this area is the major problem of adequate transportation for small shippers, particularly in the case of service to smaller communities. In 1967, a report on the problems in the small shipment area, issued by a special Committee on the Small Shipments Problem, composed of three members of the Commission, outlined the many transportation difficulties confronting the user of small-shipment service. Among these difficulties, the Committee found that one of the most serious was the lack of suitable interline service by motor carriers. If the Commission were granted the authority to require through routes and joint rates it could then require carriers to establish such interline service to small shippers. This would provide a significant contribution to the solution of the small shipment problem.

Although the problems with respect to the

[1] No. 34815, *National Furniture Traffic Conference, Inc.*, v. *Associated Truck Lines, Inc.*, 322 I.C.C. 802, decided December 31, 1968.

full development of intermodal coordination are neither so acute nor widespread at the present time, there is ample reason to cover this area as well in this proposal. For many years railroads and motor carriers were reluctant to enter into through-route and joint-rate arrangements. While, in recent years, there has been some relaxation of this attitude on the part of the carriers, especially with the growth of "piggyback" service, such arrangements are, as in the case of these between motor common carriers of property, entered into on a permissive and voluntary basis subject to termination at any time. Here again, the lack of any obligation on the part of the carriers to continue in effect such joint through route arrangements is not conducive to the maintenance of dependable joint-line service.

Although no serious problems appear to have arisen in connection with the establishment of through routes and joint rates between common carriers by water and motor common carriers of property, the fear of collapse of such arrangements because of their permissive and voluntary nature is, of course, always present.

In sum, enactment of this proposal would permit the Commission, in proper cases, to compel the establishment and maintenance of dependable joint-line service responsive to the needs of the shipping public, and, at the same time, protect the carriers from unfair or unreasonable demands to provide through service. It would also have the effect of according greater equality of treatment in the regulation of the carriers of the various modes. We feel strongly that this recommendation would be a major contribution to a more coordinated transportation system, and would provide vastly improved service for the shipping public.

The draft bill implementing this recommendation revises section 216(c) and 216(e) of part II of the Interstate Commerce Act by making the following changes in existing law:

(1) Section 1 imposes a duty on common carriers of property by motor vehicle to establish through routes and just and reasonable rates, classifications, charges, etc., applicable thereto with other such carriers and with common carriers by railroad, express, and water subject to part III of the Act. This section also imposes a duty on these other modes to establish similar arrangements with motor common carriers of property.

(2) Section 2 authorizes, with certain specified limitations, the Commission to order the establishment of through routes and/or joint rates by motor common carriers of property with other such carriers or with common carriers by railroad, express and water carriers subject to part III of the Act. This section also authorizes the Commission to establish temporary through routes where there is an immediate and urgent need or other emergency for coordinated interline service.

In essential respects, the majority of these amendments are modeled after S. 751/H.R. 6533 (90th Cong., 1st Sess.) and the existing provisions of parts I and III of the Act which deal with the establishment of joint rates and through routes between railroads and common carriers by water on an intra and intermodal basis. The provision dealing with the establishment of through routes on a temporary basis is new and is designed to deal with the situation where a carrier or carriers fails in their duty, under section 1 of the bill, to establish reasonable through routes for the benefit of the shipping public. It thus may become necessary for the Commission to institute, upon complaint or its own motion, a formal proceeding, under section 2, leading to the prescription of such through routes. Since such a proceeding could entail a lengthy hearing or other proceedings, it seems desirable to provide for the establishment of temporary through routes for a limited time to avoid adverse effects on the shipping public due to a lack of available through interline service. This provision limits the establishment of such through routes to an aggregate of sixty days unless such time is extended in conjunction with a subsequent formal proceeding involving the prescription of through routes and joint rates. The establishment of such temporary through routes by the Commission would be subject to the same limitations on the Commission's authority as are imposed by the draft bill in a case of through routes prescribed on a permanent basis in the course of a formal proceeding.

The draft bill does not contain specific provisions specifying such matters as the conditions under which any through route would be operated, divisions of joint rates, or the settlement of interline balances. It seems more desirable and appropriate that these and similar matters be handled, where necessary, through either a formal case-by-case determination or through the exercise of the Commission's rulemaking power in which all interested parties could participate.

Other parts of the draft bill restate, in revised form, provisions of existing law which permit, but do not require: 1) the establishment of joint rates and through routes between motor common carriers of passengers and common carriers of passengers by other modes; 2) the establishment of joint rates and through routes between motor common carriers of property and common carriers by water, other than those subject to the jurisdiction of the Commission under part III of the Act; and 3) the retention, in a somewhat revised form, of the special provisions of Public Law 87-595, commonly known as the "Rivers Act," which deal with the jurisdiction of the Commission over water-motor through routes and joint rates applying between Alaska and Hawaii on the one hand and, the other States of the Union on the other.

S. 2250, S. 2251, AND S. 2252—INTRODUCTION OF BILLS TO AMEND THE PUBLIC ASSISTANCE PROVISIONS OF THE SOCIAL SECURITY ACT

Mr. PERCY. Mr. President, I am introducing today three bills to amend the public assistance provisions of the Social Security Act. These bills will correct certain inadequacies in the aid to families with dependent children program.

The Nation's welfare program has been the subject of much controversy. It satisfies neither those who contribute to it through their taxes nor those who benefit from it through welfare checks. And the system certainly does not please those who must administer the public assistance programs, the States.

Despite this controversy, there is one point of agreement: the welfare system must not be self-perpetuating. It must eliminate the very reason for its existence—poverty. The system will perish, however, only if welfare programs can motivate all recipients to lead decent, productive lives.

AFDC is particularly important in this effort. It is the major program providing families with the support necessary to give their children the food, clothes, and stable home life essential in making them contributing members of society.

But public assistance is not working toward attainment of this goal. In fact, it is not only failing to meet the needs of recipients, it is also proving to be a hardship for State and local taxpayers because of rising welfare costs.

Today, most of our States are in the throes of a fiscal crisis. They simply do not have sufficient revenue to provide adequate services for their residents. The increasing welfare costs they must pay are contributing greatly to their fiscal problems.

Illinois, for example, increased AFDC payments by 22 percent from $57.6 million in 1967 to $70.4 million in 1968. This made AFDC the State's most expensive welfare program, surpassing even medicaid. Not only did the absolute cost to the State of AFDC increase, but the proportion of State to Federal payment similarly increased. Currently, Illinois pays 55 percent of its AFDC costs as compared to the 45 percent the Federal Government contributes. This is quite an increase from the middle of 1968 when the State's share was approximately 46 percent.

While all the States must meet the spiraling cost of providing public assistance, the larger, industrial States are by far the most adversely affected. These States tend to make higher AFDC payments and thus stimulate the migration of poor families to them. Migrants mean burgeoning welfare rolls, which, of course, result in substantially higher welfare costs for these States to meet.

In the past 10 years, the 15 States with the highest average monthly AFDC greats per family experienced a growth of about 163 percent in their caseload. In comparison, the 15 States with the lowest average monthly grants per family experienced only a 15.6-percent growth in their caseload. While some of the new cases in the highest paying States are attributable to natural population growth and desertion, many are the results of migration.

Steps must be taken now to alleviate the burden of welfare payments placed on the States and to end the disparity of welfare grants which result in mass migration to industrial States and urban areas. We must revise our welfare system to eliminate these deficiencies which are so detrimental to the States. Basic to this overhaul is the implementation of two policies already advocated by Vice President AGNEW and several Members of the Senate: the establishment of minimum Federal standards and increased Federal contributions for welfare payments.

The first bill I am introducing today is a step in this direction. It will provide welfare recipients with a uniform minimum payment and the States with additional funds to meet their welfare expenses.

This bill will establish a $40 minimum budget for States to use in computing AFDC assistance for each case. It will insure recipients of at least $40 a month from combined AFDC payments and their other sources of income. To help States defray the cost of these provisions, the Federal Government will contribute 100 percent of the first $30 in AFDC payments, and half of the next $40. Under this formula, all States will receive a greater Federal reimbursement than they do at this time.

The second bill I am introducing will also afford the States relief in meeting welfare costs. This legislation will repeal the freeze on the level of Federal participation in AFDC programs scheduled to become effective on July 1. As of that date, a State will receive Federal reimbursement for payments made only to the number of AFDC children in the State as of January 1, 1969. The State,

however, must continue to make payments to everyone who qualifies for AFDC. This means that in Illinois, alone, AFDC funds will go to 30,000 children for whom the State will not be reimbursed.

The freeze was enacted in 1967 to curb the cost of Federal welfare assistance and to encourage the development of programs to end poverty by increasing employment and decreasing illegitimacy. But it is a false economy as the Senate recognized last session by voting to rescind the freeze. It does not decrease welfare costs or reduce the numbers of the impoverished. Instead, it unjustly deprives children of support because of the difficulties of their parents and imposes a heavy and inequitable burden on the States.

The AFDC caseload and payment figures for Illinois are illustrative of the magnitude of this program and the expense the freeze will be for the States.

By December 1968, the AFDC caseload in Illinois had increased 14.4 percent over the 1967 figure. By April of this year, there were 314,000 people on the AFDC rolls at a cost to the State of $70.4 million. The Department of Public Assistance estimates that $6 million a year will be added to this figure as a result of the freeze. In July, Illinois will have to pay 25,000 AFDC children a half million dollars a month without Federal reimbursement.

To meet the costs of limited Federal contributions to AFDC, States will either have to raise additional revenue from already heavily taxed residents or reduce the payments made to each AFDC recipient. If a State elects to reduce payments, its Federal reimbursement would similarly be reduced, further depleting its limited revenue.

The rescinding of the freeze on Federal participation in AFDC will be particularly important if the third bill I am introducing is enacted. This legislation will augment the number of AFDC recipients. It will, however, correct one of the welfare system's critical deficiencies—the incentive for men to desert their families in order to qualify them for welfare—by making AFDC–UP mandatory. A similar measure was passed by the Senate during the previous session.

Desertion by a parent, usually the father, is a major reason a family is added to the welfare rolls. Broken homes also contribute to the incidence of crime and disorder which disrupt our society. Public policy must, therefore, encourage family unity and responsibility, not destroy them. A father should be motivated to remain in his home and care for his children. Public welfare should not provide the reason or the excuse for his deserting his family. Allotting AFDC payments to children with unemployed parents will remove an important incentive for desertion.

In addition the augmenting family stability, AFDC–UP will eventually lower welfare costs by helping the unemployed parent to secure a job. The Social Security Act contains a provision that requires unemployed recipients of welfare to be referred to a job training program within 30 days of receiving welfare assistance. Such a program will provide him with the skills necessary to obtain employment and support his family.

Mr. President, I urge prompt consideration and enactment of the three bills I am introducing today to correct the more glaring deficiencies in our AFDC program.

The PRESIDING OFFICER. The bills will be received and appropriately referred.

The bills (S. 2250), to amend part A of title IV of the Social Security Act to provide a more realistic standard of need in determining the amount of aid to be furnished an individual under a State plan approved under such part, and to provide additional financial assistance to States meeting such standards; (S. 2251) to amend title IV of the Social Security Act to repeal the provisions limiting the number of children with respect to whom Federal payments may be made under the program of aid to families with dependent children; and (S. 2252) to amend title IV of the Social Security Act to provide that State plans approved under such title must include, among the children eligible for aid and services thereunder, children in need because of the unemployment of their father, introduced by Mr. PERCY, were received, read twice by their titles, and referred to the Committee on Finance.

S. 2253—INTRODUCTION OF A BILL FOR THE CONTINUED ACQUISITION OF LAND FOR THE CAPE COD NATIONAL SEASHORE

Mr. KENNEDY. Mr. President, today I introduce for appropriate reference a bill to provide for the continued acquisition of land for the Cape Cod National Seashore. The original act, signed into law by President Kennedy in 1961, authorized an expenditure of $16,000,000 for the acquisition of 27,000 acres for the seashore.

In August of 1967, with some 8,000 acres short of the 27,000 designated as the seashore, the appropriated funds for acquisition were exhausted. It is now estimated that an additional $17,401,000 will be required to bring the land under the ownership of the seashore.

Last year, over 3 million Americans visited the seashore. As the reputation of the seashore spreads, and as additional areas are developed and opened to the public, this number will increase significantly. It is indeed a tribute to the Congress and to our Government that such an area of unspoiled natural beauty has been preserved for the enjoyment of our citizens. The success of the seashore will ever serve as an encouragement to us to continue our efforts to preserve some of our greatest natural resources to ensure that our citizens and all future generations of Americans can share in their beauty and enjoy the recreational and educational benefits they present.

Certainly, we cannot fail to provide for the complete acquisition of the land designated for this truly unique national park. 27,000 acres of land set aside for preservation is certainly not too much to ask.

In 1967, I submitted similar legislation. However, at that time, the additional funds necessary were estimated at $12,000,000. By our delay in fulfilling the purpose of the act, we have suffered an increased cost of $5,401,000.

I am well aware of the need to be sensitive to the demands to cut our budget. However, I submit that we cannot fail to take advantage of an opportunity to provide our citizens and future generations with a recreational and educational preserve in this time of population growth, serious lack of open space land use in our cities, and suburban sprawl. Nor can we continue to place the burden of our inaction and indecision on the 2,500 landowners whose properties have already been earmarked for Seashore acquisition.

The Cape Cod National Seashore is within a 1-day drive for 30 million people and is within easy vacation access to millions more. I am asking today that we complete the task which the Congress and President Kennedy undertook in 1961: That we raise the authorization by $17,401,000.

I am convinced that it is the intent of the Congress to complete the task. I only remind my colleagues that the cost of completion will continue to increase as we continue to delay action.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 2253) to amend the act of August 7, 1961, providing for the establishment of Cape Cod National Seashore, introduced by Mr. KENNEDY, was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

ADDITIONAL COSPONSORS OF BILLS

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Minnesota (Mr. MONDALE), I ask unanimous consent that, at its next printing, the names of the Senator from North Dakota (Mr. BURDICK), the Senator from Alaska (Mr. GRAVEL), the Senator from Washington (Mr. JACKSON), and the Senator from Maine (Mr. MUSKIE), be added as cosponsors of the bill (S. 1788) to assist in removing the financial barriers to the acquisition of a postsecondary education by all those capable of benefiting from it.

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

Mr. KENNEDY. Mr. President, I ask unanimous consent that, at its next printing, the names of the Senator from New Jersey (Mr. CASE), the Senator from Alaska (Mr. GRAVEL), and the Senator from Texas (Mr. YARBOROUGH) be added as cosponsors of the bill (S. 2165) to enable citizens of the United States who change their residence to vote in presidential elections, and for other purposes.

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

SENATE RESOLUTION 204—SUBMISSION OF A RESOLUTION AUTHORIZING EXPENDITURES FROM THE CONTINGENT FUND OF THE SENATE

Mr. RUSSELL submitted the following resolution (S. Res. 204); which was referred to the Committee on Rules and Administration:

S. RES. 204

Resolved, That the Committee on Appropriations hereby is authorized to expend from the contingent fund of the Senate, during the Ninety-first Congress, $35,000, in addition to the amounts, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act, approved August 2, 1946.

FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969—AMENDMENT

AMENDMENT NO. 23

Mr. COOPER submitted an amendment intended to be proposed by him to the bill (S. 1300) to improve the health and safety conditions of persons working in the coal mining industry of the United States; which was referred to the Committee on Labor and Public Welfare and ordered to be printed.

(See remarks on above amendment when submitted by Mr. COOPER, which appear under a separate heading.)

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. ERVIN. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Seagal V. Wheatley, of Texas, to be U.S. Attorney for the western district of Texas for the term of 4 years, vice Ernest Morgan, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing on or before Monday, June 2, 1969, any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE OF HEARING

Mr. ERVIN. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Tuesday, June 3, 1969, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nomination:

Warren E. Burger, of Minnesota, to be Chief Justice of the United States.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The hearing will be before the full committee of which Senator JAMES O. EASTLAND, of Mississippi, is chairman.

NOTICE OF HEARINGS

Mr. SPARKMAN. Mr. President, I wish to announce that the Committee on Banking and Currency will hold a hearing on Tuesday, May 27, 1969, on the nomination of John Conrad Clark, of North Carolina, to be a member of the Board of Directors of the Export-Import Bank of the United States.

The hearing will commence at 10:30 a.m. in room 5302 New Senate Office Building.

NOTICE OF HEARINGS

Mr. MUSKIE. Mr. President, I should like to announce that the Subcommittee on International Finance of the Committee on Banking and Currency will meet on May 28, 1969, to conclude hearings on S. 813 and S. 1940, bills pertaining to export control legislation.

The hearings will commence at 9:30 a.m. in room 5302, New Senate Office Building.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

INVESTMENT COMPANY AMENDMENTS ACT OF 1969

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The PRESIDING OFFICER. The bill will be stated by title.

The BILL CLERK. A bill (S. 2224) to amend the Investment Company Act of 1940 and the Investment Advisers Act of 1940 to define the equitable standards governing relationships between investment companies and their investment advisers and principal underwriters, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Alabama? The Chair hears none.

There being no objection, the Senate resumed the consideration of the bill.

Mr. BENNETT. Mr. President, last year over the opposition of about a third of the Senate, this body approved legislation further regulating the mutual fund industry.

In contrast, this year the committee is united on the proposal it brings to the Senate for its approval. To be sure, there are still some minor differences among committee members as there always are, but the overall thrust and major provisions of the bill have been approved by the committee almost unanimously and there was no opposition to reporting the bill. It may seem surprising, but both the Securities and Exchange Commission and the mutual fund industry are also in general accord with the bill's provisions. Certainly, it cannot be expected that the industry would welcome complete governmental control over its activities, nor can it be expected that the Commission charged with assuring proper conduct throughout the industry, would be satisfied with less than authority to control all possible potential abuses, yet both the industry and the Commission consider this proposal, much improved over last year's version.

This much improved version is the result of the legislative process working at its best. Last year, we took action on the bill before the industry and the commission had completed negotiations to work out their differences. This year, as the result of a cooperative attitude on the part of the members of the committee, the Commission, and the industry, it has been possible to work out provisions which meet to a much greater extent, the legitimate positions, needs, philosophies, and fears of all parties involved.

I would like to stress that this has all been done without jeopardizing the protection of small investors. In fact, I am sure that the bill before us is more in the interest of the investing public than was last year's proposal.

In this legislation, we are dealing with an industry which has been successful far beyond any predictions that could have been made only a few years ago. Mutual fund company assets have grown from about $450 million in 1940 to about $50 billion today. I contend that any industry which increases in size by more than 100 times in a quarter of a century, through voluntary investment is indeed fulfilling an important place in our economy. It has demonstrated that it enjoys public confidence and has maintained that confidence through its performance and relative freedom from abuses.

Most of the more than 4 million shareholders appear to be satisfied with the results which are being accomplished by the industry. I believe that a majority of the shareholders, including large pension funds, profit sharing plans, educational institutions, religious bodies, and so forth, whose shareholdings run into millions of dollars, as well as individuals who invest only small amounts monthly, know what they are paying for sales commissions when they purchase their funds and know what it is costing them for management. If this were not true, I doubt seriously that the industry would have experienced such phenomenal growth.

To be sure, there have been some complaints as can be expected with any industry. Where there are problems, we have a responsibility to seek out solutions. Where complaints are justified, we should seek to eliminate the cause if we can.

In seeking answers and in trying to solve problems, however, we must to the greatest extent possible, be sure that in solving one problem, we do not bring about side effects creating greater problems or diminishing the ability of the industry to perform. In an industry whose markets are as complex and sensitive as the securities markets are, especially great care must be taken to avoid undesirable effects.

I believe that in this bill we have tried to consider the industry as a whole, its ability to perform, and the need for protection of unsophisticated investors and have struck an acceptable balance.

What I consider to be the major provision of the bill, the section dealing with management fees, is based on the existence of a somewhat different corporate structure in the mutual fund industry. An investment company is in actuality nothing more than a method of selling investment advice of professionals to single investors who otherwise may not be able to afford this service. Generally this is accomplished by the establishment of an investment company in corporate form, which has a contractual arrangement with the investment adviser to furnish the necessary advice, and sometimes to provide all of the bookkeep-

ing functions of the fund also. In almost every instance, the investment adviser has from its inception been inextricably associated with the investment company. Often he created it. The public, in purchasing shares of the investment company, is in reality purchasing the judgment and ability of the investment adviser, as revealed by his reputation and record.

Although the mutual fund itself has directors and the contract with the investment adviser must be approved annually either by the shareholders of the fund or a majority of the directors who are unaffiliated with the adviser, it has been argued that the agreement between the fund and the adviser is in reality not one which is determined by arm's length bargaining. It has also been argued that investment advisers do not compete with each other for contracts with mutual funds. There is truth in both of these arguments, but since a person purchasing shares in the mutual fund is really buying investment advice, it is difficult to imagine the directors of the fund changing its investment adviser so long as his performance is satisfactory.

The fee charged by advisers is generally a percentage of the assets of the fund which they are managing, and though the ratio of advisory fees to average net assets ranges from a low of one-tenth of 1 percent to a high of just over 1 percent, and some funds base their fees entirely on performance, most firms in the industry charge a fee of about one-half of 1 percent.

It has been argued that as the size of the fund increases, the management fee as a percentage of assets should decline. Some funds have reduced their management fees as a percentage of assets as they increased in size, and others have not.

Last year's bill would have required that the fees should be reasonable, and no one disagreed. Under that bill, the question of whether a fee was or was not reasonable would have been determined by the Securities and Exchange Commission and the Federal courts. While the goal of reasonableness was accepted by all, the method of reaching that goal was offensive to many. It was offensive, because never before had the Federal Government undertaken to determine management compensation in an industry in which there was freedom of entry and competition among many firms. Despite the recognition that many shareholders are passive when it comes to management decisions and thus corporate democracy may not be a perfect form of management control, never before had the Federal Government rejected the basic representational structure of the corporate form by which this Nation's business corporations have been managed for two centuries. Never before in a competitive industry had the Federal Government set up such a fee-setting mechanism to supersede the actions of the mangement, the board of directors, and the shareholders of the business.

I could not support such a Federal intrusion. Instead, I offered an alternative which would have preserved the basic principles of corporate responsibility.

That position, supported by the minority last year, would have increased the number of directors who could not be affiliated with the investment adviser and would have charged them specifically with the responsibility of approving only fees that were reasonable and in the interest of shareholders. The courts could then have adjudicated whether or not these independent directors had discharged their responsibility as fiduciaries. Directors would have been subject to lawsuits involving the reasonableness of their actions in approving a fee that might be considered by some to be too high.

The management fee provisions of the bill now before us meet the objections which I had to the management section of last year's bill.

We have now deleted the entire management section from last year's bill and in its place added a subsection specifying that the investment adviser himself has a fiduciary duty with respect to the compensation he receives for services provided to the fund. As a fiduciary, the adviser and others who may receive compensation from the adviser's fee, are subject to lawsuits which may be instigated by shareholders or the Securities and Exchange Commission in the event that the fee received is claimed to be so excessive as to constitute a breach of fiduciary duty. Directors of the fund will, of course, continue to have a fiduciary responsibility with respect to their own compensation and for the overall operation of the fund. In determining whether the adviser has met his responsibility to the fund shareholders, the court must give appropriate weight to shareholder ratification of the management fee or its approval by directors.

This provision, instead of being an intrusion by the Federal Government, is in accordance with the traditional function of the courts to enforce fiduciary duties.

I turn now to the consideration of another problem, that of the front-end load.

Another provision in last year's bill with which I was unhappy was the ceiling of 20 percent which the bill put on the amount that could be deducted from the first year's payments made by an investor in a contractual plan, to cover the salesman's commission. Contractual plans are often sold to people with limited means who are not sophisticated investors. I believe that it is desirable for these indivduals to be given an opportunity to invest in equities, and to give them that chance requires a selling effort. In refusing to eliminate contractual plans as the SEC proposed, the committee had agreed that such plans perform a service in introducing investors who lack accumulated capital to the concept of systematic investment in equity securities through mutual funds. It also recognized that some concentration of sales charges at the beginning of such a long-term program was an economic necessity if sponsor companies and salesmen were to be able to meet the costs incurred in serving the market through this investment medium. Having made such a decision—to reduce its first year's "load" to 20 percent—I felt that it was the responsibility of the committee to investigate not only the effect of any such action it took on the investor, but also what the effect would be on the distribution of these securities. Industry representatives claimed that the decision of the committee to limit the first year sales load to 20 percent would make it difficult if not impossible for particularly the small mutual fund contractual plan sponsors to attract or retain good salesmen to distribute their shares. Certainly, compensation levels paid to salesmen in other front-end load industries support their contention. For example, some types of life insurance which compete directly with contractual plans both for the installment investor's savings dollar and for the services of trained salesmen provide as much as a 100-percent front-end load for sales commissions or twice the amount now allowed for contractual plans under present law, and five times as much as would be allowed if there were no alternative to the 20 percent restriction. To reduce the sales commission allowable in the first year by 60 percent without a full investigation of its effect, could have been disastrous to the contractual plan industry.

On the other hand, the committee had to consider the fact that because of the front-end load provision of the contractual plan, an investor who was unable or unwilling to continue his plan and cashed in his investment during the early years of the plan before the investment had time to grow sufficiently to offset the sales charge, would be subject to a disproportionate sales charge and would suffer a loss. Both the SEC and industry statistics indicate that this has happened to about 15 percent of the nearly 2 million contractual plan investors in the past, although the remaining 85 percent of all planholders achieved profits. It was the committee's responsibility to strike a proper balance between protecting the relatively few investors who lose money and yet provide sufficient compensation to salesmen to allow the proper distribution of these securities. After considerable thought on this problem, it seemed to me that it should be possible to provide the same level of compensation now allowed and yet protect those who may have to withdraw from their plan. This could be accomplished through preserving the present first year 50 percent front-end load provided the mutual fund would be willing to offer a refund to those who redeemed their underlying securities early in the plan. After studying various alternative assumptions, I determined that if the plan sponsor were required to refund the sales load paid by the investor in excess of 15 percent of his total payment if he withdrew any time during the first 3 years, he would be better off than if he had been required to pay the 20-percent load provided in last year's bill. This advantage to the person who might decide to withdraw includes a computation for the increase which would have occurred in both cases as the result of the differences under the two alternatives of the amounts of money actually invested and working for him. It seemed to me, therefore, that such a proposal would meet our objectives of protecting the consumer from undue loss and at the same time providing an opportunity to properly compensate salesmen. The proposal also would

have some beneficial side effects. It has been argued that contractual plans are sometimes sold to people who should never buy them and that after the sales commission is collected, the salesman does not care whether the person continues in the plan or not. I suspect that this may happen in some cases, although it certainly cannot be considered widespread throughout the industry. This refund provision will provide a monetary incentive for contractual plan sponsors to see to it that their salesmen do not "oversell" because such sales will likely result in refunds. The net result should be an upgrading, if necessary, of the sales forces of any company which operates under its provisions.

When the committee reconsidered the contractual plan industry this year, it decided to allow companies to offer contractual plans under the two alternatives. Either the company would be limited in the amount which it could deduct for sales charges during the first 3 years of the plan to 20 percent, or it would be permitted deductions as allowed under present law but would be required to refund part of the sales charge if the investor elects to redeem his shares any time during the first 3 years of the plan. As part of the latter alternative, the Securities and Exchange Commission is granted authority to require sponsors and underwriters to maintain reserves sufficient to meet the contingent liability which may occur under the refund provision. The reserve requirement must be reasonably flexible under the net capital rule, if this is to be a viable alternative. I should probably add, Mr. President, that the sponsors of contractual plans have not supported either of the alternatives offered in this bill. I cannot be critical of their lack of support, however, because they do not know what the effect of either will be, and both alternatives might possibly seriously disrupt their operations.

I, too, have some reservations concerning both alternatives, but I feel that we have now made a real effort to provide an opportunity for these firms to continue offering contractual plans to prospective investors; contractual plans which despite their shortcomings have proven highly profitable to a great majaroity of those who have systematically invested in them.

Mr. President, I have discussed only the management provision and the contractual plan provisions in the bill before us, because these were the two provisions which gave me great concern in last year's bill. I could discuss other provisions of the bill, some of which we have changed from what they were last year, particularly those dealing with the entry of banks, insurance companies, mutual savings banks, and savings and loan associations into the mutual fund industry, but the chairman of our committee (Mr. SPARKMAN) has already provided the Senate with a general description of those provisions in his remarks.

Mr. President, I have an amendment which I wish to offer for consideration at this time.

I send the amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 63, line 24, strike the words "the Securities Exchange Act of 1934,".

Mr. BENNETT. Mr. President, I am offering this amendment to section 29 of the bill which would remove legal liabilities arising with respect to variable annuity and other contracts providing for varying benefits based on the fluctuating value of a pool of securities issued by insurance companies prior to the decision in *Securities and Exchange Commission* v. *Variable Annuity Life Insurance Company*, 359 U.S. 65 (1959). In that case, the Supreme Court held that variable annuities were investment contracts required to be registered under the Securities Act and that the company issuing them was an investment company required to be registered under the Investment Company Act.

It should be noted, however, Mr. President, that the proposed section 29 of the bill as presently written would apparently insulate any insurance company which sold a contract, fitting the description in the section prior to March 23, 1959, from the antifraud provisions of the Federal securities laws, as well as from the registration and other regulatory provisions of such laws. I believe that the action taken by the committee was taken without knowledge of its full effect. I have discussed this with the staff and the chairman of the Securities and Exchange Commission and find that while it is my understanding that they feel there may be a basis for insulating insurance companies from liability for failure to register certain investment contracts under the Federal securities laws prior to March 23, 1959, the date on which it was first judicially established that such registration was required as a matter of national policy, they do not think it would be advisable for Congress to insulate sellers of the types of investment contracts described in the section from liability for misrepresentation and other fraudulent selling practices.

I have discussed this with the chairman of the committee (Mr. SPARKMAN), and he agrees that it was certainly not his intent to provide an exemption from provisions of the securities laws dealing with misrepresentation or fraudulent selling practices. He has, therefore, expressed his support of this amendment.

I am advised that the Senator from New Hampshire (Mr. MCINTYRE) is empowered to accept the amendment I have offered.

Mr. McINTYRE. Mr. President, I understand the Senator from Utah (Mr. BENNETT) and the chairman of the Committee on Banking and Currency have discussed the amendment and the chairman of the committee is in agreement. Therefore, we have no objection and the amendment may be accepted.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Utah.

The amendment was agreed to.

Mr. McINTYRE. Mr. President, in view of what I expect will be said this afternoon dealing with section 3(b)(5) of the bill before us, which deals with oil and gas mutual funds, I believe that the RECORD should show the background, the history, and the reasoning behind the Banking and Currency Committee's action in recommending this provision this year as it did last year.

As Senators know, that period of American economic history extending up to the early 1930's was marked by a series of dramatic securities frauds perpetrated upon unsophisticated investors.

The Congress, recognizing the need for action by the Federal Government on behalf of small, unsophisticated investors, adopted the principle of adequate disclosure of relevant information to investors as the cornerstone of Federal regulation under the Securities Act of 1933.

The 1933 act, together with the provisions of the Securities Exchange Act of 1934, accomplished its purpose well. Stock frauds, once almost a routine event, vanished to the point where the American securities market today can invite investor confidence as a basic foundation of our system of capitalism.

The Congress, however, together with the Securities and Exchange Commission, soon learned that, while disclosure was an adequate Federal regulatory procedure for most securities, it still did not put an end to frauds against small, unsophisticated investors who invested in one specific type of security—the investment company.

An investment company, in lay terms, is a company financed by many contributions from individual investors, who turn their money over to the company to obtain the benefits of professional management and diversification. This particular form of financial arrangement lends itself to unique abuses in the areas of self-dealing, excessive costs, and insufficient information being delivered to investors.

Accordingly, the Congress enacted the Investment Company Act of 1940, to go beyond disclosure in establishing administrative protections for small, unsophisticated investors purchasing the securities of most investment companies. I say "most" investment companies, because in 1940 the Congress did exclude a few categories of investment companies from coverage under the act.

Most of the excluded companies fell in categories which were already subject to Federal regulation under other statutes—such as public utility holding companies—already subject to SEC regulation—and bank holding companies regulated by the Federal Reserve Board. In addition, the Congress excluded those investment companies who invested their receipts from securities holders in oil and gas leases.

The reason for the oil and gas exclusion is stated quite simply in the report of the Banking and Currency Committee. In 1940, "the risk inherrent in such investments made them attractive only to wealthy investors whose income would allow a tax writeoff should the venture prove unproductive." These clearly were not the small, unsophisticated investors whom the 1940 act was designed to protect.

For several years after 1940, the situa-

tion remained unchanged. Most oil and gas mutual funds continued to be investment vehicles for wealthy, sophisticated investors. On the other hand, there were funds appealing to a particular wildcatter's friends and neighbors for small contributions to finance a single well typically were distributed to fewer participants than the 100 required for coverage under the act. Thus, removal of the oil and gas exclusion in the 1940's or 1950's would not have served the purposes of the act at all.

In recent years, however, the picture has changed dramatically. For one thing, as American investors became accustomed to mutual funds of the open end or contractual plan variety, more and more oil and gas funds began using the regular mutual fund merchandising techniques in selling their securities. Even more important, there was a substantial increase in the dollar volume and number of funds, and many of these funds pitched their appeal directly at the small, unsophisticated investors most in need of protection under the 1940 act.

Thus, in 1966, the Securities and Exchange Commission recommended to the Congress that the oil and gas exclusion be eliminated for those oil and gas investment companies offering redeemable securities, periodic payment plans, or face amount certificates of the installment type. When the Chairman of the Securities and Exchange Commission appeared before our committee the following year, he repeated the Commission's recommendation that these funds be covered. The Commission had justified its request on the grounds that, in recent years, several companies had actively sought to capitalize on the popularity of mutual funds by appealing to unsophisticated investors of modest means.

This subject was also discussed in a committee print published by the Committee on Banking and Currency in May 1967, in which the oil and gas exclusion was analyzed by the SEC staff.

The following year, the committee reported out a bill embodying the Commission's recommendations with respect to oil and gas. The committee report repeated the reasons for the committee's action. On the floor, however, the bill's managers accepted an amendment to retain the full oil and gas exclusion.

This year, the committee has again voted to eliminate the exclusion for those oil and gas funds which are structured along the lines of convention mutual funds.

It is my contention that circumstances have dramatically changed in the past year in a way which makes it imperative that the committee's decision be upheld by the full Senate.

The statistics tell the story well. These statistics, I might add, have been compiled by the Oil and Gas Section of the Securities and Exchange Commission, which handles the registration of oil and gas funds under the Securities Act of 1933.

Up through the end of 1967, the dollar amount of new registrations was relatively low, ranging in the 4 years ending in 1967 from $83 million to about $230 million. In 1968, the year the Senate decided to continue the exclusion, the dollar amount of registrations jumped to $695 million. This year, it is estimated that the dollar amount will be about $1 billion. This industry has become perhaps the fastest growing segment of the financial community.

At the same time that the dollar amount grew, the number of registrations also jumped. Down to 29 registrations in each of 1965 and 1966, the number increased to 46 in 1967 and more than doubled in 1968, to 97 registrations. What is particularly interesting is that some of these recent registrations have been enormous in size. In 1964, the largest registrations were funds in the $5 to $10 million class. Not until 1967 was there a single registration of over 25 million, and last year, when the Congress continued the exclusion from regulation, there were actually two funds registering amounts of $100 million a piece or more.

A particularly revealing statistic is the one concerning the use of underwriters. The claim has been made that the typical oil and gas fund is a small operation, appealing to friends and neighbors in oil territory. As we have seen, the dollar volume no longer can be considered to represent small operations. At the same time, funds have relied heavily on underwriters to bring their securities to the attention of investors far removed from any contact with the oil industry.

In 1964, for example, only 12 funds made any use of underwriters. At the same time, 12 funds did not make use of underwriters.

In 1968, however, when we continued the exclusion, the figures showed a dramatic change. Once again, 12 funds did not make use of underwriters. The dramatic growth was in the number of funds using them, which expanded from the 12 of 1964 to the staggering figure of 85 in 1968. The message is clear, the growth in these funds has come in the area of wide appeal to investors who may have no personal knowledge of the fund's promoters or prospects.

There are other statistics showing the change which has occurred since our floor action of last year. In the 4 years ending in 1967, an average of 19 funds per year made participations available at figures low enough to appeal to unsophisticated investors. Last year, 58 funds, over half of those registered that year, could be bought for less than $10,000 each.

Now I would point out, Mr. President, that the language reported by the committee will still continue the exclusion for those oil and gas funds which do not issue redeemable securities, periodic payment plans, or face amount certificates of the installment type.

But Senators may ask, why should even these funds be covered? Why are the problems which have been discovered which indicate that small, unsophisticated investors cannot understand what they are getting into?

I can best illustrate the situation which can face an unsophisticated investor by referring to one particular fund. This fund, which I have selected for discussion, is typical of the new breed of oil and gas funds in that it is large—its current registration statement is for $63 million—and it is available to investors on a monthly payment plan for as little as $50 a month after a $150 initial payment.

Let us look, for example, at the various expenses of this particular fund. The securities are distributed by members of the National Association of Securities Dealers, a nationwide organization including almost all securities brokers and dealers. Dealers selling these securities in single payment plans receive a 7½-percent commission. If they sell monthly plans, they receive the same 7½ percent plus a "plan opening bonus" ranging from 3 percent of the monthly payment on small plans to no extra bonus on large plans.

In addition, dealers receive a "plan maintenance fee" of 1 percent of the reinvested net cash receipts of the fund. Now, of course, all of the money to pay the dealers comes out of the pockets, through one fee or another, of the securities holders.

In addition, the managers of the fund receive a fee for their services for the supervision of cash investments. This fee amounts to 5 percent of the net cash receipts available for reinvestment.

In addition, the management company receives a separate fee for its management services. This fee is computed by adding the direct expenses of management, the fund's share of indirect expenses such as the salaries of the promoter and all the officers, plus 25 percent of something called "net operating profits." This term is not what you or I would ever call net operating profits, since it is computed without any deduction for such normal oil expenses as depletion, depreciation, and certain rental expenses.

Oh yes, Mr. President, the management fee also includes the interest on such funds which the company has idle awaiting investment. That interest is taken by the management company, unless, of course, it is making loans to itself, which it does on an interest-free basis.

What is particularly interesting about this company, Mr. President, is the way in which it provides for the effective redemption of its securities during the 10 year life of a plan. The underwriter stands ready to repurchase the securities at something called a cash surrender value, which is computed as follows:

A determination is made of the pro rata share of the security holder's interest in cash on hand, oil leases, and other property. The security holder can recover 95 percent of his own share of the cash on hand. This is somewhat unusual.

He can recover only 80 percent of the value of all others assets, excluding oil properties. This is more unusual.

He can recover only 66⅔ percent of the value of his oil and gas properties. And those properties, Mr. President, are evaluated in the final analysis by the management of the fund, which reserves the right to overrule the decisions of outside engineers.

Mr. President, the information on this particular fund was put together by an attorney who is experienced in reading prospectuses, and who does have a rather sophisticated knowledge of securities together with a knowledge of oil financing.

And it took him the better part of 2 days. It is clear that a small, unsophisticated investor would have a great deal of trouble understanding what he was getting into.

Now, Mr. President, the fund specifically states that it will not give its security holders information on which they may make their own decisions about the value of their own shares. Unlike most companies which we may be familiar with, this company will not give its shareholders even an annual report listing the fund's investments. This is clearly one way in which the Investment Company Act should be promptly applied. I am hopeful that the Senate will support the decision of the Banking and Currency Committee that these funds be brought back under the Investment Company Act.

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

The PRESIDING OFFICER (Mr. EAGLETON in the chair). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BENNETT. 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. TOWER. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 7, strike out lines 5 through 14, inclusive.

On page 7, line 15, strike out "(6)" and insert in lieu thereof "(5)".

On page 8, immediately after line 4, insert the following new subsection:

"(c) the Securities and Exchange Commission shall, no later than January 31, 1970, submit a report to the Senate and House of Representatives concerning paragraph 11 (redesignated paragraph 9(b) section 3b(2) of this act) of section 3c of the Investment Company Act of 1940 (15 U.S.C. 80a–3c11), including, but not necessarily limited to, its suggested methods to deal with adequate disclosure of assets and identification of other mineral holdings, and the redemption rights of investors therein of such companies investing in securities consisting of interests in oil, gas and other mineral rights."

Mr. TOWER. Mr. President, there is a continual conflict between the need to regulate and the need to operate freely. The history of Federal regulation of private industry has been punctuated with instances when poorly prepared and inadequately administered guidelines have so involved private industry in redtape and endless bureaucratic forms that industry has lost its greatest asset—the ability to function quickly and efficiently.

However, history also contains examples of incidents when unregulated business activity has resulted in significant harm to the American economy. In the financial world, Congress found it necessary to develop the Securities Exchange Act of 1934 and the Investment Company Act of 1940 to deal with these problems. They were developed after careful thought and as the result of detailed study. Congress realized that it is important to avoid destroying a needed segment of our economy just to correct the inequities which existed.

As a result of this careful consideration and detailed analysis, the Congress decided to exempt companies investing in securities consisting of interests in oil, gas and other mineral rights from coverage under the 1940 act. I feel that that decision was eminently correct.

However, there are those who argue that times have changed since 1939 and that we must now eliminate this exemption. They would remove it without study, without opportunity for the industry to be regulated to testify, and without an explanation from the regulating body as to just how it plans to apply the Investment Company Act of 1940.

Mr. President, that is not a very sound way to legislate. The problems involved in the regulation of financial institutions are too complex to be legislated in the dark. We must carefully analyze the effect of this regulation activity before we allow it.

Therefore, I introduce an amendment which will provide for this needed study. My amendment directs the Securities Exchange Commission to study the problems associated with the regulation of companies dealing strictly in oil and gas interests and to report the results of that study to us no later than January 31, 1970. It is a simple amendment but one which is necessary if we are to legislate from knowledge and study rather than from reaction and emotion.

Mr. President, I am aware that my amendment is a compromise. As I stated, I for one do not think that the exemption to the Investment Act of 1940 should be eliminated. However, I will not insist on an immediate decision by my colleagues, particularly when they have not had the benefit of study or of committee hearings. This is only fair and just. I urge my colleagues to accept this amendment.

Mr. McINTYRE. Mr. President, I should like to reply to my good friend from Texas and say, first, that I have discussed this matter with the Senator from Texas, and with other Senators and would like to clarify the RECORD.

First of all, this matter made its appearance back in 1966 when the Securities and Exchange Commission recommended that the gas and oil mutual funds be placed under the regulations of the 1940 act.

In 1967, this exemption was removed in the bill introduced in the Senate.

I might say to my good friend from Texas that in 1967 the industry did not choose to appear and present its case before our committee which was considering mutual fund legislation. However, as he well knows, it was deleted. I think, in fairness to the chairman, the Senator from Alabama, and myself, I would say that it was deleted on the floor mainly because we were pursuing the objective of passing mutual fund legislation for the first time and we did not want to get involved in a long dispute with the former Senator from Oklahoma, Mr. Monroney.

Now, I think we recognize that there are some unique features of the oil and gas mutual fund. We feel, I feel, that the Securities and Exchange Commission has enough exemptive powers today so that it can negotiate with the industry to come up with a satisfactory solution.

I also want to say that I do feel a little bit on the defensive here, in view of the fact that we have not had, as I think the Senator from Texas stated in his remarks, the extensive type of hearings we all would always like to have. But I think there is no doubt of the history of Securities and Exchange Commission's recommendations of Mr. Cohen's own personal recommendations to the committee in 1967, and the growing fact, as the Senator from Texas well knows, that the oil and gas people are now expanding their securities sales upward of $1 billion, so that there is no doubt they do need to have some form of regulation.

I also have been informed that many areas of this industry would like and would welcome some form of regulation, because they feel that their greatest enemies today are some of the flimflam outfits which are operating in this area at the expense of the unsophisticated investor.

In order to meet the objection of the Senator from Texas to the bill as it now stands, we are prepared to offer another amendment if, at the same time, the Senator from Texas will withdraw his amendment. The extent of this amendment will simply be to postpone the effective date of the section of the bill that deals with the oil and gas mutual funds to 18 months from date of enactment.

If the Senator from Texas is agreeable and will withdraw his amendment, I will then be happy to offer my amendment and move its adoption.

Mr. TOWER. I thank the distinguished Senator from New Hampshire. I might say that I am aware that the Securities and Exchange Commission has proposed that the industry be regulated. My amendment actually would, in effect, implement that desire on their part by asking them to devise a plan for us and submit it to us so that we could consider it.

But with the assurance of the Senator from New Hampshire that he recognizes the unique character of funds of this kind that do engage in the business of owning and holding gas and mineral securities, and if it is the Senator's understanding that it would be our intention for the Securities and Exchange Commission to get together with the industry and work with it on working out the unique problems involved, and working out an equitable arrangement for regulation that would protect and safeguard the consumer, and would not impose an unreasonable burden on the industry, then I would be prepared to accept the amendment offered by the Senator from New Hampshire.

Mr. McINTYRE. I understand the Senator from Texas has withdrawn the amendment which he presently has at the desk.

Mr. TOWER. Yes.

The PRESIDING OFFICER. Does the Senator withdraw his amendment?

Mr. TOWER. As I say, I would be prepared to, but I wanted to get some response from the Senator, if that is his understanding.

Mr. SPARKMAN. Mr. President, will the Senator yield to me?

Mr. TOWER. I yield to the Senator from Alabama.

Mr. SPARKMAN. I merely wish to point out that the Senator from Texas knows that is exactly how we have considered this legislation. It was worked out between the industry and the Securities and Exchange Commission, as well as with members of our committee, of which the Senator from Texas is a very valued member. We will certainly continue to follow that same pattern. The Senator from New Hampshire (Mr. McINTYRE) has offered an amendment. Of course, I leave it up to him, but I presume it would exactly follow that same pattern.

Mr. TOWER. I am trying to make legislative history as to our intent.

Mr. SPARKMAN. It is to get the Securities and Exchange Commission and the industry together to work out a satisfactory solution.

Mr. TOWER. With that understanding, I am delighted to withdraw my amendment in favor of the amendment offered by the Senator from New Hampshire.

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

Mr. TOWER. I yield to my distinguished colleague from Colorado.

Mr. ALLOTT. Mr. President, while we are all on the floor, I would like to ask the distinguished Senator from Texas to answer a question, because I want to be sure that I understand the effect of the proposed amendment. If it means what I think it does, it will certainly be satisfactory to the Senator from Colorado. It is my understanding that during the 18-month interim the proposed application of the rules that now apply to mutual investment funds across the board would be studied, and that this portion of the industry and the Securities and Exchange Commission would get together for perhaps a twofold purpose: first, to determine what regulations might be necessary in light of the unique characteristics of the oil and gas industry, and then to implement regulations which would apply to this particular type of company. Is that the understanding?

Mr. McINTYRE. That is essentially the understanding that the Senator from Texas, I, and the chairman of the committee have. We recognize that there are certain unique features of the oil and gas industry. One, of course, is valuation, which poses quite a question for some of these companies. As I said in my remarks, the Securities and Exchange Commission has certain discretionary and exemptive powers, so that when the industry sits down with the SEC to apply the test of placing them under the 1940 act as amended, a reasonable solution to the problems can be put together. That is the assurance I want to give to the Senator from Texas and also to the Senator from Colorado.

Mr. ALLOTT. Mr. President, will the Senator yield further?

Mr. TOWER. I yield.

Mr. ALLOTT. One thing that bothers me is there is a requirement of reports which are inapplicable. For instance, I refer to real estate transactions. The oil and gas industry make many transactions every day of this particular nature. Perhaps they do not engage in these transactions every day, but on some days they may make 50 or 100. It seems to me, if such disclosure were required, the disclosure could, from the standpoint of the legal descriptions alone, run into hundreds of pages. That, however, would be, not as in a mutual fund, but in the normal course of business and would mean very little to the investor.

I think the Senator is entirely right that this area needs to be looked at, and perhaps looked at very closely.

As I said when the matter was before the Senate last year while we were discussing S. 3724, various sections of the Securities Act of 1933, under which these companies are formed apply. They do register and they must make disclosures to the Securities and Exchange Commission.

I really feel that there is a unique aspect about these companies which does not fall within the pattern of the usual mutual fund as the Senator from New Hampshire ordinarily thinks of it and as I think of it. I just want to be sure that there is adequate time and an opportunity for the Securities and Exchange Commission to take a hard look at the problem, with representation being made by the companies themselves, so that, in the event unique and different kinds of regulations are needed as distinguished from the mutual funds, they might be applied.

I understand that is the purpose of both the Senator from Texas and the Senator from New Hampshire.

Mr. McINTYRE. That is substantially the purpose of the Senator from New Hampshire. There are certain areas, such as reporting, that we would want the SEC to take a hard look at. I referred to this problem in my earlier statement. The difficulty arises because the oil and gas mutual funds, for lack of a better name, are utilizing the merchandising techniques of the mutual fund industry and in doing so are getting the benefit of that merchandising and salesmanship, and yet fall outside the purview of some reasonable regulation which they should be under today. As the Senator knows, they are selling at $150 down and $50 a month. That is for the small investor. That is not the way this segment of the industry got going in 1940, as the Senator knows.

Mr. President, I send my amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment offered by the Senator from New Hampshire will be stated.

The ASSISTANT LEGISLATIVE CLERK. It is proposed, on page 65, line 8, after "(4)", to insert "section 3(b)(5) and".

The PRESIDING OFFICER. The question is on the adoption of the amendment of the Senator from New Hampshire.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. McINTYRE. Mr. President, I have certain uncontroversial technical amendments to the Investment Company Amendments Act. These amendments were the subject of a thorough review which I placed in the RECORD last Friday. The amendments have been cleared on both sides of the aisle.

I send my amendments to the desk.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk proceeded to read the amendments.

Mr. McINTYRE. I ask unanimous consent that further reading of the amendments be dispensed with.

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

Mr. McINTYRE's amendments are as follows:

On page 8 after line 4 insert the following:

"SEC. 3(c)(1) Section 8(b)(2) of such Act (15 U.S.C. 80a-8(b)(2)) is amended to read as follows:

"'(2) a recital of all investment policies of the registrant, not enumerated in paragraph (1), which are changeable only if authorized by shareholder vote;'

"(2) Paragraphs (3) and (4) are redesignated as paragraphs (4) and (5), respectively.

"(3) A new paragraph is inserted immediately after paragraph (2) to read as follows:

"'(3) a recital of all policies of the registrant, not enumerated in paragraphs (1) and (2), in respect to matters which the registrant deems matters of fundamental policy;'

"(d) Section 13(a)(3) of such Act (15 U.S.C. 80a-13(a)(3)) is amended to read as follows:

"'(3) deviate from its policy in respect of concentration of investments in any particular industry or group of industries as recited in its registration statement, deviate from any investment policy which is changeable only if authorized by shareholder vote, or deviate from any policy recited in its registration statement pursuant to Section 8(b)(3);'"

On page 30, line 23, insert "(a)" after "SEC. 13."

On page 31, after line 23, insert:

"(b) Section 24 of such Act (15 U.S.C. 80a-24) is further amended by adding at the end thereof a new subsection to read as follows:

"'(f) In the case of securities issued by a face-amount certificate company or redeemable securities issued by an open-end management company or unit investment trust, which are sold in an amount in excess of the number of securities included in an effective registration statement of any such company, such company may, in accordance with such rules and regulations as the Commission shall adopt as it deems necessary or appropriate in the public interest or for the protection of investors, elect to have the registration of such securities deemed effective as of the time of their sale, upon payment to the Commission, within six months after any such sale, of a registration fee of three times the amount of the fee which would have otherwise been applicable to such securities. Upon any such election and payment, the registration statement of such company shall be considered to have been in effect with respect to such shares. The Commission may also adopt rules and regulations as it deems necessary or appropriate in the public interest or for the protection of investors to permit the registration of an indefinite number of the securities issued by a face-amount certificate company or redeemable securities issued by an open-end management company or unit investment trust.'"

On page 28, line 10, insert "to registered investment companies and" after "applicable".

The PRESIDING OFFICER. The question is on agreeing to the amendments of the Senator from New Hampshire.

The amendments were agreed to.

Mr. PROXMIRE. Mr. President, I believe the committee has done an excel-

lent job in reporting a fair and equitable mutual fund bill. I particularly want to compliment the chairman in the patience and leadership he has shown in bringing the SEC and the industry together on this most complicated and far-reaching legislation. While there are no doubt still differences of opinions on different sections of the bill, by and large it is a good bill; it is a bill which will give the investor substantially more protection than he is getting today; and it is a bill which is fair to the mutual fund industry.

Although I do support the overall bill, I strongly believe that the bill is sadly lacking in one particular instance. I am referring to the section dealing with face-amount certificates. In voting to continue the front-end load on face-amount certificates, in my opinion, the committee perpetuates the sale of a financial instrument which borders on the unconscionable. The small investor is entitled to better protection in this area, and I am disappointed that the committee did not see fit to give it to him.

A face-amount certificate is essentially a fixed income savings instrument which is frequently sold on the installment plan. By fixed income, I mean that it has a fixed rate of return. There is no possibility of capital appreciation such as in the case of a mutual fund or other equity investment.

The largest face-amount certificate company is a wholly owned subsidiary of Investor Diversified Services, Inc., the largest mutual fund in the country. The subsidiary, which is called Investors Syndicate of America—ISA—is currently selling a 15-year and a 22-year certificate. The 15-year certificate would require monthly payments of $5. If these payments are made over the full 15 years, the certificate would mature to its full face-amount, which would be $1,100. The 22-year certificate involving monthly payments of $5 would mature to a value of $1,875. The maturing value of all outstanding ISA certificates exceeds $2 billion, which represents about 95 percent of the total issued by all companies.

If all of the monthly payments were made to maturity on the 15-year certificate it would, according to the ISA prospectus, have a guaranteed minimum yield of 2.52 percent. By the same token, if all of the payments were completed on the 22-year certificate, the investor would be rewarded with a yield of 3.01 percent.

I should stress that these are guaranteed minimum yields. The company can in its discretion pay a higher rate from time to time, if it believes economic conditions warrant. At the present time, the company is paying an additional dividend credit of 1 percent per year.

Thus, if the individual makes payments on the certificate for the full 22-year period, he might enjoy a 4-percent yield; and because of the tax deferral privileges of face-amount certificates the effective yield might even approach 4½ percent. However, the investor only gets this yield if he makes all the payments over a 22-year period. If he cashes the certificate in during the first 8 years, he will suffer a loss of part of his original invested capital. If he redeems after 8 years but prior to the 22-year maturity date, his yield will be substantially lower.

One might well ask, "How many people cash these instruments in during the first 8 years?" A study by the Securities and Exchange Commission covering the period from 1941 through 1961 shed some light on this question. According to the SEC study, 55 percent of face-amount certificates are redeemed by investors during the first 8 years. If this redemption rate holds up for the certificates currently being sold, it means that a majority of the people who are unwise enough to invest in these dubious instruments will actually lose money.

The reason investors will lose money during the first 8 years is that the Investment Company Act and the committee bill permits a maximum sales charge of 9 percent. Moreover, under the committee bill, up to 20 percent of the annual payments during each of the first 3 years can be allocated to the company in the form of a sales commission.

In effect, the company grabs its commission during the first few years rather than spreading it out evenly over the life of the certificate. Thus, because of the front-end load, the investor who redeems a certificate during the first 8 years will suffer a substantial loss.

In the case of a mutual fund, this loss is partially compensated for by the possibility of capital appreciation. If the stock market continues an upward trend, those who invest in mutual funds on the contractual plan will generally break even during the first 2 or 3 years despite the front-end load because of the increase in value of the mutual fund shares. This, of course, is not possible with a face-amount certificate since it is a fixed income investment as opposed to an equity investment.

The committee justified the continuation of a modified front-end load on mutual funds on the grounds that it was in the public interest to encourage greater investment in equities on the part of the small investor as a hedge against inflation. But surely this rationale does not extend to a fixed income, low-yield investment such as a face amount certificate. What public purpose is served by encouraging this dubious investment?

Even if the investor should make all of the scheduled payments to maturity, he still could have achieved a better yield on other comparable fixed income investments. For example, on page 189 of the hearings, a table prepared by the Library of Congress shows that an investor would be substantially better off investing in shares of a savings and loan association at 4¾ percent even after taking into account the tax deferral advantages and extra dividend credit currently offered by face-amount certificates.

Not only does the investor obtain a higher yield if he puts his money in a savings and loan association, he also enjoys Federal deposit insurance and complete liquidity. He can withdraw his funds at any time without suffering a loss. One wonders why any rational investor would buy a face amount certificate.

I point out that $2 billion of these certificates have been sold and are now held by American investors.

Prof. Henry Wallich, of Yale, in testimony before our committee, had the same question when he observed:

> It seems hard to believe in today's market where one can buy bonds at six and seven percent that those things could be sold other than by pure force of salesmanship.

Thus, it would appear that virtually no one benefits from purchasing a face-amount certificate, and as shown by the SEC study, a majority of people actually lose money due to the front-end load.

Because of the pernicious effects of the front-end load, the Securities and Exchange Commission in its report entitled, "Public Policy Implications of Investment Company Growth" has concluded:

> There is no justification for front-end loads in the sale of face-amount certificates.

This recommendation was included in the original legislation submitted by the SEC in 1967. Unfortunately, the committee saw fit to modify the Commission's recommendations and to permit the continuation of charging a front-end load on these certificates. If the aim of the mutual fund bill is to protect the investor, I do not see how the committee can recommend the continuation of the front-end load on face-amount certificates, when the figures show that a majority of the people who buy these certificates will lose money. I am sorry to say that the committee provision on face-amount certificates makes a mockery of investor protection.

During the executive session on the mutual fund bill, I offered an amendment to S. 34 which would have abolished the front-end load on face-amount certificates in keeping with the SEC's original recommendation. Despite the fact that the proposed abolition of the front-end load on face-amount certificates has been before the committee for at least 2 years; and despite the fact that it was discussed on many occasions during the hearings; and despite the fact that it has been the subject of intensive investigation by the SEC, the committee felt that "further study" was needed before the front-end load on such certificates can be abolished.

Mr. President, I had intended to offer an amendment to the bill to prohibit the front-end load for face-amount certificates. However, I shall not press that amendment, because there is still a feeling on the part of some members of the committee that this subject ought to be studied more carefully before we act on it.

I say that we already have had substantial study. In the words of the SEC study of nearly 3 years ago:

> There is no justification for front-end loads in the sale of face-amount certificates.

I believe we should abolish the front-end load today so that the thousands of investors who invest in these instruments will not suffer the financial losses they have suffered in the past.

However, the matter does represent a substantial financial interest for one big company. For that reason, instead of offering my amendment—and I have discussed this matter with the distinguished chairman of the committee, and also with

the distinguished Senator from Minnesota (Mr. MONDALE), who of course represents the State where this large fund is domiciled—I ask the distinguished chairman of the committee (Mr. SPARKMAN) if it would be satisfactory with him for the committee to request the Securities and Exchange Commission to make a study of the face-amount certificates, and to report back within 3 months, the study to include the following elements:

First, current redemption rates;

Second, percentage of persons losing money;

Third, manner in which such certificates are sold;

Fourth, after-tax yields obtainable on alternative investments;

Fifth, economic impact on industry of abolishing front-end load; and

Sixth, recommendations as to whether front-end load should be continued.

Mr. SPARKMAN. Mr. President, in reply to the question of the distinguished Senator from Wisconsin, I should certainly be glad to go along with the views that he has expressed, in asking the Securities and Exchange Commission to supply such information to our committee.

The Senator knows that when the amendment was voted down in the committee, it was on that basis that we did not have sufficient information. I still think that is correct, and I think that by making the specific request of the Securities and Exchange Commission, we may get a great deal more information than we have now. If it is then found necessary, we could enact additional legislation.

Mr. PROXMIRE. Mr. President, I thank the distinguished chairman of the committee, and I shall not offer my amendment, on the understanding that there will be such a study requested by the committee of the SEC.

Mr. SPARKMAN. That is correct.

Mr. BENNETT. Mr. President, as the ranking minority member of the committee, I wish to state that I support the chairman and the distinguished Senator from Wisconsin.

Mr. PERCY. Mr. President, I believe the bill before us today—S. 2224—will insure the continued growth and prosperity of the mutual fund industry as well as provide basic safeguards to the American investor who has put his savings into the purchase of mutual funds.

For almost 3 years, the Banking and Currency Committee has been striving to obtain a bill that would protect the consumer interest of the 5 million Americans with savings in mutual funds and at the same time update the Nation's securities laws to reflect the growing mutual fund industry and help the industry maintain its healthy growth. Updating of the securities laws is necessary as the last revisions took place in 1940 when the industry had only $450 million in assets. Today the industry has assets of over $50 billion.

I opposed last year's bill as it gave jurisdiction to the courts to determine what were reasonable management fees. After further hearings this year and consultation between the SEC and the industry a new test for determining whether management fees are reasonable has been devised. The proposed legislation from the committee holds that a mutual fund investment adviser has a specific fiduciary duty in respect to management fee compensation.

Jurisdiction in enforcing this fiduciary standard is placed in the courts. Either the SEC or mutual fund stockholders can sue in order to have a determination as to whether the investment adviser has fulfilled his fiduciary duty to the mutual fund shareholders in determining the fee. This is a fair and reasonable compromise for the problem of management fees, and I support this version as worked out by the committee.

Another sound compromise has been worked out regarding front-end loads and for this I must give ample credit to Senator BENNETT, ranking Republican on the committee. This proposal gives mutual fund companies the option of limiting the amount that could be deducted for sales charges to 20 percent of the investors payments during the first 3 years, or would permit the company to retain the current front-end load but provides for redemption priviledges during the first 3 years that would reduce the investors sales load to 15 percent of total payments made under the plan. These provisions discourage overselling of plans to investors unable to undertake such commitments and encourage selling to investors who will persist in their plan payments.

In general the committee is proposing a fair and reasonable bill. I am particularly pleased with the increasing cooperation between the SEC and the mutual fund industry that has evolved during consideration of this bill. It is a good sign when the industry and the government sit down to mutually resolve problems and, if nothing else, I feel we have a better basis for cooperation between the two in the future.

I hope the Senate will give favorable consideration to this bill.

Mr. BROOKE. Mr. President, I rise today to offer my support of Senate bill 2224, the Investment Company Amendments Act of 1969. This bill amends certain sections of the Investment Company Act of 1940 which pertain to investment company management fees, mutual funds sales commissions, and contractual plan sales commissions. The bill also amends certain provisions of the Federal securities laws to permit banks and savings and loan associations to operate collective funds in competition with mutual funds. Finally, the bill includes a number of technical amendments to the Investment Company Act of 1940 and the Investment Advisers Act of 1940 which would facilitate and improve the administration of these acts.

S. 2224 represents a significant improvement over the provisions contained in S. 3724 which was passed by the Senate last year and which I did not support. There are, however, a number of issues which must still be addressed in future legislation after adequate studies have been completed.

The most controversial provision contained in last year's bill dealt with the reasonableness of investment company management fees. Mutual funds are normally organized, promoted, and managed by external organizations which are referred to as "investment advisers." These organizations are usually large investment companies which manage the fund's portfolio in exchange for management or advisory fees. These fees are calculated as a percentage of the fund's net assets and fluctuate with the value of the fund's investment portfolio.

Since fund shares are often purchased by investors in reliance upon the investment adviser's management competence, a mutual fund is not in a position to sever its relationship with the adviser and, therefore, often does not deal with the adviser on an arm's-length basis. Thus, this relationship has given rise to problems; namely, the economies of scale which have been realized in the industry as a whole as a result of its phenomenal growth have not been shared with investors. This observation is made not to chastise an industry which has contributed significantly to the welfare of the investing public; but to point out that even the most praiseworthy industries are subject to shortcomings which require legislative solutions.

Last year's bill—S. 3724—contained a provision stating that management fees should be "reasonable." Jurisdiction was vested in the courts to determine what constituted a reasonable fee. I and several of my colleagues on the Banking and Currency Committee objected to this provision on the ground that courts would be setting management fees.

S. 2224 represents a substantial change in emphasis from the provisions contained in last year's bill. As a matter of Federal law, the investment adviser will be subjected to a fiduciary duty to mutual fund share holders with respect to management fee compensation. Similar fiduciary duties will be owed by certain other persons with respect to their compensation from the fund. The doctrine of "corporate waste" will no longer prevent shareholder suits where management fee contracts have been ratified by shareholder votes. Thus, the established corporate law concept of fiduciary duty will be applied to management compensation contracts and suits grounded on a breach of this fiduciary duty can be brought by mutual fund shareholders or the SEC.

This, in my judgment, represents a significant improvement over last year's bill in that unconscionable management fee contracts can be challenged; however, the judiciary does not assume the role of a "rate fixer." While the ultimate responsibility for determining whether the investment adviser's fiduciary duty has been breached rests with the courts, approval of management fee contracts by the directors and the shareholders will be given adequate consideration.

It should be emphasized that the committee in its report to the Senate on S. 2224 does not make any finding that the present level of management fees is too high. S. 2224 does, however, provide a mechanism by which the fairness of management compensation contracts can be tested where shareholder recourse has hitherto been noticeably absent. Adequate compensation and incentives

must be provided to companies and individuals which advise the fund on its investments and market fund shares; however, individual investors must share equitably in the economies of scale available as a result of tremendous growth in this industry.

Recognizing the need to balance adequate compensation for the industry with adequate investor returns—consistent with market fluctuations—I am pleased to see that a compromise has been reached with respect to the establishment of a commission rate structure for mutual fund sales loads. Under this compromise, the industry would provide self-regulation with oversight by the SEC. The SEC would be empowered to alter or supplement industry rules. This solution is preferable to that involved with eliminating the resale price maintenance provisions contained in section 22(d) of the Investment Company Act of 1940. Expert testimony delivered before the Banking and Currency Committee indicated that elimination of section 22(d) could have adverse consequences on the industry which are not foreseeable at this time. The SEC has been requested to review the consequences of such a proposal on both the investing public and mutual funds sales organizations. I believe that this study is the sine qua non of further action in this area.

With respect to front-end loads paid by investors who participate in contractual plans, many of the problems which existed in S. 3724 have been resolved. The original SEC recommendation that front-end loads be prohibited was rejected by the committee. On the other hand, the committee felt that the front-end load—or prepayment of sales charges on contractual plans—detrimentally affected investors who withdrew from the plans at an early date unless the stock market had risen rapidly. Accordingly, I am pleased to note that a compromise has been reached whereby either the front-end load is reduced considerably or investors are able to receive refunds if withdrawal takes place at an early date. More specifically, salesmen would be given the option of employing a "spread load" whereby the front-end load would be extended over a 4-year period with no more than 20 percent of any one year's payments deducted for sales loads. The total deduction allowable during the first 4 years would be limited to 64 percent. This contrasts greatly with present provisions which allow for a 50-percent front-end load that can be deducted in the first year of the plan. Thus, the investor would have more money actually invested in underlying securities during the first years of the plan and the possibility of loss in the event that he redeemed during this period would be substantially decreased.

Under the second alternative the 50-percent front-end load presently authorized could be retained provided that if the investor elected for any reason to redeem his underlying shares for cash during the first 3 years, he would be entitled to receive a refund of the amount by which all sales charges paid exceed 15 percent of the total payments made under the plan. Thus, the investor would also have more money actually invested under this alternative than under present provisions and his possibility of loss in this first few years would be decreased substantially.

Although I believe the front-end load provisions contained in S. 2224 are an improvement over the provisions contained in last year's bill, I have also been impressed with the fact that several States prohibit front-end loads entirely—for example, California—and nevertheless have a thriving mutual fund industry. Thus, there appears to be reason for considering whether additional improvements might be made in the front-end load provisions without seriously jeopardizing the mutual fund industry sales forces. I withhold amendments in this area until additional study can be given to the experiences found in "no-load" States with respect to the composition of industry sales forces and the nature of the sales activity involved.

S. 2224 also contains provisions dealing with sales charges for "face amount certificates." These instruments are debt securities that provide for periodic payments over a number of years. The investor is paid a fixed sum of money upon the maturity of the certificate and lesser sums if the certificate is surrendered prior to maturity. These lesser sums reflect the deduction from investors' payments of front-end load sales charges. S. 2224 provides a 20-percent front-end load limitation on these instruments. My very able colleague, Senator PROXMIRE, has expressed reservations as to whether the fact amount certificate provisions in this bill are adequate. I support the present provisions pending further study as to the consequences of eliminating the front-end load provisions entirely.

The bill which is now under consideration contains additional provisions which would permit banks to engage in equity investments by offering their investment services to individuals through the use of collective investment funds. I am cognizant of the fact that the banking provisions of this bill conflict with certain provisions contained in the Banking Act of 1933—commonly known as the Glass-Steagall Act—which precludes banks from entering the securities business.

I believe that adequate evidence exists to justify the entry of banks and savings and loan associations into the mutual fund field and the increased activity of insurance companies. The American investor will be the benefactor of such activities since he will be provided with a wider choice among different equity investment fedia. While I believe that there is some justification for the argument that any expansion of the banking industry into this new field of endeavor should be considered as part of the larger "one-bank holding company" issue, I do feel that the subject has received adequate consideration before the Banking and Currency Committee and it has chosen to consider the issue in this context. I believe that decision is justified.

In conclusion, I would like to commend S. 2224 to my colleagues in the Senate. I believe it represents a significant contribution to the law in this field. While there are issues which remain unresolved, we must not postpone the enactment of legislation which will have a significant bearing on the growth of this important industry. I urge that S. 2224 be adopted.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2224) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2224

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Investment Company Amendments Act of 1969".

SEC. 2. Section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)) is amended as follows:

(1) Paragraph (5) is amended by striking out "under section 11(k) of the Federal Reserve Act, as amended" and inserting in lieu thereof "under the authority of the Comptroller of the Currency".

(2) Paragraphs (19) through (35) are redesignated as paragraphs (20) through (36), respectively, and paragraphs (36) through (42) are redesignated as paragraphs (38) through (44), respectively.

(3) A new paragraph is inserted immediately after paragraph (18) to read as follows:

"(19) 'Interested person' of another person means—

"(A) when used with respect to an investment company—

"(i) any affiliated person of such company,

"(ii) any member of the immediate family of any natural person who is an affiliated person of such company,

"(iii) any interested person of any investment adviser of or principal underwriter for such company,

"(iv) any person or partner or employee of any person who at any time since the beginning of the last two fiscal years of such company has acted as legal counsel for such company,

"(v) any broker or dealer registered under the Securities Exchange Act of 1934 or any affiliated person of such a broker or dealer, and

"(vi) any natural person whom the Commission by order shall have determined to be an interested person by reason of having had, at any time since the beginning of the last two fiscal years of such company, a material business or professional relationship with such company or with the principal executive officer of such company or with any other investment company having the same investment adviser or principal underwriter or with the principal executive officer of such other investment company:

Provided, That no person shall be deemed to be an interested person of an investment company solely by reason of (aa) his being a member of its board of directors or advisory board or an owner of its securities, or (bb) his membership in the immediate family of any person specified in clause (ee) of this proviso; and

"(B) when used with respect to an investment adviser of or principal underwriter for any investment company—

"(i) any affiliated person of such investment adviser or principal underwriter,

"(ii) any member of the immediate family of any natural person who is an affiliated person of such investment adviser or principal underwriter,

"(iii) any person who knowingly has any direct or indirect beneficial interest in, or who is designated as trustee, executor, or guardian of any legal interest in, any security issued either by such investment adviser or principal underwriter or by a con-

trolling person of such investment adviser or principal underwriter,

"(i) any person or partner or employee of any person who at any time since the beginning of the last two fiscal years of such investment company has acted as legal counsel for such investment adviser or principal underwriter,

"(v) any broker or dealer registered under the Securities Exchange Act of 1934 or any affiliated person of such a broker or dealer, and

"(vi) any natural person whom the Commission by order shall have determined to be an interested person by reason of having had at any time since the beginning of the last two fiscal years of such investment company a material business or professional relationship with such investment adviser or principal underwriter or with the principal executive officer or any controlling person of such investment adviser or principal underwriter.

For the purposes of this paragraph (19), 'member of the immediate family' means any parent, spouse of a parent, child, spouse of a child, spouse, brother or sister, and includes step and adoptive relationships. The Commission may modify or revoke any order issued under clause (vi) of subparagraph (A) or (B) of this paragraph whenever it finds that such order is no longer consistent with the facts. No order issued pursuant to clause (vi) of subparagraph (A) or (B) of this paragraph shall become effective until at least sixty days after the entry thereof, and no such order shall affect the status of any person for the purposes of this title or for any other purpose for any period prior to the effective date of such order."

(4) A new paragraph is inserted immediately after redesignated paragraph (36) (formerly paragraph (35)) as follows:

"(37) 'Separate account' means an account established and maintained by an insurance company pursuant to the laws of any State or territory of the United States, or of Canada or any province thereof, under which income, gains and losses, whether or not realized, from assets allocated to such account, are, in accordance with the applicable contract, credited to or charged against such account without regard to other income, gains, or losses of the insurance compay."

(5) A new paragraph is inserted immediately after redesignated paragraph (44) (formerly paragraph (42)) as follows:

"(45) 'Savings and loan association' means a saving and loan association, building and loan association, cooperative bank, homestead association, or similar institution, which is supervised and examined by State or Federal authority having supervision over any such institution, and a receiver, conservator, or other liquidating agent of any such institution."

SEC. 3. (a) The second sentence of paragraph (2) of section 3(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(b)(2)) is amended by inserting "in good faith" after "paragraph".

(b) Section 3(c) of such Act (15 U.S.C. 80a-3(c)) is amended as follows:

(1) The material preceding paragraph (1) is amended to read as follows:

"(c) Notwithstanding subsection (a), none of the following persons is an investment company within the meaning of this title:".

(2) Strike paragraphs (4) and (8) and redesignated paragraphs (5) through (15) as paragraphs (4) through (13), respectively.

(3) Redesignated paragraph (5) (formerly paragraph (6)) is amended by inserting "redeemable securities," before "face-amount certificates".

(4) Redesignated paragraph (8) (formerly paragraph (10)) is amended to read as follows:

"(8) Any company subject to regulation under the Public Utility Holding Company Act of 1935."

(5) Redesignated paragraph (9) (formerly paragraph (11)) is amended to read as follows:

"(9) Any person who is not engaged in the business of issuing redeemable securities, face-amount certificates of the installment type, or periodic payment plan certificates, and substantially all of whose business consists of owning or holding oil, gas, or other mineral royalties or leases, or fractional interests therein, or certificates of interest or participation in or or investment contracts relative to such royalties, leases, or fractional interests."

(6) Redesignated paragraph (11) (formerly paragraph (13)) is amended to read as follows:

"(11) Any employees' stock bonus, pension, or profit-sharing trust which meets the requirements for qualification under section 401 of the Internal Revenue Code of 1954; or any collective trust fund maintained by a bank consisting solely of assets of such trusts; or any separate account the assets of which are derived solely from (A) contributions under pension or profit-sharing plans which meet the requirements of such section or the requirements for deduction of the employer's contribution under section 404(a)(2) of such Code, and (B) advances made by an insurance company in connection with the operation of such separate account."

3(c)(1) Section 8(b)(2) of such Act (15 U.S.C. 80a-8(b)(2)) is amended to read as follows:

"(2) a recital of all investment policies of the registrant, not enumerated in paragraph (1), which are changeable only if authorized by shareholder vote;".

(2) Paragraphs (3) and (4) are redesignated as paragraphs (4) and (5), respectively.

(3) A new paragraph is inserted immediately after paragraph (2) to read as follows:

"(3) a recital of all policies of the registrant, not enumerated in paragraphs (1) and (2), in respect of matters which the registrant deems matters of fundamental policy;".

(d) Section 13(a)(3) of such Act (15 U.S.C. 80a-13(a)(3)) is amended to read as follows:

"(3) deviate from its policy in respect of concentration of investments in any particular industry or group of industries as recited in its registration statement, deviate from any investment policy which is changeable only if authorized by shareholder vote, or deviate from any policy recited in its registration statement pursuant to Section 8(b)(3);".

SEC. 4. (a) That part of section 9(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(a)) which precedes paragraph (1) is amended by inserting "employee," before "officer".

(b) Section 9 of such Act (15 U.S.C. 80a-9) is further amended by redesignating subsection (b) as subsection (c) and inserting immediately after subsection (a) a new subsection to read as follows:

"(b) The Commission may, after notice and opportunity for hearing, by order prohibit, conditionally or unconditionally, either permanently or for such period of time as it in its discretion shall deem appropriate in the public interest, any person from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter, if such person—

"(1) has willfully made or caused to be made in any registration statement, application or report filed with the Commission under this title any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such registration statement, application, or report any material fact which was required to be stated therein; or

"(2) has willfully violated any provision of the Securities Act of 1933, or of the Securities Exchange Act of 1934, or of title II of this Act, or of this title, or of any rule or regulation under any of such statutes; or

"(3) has willfully aided, abetted, counseled, commanded, induced, or procured the the violation by any other person of the Securities Act of 1933, or of the Securities Exchange Act of 1934, or of title II of this Act, or of this title, or of any rule or regulation uner any of such statutes."

SEC. 5. (a) Section 10(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-10(a)) is amended to read as follows:

"(a) No registered investment company shall have a board of directors more than 60 per centum of the members of which are persons who are interested persons of such registered company."

(b) Section 10(b) of such Act (15 U.S.C. 80a-10(b)) is amended—

(1) by striking out "After one year from the effective date of this title, no" and inserting in lieu thereof "No"; and

(2) by striking out "affiliated", each place it appears in paragraph (2) and inserting in lieu thereof "interested".

(c) Section 10(c) of such Act (15 U.S.C. 80a-10(c)) is amended to read as follows:

"(c) No registered investment company shall have a majority of its board of directors consisting of persons who are officers, directors, or employees of any one bank, except that, if on March 15, 1940, any registered investment company had a majority of its directors consisting of persons who are directors, officers, or employees of any one bank, such company may continue to have the same percentage of its board of directors consisting of persons who are directors, officers, or employees of such bank."

(d) Section 10(d) of such Act (15 U.S.C. 80a-10(d)) is amended to read as follows:

"(d) Notwithstanding subsections (a) and (b)(2) of this section, and, in the case of a registered investment company which is a collective or other pooled fund maintained by a bank for the collective investment and reinvestment of assets contributed thereto by such bank in its capacity as managing agent, notwithstanding subsections (b)(3) and (c) of this section, a registered investment company may have a board of directors all the members of which, except one, are interested persons of the investment adviser of such company, or are officers or employees of such company, if—

"(1) such investment company is an open-end company;

"(2) such investment adviser (A) is registered under title II of this Act and is engaged principally in the business of rendering investment supervisory services as defined in title II, or (B) is a bank;

"(3) no sales load is charged on securities issued by such investment company;

"(4) any premium over net asset value charged by such company upon the issuance of any such security, plus any discount from net asset value charged on redemption thereof, shall not in the aggregate exceed 2 per centum;

"(5) no sales or promotion expenses are incurred by such registered company; but expenses incurred in complying with laws regulating the issue or sale of securities shall not be deemed sales or promotion expenses;

"(6) such investment adviser is the only investment adviser to such investment company, and such investment adviser does not receive a management fee exceeding 1 per centum per annum of the value of such company's net assets averaged over the year or taken as of a definite date or dates within the year;

"(7) all executive salaries and executive expenses and office rent of such investment

company are paid by such investment adviser; and

"(8) such investment company has only one class of securities outstanding, each unit of which has equal voting rights with every other unit."

(e) Section 10 of such Act (15 U.S.C. 80a–10) is further amended by adding at the end thereof a new subsection as follows:

"(i) Notwithstanding any other provision of law, any director of a member bank of the Federal Reserve System may serve as a director of a registered investment company, if no sales load is charged on securities issued by such company."

SEC. 6. Section 11(b) of the Investment Company Act of 1940 (15 U.S.C. 80a–11(b)) is amended to read as follows:

"(b) The provisions of this section shall not apply to any offer made pursuant to any plan of reorganization, which is submitted to and requires the approval of the holders of at least a majority of the outstanding shares of the class or series to which the security owned by the offeree belongs."

SEC. 7. Section 12(d) of the Investment Company Act of 1940 (15 U.S.C. 80a–12(d)) is amended to read as follows:

"(d)(1)(A) It shall be unlawful for any registered investment company (the 'acquiring company') and any company or companies controlled by such acquiring company to purchase or otherwise acquire any security issued by any other investment company (the 'acquired company' and for for any investment company (the 'acquiring company') and any company or companies controlled by such acquiring company to purchase or otherwise acquire any security issued by any registered investment company (the 'acquired company'), if the acquiring company and any company or companies controlled by it immediately after such purchase or acquisition own in the aggregate—

"(i) more than 3 per centum of the total outstanding voting stock of the acquired company;

"(ii) securities issued by the acquired company having an aggregate value in excess of 5 per centum of the value of the total assets of the acquiring company; or

"(iii) securities issued by the acquired company and all other investment companies (other than Treasury stock of the acquiring company) having an aggregate value in excess of 10 per centum of the value of the total assets of the acquiring company.

"(B) It shall be unlawful for any registered open-end investment company (the 'acquired company'), any principal underwriter therefor, or any broker or dealer registered under the Securities Exchange Act of 1934, knowingly to sell or otherwise dispose of any security issued by the acquired company to any other investment company (the 'acquiring company') or any company or companies controlled by the acquiring company, if immediately after such sale or disposition—

"(i) more than 3 per centum of the total outstanding voting stock of the acquired company is owned by the acquiring company and any company or companies controlled by it; or

"(ii) more than 10 per centum of the total outstanding voting stock of the acquired company is owned by the acquiring company and other investment companies and companies controlled by them.

"(C) It shall be unlawful for any investment company (the 'acquiring company') and any company or companies controlled by the acquiring company to purchase or otherwise acquire any security issued by a registered closed-end investment company, if immediately after such purchase or acquisition the acquiring company, other investment companies having the same investment adviser, and companies controlled by such investment companies, own more than 10 per centum of the total outstanding voting stock of such closed-end company.

"(D) The provisions of this paragraph (1) shall not apply to a security received as a dividend or as a result of an offer of exchange approved pursuant to section 11 or of a plan of reorganization of any company (other than a plan devised for the purpose of evading the foregoing provisions).

"(E) The provisions of this paragraph (1) shall not apply to a security purchased or acquired by an investment company if—

"(i) the depositor of, or principal underwriter for, such investment company is a broker or dealer registered under the Securities Exchange Act of 1934, or a person controlled by such a broker or dealer;

"(ii) such security is the only investment security held by such investment company; and

"(iii) in the event such investment company is not a registered investment company, the purchase or acquisition is made pursuant to an arrangement with the issuer of, or principal underwriter for, the issuer of the security whereby such investment company is obligated—

"(aa) either to seek instructions from its security holders with regard to the voting of all proxies with respect to such security and to vote such proxies only in accordance with such instructions, or to vote the shares held by it in the same proportion as the vote of all other holders of such security, and

"(bb) to refrain from substituting such security unless the Commission shall have approved such substitution in the manner provided in section 26 of this Act.

"(F) The provisions of this paragraph (1) shall not apply to securities purchased or otherwise acquired by a registered investment company if—

"(i) immediately after such purchase or acquisition not more than 3 per centum of the total outstanding stock of such issuer is owned by such registered investment company and all affiliated persons of such registered investment company; and

"(ii) such registered investment company has not offered or sold after July 1, 1970, and is not proposing to offer or sell any security issued by it through a principal underwriter or otherwise at a public offering price which includes a sales load of more than 1½ per centum.

No issuer of any security purchased or acquired by a registered investment company pursuant to this subparagraph shall be obligated to redeem such security in an amount exceeding 1 per centum of such issuer's total outstanding securities during any period of less than thirty days. Such investment company shall exercise voting rights by proxy or otherwise with respect to any security purchased or acquired pursuant to this subparagraph in the manner prescribed by subparagraph (E) of this subsection."

"(G) For the purposes of this paragraph (1), the value of an investment company's total assets shall be computed as of the time of a purchase or acquisition or as closely thereto as is reasonably possible.

"(H) In any action brought to enforce the provisions of this paragraph (1), the Commission may join as a party the issuer of any security purchased or otherwise acquired in violation of this paragraph (1), and the court may issue any order with respect to such issuer as may be necessary or appropriate for the enforcement of the provisions of this paragraph (1).

"(2) It shall be unlawful for any registered investment company and any company or companies controlled by such registered investment company to purchase or otherwise acquire any security (except a security received as a dividend or as a result of a plan of reorganization of any company, other than a plan devised for the purpose of evading the provisions of this paragraph) issued by any insurance company of which such registered investment company and any company or companies controlled by such registered company do not, at the time of such purchase or acquisition, own in the aggregate at least 25 per centum of the total outstanding voting stock, if such registered company and any company or companies controlled by its own in the aggregate, or as a result of such purchase or acquisition will own in the aggregate, more than 10 per centum of the total outstanding voting stock of such insurance company.

"(3) It shall be unlawful for any registered investment company and any company or companies controlled by such registered investment company to purchase or otherwise acquire any security issued by or any other interest in the business of any person who is a broker, a dealer, is engaged in the business of underwriting, or is either an investment adviser of an investment company or an investment adviser registered under title II of this Act, unless (A) such person is a corporation all the outstanding securities of which (other than short-term paper, securities representing bank loans, and directors' qualifying shares) are, or after such acquisition will be, owned by one or more registered investment companies; and (B) such person is primarily engaged in the business of underwriting and distributing securities issued by other persons, selling securities to customers, or any one or more of such or related activities, and the gross income of such person normally is derived principally from such business or related activities."

SEC. 8. (a) Section 15(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–15(a)) is amended to read as follows:

"(a) It shall be unlawful for any person to serve or act as investment adviser of a registered investment company, except pursuant to a written contract, which contract, whether with such registered company or with an investment adviser of such registered company, has been approved by the vote of a majority of the outstanding voting securities of such registered company, and—

"(1) precisely describes all compensation to be paid thereunder;

"(2) shall continue in effect for a period more than two years from the date of its execution, only so long as such continuance is specifically approved at least annually by the board of directors or by vote of a majority of the outstanding voting securities of such company;

"(3) provides, in substance, that it may be terminated at any time, without the payment of any penalty, by the board of directors of such registered company or by vote of a majority of the outstanding voting securities of such company on not more than sixty days' written notice to the investment adviser; and

"(4) provides, in substance, for its automatic termination in the event of its assignment."

(b) Section 15(b) of such Act (15 U.S.C. 80a–15(b)) is amended to read as follows:

"(b) It shall be unlawful for any principal underwriter for a registered open-end company to offer for sale, sell, or deliver after sale any security of which such company is the issuer, except pursuant to a written contract with such company, which contract—

"(1) shall continue in effect for a period, more than two years from the date of its execution, only so long as such continuance is specifically approved at least annually by the board of directors or by vote of a majority of the outstanding, voting securities of such company; and

"(2) provides, in substance, for its automatic termination in the event of its assignment."

(c) Section 15(c) of such Act (15 U.S.C. 80a–15(c)) is amended to read as follows:

"(c) In addition to the requirements of subsections (a) and (b) of this section, it shall be unlawful for any registered investment company having a board of directors to enter into, renew, or perform any contract or agreement, written or oral, whereby a person undertakes regularly to serve or act as investment adviser of or principal underwriter for such company, unless the terms of such contract or agreement and any renewal thereof have been approved by the vote of a majority of directors, who are not parties to such contract or agreement or interested persons of any such party, cast in person at a meeting called for the purpose of voting on such approval. It shall be the duty of the directors of a registered investment company to request and evaluate, and the duty of an investment adviser to such company to furnish, such information as may reasonably be necessary to evaluate the terms of any contract whereby a person undertakes regularly to serve or act as investment adviser of such company."

(d) Section 15 of such Act (15 U.S.C. 80a–15) is amended by striking out subsection (d) and redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

SEC. 9. (a) Section 17(f) of the Investment Company Act of 1940 (15 U.S.C. 80a–17 (f)) is amended to read as follows:

"(f) Every registered management company shall place and maintain its securities and similar investments in the custody of (1) a bank (including in the case of a registered investment company which is a collective fund maintained by a bank, the bank maintaining such fund) or banks having the qualifications prescribed in paragraph (1) of section 26(a) of this title for the trustees of unit investment trusts; or (2) a company which is a member of a national securities exchange as defined in the Securities Exchange Act of 1934, subject to such rules and regulations as the Commission may from time to time prescribe for the protection of investors; or (3) such registered company, but only in accordance with such rules and regulations or orders as the Commission may from time to time prescribe for the protection of investors. Rules, regulations, and orders of the Commission under this subsection, among other things, may make appropriate provision with respect to such matters as the earmarking, segregation, and hypothecation of such securities and investments, and may provide for or require periodic or other inspections by any or all of the following: Independent public accountants, employees and agents of the Commission, and such other persons as the Commission may designate. No such member which trades in securities for its own account may act as custodian except in accordance with rules and regulations prescribed by the Commission for the protection of investors. If a registered company maintains its securities and similar investments in the custody of a qualified bank or banks, the cash proceeds from the sale of such securities and similar investments and other cash assets of the company shall likewise be kept in the custody of such a bank or banks, or in accordance with such rules and regulations or orders as the Commission may from time to time prescribe for the protection of investors, except that such a registered company may maintain a checking account in a bank or banks having the qualifications prescribed in paragraph (1) of section 26(a) of this title for the trustees of unit investment trusts with the balance of such account or the aggregate balances of such accounts at no time in excess of the amount of the fidelity bond, maintained pursuant to section 17(g) of this title, covering the officers or employees authorized to draw on such account or accounts."

(b) Section 17(g) of such Act (15 U.S.C. 80a–17(g)) is amended to read as follows:

"(g) The Commission is authorized to require by rules and regulations or orders for the protection of investors that any officer or employee of a registered management investment company who may singly, or jointly with others, have access to securities or funds of any registered company, either directly or through authority to draw upon such funds or to direct generally the disposition of such securities (unless the officer or employee has such access solely through his position as an officer or employee of a bank) be bonded by a reputable fidelity insurance company against larceny and embezzlement in such reasonable minimum amounts as the Commission may prescribe."

(c) Section 17 of such Act (15 U.S.C. 80a–17) is further amended by adding at the end thereof a new subsection as follows:

"(j) It shall be unlawful for any affiliated person of or principal underwriter for a registered investment company or any affiliated person of an investment adviser of or principal underwriter for a registered investment company, to engage in any act, practice, or course of business in connection with the purchase or sale, directly or indirectly, by such person of any security held or to be acquired by such registered investment company in contravention of such rules and regulations as the Commission may adopt to define, and prescribe means reasonably necessary to prevent, such acts, practices, or courses of business as are fraudulent, deceptive or manipulative. Such rules and regulations may include requirements for the adoption of codes of ethics by registered investment companies and investment advisers of, and principal underwriters for, such investment companies establishing such standards as are reasonably necessary to prevent such acts, practices, or courses of business."

SEC. 10. Section 18(f)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–18(f)(2)) is amended to read as follows:

"(2) 'Senior security' shall not, in the case of a registered open-end company, include a class or classes or a number of series of preferred or special stock each of which is preferred over all other classes or series in respect of assets specifically allocated to that class or series: *Provided*, That (A) such company has outstanding no class or series of stock which is not so preferred over all other classes or series, or (B) the only other outstanding class of the issuer's stock consists of a common stock upon which no dividend (other than a liquidating dividend) is permitted to be paid and which in the aggregate represents not more than one-half of 1 per centum of the issuer's outstanding voting securities. For the purpose of insuring fair and equitable treatment of the holders of the outstanding voting securities of each class or series of stock of such company, the Commission may by rule, regulation, or order direct that any matter required to be submitted to the holders of the outstanding voting securities of such company shall not be deemed to have been effectively acted upon unless approved by the holders of such percentage (not exceeding a majority) of the outstanding voting securities of each class or series of stock affected by such matter as shall be prescribed in such rule, regulation, or order."

SEC. 11. Section 19 of the Investment Company Act of 1940 (15 U.S.C. 80a–19) is amended by inserting "(a)" after "SEC. 19.", and by adding at the end thereof a new subsection as follows:

"(b) It shall be unlawful in contravention of such rules, regulations, or orders as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors for any registered investment company to distribute long-term capital gains, as defined in the Internal Revenue Code of 1954, more often than once every twelve months."

SEC. 12. (a) Section 22(b) of the Investment Company Act of 1940 (15 U.S.C. 80a–22(b)) is amended to read as follows:

"(b)(1) Such a securities association may also, by rules adopted and in effect in accordance with said section 15A, and notwithstanding the provisions of subsection (b) (8) thereof but subject to all other provisions of said section applicable to the rules of such an association, prohibit its members from purchasing, in connection with a primary distribution of redeemable securities of which any registered investment company is the issuer, any such security from the issuer or from any principal underwriter except at a price equal to the price at which such security is then offered to the public less a commission, discount, or spread which is computed in conformity with a method or methods, and within such limitations as to the relation thereof to said public offering price, as such rules may prescribe in order that the price at which such security is offered or sold to the public shall not include an excessive sales load but shall allow for reasonable compensation for sales personnel, broker-dealers, and underwriters, and for reasonable sales loads to investors.

"(2) At any time after the expiration of eighteen months from the date of enactment of the Investment Company Amendments Act of 1969, or after a securities association has adopted rules as contemplated by this subsection, the Commission may make such rules and regulations pursuant to section 15(b)(10) of the Securities Exchange Act of 1934 as are appropriate to effectuate the purpose of this subsection with respect to sales of shares of a registered investment company by broker-dealers subject to regulation under section 15(b)(8) of that Act: *Provided*, That the underwriter of such shares may file with the Commission at any time a notice of election to comply with the rules prescribed pursuant to this subsection by a national securities association specified in such notice, and thereafter the sales load shall not exceed that precribed by such rules of such association, and the rules of the Commission as hereinabove authorized shall thereafter be inapplicable to such sales.

"(3) At any time after the expiration of eighteen months from the date of enactment of the Investment Company Amendments Act of 1969, the Commission may alter or supplement the rules of any securities association as may be necessary to effectuate the purposes of this subsection in the manner provided by section 15A(k)(2) of the Securities Exchange Act of 1934.

"(4) If any provision of this subsection is in conflict with any provision of any law of the United States in effect on the date this subsection takes effect, the provisions of this subsection shall prevail."

(b) Section 22(c) of such Act (15 U.S.C. 80a–22(c)) is amended to read as follows:

"(c) The Commission may make rules and regulations applicable to registered investment companies and to principal underwriters of, and dealers in, the redeemable securities of any registered investment company, whether or not members of any securities association, to the same extent, covering the same subject matter, and for the accomplishment of the same ends as are prescribed in subsection (a) of this section in respect of the rules which may be made by a registered securities association governing its members. Any rules and regulations so made by the Commission, to the extent that they may be inconsistent with the rules of any such association, shall so long as they remain in force supersede the rules of the association and be binding upon its members as well as all other underwriters and dealers to whom they may be applicable."

(c) Section 22(d) of such Act (15 U.S.C. 80a–22(d)) is amended to read as follows:

"(d) No registered investment company shall sell any redeemable security issued by

it to any person except either to or through a principal underwriter for distribution or at a current public offering price described in the prospectus, and, if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person except a dealer, a principal underwriter, or the issuer, except at a current public offering price described in the prospectus. Nothing in this subsection shall prevent a sale made (i) pursuant to an offer of exchange permitted by section 11 including any offer made pursuant to section 11 (b); (ii) pursuant to an offer made solely to all registered holders of the securities, or of a particular class or series of securities issued by the company proportionate to their holdings or proportionate to any cash distribution made to them by the company (subject to appropriate qualifications designed solely to avoid issuance of fractional securities); or (iii) in accordance with rules and regulations of the Commission made pursuant to subsection (b) of section 12."

(d) Section 22 of such Act (15 U.S.C. 80a–22) is further amended by adding a new subsection at the end thereof as follows:

"(h) No provision of law shall be deemed to prohibit—

"(1) the creation or operation of a registered investment company, or a collective trust fund exempt from the definition of 'investment company' under section 3(c)(11) of this title, which is maintained by a bank or banks in compliance with any applicable regulations of the Comptroller of the Currency, or which is maintained by a savings and loan association or savings and loan associations in compliance with any applicable regulations of the Federal Home Loan Bank Board, or

"(2) the underwriting, distribution, or sale by a bank, or by a savings and loan association of securities issued by a registered investment company which issues such securities only for distribution and sale by banks or by savings and loan associations,

if such securities issued by such investment company are sold at a public offering price which does not include a sales load, and are sold only by officers and employees of banks and savings and loan associations who meet such standards with respect to training and experience as the Comptroller of the Currency and the Federal Home Loan Bank Board shall prescribe by regulations which are consistent with the rules and regulations promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934."

SEC. 13.(a) Section 24(d) of the Investment Company Act of 1940 (U.S.C. 80a–24(d)) is amended to read as follows:

"(d) The exemption provided by paragraph (8) of section 3(a) of the Securities Act of 1933 shall not apply to any security of which an investment company is the issuer. The exemption provided by paragraph (11) of said section 3(a) shall not apply to any security of which a registered investment company is the issuer, except a security sold or disposed of by the issuer or bona fide offered to the public prior to the effective date of this title, and with respect to a security so sold, disposed of, or offered, shall not apply to any new offering thereof on or after the effective date of this title. The exemption provided by section 4(3) of the Securities Act of 1933 shall not apply to any transaction in a security issued by a face-amount certificate company or in a redeemable security issued by an open-end management company or unit investment trust if any other security of the same class is currently being offered or sold by the issuer or by or through an underwriter in a distribution which is not exempted from section 5 of said Act, except to such extent and subject to such terms and conditions as the Commission, having due regard for the public interest and the protection of investors, may prescribe by rules or regulations with respect to any class of persons, securities, or transactions."

(b) Section 24 of such Act (15 U.S.C. 80a–24) is further amended by adding at the end thereof a new subsection to read as follows:

"(f) In the case of securities issued by a face-amount certificate company or redeemable securities issued by an open-end management company or unit investment trust, which are sold in an amount in excess of the number of securities included in an effective registration statement of any such company, such company may, in accordance with such rules and regulations as the Commission shall adopt as it deems necessary or appropriate in the public interest or for the protection of investors, elect to have the registration of such securities deemed effective as of the time of their sale, upon payment to the Commission, within six months after any such sale, of a registration fee of three times the amount of the fee which would have otherwise been applicable to such securities. Upon any such election and payment, the registration statement of such company shall be considered to have been in effect with respect to such shares. The Commission may also adopt rules and regulations as it deems necessary or appropriate in the public interest or for the protection of investors to permit the registration of an indefinite number of the securities issued by a face-amount certificate company or redeemable securities issued by an open-end management company or unit investment trust."

SEC. 14. Section 25(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–25(c)) is amended to read as follows:

"(c) Any district court of the United States in the State of incorporation of a registered investment company, or any such court for the district in which such company maintains its principal place of business, is authorized to enjoin the consummation of any plan of reorganization of such registered investment company upon proceedings instituted by the Commission which is authorized so to proceed upon behalf of security holders of such registered company, or any class thereof), if such court shall determine that any such plan is not fair and equitable to all security holders."

SEC. 15. (a) Section 26 of the Investment Company Act of 1940 (15 U.S.C. 80a–26) is amended by redesignating subsection (b) and (c) thereof as subsections (c) and (d), respectively, and by inserting immediately after subsection (a) a new subsection as follows:

"(b) It shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commision shall have approved such substitution. The Commission shall issue an order approving such substitution if the evidence established that it is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of this title."

(b) Redesignated subsection (c) (formerly subsection (b)) of section 26 of such Act is amended to read as follows:

"(c) In the event that a trust indenture, agreement of custodianship, or other instrument pursuant to which securities of a registered unit investment trust are issued does not comply with the requirements of subsection (a) of this section, such instrument will be deemed to meet such requirements if a written contract or agreement binding on the parties and embodying such requirements has been executed by the depositor on the one part and the trustee or custodian on the other part, and three copies of such contract or agreement have been filed with the Commission."

SEC. 16. (a) Section 27 of the Investment Company Act of 1940 (15 U.S.C. 80a–27) is amended by striking out subsection (b) and redesignating subsection (c) as subsection (b).

(b) Section 27 of such Act is further amended by adding at the end thereof the following new subsections:

"(c) Notwithstanding subsection (a) of this section, it shall be unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless the certificate provides that the holder thereof may surrender the certificate at any time within the first three years after the issuance of the certificate and receive in payment thereof, in cash, the sum of (1) the value of his account, and (2) an amount, from such underwriter or depositor, equal to that part of the excess paid for sales loading which is over 15 per centum of the gross payments made by the certificate holder. The Commission may make rules and regulations applicable to such underwriters and depositors specifying such reserve requirements as it deems necessary or appropriate in order for such underwriters and depositors to carry out the obligations to refund sales charges required by this subsection.

"(d) With respect to any periodic payment plan certificate sold subject to the provisions of subsection (c) of this section, the registered investment company issuing such periodic payment plan certificate, or any depositor of or underwriter for such company, shall in writing (1) inform each certificate holder who has missed three payments or more, within thirty days following the expiration of two years and six months after the issuance of the certificate, or, if any such holder has missed three payments or more after such period of two years and six months but prior to the expiration of three years after the issuance of the certificate, at any time prior to the expiration of such three-year period, of his right to surrender his certificate as specified in subsection (c) of this section, and (2) inform the certificate holder of (i) the value of the holder's account as of the time the written notice was given to such holder, and (ii) the amount to which he is entitled as specified in subsection (c) of this section. The Commission may make rules specifying the method, form, and contents of the notice required by this subsection.

"(e) With respect to any periodic payment plan, the custodian bank for such plan shall mail to each certificate holder within sixty days after the issuance of the certificate, a statement of charges to be deducted from the projected payments on the certificate and a notice of his right of withdrawal as specified in this section. The Commission may make rules specifying the method, form, and contents of the notice required by this subsection. The certificate holder may within sixty days of the mailing of the notice specified in this subsection surrender his certificate and receive in payment thereof, in cash, the sum of (1) the value of his account, and (2) an amount, from the underwriter or depositor, equal to the difference between the gross payments made and the net amount invested. The Commission may make rules and regulations applicable to underwriters and depositors of companies issuing any such certificates specifying such reserve requirements as it deems necessary or appropriate in order for such underwriters and depositors to carry out the obligations to refund sales charges required by this subsection.

"(f) Notwithstanding the provisions of subsections (a) and (c), a registered investment company issuing periodic payment plan certificates may elect, by written notice to the Commission, to be governed by the provisions of subsection (g) rather than the

provisions of subsections (a) and (c) of this section.

"(g) Upon making the election specified in subsection (f), it shall be unlawful for any such electing registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate, if—

"(1) the sales load on such certificate exceeds 9 per centum of the total payments to be made thereon;

"(2) more than 20 per centum of any payment thereon is deducted for sales load, or any average of more than 16 per centum is deducted for sales load from the first forty-eight monthly payments thereon, or their equivalent;

"(3) the amount of sales load deducted from any one of the first twelve monthly payments, the thirteenth through twenty-fourth monthly payments, the twenty-fifth through thirty-sixth monthly payments, or the thirty-seventh through forty-eighth monthly payments, or their equivalents, respectively, exceeds proportionately the amount deducted from any other such payment, or the amount deducted from any subsequent payment exceeds proportionately the amount deducted from any other subsequent payment;

"(4) the deduction for sales load on the excess of the payment or payments in any month over the minimum monthly payment, or its equivalent, to be made on the certificate exceeds the sales load applicable to payments subsequent to the first forty-eight monthly payments or their equivalent;

"(5) the first payment on such certificate is less than $20, or any subsequent payment is less than $10;

"(6) if such registered company is a management company, the proceeds of such certificate or the securities in which such proceeds are invested are subject to management fees (other than fees for administrative services of the character described in clause (C) of paragraph (2) of section 26(a)) exceeding such reasonable amount as the Commission may prescribe, whether such fees are payable to such company or to investment advisers thereof; or

"(7) if such registered company is a unit investment trust the assets of which are securities issued by a management company, the depositor of or principal underwriter for such trust, or any affiliated person of such depositor or underwriter, is to receive from such management company or any affiliated person thereof any fee or payment on account of payments on such certificate exceeding such reasonable amount as the Commission may prescribe."

SEC. 17. Section 28 of the Investment Company Act of 1940 (15 U.S.C. 80a–28) is amended by adding at the end thereof a new subsection as follows:

"(i) The foregoing provisions of this section shall apply to all face-amount certificates issued prior to the effective date of this subsection; to the collection or acceptance of any payment on such certificates; to the issuance of face-amount certificates to the holders of such certificates pursuant to an obligation expressed or implied in such certificates; to the provisions of such certificates; to the minimum certificate reserves and deposits maintained with respect thereto; and to the assets that the issuer of such certificate was and is required to have with respect to such certificates. With respect to all face-amount certificates issued after the effective date of this subsection, the provisions of this section shall apply except as hereinafter provided.

"(1) Notwithstanding subparagraph (A) of paragraph (2) of subsection (a), the reserves for each certificate of the installment type shall be based on assumed annual, semi-annual, quarterly, or monthly reserve payments according to the manner in which gross payments for any certificate year are made by the holder, which reserve payments shall be sufficient in amount, as and when accumulated at a rate not to exceed 3½ per centum per annum compounded annually, to provide the minimum maturity or face amount of the certificate when due. Such reserve payments may be graduated according to certificate years so that the reserve payment or payments for the first three certificate years shall amount to at least 80 per centum of the required gross annual payment for such years; the reserve payment or payments for the fourth certificate year shall amount to at least 90 per centum of such year's required gross annual payment; the reserve payment or payments for the fifth certificate year shall amount to at least 93 per centum of such year's gross annual payment; and for the sixth and each subsequent certificate year the reserve payment or payments shall amount to at least 96 per centum of each such year's required gross annual payment: *Provided*, That such aggregate reserve payments shall amount to at least 93 per centum of the aggregate gross annual payments required to be made by the holder to obtain the maturity of the certificate. The company may at its option take as loading from the gross payment or payments for a certificate year, as and when made by the certificate holder, an amount or amounts equal in the aggregate for such year to not more than the excess, if any, of the gross payment or payments required to be made by the holder for such year, over and above the percentage of the gross annual payment required herein for such year for reserve purposes. Such loading may be taken by the company prior to or after the setting up of the reserve payment or payments for such year and the reserve payment or payments for such year may be graduated and adjusted to correspond with the amount of the gross payment or payments made by the certificate holder for such year less the loading so taken.

"(2) Notwithstanding paragraphs (1) and (2) of subsection (d), (A) in respect of any certificate of the installment type, during the first certificate year, the holder of the certificate, upon surrender thereof, shall be entitled to a value payable in cash not less than 80 per centum of the amount of the gross payments made on the certificate; and (B) in respect of any certificate of the installment type, at any time after the expiration of the first certificate year and prior to maturity, the holder of the certificate, upon surrender thereof, shall be entitled to a value payable in cash not less than the then amount of the reserve for such certificate required by clauses (1) and (2) of subparagraph (D) of paragraph (2) of subsection (a), less a surrender charge that shall not exceed 2 per centum of the face or maturity amount of the certificate, or 15 per centum of the amount of such reserve, whichever is the lesser, but in no event shall such value be less than 80 per centum of the gross payments made on the certificate. The amount of the surrender value for the end of each certificate year shall be set out in the certificate."

SEC. 18. Section 32(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–31(a)) is amended to read as follows:

"(a) It shall be unlawful for any registered management company or registered face-amount certificate company to file with the Commission any financial statement signed or certified by an independent public accountant, unless—

"(1) such accountant shall have been selected at a meeting held within thirty days before or after the beginning of the fiscal year or before the annual meeting of stockholders in that year by the vote, cast in person, of a majority of those members of the board of directors who are not interested persons of such registered company;

"(2) such selection shall have been submitted for ratification or rejection at the next succeeding annual meeting of stockholders if such meeting be held, except that any vacancy occurring between annual meetings, due to the death or resignation of the accountant, may be filled by the vote of a majority of those members of the board of directors who are not interested persons of such registered company, cast in person at a meeting called for the purpose of voting on such action;

"(3) the employment of such accountant shall have been conditioned upon the right of the company by vote of a majority of the outstanding voting securities at any meeting called for the purpose to terminate such employment forthwith without any penalty; and

"(4) such certificate or report of such accountant shall be addressed both to the board of directors of such registered company and to the security holders thereof. If the selection of an accountant has been rejected pursuant to paragraph (2) or his employment terminated pursuant to paragraph (3), the vacancy so occurring may be filled by a vote of a majority of the outstanding voting securities, either at the meeting at which the rejection or termination occurred or, if not so filed, at a subsequent meeting which shall be called for the purpose. In the case of a common-law trust of the character described in section 16(b), no ratification of the employment of such accountant shall be required but such employment may be terminated and such accountant removed by action of the holders of record of a majority of the outstanding shares of beneficial interest in such trust in the same manner as is provided in section 16(b) in respect of the removal of a trustee, and all the provisions therein contained as to the calling of a meeting shall be applicable. In the event of such termination and removal, the vacancy so occurring may be filled by action of the holders of record of a majority of the shares of beneficial interest either at the meeting, if any, at which such termination and removal occurs, or by instruments in writing filed with the custodian, or if not so filed within a reasonable time then at a subsequent meeting which shall be called by the trustees for the purpose. The provisions of paragraph (42) of section 2(a) as to a majority shall be applicable to the vote cast at any meeting of the shareholders of such a trust held pursuant to this subsection."

SEC. 19. Section 33 of the Investment Company Act of 1940 (15 U.S.C. 80a–32) is amended to read as follows:

"FILING OF DOCUMENTS WITH COMMISSION IN CIVIL ACTIONS

"SEC. 33. Every registered investment company which is a party and every affiliated person of such company who is a party defendant to any action or claim by a registered investment company or a security holder thereof in a derivative or representative capacity against an officer, director, investment adviser, trustee, or depositor of such company, shall file with the Commission, unless already so filed, (1) a copy of all pleadings, verdicts, or judgments filed with the court or served in connection with such action or claim, (2) a copy of any proposed settlement, compromise, or discontinuance of such action, and (3) a copy of such motions, transcripts, or other documents filed in or issued by the court or served in connection with such action or claim as may be requested in writing by the Commission. If any document referred to in clause (1) or (2)—

"(A) is delivered to such company or party defendant, such document shall be filed with the Commission not later than five days after the receipt thereof; or

"(B) is filed in such court or delivered by such company or party defendant, such document shall be filed with the Commis-

sion not later than two days after such filing or delivery."

SEC. 20. Section 36 of the Investment Company Act of 1940 (15 U.S.C. 80a-35) is amended to read as follows:

"BREACH OF FIDUCIARY DUTY

"SEC. 36. (a) The Commission is authorized to bring an action in the proper district court of the United States, or in the United States court of any territory or other place subject to the jurisdiction of the United States, alleging that a person serving or acting in one or more of the following capacities has engaged within five years of the commencement of the action or is about to engage in any act or practice constituting a breach of fiduciary duty involving personal misconduct in respect of any registered investment company for which such person so serves or acts—

"(1) as officer, director, member of any advisory board, investment adviser, or depositor; or

"(2) as principal underwriter, if such registered company is an open-end company, unit investment trust, or face-amount certificate company.

If such allegations are established, the court may enjoin such person from acting in any or all such capacities either permanently or temporarily and award such injunctive or other relief against such person as it in its discretion deems appropriate in the circumstances, having due regard to the protection of investors and to the effectuation of the policies declared in section 1(b) of this title.

"(b) For the purposes of this subsection, the investment adviser of a registered investment company shall be deemed to have a fiduciary duty with respect to the receipt of compensation for services, or of payments of a material nature, paid by such registered investment company, or by the security holders thereof, to such investment adviser or any affiliated person of such investment adviser. An action may be brought under this subsection by the Commission, or by a security holder of such registered investment company on behalf of such company, against such investment adviser, or any affiliated person of such investment adviser, or any other person enumerated in subsection (a) of this section who has a fiduciary duty concerning such compensation or payments, for breach of fiduciary duty in respect of such compensation or payments paid by such registered investment company or by the security holders thereof to such investment adviser or person. With respect to any such action the following provisions shall apply:

"(1) It shall not be necessary to allege or prove that any defendant engaged in personal misconduct, and the plaintiff shall have the burden of proving a breach of fiduciary duty.

"(2) In any such action approval by the board of directors of such investment company of such compensation or payments, or of contracts or other arrangements providing for such compensation or payments, and ratification or approval of such compensation or payments, or of contracts or other arrangements providing for such compensation or payments, by the shareholders of such investment company, shall be given such consideration by the court as is deemed appropriate under all the circumstances.

"(3) No such action shall be brought or maintained against any person other than the recipient of such compensation or payments, and no damages or other relief shall be granted against any person other than the recipient of such compensation or payments. No award of damages shall be recoverable for any period prior to one year before the action was instituted. Any award of damages against such recipient shall be limited to the actual damages resulting from the breach of fiduciary duty and shall in no event exceed the amount of compensation or payments received from such investment company, or the security holders thereof, by such recipient.

"(4) This subsection shall not apply to compensation or payments made in connection with transactions subject to section 17 of this title, or rules, regulations, or orders thereunder, or to sales loads for the acquisition of any security issued by a registered investment company.

"(5) Any action pursuant to this subsection may be brought only in an appropriate district court of the United States.

"(6) No finding by a court with respect to a breach of fiduciary duty under this subsection shall be made a basis (A) for a finding of a violation of this title for the purposes of sections 9 and 49 of this title, section 15 of the Securities Exchange Act of 1934, or section 203 of title II of this Act, or (B) for an injunction to prohibit any person from serving in any of the capacities enumerated in subsection (a) of this section."

SEC. 21. The last sentence of section 43(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-42(a)) is amended by striking out "sections 239 and 240 of the Judicial Code, as amended" and inserting in lieu thereof "section 1254 of title 28, United States Code."

SEC. 22. Section 44 of the Investment Company Act of 1940 (15 U.S.C. 80a-43) is amended—

(1) by striking out the next to the last sentence and inserting in lieu thereof "Judgments and decrees so rendered shall be subject to review as provided in sections 1254, 1291, 1292, and 1294 of title 28, United States Code."; and

(2) by adding at the end thereof a new sentence as follows: "The Commission may intervene as a party in any action or suit to enforce any liability or duty created by, or to enjoy any noncompliance with, section 36(b) of this title at any stage of such action or suit prior to final judgment therein."

SEC. 23 Section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)) is amended by redesignating paragraphs (17) through (20) as paragraphs (18) through (21), respectively, and inserting immediately after paragraph (16) a new paragraph as follows:

"(17) The term 'person associated with an investment adviser' means any partner, officer, or director of such investment adviser (or any performing similar functions), or any person directly or indirectly controlling or controlled by such investment adviser, including any employee of such investment adviser, except that for the purposes of section 203 of this title (other than subsection (f) thereof), persons associated with an investment adviser whose functions are clerical or ministerial shall not be included in the meaning of such term. The Commission may by rules and regulations classify, for the purposes of any portion or portions of this title, persons, including employees controlled by an investment adviser."

SEC. 24. (a) Section 203(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(b)) is amended to read as follows:

"(b) The provisions of subsection (a) shall not apply to—

"(1) any investment adviser all of whose clients are residents of the State within which such investment adviser maintains his or its principal office and place of business, and who does not furnish advice or issue analyses or reports with respect to securities listed or admitted to unlisted trading privileges on any national securities exchange;

"(2) any investment adviser whose only clients are insurance companies; or

"(3) any investment adviser who during the course of the preceding twelve months has had fewer than fifteen clients and who neither holds himself out generally to the public as an investment adviser nor acts as an investment adviser to any investment company registered under title I of this Act."

(b) Section 203(c) of such Act (15 U.S.C. 80b-3(c)) is amended by striking out subparagraph (F) and inserting in lieu thereof the following:

"(F) whether such investment adviser, or any person associated with such investment adviser, is subject to any disqualification which would be a basis for denial, suspension, or revocation of registration of such investment adviser under the provisions of subsection (e), and".

(c) Section 203 of such Act (15 U.S.C. 80b-3) is further amended by redesignating subsection (d) as subsection (e), redesignating subsection (e) as subsection (g), and inserting after subsection (c) a new subsection as follows:

"(d) Any provision of this title (other than subsection (a) of this section) which prohibits any act, practice, or course of business if the mails or any means or instrumentality of interstate commerce are used in connection therewith shall also prohibit any such act, practice, or course of business by any investment adviser registered pursuant to this section or any person acting on behalf of such an investment adviser, irrespective of any use of the mails or any means or instrumentality of interstate commerce in connection therewith."

(d) Redesignated subsection (e) (formerly subsection (d) of section 203 of such Act) (15 U.S.C. 80b-3(d)) is amended to read as follows:

"(e) The Commission shall, after appropriate notice and opportunity for hearing, by order censure, deny registration to, or suspend for a period not exceeding twelve months, or revoke the registration of, an investment adviser, if it finds that such censure, denial, suspension, or revocation is in the public interest and that such investment adviser or any person associated with such investment adviser, whether prior to or subsequent to becoming such—

"(1) has willfully made or caused to be made in any application for registration or report filed with the Commission under this title, or in any proceeding before the Commission with respect to registration, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or who has omitted to state in any such application or report any material fact which is required to be stated therein; or

"(2) has been convicted within ten years preceding the filing of the application or at any time thereafter of any felony or misdemeanor which the Commission finds (A) involves the purchase or sale of any security, (B) arises out of the conduct of the business of a broker, dealer, or investment adviser, (C) involves embezzlement, fraudulent conversion, or misappropriation of funds or securities, or (D) involves the violation of section 1341, 1342, or 1343 of title 18, United States Code; or

"(3) is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, or dealer, or an affiliated person or employee of any investment company, bank, or insurance company, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security; or

"(4) has willfully violated any provision of the Securities Act of 1933, or of the Securities Exchange Act of 1934, or of title I of this Act, or of this title, or of any rule or regulation under any of such statutes; or

"(5) has aided, abetted, counseled, commanded, induced, or procured the violation by any other person of the Securities Act of

1933, or the Securities Exchange Act of 1934, or of title I of this Act, or of this title, or of any rule or regulation under any of such statutes or has failed reasonably to supervise, with a view to preventing violations of such statutes, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision: *Provided*, That, for the purposes of this paragraph (5), no person shall be deemed to have failed reasonably to supervise any person, if—

"(A) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person; and

"(B) such person has reasonably discharged the duties and obligations incumbent upon him by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with; or

"(6) is subject to an order of the Commission entered pursuant to subsection (f) of this section barring or suspending the right of such person to be associated with an investment adviser, which order is in effect with respect to such person."

(e) Section 203 of such Act (15 U.S.C. 80b–3) is further amended by redesignating subsections (f) and (g) as subsections (h) and (i), respectively, and inserting after redesignated subsection (e) a new subsection as follows:

"(f) The Commission may, after appropriate notice and opportunity for hearing, by order censure any person or bar or suspend for a period not exceeding twelve months any person from being associated with an investment adviser, if the Commission finds that such censure, barring, or suspension is in the public interest and that such person had committed or omitted any act or omission enumerated in paragraph (1), (4), or (5) of subsection (e) of this section, or has been convicted of any offense specified in paragraph (2) of subsection (e) within ten years of the commencement of the proceedings under this subsection, or is enjoined from any action, conduct, or practice specified in paragraph (3) of subsection (e). It shall be unlawful for any person as to whom such an order barring or suspending him from being associated with an investment adviser is in effect, willfully to become, or to be, associated with an investment adviser, without the consent of the Commission, and it shall be unlawful for any investment adviser to permit such a person to become, or remain, a person associated with such investment adviser without the consent of the Commission, if such investment adviser knew, or in the exercise of reasonable care should have known of such order."

SEC. 25. Section 205 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–5) is amended to read as follows:

"INVESTMENT ADVISORY CONTRACTS

"SEC. 205. No investment adviser, unless exempt from registration pursuant to section 203(b), shall make use of the mails or any means or instrumentality of interstate commerce, directly or indirectly, to enter into, extend, or renew any investment advisory contract, or in any way to perform any investment advisory contract entered into, extended, or renewed on or after the effective date of this title, if such contract—

"(1) provides for compensation to the investment adviser on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client;

"(2) fails to provide, in substance, that no assignment of such contract shall be made by the investment adviser without the consent of the other party to the contract; or

"(3) fails to provide, in substance, that the investment adviser, if a partnership, will notify the other party to the contract of any change in the membership of such partnership within a reasonable time after such change.

Paragraph (1) of this section shall not (A) be construed to prohibit an investment advisory contract which provides for compensation based upon the total value of a fund averaged over a definite period, or as of a definite dates, or taken as of a definite date, or (B) apply to an investment advisory contract with an investment company registered under title I of this Act which provides for compensation based on the asset value of the company averaged over a specified period and increasing and decreasing proportionately with the investment performance of the company over a specified period in relation to the investment record of an appropriate index of securities prices or such other measure of investment performance as the Commission by rule, regulation, or order may specify. For purposes of clause (B) of the preceding sentence, an index of securities prices shall be deemed appropriate unless the Commission by order shall determine otherwise. As used in paragraphs (2) and (3) of this section, 'investment advisory contract' means any contract or agreement whereby a person agrees to act as investment adviser or to manage any investment or trading account of another person other than an investment company registered under title I of this Act."

SEC. 26. The Investment Advisers Act of 1940 (15 U.S.C. 80b–1–21) is further amended by inserting immediately after section 206 a new section as follows:

"EXEMPTIONS

"SEC. 206A. The Commission, by rules and regulations, upon its own motion, or by order upon application, may conditionally or unconditionally exempt any person or transaction, or any class or classes of person, or transactions, from any provision or provisions of this title or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of this title."

SEC. 27. (a) Section 2 of the Securities Act of 1933 (15 U.S.C. 77b) is amended by adding at the end thereof two new paragraphs as follows:

"(13) The term 'insurance company' means a company which is organized as an insurance company, whose primary and predominant business activity is the writing of insurance or the reinsuring of risks underwritten by insurance companies, and which is subject to supervision by the insurance commissioner, or a similar official or agency, of a State or territory or the District of Columbia; or any receiver or similar official, or any liquidating agent for such company, in his capacity as such.

"(14) The term 'separate account' means an account established and maintained by an insurance company pursuant to the laws of any State or territory of the United States, the District of Columbia, or of Canada or any province thereof, under which income, gains and losses, whether or not realized, from assets allocated to such account, are, in accordance with the applicable contract, credited to or charged against such account without regard to other income, gains, or losses of the insurance company."

(b) Section 3(a)(2) of such Act (15 U.S.C. 77c(a)(2)) is amended to read as follows:

"(2) Any security issued or guaranteed by the United States or any territory thereof, or by the District of Columbia, or by any State of the United States, or by any political subdivision of a State or territory, or by any public instrumentality of one or more States or territories, or by any person controlled or supervised by and acting as an instrumentality of the Government of the United States pursuant to authority granted by the Congress of the United States; or any certificate of deposit for any of the foregoing; or any security issued or guaranteed by any bank; or any security issued by or representing an interest in or a direct obligation of a Federal Reserve bank; or any interest or participation in any common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of assets contributed thereto by such bank in its capacity as trustee, executor, administrator, or guardian; or any interest or participation in a collective trust fund maintained by a bank or in a separate account maintained by an insurance company which interest or participation is issued in connection with (A) a stock bonus, pension, or profit-sharing plan which meets the requirements for qualification under section 401 of the Internal Revenue Code of 1954, or (B) an annuity plan which meets the requirements for the deduction of the employer's contribution under section 404(a)(2) of such Code, other than any plan described in clause (A) or (B) of this paragraph and which covers employees, some or all of whom are employees within the meaning of section 401(c)(1) of such Code. The Commission, by rules and regulations or order, shall exempt from the provisions of section 5 of this title any interest or participation issued in connection with a stock bonus, pension, profit-sharing, or annuity plan which covers employees, some or all of whom are employees within the meaning of section 401(c)(1) of the Internal Revenue Code of 1954, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of this title. For the purposes of this paragraph, a security issued or guaranteed by a bank shall not include any interest or participation in any collective trust fund maintained by a bank; and the term 'bank' means any national bank, or any banking institution organized under the laws of any State, territory, or the District of Columbia, the business of which is substantially confined to banking and is supervised by the State or territorial banking commission or similar official; except that in the case of a common trust fund or similar fund, or a collective trust fund, the term 'bank' has the same meaning as the Investment Company Act of 1940."

(c) Section 3(a)(5) of such Act (15 U.S.C. 77c(a)(5)) is amended to read as follows:

"(5) Any security issued (A) by a savings and loan association, building and loan association, cooperative bank, homestead association, or similar institution, which is supervised and examined by State or Federal authority having supervision over any such institution, except that the foregoing exemption shall not apply with respect to any such security where the issuer takes from the total amount paid or deposited by the purchaser, by way of any fee, cash value or other device whatsoever, either upon termination of the investment at maturity or before maturity, an aggregate amount in excess of 3 per centum of the face value of such security; or (B) by (i) a farmer's cooperative organization exempt from tax under section 521 of the Internal Revenue Code of 1954, (ii) a corporation described in section 501(c)(16) of such Code and exempt from tax under section 501(a) of such Code, or (iii) a corporation described in section 501(c)(2) of such Code which is exempt from tax under section 501(a) of such Code and is organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization or corporation described in clause (i) or (ii);".

SEC. 28. (a) Section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)) is amended to read as follows:

"(12) The term 'exempted security' or 'ex-

empted securities' includes securities which are direct obligations of or obligations guaranteed as to principal or interest by the United States; such securities issued or guaranteed by corporations in which the United States has a direct or indirect interest as shall be designated for exemption by the Secretary of the Treasury as necessary or appropriate in the public interest or for the protection of investors; securities which are direct obligations of or obligations guaranteed as to principal or interest by a State or any political subdivision thereof, or by any agency or instrumentality of a State or any political subdivision thereof, or by any municipal corporate instrumentality of one or more States; any interest or participation in any common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of assets contributed thereto by such bank in its capacity as trustee, executor, administrator, or guardian; any interest or participation in a collective trust fund maintained by a bank or in a separate account maintained by an insurance company which interest or participation is issued in connection with (A) a stock-bonus, pension, or profit-sharing plan which meets the requirements for qualification under section 401 of the Internal Revenue Code of 1954, or (B) an annuity plan which meets the requirements for the deduction of the employer's contribution under section 404(a)(2) of such Code, other than any plan described in clause (A) or (B) of this paragraph which covers employees some or all of whom are employees within the meaning of section 401(c)(1) of such Code; and such other securities (which may include, among others, unregistered securities the market in which is predominantly intrastate) as the Commission may, by such rules and regulations as it deems necessary or appropriate in the public interest or for the protection of investors, either unconditionally or upon specified terms and conditions or for stated periods, exempt from the operation of any one or more provisions of this title which by their terms do not apply to an 'exempted security' or to 'exempted securities'."

(b) Section 3(a)(19) of such Act (15 U.S.C. 78(a)(19)) is amended to read as follows:

"(19) The terms 'investment company', 'affiliated person', 'insurance company', and 'separate account' have the same meanings as in the Investment Company Act of 1940."

(c) Section 12(g)(2) of such Act (15 U.S.C. 781(g)(2)) is amended by adding at the end thereof a new subparagraph as follows:

"(H) any interest or participation in any collective trust funds maintained by a bank or in a separate account maintained by an insurance company which interest or participation is issued in connection with (i) a stock-bonus, pension, or profit-sharing plan which meets the requirements for qualification under section 401 of the Internal Revenue Code of 1954, or (ii) an annuity plan which meets the requirements for deduction of the employer's contribution under section 404(a)(2) of such Code, other than any plan described in clause (i) or (ii) of this paragraph which covers employees some or all of whom are employees within the meaning of section 401(c)(1) of such Code."

SEC. 29. The provisions of the Securities Act of 1933 and the Investment Company Act of 1940 shall not apply, except for purposes of definition of terms used in this section, to any interest or participation (including any separate account or other fund providing for the sharing of income or gains and losses, and any interest or participation in such account or fund) in any contract, certificate, or policy providing for life insurance benefits which was issued prior to March 23, 1959, by an insurance company, if (1) the form of such contract, certificate, or policy was approved by the insurance commissioner, or similar official or agency, of a State, territory, or the District of Columbia, and (2) under such contract, certificate, or policy not to exceed 49 per centum of the gross premiums or other consideration paid was to be allocated to a separate account or other fund providing for the sharing of income or gains and losses.

SEC. 30. This Act shall take effect on the date of its enactment, except that—

(1) sections 5 (a), (b), and (c); 9(a); 11; 18; 24(a); and 25 (amending sections 10 (a), (b), and (c); 17(f); 19; and 32(a) of the Investment Company Act of 1940; and sections 203(b) and 205 (of the Investment Advisers Act of 1940, respectively) shall take effect upon the expiration of one year after the date of enactment of this Act;

(2) that part of section 5(d) which substitutes "interested persons" for "affiliated persons" in section 10(d) of the Investment Company Act of 1940 shall take effect upon the expiration of one year after the date of enactment of this Act;

(3) sections 16 and 17 (amending sections 27 and 28 of the Investment Company Act of 1940) shall take effect upon the expiration of six months after date of enactment of this Act; and

(4) section 3(b)(5) and that part of section 20 which adds a subsection (b) to section 36 of the Investment Company Act of 1940 shall take effect upon the expiration of eighteen months after the date of enactment of this Act.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BYRD of West Virginia. Mr. President, I move to lay that motion on the table.

The motion was agreed to.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make certain technical corrections in the engrossment of S. 2224.

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

Mr. MANSFIELD. Mr. President, with the passage of this measure, the distinguished senior Senator from Alabama (Mr. SPARKMAN) has added another outstanding achievement to his already abundant record of public service. The effectiveness of Senator SPARKMAN is exhibited always by the manner in which he handles legislative proposals. He has truly excelled as the chairman of the Committee on Banking and Currency.

His strong advocacy, his forthright explanation, and his selfless cooperative efforts assured the unanimous approval of this highly important measure. The qualities, I might add, are applied to all measures that gain his endorsement.

We are grateful also for the fine contributions of the Senator from Utah (Mr. BENNETT)—the ranking minority member of the committee—and of the Senator from New Hampshire (Mr. MCINTYRE). Their efforts enabled the prompt approval that was enjoyed by this measure; and for their part, also, I would like to thank the distinguished Senator from Texas (Mr. TOWER) and the distinguished Senator from Wisconsin (Mr. PROXMIRE). Their cooperation and assistance are always welcome. Their efforts made it possible to dispose of this matter efficiently and expeditiously, yet with full regard for the views of every Senator.

ELIGIBILITY REQUIREMENTS GOVERNING A GRANT OF ASSISTANCE IN ACQUIRING SPECIALLY ADAPTED HOUSING

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the action taken by the Senate on May 23, 1969, in concurring in the amendments of the House to the bill (S. 408) to modify eligibility requirements governing the grant of assistance in acquiring specially adapted housing to include loss or loss of use of a lower extremity and other service-connected neurological or orthopedic disability which impairs locomotion to the extent that a wheelchair is regularly required, with certain amendments be rescinded.

The PRESIDING OFFICER. Without objection, the previous action of the Senate is rescinded.

Mr. SPARKMAN. Mr. President, I move that the Senate concur in the amendments of the House with the following Senate amendments, which I ask to have stated.

The PRESIDING OFFICER. The clerk will state the amendments.

The assistant legislative clerk read the amendments, of the Senate to the amendments of the House, as follows:

(1) In the fourth line of the House amendment to the text of the bill, strike out "$15,000" and insert "$12,500".

(2) Strike out lines 5 through 12 of the House amendment to the text of the bill and insert in lieu thereof the following:

"SEC. 3. Section 1811(d) of title 38, United States Code, is amended by striking out '$17,500' each place where it appears therein and inserting in lieu thereof in each such place '$21,000'."

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama that the Senate concur in the House amendments with amendments.

The motion was agreed to.

FARM LABOR SHORTAGE

Mr. HOLLAND. Mr. President, I do not believe there is one among us who is not interested in seeing that everything possible is done to eliminate hunger and malnutrition in our Nation. It is the approach to this problem where some of us may differ.

I have taken the floor on previous occasions to point up the need for a program that would disseminate information as to proper foods necessary to obtain well balanced nutritional meals. I have also strongly supported the food stamp program, the school lunch program, and I am in full sympathy with providing those in need with the necessities to sustain life.

But, Mr. President, I must call to the attention of the Senate a situation that exists, whether we like it or not, that contributes to the malnutrition, and perhaps to hunger at times, in the migrant labor area that is caused entirely by the migrants themselves. I say this, speaking of the migrant labor in Florida, which I have the honor to represent, where there is ample work for those interested in employment. As an example of this, I wish to place in the RECORD a letter I have

received from a longtime friend and member of a family which has been producing fruits and vegetables since the 1880's—a family which is one of our larger growers of citrus and vegetables. This man, Hon. Randall Chase, has the high respect of all our people.

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

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

SANFORD, FLA., *May 22, 1969.*

Senator SPESSARD L. HOLLAND,
Washington, D.C.

DEAR SENATOR: Your news letter No. 9 of May 18th was most interesting, informative, and we certainly go along most heartily with the position you express.

The paragraph on the top of page 2, Farm Labor Bill, is most interesting and somewhat heartening. There is a real shortage of labor for harvesting crops in the State, both citrus and vegetables. In the Glades, contract labor, mostly migrant, is making from $40 to $55 a day. The turnover is about 70% daily. The high wages, of course, are the main reason for the turnover. There is lots of labor there but they only work a day or two and then they don't want any more or need any more until they have used up what they have made. The same remarks apply to other commodities, probably to a lesser degree, but it is still excessive.

Yesterday we closed down our packing house although we have 30–40,000 more boxes of oranges to gather. We have 6 crews in the field but we cannot get enough fruit picked to warrant holding the packing house crew there to handle it when it comes in, so we are going direct to the processing plant. Being primarily fresh fruit people, we dislike this tremendously, but when it costs so much to get fruit to the house and then it is costly to put it up, somewhere along the line you reach a point of no return on costs and we have just about gotten to that point for fresh fruit.

All this is known to you but I am simply writing now just as a matter of record and emphasis on the current situation.

Should there be some constructive plan we could follow during the few months ahead before we start over again on the crops, it might be some reasonable plan could be arrived at which would be helpful to the farmers, protect the public, and actually it would help some of the migrant labor, if help is possible to them. More money is not what they need.

With expressions of regard and best wishes.

Sincerely,

RANDALL CHASE.

Mr. HOLLAND. Mr. President, as Mr. Chase stated, farm labor can earn $40 to $55 a day and yet there is a daily 70-percent turnover since so many migrant workers, once being paid off at this high rate, will not work again until their money runs out.

Mr. President, as I have said before I feel it is necessary for us to help those in these United States that cannot help themselves. There are many in this category—just as there are many willing to do what they can to help themselves and endeavor to be self-sufficient. There are too many others, however, such as those referred to in Mr. Chase's letter, who lack the initiative to become self-sufficient or who prefer to "let Joe do it"—and sit back and accept the dole of the local, State, and Federal Governments so long as it is available—working only long enough to provide those extras not obtainable through the dole system. Mr. President, it is this group of people which worries me. The taxpayer—the people who must maintain steady employment—are being drained to a point of rebellion—particularly when they realize that their tax dollars are being used to support those who can help themselves but are not willing to do so.

I believe, Mr. President, it is high time that the Federal Government review the overall welfare programs, and to devise a plan whereby those who need assistance can obtain it and those who shirk their responsibilities are put on notice once and for all that they will not continue to be a drain on the taxpayer who must foot the bill.

Mr. President, another indication of what is happening to agriculture producers is shown by an article appearing in the Gainesville Sun, Thursday, May 22, 1969, entitled "Labor Shortage Bringing Watermelon Harvest Crisis." I ask unanimous consent that this article be inserted in the RECORD at this point.

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

LABOR SHORTAGE BRINGING WATERMELON HARVEST CRISIS

LAKELAND.—Florida, the nation's leading producer of watermelons, has reached the peak of harvest faced with a critical labor shortage in the Immokalee area although pay scales had skyrocketed.

A plea for help went out from the headquarters of the Florida Watermelon Growers and Distributors Association.

"If we aren't able to get labor into Immokalee this week, hundreds of acres of watermelons will be burned up," said Lester Faulhaber, association president.

Labor for harvesting has been progressively harder to get for the past several years, an association spokesman said, but this year brought a crisis.

Pay for the unskilled labor was increased from $2.25 to $4 an hour, the spokesman said.

Florida produces an annual average harvest of 100 million watermelons. This week is the peak of the harvest.

"Normally farmers will have 12 hours a day of harvesting," Faulhaber said, "but they have been limited to between three and four hours this season because of the severe labor shortage."

The association fired off telegrams seeking help from Agriculture Commissioner Doyle Conner and the farm labor division of the Florida State Employment Service.

Telegrams arriving at the association headquarters here described the situation in Immokalee as deplorable and critical.

One farmer reportedly gave up attempting to harvest with only 25 per cent of the melons out of the fields, an association spokesman said.

TRIBUTE TO CHIEF JUSTICE WARREN

Mr. TYDINGS. Mr. President, last week an eminent journalist and editorial writer for the New York Times, James Reston, published an editorial essay entitled "Nixon's Burger and Republican Symbols." The article deals primarily with Judge Warren Earl Burger.

With the majority of the article, I find myself in agreement. However, unfortunately in the middle of his editorial column Mr. Reston made a very unfair statement. He commented upon the general disarray of the Federal judiciary today and the failure of the Federal courts to utilize modern management techniques.

I will read verbatim the paragraph to which I shall direct my remarks. Mr. Reston in referring to the Supreme Court of the United States and the Federal judicial system, states:

> It is sadly in need of orderly administration. Whatever else Justice Warren was, he was not the best administrator in the history of the republic. The services of the federal courts are woefully inadequate. They have been short-changed. They are in need of marshals, probation officers, court reporters and all the modern administrative techniques of computers, which can speed up the administration of justice.

I find myself in complete agreement with every sentence in that paragraph with the exception of the sentence in which he mentions Chief Justice Warren. Unfortunately, I think that Mr. Reston, as frequently happens with top editorialists, got into an area in which he did not have the facts, or perhaps listened to someone who did not have the facts.

Mr. Reston made a most unfair insinuation. That insinuation is that Mr. Chief Justice Warren has not been a good administrator. Mr. President, I have great respect for Mr. Reston. I am sure that today he is considered one of the eminent national editorial writers. However, his unfair comment about the present Chief Justice does not have a factual foundation.

It has been my responsibility in the 5 years I have been a Member of the U.S. Senate to be chairman of the Subcommittee on Improvements in Judicial Machinery. Our responsibility has been to oversee the Federal judicial system and, indeed, to stimulate judicial reform within that system. During that period of time I have perhaps held more hearings and done as much work as any of my colleagues in that field in recent years.

I would like to comment on Mr. Reston's inference that Chief Justice Warren has not been a good administrator.

It is widely known within the Federal judicial system and among those who are interested in its reform that, with the exception of Chief Justice William Howard Taft, there has been no Chief Justice in the last half century who has made the efforts or had the success in stimulating a rather conservative body, the Federal judiciary, in the area of court reform that the Chief Justice presently sitting has, Chief Justice Earl Warren of California. Indeed, many students of the court, myself included, feel that one of the great contributions Chief Justice Warren has made has been in his leadership in trying to move the Federal judicial system toward more orderly administrative practices and techniques.

Let me enumerate for the benefit of the RECORD a few of the areas in which the Chief Justice has effectively led in the administrative operation of the Federal courts.

He has stimulated the American Law Institute to become a meaningful and powerful institution for court reform in this country.

He has made the Judicial Conferences

which were held by each U.S. circuit an important element for promoting progressive court reforms, rule changes, and modern institutional procedures within the Federal judiciary. Before Justice Warren's leadership, the conferences were primarily social meetings.

He has pioneered in the reorganization and adoption of new Federal rules of civil procedure, criminal procedure, and admiralty rules.

He has provided leadership in making the judicial councils of the circuits more effective institutions for administrative leadership than they ever were before.

It was his leadership that provided the acceleration for the Federal Judicial Center which has now been created by an act of Congress of which I was a cosponsor—the first research and development branch of the judicial system in the history of our Republic—a center which is going to save the taxpayers of this country, in my judgment, hundreds of thousands of dollars in the years to come, by the stimulation and creation of new administrative procedures to speed the processes of justice.

In short, Mr. President, I think every person interested in improving judicial administration knows the really fine contribution of Chief Justice Warren.

I might point out that Mr. Chief Justice Warren has done more to promote the organization and development of new law schools than any other justice in the history of the Supreme Court. As a matter of fact, many years ago, when he first became Chief Justice, in meeting with university leaders across the country and urging more and better law schools, he made a promise that he would dedicate any law school built during his tenure as Chief Justice; and he has faithfully carried out that promise.

All in all, if it had not been for the leadership of Chief Justice Earl Warren in the administrative field, I shudder to think what the position of the Federal judiciary, vis-a-vis backlog and other administrative problems, would be today.

Mr. Reston commented that we are in need of marshals, probation officers, and court reporters. I might point out to him that the fault has not been with the courts; it has been in Congress. The power of the purse rests with Congress and any failure to appropriate funds for the necessary court supporting personnel must be laid at our doorstep. It cannot be blamed on the Chief Justice.

I might also point out to Mr. Reston that, inherently, it is very difficult to initiate new systems of procedures in anything so tradition-bound as a judicial system.

But wherever the fault has been, it has not been in the administration of Mr. Chief Justice Earl Warren. I do not know what kind of response Mr. Reston will make to the Chief Justice, but he owes him an apology; and Mr. Reston owes his reading public the responsibility of better checking out his facts before making an off-hand statement which is completly unsupported by facts, as he did in the editorial column which he wrote about the appointment of Mr. Nixon's new Chief Justice.

MESSAGE FROM THE HOUSE—ENROLLED JOINT RESOLUTION SIGNED

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled joint resolution (S.J. Res. 99) to authorize the President to issue a proclamation designating the first week in June 1969 as "Helen Keller Memorial Week."

FBI DIRECTOR J. EDGAR HOOVER

Mr. THURMOND. Mr. President, earlier this month, certain individuals began spreading the word that Mr. J. Edgar Hoover would retire on the occasion of his 45th anniversary as Director of the Federal Bureau of Investigation. In many cases these prognostications were made with no small degree of wishful anticipation by those who would stand to gain by the loss of this dedicated American to Government service.

The only thing these individuals proved by their baseless reports of Mr. Hoover's impending retirement was how little they understand this man. J. Edgar Hoover is a man of dedication and determination; a man who has fought to protect the best interests of the American people for 45 years and does not intend to stop fighting now merely because some few would wish it so.

Mr. Hoover enjoys good health and is a man of tremendous vigor. He has publicly announced his intention to continue as Director of the FBI; and in doing so, he has engendered a sigh of relief from the great majority of Americans while bringing disappointment and consternation to extremists and subversives of every ilk.

Many newspapers across the country have recently published fitting tributes to Mr. Hoover.

Mr. President, I ask unanimous consent that the following editorials be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks: "Hoover Marches On" from the State Journal, Lansing, Mich., May 9, 1969; "Mr. Hoover Stays On" from the Paterson News, Paterson, N.J., May 9, 1969; "Bad News for Communists: J. Edgar Hoover To Stay On" from Orlando Sentinel, Orlando Fla., May 12, 1969; "A Remarkable Man" from the Napa Register, Napa, Calif., May 8, 1969; and "Forty-Five Years of Great Service" from the Globe Democrat, St. Louis, Mo., May 12, 1969.

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

[From the State Journal, Lansing (Mich.), May 9, 1969]

HOOVER MARCHES ON

Charles de Gaulle has passed from the world scene, astronauts have been to the moon and back, militant students are challenging university administrators and international communism is split down the middle in this fast changing world.

Through it all the almost legendary figure of J. Edgar Hoover has remained like a solid oak tree in spite of frequent prophecies that the aging director of the FBI would soon be put out to pasture.

Just to make sure the prophets get the picture, Hoover announced Thursday he has no intention of retiring and looks forward to many more years in office to "meet the crisis" in American society.

In these days when anarchy and lawlessness are on the upsurge, it's a reassuring thought that the old warrior will still be around for a while.

[From the Paterson (N.J.) News, May 9, 1969]

MR. HOOVER STAYS ON

FBI Director J. Edgar Hoover has given the country the best piece of news it has had in these months of turmoil and turbulance and for it we all have much to be grateful for.

Perhaps with the wish the father of the thought, it has been "rumored" in certain circles that since on Saturday he will mark his 45th anniversary as head of the Federal Bureau of Investigation, he will use the day to announce his retirement.

The thought of retirement is the furthest from Mr. Hoover's mind and he let it be known with characteristic vigor that he does not only not contemplate retirement but that he looks forward to many more years of service "to meet the crisis in American society."

There is unquestionably a strong element in the United States which would like to see Hoover out of the picture. He knows the culprits, he knows the arch-conspirators and they know he knows which increases their hatred for him and their desire to see him go.

America cannot now afford the loss of Mr. Hoover, especially in the dangerous circumstance of an apparent central conspiracy to build rebellion around campus upheavals. And while the liberal purists will accuse those who feel this is true of seeing mystic bad men under the university bed, it is gospel truth and must be so regarded, earnestly and relentlessly.

[From the Orlando (Fla.) Sentinel May 12, 1969]

BAD NEWS FOR COMMUNISTS: J. EDGAR HOOVER TO STAY ON

J. Edgar Hoover, 74, has squashed rumors he is stepping down as director of the Federal Bureau of Investigation.

And few can find fault with this, because, even at 74, his mind remains lucid, his knowledge of communism in America unparalleled, his philosophies of law and order a national ideal, and his genius for keeping the FBI beyond reproach as ample as ever.

These are reasons why Presidents Johnson and Nixon have allowed him to remain past the mandatory retirement age of 70 for federal employes.

In the coming months, his knowledge of communism may become particularly invaluable.

Warnings about communism in America lost a great deal of their punch after the downfall of the late Sen. Joe McCarthy, but Hoover's voice never wavered. Five years ago he predicted a Communist youth movement in America.

In recent times, this appeared a bit farfetched to many. Communism's kingpins, Russia and Red China were exchanging insults. The Communist bloc was shaken by Russia's invasion of Czechoslovakia. Communism hadn't rebuilt Cuba. Red upheavals in South America waned. A bitter split rent the American Communist party.

Then, out of the blue, came the campus riots, and America discovered a militant "New Left" among its youth, firebrand activists who knew Marx better than Jefferson, the Communist Manifesto better than the U.S. Constitution.

The Communist party wasn't agog long over the unexpected windfall, and has moved fast, Hoover said.

"Although virtually devoid of an effective youth arm of its own, the Communist Party has succeeded in penetrating and influencing a number of militant youth organizations—particularly those of the so-called New Left. The party considers the field to be so fertile at this time, in fact, that it presently is making plans to start a new youth organization this fall."

Communism sees an easy target in the misguided segment of our youth, and we need J. Edgar Hoover to help hold damage to a minimum until the militants grow up and come face-to-face with the realities of life.

[From the Napa (Calif.) Register, May 8, 1969]

A REMARKABLE MAN

This Saturday is a very special occasion for a very special American.

John Edgar Hoover marks his 45th anniversary as director of the Federal Bureau of Investigation.

The FBI had been established in 1908, but when Mr. Hoover took over command of the agency on May 10, 1924, a complete transformation of the organization was carried out.

A fingerprint division was established (which now includes a file of millions of fingerprints) and numerous functions within the FBI were altered to provide the most up-to-date, flexible operation possible.

A part of the Department of Justice, the FBI has the responsibility of investigating espionage, sabotage, treason and other matters pertaining to internal security. The agency also makes investigations under the Selective Service and Training Act.

Mr. Hoover was a law graduate of George Washington University in 1916. He went to work for the Department of Justice the following year.

Since his initial appointment as FBI director, he has been re-appointed to the post by every president of the United States. He has done an effective job and the "automatic" determination of the nation's leaders to have him continue in that post is a fine tribute to this most remarkable man.

Actually, though, Mr. Hoover is not admired by all people. There are many who are associated with the world of crime who dislike the FBI and its leader—and with good reason. Federal agents have waged a continuing war against crime. U.S. prisons are filled with those who felt they could outsmart the FBI. Communist agents in this country do not appreciate the efforts of Mr. Hoover and his organization, just as Nazi agents functioning in the United States in the days of World War II found that their efforts were destined for failure because of FBI vigilance.

For the average American, there may be little opportunity to have any personal contact with the FBI, except perhaps some routine check for a federal appointment or job, or via a television program or movie portrayal of the agents at work.

But for those who flout federal laws, there will be good reason to have contact with FBI agents.

The FBI has provided tremendous assistance to other law enforcement agencies throughout the nation—and to agencies in other nations.

When the Federal Bureau of Investigation is considered by those in law enforcement, it is in the highest of terms.

During these past 45 years Mr. Hoover has done a magnificent job. This Saturday, as he observes a most significant anniversary, it may be hoped that he can reflect with great satisfaction the idea that he has been one of the nation's most outstanding citizens, doing something of great value to preserve the American way of life.

[From the St. Louis (Mo.) Globe Democrat, May 12, 1969]

FORTY-FIVE YEARS OF GREAT SERVICE

The American left wing, which dislike FBI Director J. Edgar Hoover's tough stand on law enforcement, is beside itself because it can't find any genuine grounds for demanding his replacement.

In desperation ultra liberals have been calling for Mr. Hoover's resignation because of his age, though he is still in good health and performing his duties as effectively as ever.

We are happy to note that Mr. Hoover, who is 74, has announced that he has many plans for the future, but "none of them includes retirement." The respected FBI chief marked his 45th anniversary this last weekend, as head of the Federal Bureau of Investigation.

Instead of back-biting references to Hoover's age, he deserves a solid vote of thanks from the nation for his effective and courageous performance year after year.

Director Hoover is a man of great integrity. If and when he feels his health is slipping, he will be the first to recognize the fact and submit his resignation.

We would much prefer to have a 74-year-old J. Edgar Hoover directing the FBI than a young man half his age with the view of a Ramsey Clark.

ORDER OF BUSINESS

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

The PRESIDING OFFICER (Mr. ALLEN in the chair). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PELL. 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 INCARCERATION OF MOISE TSHOMBE

Mr. PELL. Mr. President, it is past time for us in this Chamber—and, indeed, for people everywhere—to remember a forgotten man whose name not only has disappeared from the pages of the world's newspapers but also whose exact whereabouts have become something of a mystery. I am referring to the long and unjustified incarceration of Moise Tshombe, former Premier of the Democratic Republic of the Congo, as that nation is formally if euphemistically styled.

Almost 2 years have gone by since Mr. Tshombe's private plane was hijacked and forced to land in Algiers. He was quickly taken into custody and has presumably been imprisoned ever since that time—although no one seems to be able to inform us as to the location of his place of confinement. In view of the current controversy about Mr. Tshombe's supposed conspiratorial activities, we should recall that his private plane was traveling from an island just off the coast of Spain to the city of Palma on Majorca in the Balearic Islands—a place certainly more renowned as a vacation spot than as a hotbed of international conspiracy. Let us also recall that Mr. Tshombe, in March of 1967, in absentia, had been sentenced to death for high treason by a special military court convened in the Congolese capital of Kinshasa.

Because of this latter fact, it may be suggested that the Government of Algeria deserves some approbation because it has not turned former Premier Tshombe over to the Congolese Government for execution. I suggest, however, that Algiers would have truly earned such approbation if its political prisoner had been promptly returned to Spanish jurisdiction.

To the contrary, the Algerian Government, ever since the end of June 1967, has kept Mr. Tshombe under its control. Even this unjustified action would not seem so intolerable if the outside world had some assurance that he was being treated humanely and with the minimum courtesy owed to a former prime minister, regardless of his controversial status. But the fact is that we just do not know anything whatsoever about the conditions which Mr. Tshombe is experiencing. I believe most, if not all, of my colleagues will agree that this treatment accorded Mr. Tshombe is more worthy of the Barbary pirates, who were once the scourge of the North African coast, than of the present Algerian Government, which claims to be a modern and civilized 20th-century power.

Now, let me make it clear that in raising this subject I have no stimulus other than a humanitarian concern for the fate of a man who, whatever his political beliefs and his activities, was a vigorous and talented leader with some support among his people. Indeed, I was a strong and persistent advocate of the United Nations policy adopted toward the Congo after 1960, a policy which in large measure was designed to defeat the aims then held by Mr. Tshombe. Moreover, as evidenced by my protests against the behavior of the current military dictatorship in Greece, I hold no brief for right-wing regimes in any area of the world. At the same time, I refuse to condone injustices perpetrated by any government regardless of its political complexion. Any government, whether marked by rightist, leftist, or centerist philosophies, cannot escape condemnation if it acts as cruelly toward a distinguished political refuge as the Algerian Government has behaved toward Moise Tshombe.

Obviously, I do not believe that any words of mine will bring any dramatic change in their wake. Since I am quite sympathetic to the efforts of the government in Algiers to bring Algeria out of the long twilight of colonial control into the modern world and to promote stability and economic development, it might seem paradoxical for me to reprove that government for its actions in the Tshombe case. Yet, it is because I am sympathetic to the aspirations of a country emerging from colonial rule that I wish its reputation to be unclouded by any reversion to the barbarities of the past. Furthermore, I hope that by raising this issue I shall be able to focus attention upon it and at the very least to stimulate the Algerian Government to

reveal information about Mr. Tshombe's position and perhaps to bring the issue to international adjudication. No matter what former Premier Tshombe's sins—real or imagined—neither he nor any other man should be placed in limbo while on earth. At an absolute minimum, the Algerian Government owes the world the knowledge whether Mr. Tshombe is dead or alive.

Mr. President, we are accustomed to citing with approval the famous lines of John Donne to the effect that any man's death diminishes each of us. As forcefully as I can, I would like to say that Mr. Tshombe's status in a kind of living death equally diminishes all of us as individuals and the Algerian Government as an entity.

Mr. COOPER. 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.

ORDER FOR ADJOURNMENT UNTIL TOMORROW

Mr. KENNEDY. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until noon tomorrow.

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

Mr. KENNEDY. 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. COOPER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969—AMENDMENT

AMENDMENT NO. 23

Mr. COOPER. Mr. President, when the administration bill, S. 1300, was introduced on March 4 of this year by the distinguished ranking minority leader (Mr. JAVITS) I was very happy to be a cosponsor. I stated on the floor of the Senate then that I had reviewed the President's proposals and I considered them to be strong and comprehensive measures for dealing with and meeting the increasing problems of health and safety in our coal mines. At the same time, I indicated that I reserved my right to offer amendments and, based on my own experience in this field, to call to the committee's attention and to the attention of the Senate particular suggestions that I believe would promote greater safety in our coal mines. In concluding my remarks at the time of the bill's introduction, I stated that I wished "to express firmly that the new hazardous conditions in our coal mines require new remedies if we are to provide for the health and safety of our workers. I shall work and vote for such a bill."

I am interested in this legislation because the State of Kentucky is the second largest coal-producing State in the Nation providing employment and economic livelihood to a large segment of its citizens, and I am interested in the health and safety of those who work in coal mines.

In western Kentucky some five counties are engaged in coal mining. These mines are mostly strip mines with some shaft mines.

In eastern Kentucky there are 17 counties that depend on the coal industry for their economic existence. In Harlan County—the second largest producer of coal from underground mines in Kentucky—there is no other industry and all who are employed are either directly or indirectly affected by the prosperity of the coal industry. Some 12,000 of Harlan County citizens alone will be affected directly or indirectly by any legislation pertaining to coal mining.

Coal mine safety legislation has been under consideration by the Congress over the past 11 years. In 1958, and 1959, as a member of the Senate Labor and Public Welfare Committee, I participated in the consideration of coal mine safety bills before that committee and I had a hand in drafting the bill reported by the committee in 1960 and which passed the Senate. The House failed to act.

When the Senate and House committees considered amendments to the Federal Coal Mine Safety Act in 1965, I testified before both committees. Again in 1966 when the Senate Labor Subcommittee was marking up H.R. 5384, I was invited by the chairman of the subcommittee, former Senator Morse, to meet with the subcommittee in executive session to present my views. And when the bill was considered on the floor, I helped to establish legislative history in the course of which Senator Morse stated that the bill, as amended, provided a more effective measure in promoting the interest of coal mine safety.

I mention this background to indicate my longstanding interest in the subject of coal mine safety legislation.

I have followed closely the hearings held by the distinguished chairman of the Subcommittee on Labor (Mr. WILLIAMS) on the administration bill, S. 1300, and related bills, S. 355, S. 467, S. 1094, S. 1178, S. 1907, and recently Senator RANDOLPH's bill, S. 2118. I know that the subcommittee's hearings have been thorough and have produced informed and helpful testimony.

Based on my study of the provisions of these bills and my review of the committee's testimony, I shall propose three amendments to S. 1300 for the committee's consideration. I introduce the first of these amendments today.

The greatest danger to the safety of miners in the operations of a coal mine—whether that mine be classed gassy or nongassy—stems from roof falls. Falls of roof, rib and face, according to the Bureau of Mines, are the No. 1 killer in bituminous coal mines. Roof falls are the cause of over 50 percent of all underground fatalities.

During the time I served on the Senate Labor and Public Welfare Committee when that committee was considering amendments to the Federal Coal Mine Safety Act, it was my view based on the committee's hearings that more attention should be given to the problem of roof falls and the need for legislation to lessen this No. 1 miner's hazard. In 1959, I introduced a bill, S. 1562, to amend the Federal Coal Mine Safety Act. One of the provisions of that bill would require the Bureau of Mines to make a study of the incidence and causes of roof and rib falls, to recommend measures to reduce and prevent such roof and rib falls, and to study existing educational and training programs in mine safety and reads as follows:

SEC. 301(c). The Bureau of Mines will in conjunction with State mine safety agencies, make a study of (1) the incidence and causes of roof and rib falls, and measures which it recommends to reduce and prevent such rib and roof falls; and (2) educational training programs. The findings and recommendations of the Bureau shall be submitted to the appropriate State officials and to the appropriate committees of the Congress.

Mr. President, I ask unanimous consent that a statement I made on the floor March 25, 1959, introducing S. 1562 be included in the RECORD at this point.

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

STATEMENT OF SENATOR JOHN SHERMAN COOPER UPON INTRODUCTION OF MINE SAFETY LEGISLATION IN THE U.S. SENATE, MARCH 25, 1959

Mr. President, on behalf of myself, the senior Senator from Virginia (Mr. Byrd) the junior Senator from Virginia (Mr. Robertson) and my colleague from Kentucky (Mr. Morton) I introduced a bill to amend the Federal Coal Mine Safety Act.

Section I of the bill would make applicable to all coal mines—regardless of the number of employees—the provisions of the Federal Coal Mine Safety Act, which authorizes a Federal mine inspector to order the withdrawal of all miners from a mine when he finds "danger that a mine explosion, mine fire, mine inundation, or man-trip or manhoist accident will occur in such mine immediately or before the imminence of such danger can be eliminated," and to prohibit their re-entering the mine until the danger has been eliminated.

Such power to withdraw miners and to keep a mine closed cannot today be exercised by a Federal mine inspector in mines employing 14 or less persons, even though imminent danger exists—danger which could cause injury or death to miners.

According to the table submitted in the course of hearings last year by the Honorable Marling J. Ankeny, Director, U.S. Bureau of Mines, there were in 1957, 7,659 mines employing 14 or less persons; and thousands of miners are employed in such mines. Section I of my bill would extend to these miners the protection against imminent danger that the Federal Coal Mine Safety Act now extends to larger mines—those employing more than 14 persons.

Questions always arise as to procedure by which a mine may be reopened and its miners returned to work, after it has been closed because of conditions which create imminent danger.

Under the Mine Safety Act, unless the State has a safety plan which has been approved by the Bureau of Mines, exclusive jurisdiction and power to reopen a mine or to order it to remain closed is maintained by the Federal Government through the Bureau of Mines, subject to review by the courts.

In all such cases, a mine owner and miners who had taken steps to correct the dangerous conditions, and who believed the mine safe for reopening, would be compelled to present their case, if reopening was denied by a Federal inspector, through a difficult and expensive chain of procedures. In many instances the small mine owner would be unable to undertake this very complicated procedure.

The bill I introduce provides a speedy and fair procedure for determining whether conditions of imminent danger in a closed mine have been corrected, and whether the mine is ready for reopening. It is the exact procedure now provided in the Fedral Mine Safety Act for mines employing over 14 persons, when the State has a mine safety plan that has been approved by the Bureau of Mines.

I shall explain this procedure by referring to the language used by the Committee on Labor and Public Welfare in Senate Report No. 1963, dated July 25, 1958, which states that presently, under section 203(e) of the act, if a State has a State plan that has been approved by the Bureau of Mines, the operator of a mine that has been closed because of danger of imminent disaster may request an inspection of the mine by a State inspector. If the State inspector does not concur in the closing order, the mine must remain closed; but the owner of the mine may make application to the chief judge of the U.S. District Court for the district in which the mine is located for the appointment of an independent inspector to inspect the closed mine. Unless the appointed inspector concurs in the closing order, it ceases to be effective and the mine may be reopened. The committee amendment marks this review procedure applicable to presently exempted mines ordered closed under the provisions of the amendment, without requiring, as a condition of resorting to this procedure, that the State in which the mine is located have or adopt a State plan approved by the Bureau of Mines.

Section II of the bill I now introduce is very clear. It would direct the Bureau of Mines to make a study of safety conditions for all mines, regardless of the number of miners employed. Hearings would be held in the major coal-producing States so that State mine-safety officials, miners, unions representing miners and mine operators in each of said states would have the opportunity to testify about conditions in the mines of their State, and to make recommendations to improve mine safety.

In addition, this bill would direct the Bureau of Mines to conduct a study of mine safety, with special emphasis on the major cause of mine accidents—namely, roof and rib falls. It would also require a study of educational and training programs for mine employees on safety measures.

During the hearings last year on amendments to the Federal Mine Safety Act, one amendment proposed would have applied all the provisions of the Federal Mine Safety Act to every mine. Small mine owners testified that many of these provisions were not applicable to small mines, and that they would not increase safety. They testified that to require by law small mines to undertake unnecessary expenditures would put many small mines out of business and would throw thousands of miners out of work.

I cannot say definitely that this would be the case; but I believe that the Congress should not take drastic action without knowing whether it is necessary to improve mine safety. Unemployment, hunger, and every other element of want and distress prevail today in the coal-mining areas of Kentucky and other States. If before we obtain the facts, other mines are closed unnecessarily by our action, we shall contribute to this distress, and we may deny to the States an opportunity of recovering their natural wealth in coal.

Mr. President, I do not believe that any responsible Member of this Chamber or, indeed, any other responsible person in the United States does not honestly and sincerely support the principle of increased mine safety. Only last year the Committee on Labor and Public Welfare found that there was a lack of reliable and convincing statistics upon which to base constructive legislation on this very important and vital subject. We concluded that it would be most useful—in fact essential—to have the Bureau of Mines conduct hearings in the States with the Nation's heaviest concentration of coal mines, and to report its findings, in order that we might legislate intelligently on the matter. We recognized, however, that the Federal inspectors should not be hindered when, in their judgment, there was a danger of serious disaster in permitting operation of any mine—without regard to its number of employees.

Mr. President, that was why we included the provision to enable a Federal inspector to close a mine whenever a condition of imminent danger was found to exist. I am sorry that provision was not enacted. If it had been, some of the disasters which recently have occurred might have been prevented.

Only a few days ago there occurred in Tennessee a mine disaster in which eight or nine lives were lost. I cannot say that if the bill we reported last year had been enacted, that accident would have been prevented; but I can say that the enactment of that bill or the enactment of a similar bill will help prevent similar accidents in the future.

Mr. President, the problem of amending the Coal Mine Safety Act was before the Committee on Labor and Public Welfare in the last session of Congress and was thoroughly debated and considered. The Committee concluded, on the basis of its study that the steps outlined above were essential and it reported to the Senate a bill identical to the one I have introduced today. The sole change that has been made is in the date by which the Bureau of Mines must conclude its study and must report to the Congress. Whereas the bill reported last year called for a report to be submitted by February 15, 1959, our bill requires a report within 6 months after enactment.

I am proud to sponsor this proposed legislation which, when enacted, will improve and make safer the conditions under which the Nation's miners work, and will authorize the best and the quickest study possible, in order to make further improvements in mine safety.

Mr. COOPER. Mr. President, I note that beginning in 1958 the Bureau of Mines has collected and analyzed statistics on the causes of roof falls. However, I do not believe that the Bureau of Mines has initiated as yet an adequate educational and training program for mine employees to reduce the number of accidents due to roof falls.

Mr. President, I ask unanimous consent to have placed in the RECORD at this point in my remarks the most recent summary prepared by the Bureau of Mines concerning statistics on roof falls for the period of 1958–68.

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

SUMMARY ON FALLS, OF ROOF, RIB, AND FACE—THE NO. 1 KILLER IN BITUMINOUS COAL MINES IN 1968

During 1968, the continuing attack against the No. 1 killer—falls of roof, face and rib does not show improvement over 1967 according to statistics prepared by the Bureau of Mines, Department of the Interior. The frequency of such fatalities increased from 0.62 per million man-hours worked underground in 1967 to 0.66 in 1968.

Bureau statistics also show that of the 3,519 underground bituminous coal-mines active during 1968, 3,430 or 97.47 percent, were operated without a rock- or coal-fall fatality. Fatal injuries from falls of roof, face, and ribs occurred in 86 (2.44 percent) of the active mines and caused 98 of the deaths charged to underground employment in 1968 as compared with 94 such fatalities experienced in 1967.

During 1968, approximately 545,000,000 tons of bituminous coal was produced in the United States from 3,519 underground, 1,244 strip and 365 auger mines or a total of 5,128 mines. During that period the bituminous-coal industry suffered 305 fatal injuries, 267 of which occurred underground, 12 in various surface operations, 20 at strip mines and 6 at auger mines. This is an increase of 94 from the 211 fatal injuries that occurred in 1967 when approximately 552,626,000 tons of coal was mined.

The following tabulation shows the number, percent, and frequency of rock-and-coal-fall fatalities for the 11 year period, 1958 through 1968:

TABLE 1.—FATALITIES FROM FALLS OF ROCK AND COAL, 1958–68

Year	Bituminous roof-fall fatalities	Percent of underground fatalities	Roof-fall fatalities per million man-hours worked underground
1958	157	54.3	0.80
1959	135	64.3	.76
1960	145	58.9	.85
1961	135	55.8	.88
1962	105	46.5	.71
1963	123	56.4	.82
1964	114	60.6	.75
1965	126	58.6	.82
1966	110	58.2	.74
1967 [1]	94	57.0	.62
1968 [1]	98	36.7	.66

[1] Preliminary.

Mr. COOPER. Mr. President, not only nationwide but in my own State, roof falls have been the major cause annually of Kentucky's coal mining fatalities. Let me emphasize that for the period 1953–68 there have been no fatalities in Kentucky's nongassy mines resulting from gas ignitions or explosions. However, during this period the Kentucky Department of Mines and Minerals reports for all coal mines a total of 493 fatalities resulting from roof falls representing more than 60 percent of all Kentucky coal mine fatalities.

Mr. President, I ask unanimous consent that this report be included in the RECORD at this point.

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

KENTUCKY DEPARTMENT OF MINES AND MINERALS—COAL MINE FATALITY RECORD 1948-68

Year	Fatal accidents, all causes	Total production	Tons per fatal accident	Fatals due to roof falls	Tons per fatality due to roof falls	Percent due to roof falls
1948	134	82,579,453	616,250	79	1,045,309	59
1949	66	73,997,676	1,121,177	41	1,804,821	62
1950	81	82,176,693	1,014,527	53	1,550,503	65
1951	106	73,951,266	697,653	65	1,137,711	61
1952	74	64,515,091	871,827	83	1,697,765	51
1953	59	63,535,507	1,076,573	39	1,629,115	66
1954	54	58,621,115	1,085,576	35	1,674,889	65
1955	57	68,900,744	1,208,785	33	2,087,901	58
1956	75	75,934,180	1,012,456	47	1,615,621	63
1957	61	75,775,936	1,242,228	40	1,894,398	66
1958	49	67,809,271	1,383,863	29	2,338,215	59
1959	43	64,990,298	1,511,402	26	2,499,627	60
1960	57	67,067,740	1,176,628	32	2,095,867	56
1961	55	65,345,255	1,189,005	43	1,520,820	78
1962	41	70,049,075	1,708,524	19	3,686,793	46
1963	33	78,139,040	2,367,850	25	3,125,562	76
1964	47	83,283,504	1,771,989	31	2,686,565	66
1965	39	87,207,039	2,236,077	25	3,484,241	64
1966	40	93,240,675	2,331,017	22	4,238,212	55
1967	50	100,106,241	2,002,124	25	4,004,248	50
1968	56	[1] 102,500,000	[1] 1,830,357	22	[1] 4,659,090	39

[1] Estimated.

Note: The year 1968 was the 16th consecutive year in which the Kentucky coal mining industry produced more than 1,000,000 tons of coal per fatal accident. There have been only 18 such years in the 89-year history of the department. Advance tonnage estimates indicate it is the best year in history from the standpoint of tonnage per roof-fall fatality and the 4th best year from a tonnage per fatality standpoint. Advance estimates also predict that 1968 will be the highest coal production year of the Commonwealth.

Mr. COOPER. Mr. President, section 209(c) of the present law concerns itself with the problem of roof falls as follows:

Roof Support—the roof and ribs of all active underground roadways and travelways in a mine shall be adequately supported to protect persons from falls of roofs or ribs.

The administration bill, S. 1300, amends this provision as follows:

SEC. 303. The roof and ribs of all active underground roadways, travelways, and working places shall be supported or otherwise controlled adequately to protect persons from falls of the roof or ribs. A roof-control plan and revisions thereof suitable to the roof conditions and mining system of each mine and approved by the Secretary shall be adopted and set out in printed form within a reasonable period to be established after the operative date of this title by the Secretary by regulation. The plan shall show the type and spacing of supports approved by the Secretary. No person shall proceed beyond the last permanent suport unless adequate temporary support is provided or unless such temporary support is not required under the approved roof-control plan. A copy of the plan shall be furnished the Secretary or his authorized representative upon request.

In my view the administration's amendment is inadequate to meet the problem of roof-fall accidents.

The amendment, which I now send to the desk, would provide greater protection for all miners in underground coal mines from falls of roof, rib or face. The thrust of my amendment is based on the following analysis:

In its 1968 report, at table 6, the Bureau of Mines lists the primary causes of roof-fall accidents as follows:

TABLE 6.—ROOF-FALL ACCIDENTS BY PRIMARY CAUSES

Primary causes	1960	1961	1962	1963	1964	1965	1966	1967	1968
Failure to take down or secure loose roof, face, or rib	58	39	39	23	17	7	15	5	12
Failure to examine roof or incorrect analysis of such examination	12	12	18	22	9	22	10	11	16
Failure to comply with adopted support system or lack of a support plan	20	25	10	57	41	56	41	34	35
Failure to use temporary support or enough	11	10	5	3	18	17	15	12	17
Failure to follow company rules or instructions, to heed warnings, or to take ordinary precautions	13	8	4	0	0	4	0	1	2
Failure to replace dislodged or remove support	13	8	5	3	3	5	2	0	0
Failure to abandon workings when known to be imminently dangerous	1	2	2	2	4	5	5	3	3
Failure of conventional support system	16	15	18	5	12	3	5	12	5
Failure to follow roof-bolting plan	0	4	2	0	2	4	10	6	0
Failure of mining system	1	12	2	6	5	3	7	10	8
Other				2	3	0	0	0	0
Total	145	135	105	123	114	126	110	94	8

Mr. COOPER. Mr. President, you will note that the largest number of fatalities in 1968—35—were due to a failure to comply with an adopted support system or lack of a support plan. My amendment would require that within 60 days after the effective date a roof-control plan "shall show the type and spacing of supports approved by the Secretary and such plan shall be reviewed periodically and at least every 6 months by the Secretary taking into consideration any accidents from falls of roof or ribs or inadequacy of support of roof or ribs and such revisions of said plan shall be made to improve the control of roof and rib of said mine."

Second, the Bureau of Mines' report attributes a failure to use temporary supports as causing 17 fatalities. My amendment prohibits all persons from proceeding beyond the last permanent support unless adequate temporary support is provided and requires that—

At all times safety posts, jacks or temporary cross bars shall be set close to the face before other operations are begun and as needed thereafter, if men go in by the last permanent roof support.

A further provision would make mandatory the use of safety posts or jacks to protect the workmen when roof material is to be taken down, cross bars are being installed, roof bolt holes are being drilled or when roof bolts are being installed.

I urge the committee to give its attention to this very serious problem of roof falls. Any statutory improvements in existing law are bound to result in a saving of lives.

Mr. President, I wish to add briefly to my prepared statement and comment on the amendment I am submitting.

Several bills dealing with coal mine safety and health are pending before Congress. Most of these bills deal with fatalities and injuries which arise from ignitions and explosions in underground coal mines caused by gas, and also with fatalities and permanent disabilities, caused by pulmonary diseases resulting from coal dust.

Over the past 11 years, amendments have been proposed to the Federal Coal Mine Safety Act. The last amendments were adopted in 1965.

The Committee on Labor and Public Welfare considered amendments in 1958 and 1959 when I was a member of the committee. Amendments which were offered in 1958 and 1959 were adopted by the committee and presented to the Senate. The Senate acted favorably upon these amendments in 1960 by a vote of 80 to 4, but for some unexplained reason the bill was never acted on by the House. I attribute failure of the House to act to the opposition of the Bureau of Mines, supported by the United Mine Workers. I do not criticize the United Mine Workers, but I do criticize the Bureau of Mines, because in 1960 the bill that passed the Senate would have provided for greater safety. Since the Bureau of Mines did not approve of the Senate committee's recommendations, it opposed the 1960 amendments. Therefore, for a period of 6 years no legislation was passed to improve safety conditions in the mines until the 1966 amendments.

Today there is tremendous interest in coal mine safety legislation because of the explosions which have occurred in gassy mines in West Virginia; I refer to the November 20 disaster killing 78 men at Farmington. This disaster has renewed interest in Congress and the Nation as a whole toward reducing ignitions and explosions in gassy mines which cause a great number of fatalities each year.

Throughout all these years, the statistics furnished by the Bureau of Mines show that over one-half of the injuries and fatalities which have occurred in the coal mines have been because of roof falls. The amendments which I proposed in 1958 and 1959 recognized the hazards of roof falls and dealt with this problem.

Of the bills now before Congress, one proposed by the administration, of which I am a cosponsor, one proposed by the distinguished chairman of the Subcommittee on Labor (Mr. WILLIAMS), one by the distinguished Senator from West Virginia (Mr. RANDOLPH), who over the years has made lasting contributions in the field of coal mine safety legislation, and others, few, if any, deal adequately with the problems of roof falls.

Mr. President, in my prepared statement I pointed out that in my own State as well as nationwide, over one-half the

injuries and fatalities which occur in underground coal mines result from roof falls.

Today, I introduce an amendment designed to strengthen the provisions of exitsing law by affording greater protection against roof-fall accidents.

The PRESIDING OFFICER. The amendment will be received, printed, and appropriately referred.

The amendment was referred to the Committee on Labor and Public Welfare.

Mr. COOPER. Mr. President, I wish to announce that later I shall introduce two other amendments which deal with other problems of safety in the coal mines.

I recall that when we had these questions before us in 1958 and 1959, and again in 1965, that it was almost impossible to get accurate information from the Bureau of Mines concerning the causes of injuries and fatalities in both the large and small mines.

Today, we are provided by the administration and the Bureau of Mines with more accurate information.

However, on questions concerning the distinction between gassy and nongassy mines—to which I shall address myself at a later date—the Bureau of Mines has failed to support by evidence its proposal to extend certain features of the Coal Mine Safety Act to nongassy mines; while the Bureau has emphasized the 27 fatalities caused by ignitions and explosions which have occurred in nongassy mines since 1953, it has failed to show that in this same period some 374 miners were killed and 412 were injured by ignitions and explosions in gassy mines.

Mr. President, I shall offer amendments which I believe will recognize the distinguishing characteristics between gassy and nongassy mines, the incidence of injuries and fatalities in both, and go more directly to the heart of this question than the amendments which are now pending before the committee.

Today, I did want to emphasize that over half the injuries and fatalities in our coal mines occur because of roof falls, and my amendment is directed toward providing greater protection to our miners in this area.

DESIGNATION OF CERTAIN ISLANDS IN MICHIGAN, WISCONSIN, AND MAINE AS WILDERNESS AREAS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 190, Senate 826.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. S. 826, to designate certain lands in the Seney, Huron Islands National Wildlife Refuges in Michigan, the Gravel Island and Green Bay National Wildlife Refuges in Wisconsin, and the Moosehorn National Wildlife Refuge in Maine, as wilderness.

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

There being no objection, the bill was considered, ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 826

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 3(c) of the Wilderness Act of September 3, 1964 (78 Stat. 892; 16 U.S.C. 1132 (c)), certain lands in (1) in the Seney, Huron Islands, and Michigan Islands National Wildlife Refuges, Michigan, as depicted on maps entitled "Seney Wilderness—Proposed", "Huron Islands Wilderness—Proposed", and "Michigan Islands Wilderness—Proposed", (2) the Gravel Island and Green Bay National Wildlife Refuges, Wisconsin, as depicted on a map entitled "Wisconsin Islands Wilderness—Proposed", and (3) the Moosehorn National Wildlife Refuge, Maine, as depicted on a map entitled "Edmunds Wilderness and Birch Islands Wilderness—Proposed", all said maps being dated August 1967, are hereby designated as wilderness. The maps shall be on file and available for public inspection in the offices of the Bureau of Sport Fisheries and Wildlife, Department of the Interior.

SEC. 2. The areas designated by this Act as wilderness shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act.

Mr. KENNEDY. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–200), explaining the purposes of the bill.

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

PURPOSE

This bill is identical to S. 3502 of the 90th Congress, which was favorably reported by the committee and unanimously passed by the Senate, but did not receive House action.

S. 826 would designate as units of the National Wilderness Preservation System the Seney, Huron Islands, and Michigan Islands Wilderness areas in the State of Michigan, the Wisconsin Islands Wilderness in the State of Wisconsin, and the Edmunds Wilderness and Birch Islands Wilderness in the State of Maine. All of the lands included are presently within the National Wildlife Refuge System.

DESCRIPTION

The Seney Wilderness proposal contains approximately 25,000 acres of the Seney National Wildlife Refuge in Schoolcraft County, Mich. The proposed area includes treeless bogs and strips of bog forest, remnants of black spruce and white pine forests, inhabited by a variety of big and small game, ranging from moose to red fox and timber wolves. The area is relatively inaccessible.

The proposed Huron Islands Wilderness contains approximately 147 acres consisting of eight small islands in Lake Superior. The islands are made up of pink and gray granite upthrusts, with trees, brush, and herbaceous plants over two-thirds of the islands, and the remaining third largely barren. The islands are not often visited because of their isolation, rough seas, and limited landing sites.

Six small islands, totaling approximately 41 acres, constitute the Michigan and Wisconsin Islands Wilderness proposals. They are important breeding and nesting areas for herring and ring-billed gulls. The fragile island ecology, abundant bird population, and picturesque terrain features have unique beauty and are of major interest to scientists, students, and nature lovers.

A total of 2,780 acres constitute the wilderness proposals for the Edmunds and Birch Islands areas within the Moosehorn National Wildlife Refuge in Washington County, Maine. This refuge is one of the few Federal areas in the Northeast containing wilderness resources.

HEARINGS

In accordance with the requirements of the Wilderness Act of September 3, 1964 (78 Stat. 890), public hearings were held at locations convenient to the areas affected. The results of these hearings are summarized in the synopses accompanying the recommendations to the President, which follow later.

COST

No additional budgetary expenditures are involved in enactment of S. 826.

RECOMMENDATION

The Senate Committee on Interior and Insular Affairs reports favorably on S. 826 and recommends early enactment.

SENATOR MANSFIELD'S COMMENTS ON THE CBS PROGRAM "FACE THE NATION"

Mr. KENNEDY. Mr. President, yesterday, appearing on the CBS nationwide television program, "Face the Nation," the distinguished majority leader, the Senator from Montana (Mr. MANSFIELD), responded to a number of questions concerning this Nation's policies in foreign and domestic affairs.

Once again, his understanding, and perceptions add great insight into difficult problems, and his remarks are worthy of the attention of all Members of this body. I therefore ask unanimous consent to have a transcript of the program printed in the RECORD.

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

FACE THE NATION

(By the CBS Television Network and CBS Radio Network, Sunday, May 25, 1969, Washington, D.C.)

Guest: Senator MIKE MANSFIELD, Democrat, of Montana.

Reporters: George Herman, CBS News; Frank Mankiewicz, syndicated columnist; Daniel Schorr, CBS News.

Producers: Sylvia Westerman and Prentiss Childs.

Mr. HERMAN. Senator Mansfield, you have said that the Senate has been derelict in not subjecting Supreme Court nominees to more searching scrutiny. That was before Judge Burger was nominated as Chief Justice. Do you feel that his nomination should be subject to some kind of new and more intensive kind of examination?

Senator MANSFIELD. Oh, yes, not only Judge Burger but all other nominees from now on in all departments, as well as the Judiciary.

ANNOUNCER. From CBS Washington, in color, "Face the Nation," a spontaneous and unrehearsed news interview with Senate Majority Leader Mike Mansfield, of Montana. Senator Mansfield will be questioned by CBS News Correspondent Daniel Schorr, Syndicated Columnist Frank Mankiewicz, and CBS News Correspondent George Herman. We shall continue the interview with Senator Mansfield in a moment.

Mr. HERMAN. Senator Mansfield, what can the Senate do in way of more searching scrutiny? Does it have to enlist the help of the administration, for example the Justice Department? How do you go about it?

Senator MANSFIELD. No, I wouldn't think so. I would expect the Executive Branch to be more thorough in its size-up of nominees from now on, and I would expect the Senate committees, the committees concerned, to use their own staffs to follow up on what is given to them by the Executive Department to the end that they can be as absolutely sure as possible before they report a name to the Senate for confirmation.

Mr. MANKIEWICZ. Senator Mansfield, turning to foreign policy for a moment, are you satisfied with the progress the administration is making in moving toward strategic arms talks with the Soviet Union? There has been some thought that we may be waiting until we have tested fully some of the more advanced weapons, the multiple warheads on our missiles and so forth.

Senator MANSFIELD. No, I am not satisfied at all, because we initiated the proposals for talks in 1964. Since that time there have been a number of unofficial feelers from the Soviet Union. I am sure that in reply unofficially we have given them encouragement. Secretary Rogers said that talks would begin in late spring or early summer; so far nothing has been done, no date has been set, and I think the way to handle this matter and to bring an arms limitation and an arms freeze, covering ABMs, MIRVs and other vehicles and missiles, is to set a date certain, sometime next month perhaps, to get down and get to business.

Mr. SCHORR. Senator, I would like to come back for a moment to the Supreme Court problem, the issues that have arisen from the resignation of Justice Abe Fortas. You are quoted in support of bills, at least the ideas of bills introduced by Senator Griffin and Senator Hart that would provide generally for greater financial disclosure by members of the Federal Judiciary.

Yesterday a committee of the U.S. Judiciary Conference, acting with rather unseemly haste got to work on a code providing for self-policing by the Judiciary itself. I believe it provides for financial—fairly full financial disclosure, but secretly, within the Judiciary. Would you be willing to be headed off at the pass, so to speak, and accept self-policing by the Judiciary?

Senator MANSFIELD. No, I think they are late and we are late in facing up to this problem. When I say "we are late," I mean the Congress itself. I am interested and do intend to join with Senators Hart and Case of New Jersey in sponsoring a bill which will be extended to include not only the Executive and the Legislative Branches but also the Judicial Branch as well. Senator Griffin's, I believe, covers just the Judiciary.

Mr. SCHORR. That's correct.

Senator MANSFIELD. And what I would like to see would be a combination, at the very least, of what the Senate has done in making public outside honorariums and what the House has done making public outside business connections. And I think that the Hart-Case bill is a good way to face up to this problem. It should include the Judiciary. I intend to support it and I would hope we could get action before too long.

Mr. SCHORR. Are you afraid of a constitutional confrontation with the—

Senator MANSFIELD. I think we ought to take that chance and face up to it and make our wishes known, and I think the sooner we do it the better.

Mr. HERMAN. Let me just make sure I understand you. You are saying that the legislature should set ethical standards for both the Executive and the Judiciary, as well as for the legislature itself?

Senator MANSFIELD. Exactly.

Mr. HERMAN. You don't think——

Senator MANSFIELD. Treat them all alike.

Mr. HERMAN. You don't think that there is any problem in having it all come from the Legislative Branch?

Senator MANSFIELD. There may be a problem, but let's cross that bridge when we come to it. Let's at least put the imprint of what we think is the right type of legislation into being as soon as possible.

Mr. HERMAN. Would it be satisfactory to you—I am going back a little bit over some of the ground that Dan covered—if the Senate tightened up, for example, on its confirmation procedures and then left policing of the Judiciary problems after confirmation to a Judiciary council of some kind?

Senator MANSFIELD. No, that doesn't go far enough.

Mr. HERMAN. Do you think that the code or whatever system that you envision has to be specific—specific problems, specific limits, and specific action to be taken?

Senator MANSFIELD. Yes, and I think it should apply to all members in the three branches of government who earn in excess of $18,000 a year, and I think it should include outside business connections, honorariums and the like, and I would even go so far as to make income tax available for public purposes.

Mr. HERMAN. I have just one further question on this subject, and that is do you feel strongly enough about this so that if there should be some kind of a legal confrontation, you would push for a constitutional amendment?

Senator MANSFIELD. Well, you are getting me out of my depth when you ask that question, but I certainly would not be adverse to supporting such a test, if need be.

Mr. SCHORR. Let me understand you correctly. Are you saying that, for all officials of any branch of the government, you would deny them more than $18,000 of additional income from any source, including their own investments?

Senator MANSFIELD. No, no. Those who receive an income from the government of $18,000 or more, which is the medium set by the Senate in its application of what ethics we have, would be the applicable cutoff salary.

Mr. MANKIEWICZ. Then everybody above that would be required to disclose whatever additional income——

Senator MANSFIELD. Exactly.

Mr. MANKIEWICZ. I see.

Mr. SCHOOR. Would you limit sources of income? Would you, for example—the cases are now under discussion, there was Justice Abe Fortas and the Wolfson Foundation; there has been some discussion of Justice Douglas, who has just resigned from the Parvin Foundation; and there is the fact that Federal Judge Burger, now Supreme Court Justice-Designate, has been getting $2,000 a year from the Mayo Clinic. Would you bar that?

Senator MANSFIELD. Not necessarily. What I know about Judge Burger's association, there is nothing questionable about it. He is a trustee—if that is the right word to use—of a very reputable foundation, the Mayo Clinic. No questions have been raised about any connections which it has with any other group or individuals. I would assume, though, that on the basis of the brouhaha which has developed lately, that Judge Burger may well disassociate himself from this foundation; however, I have no indication to that effect.

Mr. SCHORR. But are you drawing your line on outside income on the reputability of the source?

Senator MANSFIELD. In part, yes, because if this is made public, then I think that is where, perhaps, not only the Legislative Branch of the government but perhaps the Judicial Ethics Committee, which you referred to, might have something to say about the conduct of judges.

Mr. MANKIEWICZ. So that the question would be disclosure, really, which might then lead to some of these other activities, once all the income were disclosed?

Senator MANSFIELD. That is correct. That is better put than I said it.

Mr. HERMAN. Is this a two-way street, Senator? Should the Executive Branch and should the Judiciary Branch have something to say about congressional ethics?

Senator MANSFIELD. Well, after all, I think the Congress itself has faced up to its responsibility in a limited way. The Senate hasn't gone far enough, nor has the House, but, if you combine what the House and Senate have done, then I think we are facing up to what is primarily our responsibility. After all, we ought to apply, stretching this a little bit further, the same sort of code in a certain sense that we apply to presidential nominees. We make them divest themselves of bank holdings, securities, and what-not, and we create situations which, in effect, define a nominee as dishonest until he is proven innocent. And what we do to them we ought to do to ourselves. In other words, all three branches of the government should be treated equally.

Mr. MANKIEWICZ. Senator, if we might go back to the major issue on the Senate floor at the moment, at least what most people concede to be the, the ABM and, in line with your view about early arms talks, do you see a possibility with the at least close vote on the ABM, that seems to be ahead in the Senate, one way or the other, do you see the possibility that the President might work out some arrangement where that vote could be postponed until after the beginning of arms talks, or do you see the administration forcing that issue to a vote?

Senator MANSFIELD. Now, that is hard to say. I know that this weighs heavily on the President's mind. He didn't make this move lightly in changing Sentinel to Safeguard. He did bring about a decided change in the application of the ABM. I am certain that he is aware of the closeness of the vote which would take place in the Senate today, and I think the best way to face up to it would be to get arms talks under way as soon as possible. Whether or not that will be done remains to be seen. I do not doubt in any sense the President's good intent in this area or his desire to go down the road to bring about in time an arms limitation or an arms freeze. But I do not anticipate that the question of the ABM will come up before the latter part of next month, and we will see what happens then.

Mr. SCHORR. Senator, on Vietnam, President Nixon has made a major effort to convince the Nation that he is doing his best to achieve peace in Vietnam. Are you satisfied that he is making every reasonable effort?

Senator MANSFIELD. I am. I had the opportunity to spend a couple of hours with the President on the afternoon of the day he made his speech, in which he proposed an eight-point formula. He stated at that time that every word had been gone over carefully. Most of that speech was written by himself and, as I read it, at least the last half, certainly the last third bears his own personal imprint. I know that he has left himself a great deal of room for maneuverability and flexibility. And, if you look at the NLF's ten points and Nixon's eight points, you will find that there is more in the way of similarity than dissimilarity.

Mr. SCHORR. It is said that the White House has been telling some congressional critics that they have not read the speech carefully enough and have referred them to points in the speech which would need a second reading. Is there anything in the speech in the way of flexibility that we have missed?

Senator MANSFIELD. I don't think so. Those who want to take a second look and really go through the President's points and compare them with the NLF's theses, ought to do so because there is much more, I think, in the President's proposals than meets the eye on an offhand cursory basis.

Mr. SCHORR. How about escalation in Vietnam—do you think that the U.S. is unnecessarily escalating the war in Vietnam recently?

Senator MANSFIELD. I do. I think that the instructions laid down last November, at which time the bombing of the North ceased, to "keep the pressure on" was not the right way to bring about a negotiated settlement at Paris, and evidently what we have been doing since that time is keeping the pressure on. If you do that, then you are going to have a development of the act reaction syndrome, and the first thing you know you are going to be further away from the

peace table than you should be. What we ought to do is not so much apply pressure in Vietnam as to, instead, apply pressure in Paris. That is where the peace is going to be made, not on the battlefield.

Mr. MANKIEWICZ. Senator, some of the critics of President Nixon's speech on Vietnam turned around a few days later and said that they felt satisfied—I am talking now about Senator Church and Senator Gore, at least—said that they were satisfied that the Nixon proposal of last week did in fact provide the possibility, for the first time in the United States position, of a coalition government in Saigon before elections would be held.

Senator MANSFIELD. That would be my reading of the situation, and I think that the only way you are going to bring about a settlement in South Vietnam itself is through a coalition government which, in my opinion, is inevitable.

Mr. HERMAN. Senator, doesn't the power in the person in charge, the President or whomever, have to make a major philosophical decision about how to make peace with the Communists? It has been the American philosophy for years that the only way you can really bring the Communist to a settlement at the peace table is through constant pressure. Are you saying now, or is there a feeling now that the way to bring them to settlement at the conference table is to relax pressure and to take the pressure off them?

Senator MANSFIELD. Well, not to exert pressure all the time, constantly and consistently, but to arrive at an area where you can defend yourself, where you can anticipate things which might happen but not to develop an act-react syndrome. This war will not be won militarily, even the hawkiest of the hawks will admit that now. And here we are fighting an enemy with everything we have except nuclear devices, and it is an area which I think is not vital to our interests or to our security. It is an area in which we should never have become engaged because this is a tragic, a brutal and a barbaric war, and it is an area in which we should get out of as soon as possible, and as responsibly as possible.

Mr. HERMAN. Well, I asked the question negatively, let me turn it around now and ask it positively. Do you believe that we might win a settlement with Ho Chi Minh and Hanoi more rapidly now by relaxing pressure?

Senator MANSFIELD. Not relaxing pressure but not extending pressure. That is not a good answer to your question, but you have got to find a medium there in which you can operate.

Mr. SCHORR. Do you not except the contention of the administration that actions like Hamburger Hill are basically defensive, that if——

Senator MANSFIELD. No, I do not, because the General involved said that the hill had no strategic value, and I think it is another indication of pressure being applied, I think it is a continuation of the search and destroy policy, and I do not think it helps the negotiations in Paris, because the more pressure, I repeat, that you put on in South Vietnam, the less pressure, legitimate pressure you can apply in Paris.

Mr. HERMAN. Whose fault is it?

Senator MANSFIELD. I wouldn't say. I don't know. I don't know if the order to keep the pressure on is still in effect or not, but as far as the men in the field are concerned, they have to carry out their responsibilities. I deplore the cost. As far as Senator Kennedy is concerned, I am sympathetic towards what he had to say.

Mr. MANKIEWICZ. Well, that is substantially what you said last night in an interview, at least so it is reported in this morning's press. You are saying, in effect, then, that at least the momentary increase in American casualties, you deplore them, you think that is a product of this increasing pressure on the battlefield rather than at Paris?

Senator MANSFIELD. That's right, plus the fact that several weeks ago there were B–52 raids for the first time in the kingdom of Cambodia, which I thought was uncalled for, unnecessary and contained the seeds of broadening rather than limiting or shortening the war.

Mr. SCHORR. I think I know your point of view, Senator, but just to pin it down and just to give, in fairness, a little more attention to the administration's point of view on this—what the generals are saying and what the White House has been saying is that if you don't try to clear North Vietnamese and Viet Cong off a hill, then the next thing you're doing is defending yourself on less safe ground, allowing them the opportunity to infiltrate and set off charges within your perimeter. Their contention is that they really are trying to defend themselves in a place like a hill. Now, I admit and I will have to submit that the line between the defensive and the offensive is not as easy in action as in words, but do you reject the contention of the administration on this?

Senator MANSFIELD. No, I would say the question is debatable. The administration may be right, I may be wrong, but I have at least tried to express my personal feelings on the matter.

Mr. HERMAN. Senator, it is very fashionable these days—not on your part, I must say—but it is very fashionable in some parts on the Hill and some parts of the Nation to criticize the military for almost everything. In the House, particularly, we have seen Congressman Moorhead working on the problem of the C–5A—that is also Mr. Symington in the Senate—what is your feeling about the growth of distrust in the military and the military-industrial complex, to use that complicated——

Senator MANSFIELD. I don't think it is a growth of a feeling of distrust. I think it is one more of apprehension and questioning, and there again I think that the Congress has been at fault for allowing things to get out of hand. I certainly would not impugn the integrity or the patriotism of the generals who are doing what they are told, incidentally, by their civilian superiors, and have been for some years. But I do question the type of contracts which have been let, the amount of money which has been expended, and the tremendous amounts which have been wasted, and the fact that until last year all the Defense Department had to do was to ask and they would receive. Beginning with the ABM question last year a change in attitude developed which has been accentuated this year, and I think this is all to the good. I think it will be beneficial to the military, and I think this combine which you speak of, which is not just military-industrial but includes labor, the academic area, and the political field, including people like myself who want projects for their state, are all at fault and are all to blame because we haven't had the guts to stand up to this growth like topsy and do something about it until events, in effect, have forced us to.

Mr. MANKIEWICZ. Do you see a parallel, perhaps, with Executive nominations, and do you think maybe the defense appropriation will be subjected to the same kind of closer scrutiny that you spoke of with nominations?

Senator MANSFIELD. Oh, yes, and I would point out, just to set the record straight, that Chairman Russell has consistently, over many years past, reduced the defense budget request by in excess of a billion dollars a year. That isn't usually understood or appreciated. I would anticipate that his successor, Senator Stennis, will do the same thing, and I know that Senator Stennis is spending a great deal of time on the defense measure now before him, and has appointed subcommittees to look into it, and that he intends that a very careful scrutiny be made of all requests which come to his committee.

Mr. HERMAN. Senator, the Democrats are now, I guess, the loyal opposition. The loyal opposition in parliamentary countries has a unified leadership and, yet, when you look at the Democrats you see the Democratic National Committee with its policy committee, you see the Senate with its Policy Committee of Democrats, and in the House—are you ever all going to get together or is that a good idea?

Senator MANSFIELD. Well, I doubt that we ever will. Democrats aren't made that way, but I think we will reach a stage of coordination and accommodation and cooperation, which will work out for the best.

Mr. SCHORR. Senator, how is your young apprentice as majority leader, Senator Edward Kennedy, doing?

Senator MANSFIELD. Great.

Mr. SCHORR. Do you want to expand on that? Have you learned—how does he work?

Senator MANSFIELD. He is on the floor all the time. He is prepared to take up the responsibilities which go with his job. He is very interested, at the same time he attends to his committee duties and, in my opinion, Senator Kennedy is a Senate man.

Mr. SCHORR. Senator, you look young and you look well, but, can I ask you, when do you think you will be turning over the reins to him?

Senator MANSFIELD. Oh, not for many years.

Mr. MANKIEWICZ. Senator, just a philosophical point, do you find it easier to be leader of the majority with the opposition party in the White House than when your own party controlled it?

Senator MANSFIELD. I certainly do.

Mr. HERMAN. I have one more question about Senator Kennedy, before we leave that altogether. The one difference that I have noticed, the one really large difference, between Senator Kennedy as a party official in the Senate and his predecessor, is that he has not been either unafraid or unwilling to tackle Senator Dirksen head-on. In fact, he sometimes seems to provoke some of those. Now, in some of those matches between Senator Dirksen and Senator Kennedy, you sometimes look like an amused neutral. Are you?

Senator MANSFIELD. Well, I like to sit back on occasion and listen, learn and enjoy myself. As far as Kennedy and his predecessor are concerned, Kennedy is a good assistant majority leader; Senator Long was a good assistant majority leader.

Mr. HERMAN. Are scraps between the Democratic leadership and the Republican leadership a good idea or do they do no harm?

Senator MANSFIELD. I think that scraps do a lot of harm and I would rather reach a stage of accommodation in the best interests of the country rather than a victory which would benefit one party or the other.

Mr. HERMAN. Do you quietly communicate that fact to Senator Kennedy?

Senator MANSFIELD. No, but I think we understand each other quite well, but we each have to go our divergent ways.

Mr. SCHORR. Senator, when Senator Kennedy took this job of assistant majority leader, it was commonly believed—and I think he rather confirmed the impression—that he saw a great opportunity now in this Congress because with a Republican administration and a Democratic control of Congress that there was an opportunity to establish a kind of independent center of action in Congress, not necessarily to oppose the administration as such but to make it more activist. The administration has been rather slow in some of its programs, but not very much has come out of Congress so far, either. How would you assess, now, this

many months later, the effort to make a Democratic record in Congress side by side with the administration's record?

Senator MANSFIELD. Well, first, let me say that I think that President Nixon is doing a good job in moving carefully, deliberately, and cautiously. We passed a lot of legislation over the past eight years which still needs digesting, shaking down and the application of which could be rendered more effective through desirable changes through amendments and otherwise. As far as the Congress is concerned—and I can only speak for the Senate—we have developed in the Policy Committee a policy thesis which we brought before the chairman of the committees of the Senate and also last week before a well-attended Democratic Caucus. We intend to get more and more into the field of policy. We do not intend to oppose for the sake of obstruction. When we find that we differ from the administration, we will try to offer constructive alternatives, because the important thing is basically not the success of the Republican or the Democratic Party primarily but the welfare of the country, and the country is in trouble today.

Mr. MANKIEWICZ. Senator, you are the ranking Democrat, I believe, on the Foreign Relations Committee. That committee has now come out—brought out to the floor this national commitments resolution which says in effect that the Executive Branch cannot make a foreign policy commitment for the United States without the Legislative Branch—without the Senate participating. Do you see any connection between that and the sort of down-playing, for example, of the SEATO Treaty that seems to be going on? Secretary Rogers was out there and treated it rather perfunctorily and I believe some of the other representatives, too, and President Nixon wrote an article about SEATO some months before his candidacy, tending to feel that it was a little obsolete. Do you think that the commitments resolution will have the effect of weakening some of these regional treaties that date back to the fifties and before?

Senator MANSFIELD. Not at the moment. The purpose of the amendment is to strengthen the President's hand and to give the Senate a voice, and for the Executive Branch and the Senate to work together so that there will be no more Vietnams. It is not applied to any particular President. It is applied to the office of the Presidency. As far as the Senate is concerned, we have allowed our constitutional powers to be eroded over the past four or five decades, and all we are asking is a chance to cooperate with the President so that we can develop, if possible, a better foreign policy. This takes no powers of the Presidency away from him. You mentioned SEATO. May I say, as the only remaining living signatory of that treaty, I never thought it was very good when it was signed in 1954; I don't think it is very good today because it is really a paper treaty with not much in the way of teeth.

Mr. HERMAN. Didn't——

Senator MANSFIELD. And I think it has been used maladroitly.

Mr. HERMAN. Didn't Secretary Rogers say, when he was out there, that if SEATO failed to act in an attack on any of the members of SEATO that the United States would be prepared to give assistance unilaterally?

Senator MANSFIELD. I don't know whether he said that, but the United States cannot do that because it has to act under its due constitutional processes. Speaking of the countries working together there, Great Britain, France and Pakistan, members of SEATO, have not done a thing to give it any life or to give it any strength.

Mr. MANKIEWICZ. Senator, do you expect to bring the commitments resolution to the floor soon in this session?

Senator MANSFIELD. Yes, about the 16th of June.

Mr. HERMAN. In the thirty seconds that we have left, Senator Mansfield, you mentioned the ABM vote, what is your reading? If it were to come up right soon, how would it go in the Senate?

Senator MANSFIELD. Right now it would be fifty-fifty, with perhaps a little bit in favor of those opposed to the ABM. When it comes up, if the administration applies the pressure which it has at its disposal, it could win by one, two or three votes, but the result could well be, on that basis, a pyric victory. I hope a compromise can be worked out, because none of us want to embarrass the President. None of us are against the ABM, as far as research and development is concerned, but we would like to have talks.

Mr. HERMAN. Senator, I have to cut in unilaterally and say thank you very much, Senator Mansfield, for being with us on "Face the Nation."

ADJOURNMENT

Mr. KENNEDY. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in adjournment until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 2 o'clock and 27 minutes p.m.) the Senate adjourned until tomorrow, Tuesday, May 27, 1969, at 12 meridian.

NOMINATIONS

Executive nominations received by the Senate May 26, 1969:

ASSISTANT SECRETARY OF THE ARMY

J. Ronald Fox, of Massachusetts, to be an Assistant Secretary of the Army.

U.S. ATTORNEY

Robert B. Krupansky, of Ohio, to be U.S. attorney for the northern district of Ohio for the term of 4 years, vice Merle M. McCurdy, resigned.

DEPARTMENT OF THE TREASURY

K. Martin Worthy, of Maryland, to be an Assistant General Counsel in the Department of the Treasury (Chief Counsel for the Internal Revenue Service).

CONFIRMATION

Executive nominations confirmed by the Senate May 26, 1969:

ATOMIC ENERGY COMMISSION

Theos J. Thompson, of Massachusetts, to be a member of the Atomic Energy Commission for the remainder of the term expiring June 30, 1971.

HOUSE OF REPRESENTATIVES—*Monday, May 26, 1969*

The House met at 12 o'clock noon.

Rabbi Howard A. Simon, Har Sinai Congregation, Baltimore, Md., offered the following prayer:

And the heaven of heavens shall not contain Thee.—I Kings 8: 27.

This is testimony to the Lord's greatness, and to the potential for excellence He placed within man. Today we stand in admiration of three men who have realized this potential. They are the voice of America, a land of limitless possibilities. They are inspiration for the source of national development, this very Government. Lead us, O God, to transfer the mastery over things technological to the field of human relations, where we need to create understanding and love. May the labors conducted within these hallowed Halls serve to unite all America in love for one's neighbor; in a trust in tomorrow; in a belief in these United States created as one nation devoted to liberty and justice for all. Amen.

THE JOURNAL

The Journal of the proceedings of Thursday, May 22, 1969, was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill and concurrent resolutions of the House of the following titles:

H.R. 9328. An act to amend title 37, United States Code, to provide special pay to naval officers, qualified in submarines, who have the current technical qualification for duty in connection with supervision, operation, and maintenance of naval nuclear propulsion plants, who agree to remain in active submarine service for one period of 4 years beyond any other obligated active service, and for other purposes;

H. Con. Res. 35. Concurrent resolution authorizing the printing of additional copies of a Veterans' Benefits Calculator; and

H. Con. Res. 95. Concurrent resolution authorizing certain printing for the Committee on Veterans' Affairs.

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

H. Con. Res. 162. Concurrent resolution authorizing the printing of the book, "Our American Government," as a House document; and

H. Con. Res. 192. Concurrent resolution to reprint brochure entitled "How Our Laws Are Made."

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

S.J. Res. 99. Joint resolution to authorize the President to issue annually a proclamation designating the first week in June of each year as "Helen Keller Memorial Week."

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

S. 126. An act to designate certain lands in the Pelican Island National Wildlife Refuge, Indian River County, Fla., as wilderness;

S. 574. An act to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments;

S. 1046. An act to protect consumers by providing a civil remedy for misrepresentation of the quality of articles composed in whole or in part of gold or silver, and for other purposes;

S. 1519. An act to establish a National