By Mr. PURCELL (for himself, Mr. KASTENMEIER, Mr. TAYLOR, Mr. HANSEN of Idaho, Mr. PREYER of North Carolina, Mr. FRASER, Mr. JOHNSON of Pennsylvania, Mr. BLANTON, Mr. PUCINSKI, Mr. DORN, and Mr. FOUNTAIN):

H.R. 14070. A bill to improve farm income and insure adequate supplies of agricultural commodities by extending and improving certain commodity programs; to the Committee on Agriculture.

By Mr. ROGERS of Colorado (for himself, Mr. WALDIE, Mr. EDWARDS of Louisiana, Mr. WIGGINS, and Mr. COUGHLIN):

H.R. 14071. A bill to provide for audit of and to require disclosure of certain information concerning federally chartered corporations, and for other purposes; to the Committee on the Judiciary.

By Mr. SANDMAN:

H.R. 14072. A bill to provide for the orderly expansion of trade in manufactured products; to the Committee on Ways and Means.

By Mr. STEIGER of Wisconsin:

H.R. 14073. A bill to amend the Military Selective Service Act of 1967 to authorize modifications of the system of selecting persons for induction into the Armed Forces under this act; to the Committee on Armed Services.

By Mr. THOMSON of Wisconsin:

H.R. 14074. A bill to amend Public Law 90–484, to extend the indemnity therein provided to manufacturers of dairy products; to the Committee on Agriculture.

By Mr. QUILLEN:

H.J. Res. 914. Joint resolution to authorize the President to proclaim the month of January of each year as "National Blood Donor Month"; to the Committee on the Judiciary.

By Mr. SCHWENGEL:

H.J. Res. 915. Joint resolution authorizing the President to proclaim annually the first full week in October as "Free Enterprise Week"; to the Committee on the Judiciary.

By Mr. DICKINSON (for himself, Mr. BOGGS, Mr. GUBSER, and Mr. WILLIAMS):

H. Con. Res. 385. Concurrent resolution expressing the sense of Congress with respect to North Vietnam and the National Liberation Front of South Vietnam complying with the requirements of the Geneva Convention; to the Committee on Foreign Affairs.

By Mr. HASTINGS:

H. Con. Res. 386. Concurrent resolution urging the adoption of policies to offset the adverse effects of governmental monetary restrictions upon the housing industry; to the Committee on Ways and Means.

By Mr. MURPHY of New York:

H. Con. Res. 387. Concurrent resolution expressing the sense of the Congress that the Federal Power Commission should render a decision in the *Matter of the Application in Project Number 23–38, Consolidated Edison Company of New York, Incorporated*, to erect an electric generating station in Cornwall, N.Y., no later than 90 days after passage of this concurrent resolution; to the Committee on Interstate and Foreign Commerce.

By Mr. PELLY:

H. Con. Res. 388. Concurrent resolution expressing the sense of the Congress with respect to the revocation of the United Nations economic sanctions against Southern Rhodesia; to the Committee on Foreign Affairs.

By Mr. ROBERTS:

H. Con. Res. 389. Concurrent resolution condemning the treatment of American prisoners of war by the Government of North Vietnam and urging the President to initiate appropriate action for the purpose of insuring that American prisoners are accorded humane treatment; to the Committee on Foreign Affairs.

By Mr. MURPHY of New York:

H. Res. 559. Resolution providing for a study and investigation by the Committee on Interstate and Foreign Commerce of the procedures of the Federal Power Commission; to the Committee on Rules.

By Mr. WAGGONNER:

H. Res. 560. Resolution relating to the basic compensation of personnel of the Official Reporters of Debates of the House of Representatives; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. BERRY introduced a bill (H.R. 14075), to provide for the conveyance of certain property of the United States located in Lawrence County, S. Dak., to John and Ruth Rachetto, which was referred to the Committee on Interior and Insular Affairs.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

264. By the SPEAKER: Petition of the Board of Supervisors, Glenn County, Calif., relative to the appropriation of funds for the Sacramento River Bank protection project for fiscal year 1970–71; to the Committee on Appropriations.

265. Also, petition of Ervin W. Bolen, Hazel Park, Mich., relative to redress of grievances; to the Committee on Armed Services.

266. Also, petition of Karl Calvin, Davenport, Iowa, relative to students; to the Committee on Education and Labor.

267. Also, petition of Henry Stoner, York, Pa., relative to an electronic tally system for the House of Representatives; to the Committee on House Administration.

268. Also, petition of the Congress of Micronesia, Trust Territory of the Pacific Island, relative to alteration of the present political status of the Trust Territory; to the Committee on Interior and Insular Affairs.

269. Also, petition of Honest Abe Council No. 109, Junior Order, United American Mechanics, Louisville, Ky, relative to placing the American flag in public school classrooms; to the Committee on the Judiciary.

270. Also, petition of Mrs. Lucille P. Johnson, et al., Hendersonville, N.C., relative to appointments to the U.S. Supreme Court; to the Committee on the Judiciary.

271. Also, petition of the City Council, Mentor, Ohio; relative to taxation of State and local government securities; to the Committee on Ways and Means.

SENATE—*Monday, September 29, 1969*

The Senate met at 12 o'clock noon and was called to order by the Acting President pro tempore (Mr. METCALF).

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

Eternal Father, whom to know aright is life and peace, quicken our minds this day that all who serve the people in the Government of this Nation may be sensitive to Thy presence. Grant to us here, O Lord, to know that which is worth knowing, to love that which is worth loving, to praise that which pleases Thee best, to prize that which is precious to Thee, and to hate all that is evil in thine eyes; and grant us true judgment that we may search out and do only that which is well pleasing unto Thee; through Jesus Christ our Lord. Amen.

THE JOURNAL

Mr. KENNEDY. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, September 26, 1969, be dispensed with.

The ACTING PRESIDENT pro tempore. 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. Geisler, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Foreign Relations.

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

WAIVER OF CALL OF THE CALENDAR

Mr. KENNEDY. Mr. President, I ask unanimous consent that the call of the Legislative Calendar, under rule VIII, be dispensed with.

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

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

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

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

ORDER OF BUSINESS

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

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

The bill clerk proceeded to call the roll.

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

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

THE DILEMMA IN TAX REFORM

Mr. TYDINGS. Mr. President, in recent years, the Los Angeles Times has become one of the great newspapers in the Nation. Their editorial page is read with interest by citizens from all areas of our Nation.

I commend to the attention of my colleagues an extremely fine editorial entitled "The Dilemma in Tax Reform," published in the Los Angeles Times of September 14, 1969. The editorial was written by one of the fine young men on the editorial board of the Los Angeles Times, Mr. Ernest Conine.

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

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

THE DILEMMA IN TAX REFORM

(By Ernest Conine)

A massive counterattack against the tax reform bill is under way in the Senate, and out of this campaign of attrition a Great Truth emerges:

The loudest and most politically potent defenders of tax "loopholes" are not the so-called fat cats whose tax returns are directly involved, but the museums, foundations, universities and charities who are beneficiaries of the wealthy man's tax deductible generosity.

To put the matter more harshly, we are being reminded that some of the most worthwhile enterprises in this country depend for their survival—or think they do—on the perpetuation of stark inequities in the tax structure.

The Senate Finance Committee is told by spokesmen for private colleges that the tax reform bill, as passed by the House, would bring on their financial "strangulation" by discouraging contributions from wealthy donors.

A foundation representative objects that the measure, if enacted in its present form, would "probably constitute the death knell of the foundations as we know them."

The same warnings of impending doom are sounded by museum directors—and by local and state officials who are alarmed by a prospective change in the tax exemption of income from state and municipal bonds.

Undoubtedly the tax reform bill as passed by the House does have some rough edges which need smoothing. The measure may have gone too far in some respects.

If the reformers in Congress allow themselves to be talked or pressured out of the substance of their reforms, however, they—along with the Nixon Administration—may find that the "silent majority" of "forgotten Americans" will not in the future be silent, forgetful or forgiving.

There is no question but that the taxpayers' revolt which gave birth to the current drive for tax reform is basically a middle-class uprising.

Most of the taxes in this country are paid by people who work for a wage or salary ranging from $8,000 to $25,000 a year, and who have become convinced that they are getting the short end of the stick.

Unlike the poor, they get very little direct and visible help from the government and, unlike the rich, they do not qualify for fancy deductions that drastically reduce the actual rate of taxation on their incomes.

People in the middle brackets were particularly incensed a few months ago at the revelation that there are at least 150 individuals with incomes over $200,000 who do not pay one red cent in federal income taxes.

In outlining his own tax reform program last spring, President Nixon promised that, while "we shall never make taxation popular, we can make taxation fair."

The House took him at his word and then some. The reform package which was ultimately sent to the Senate went much further than the Administration had proposed—or desired—in demolishing tax shelters.

Take the example of a wealthy man who donates to a museum a painting for which he paid $10,000, but has since grown in value to $22,000.

Under present law, he is allowed to deduct the entire $22,000 fair market value—$12,000 more than its cost to him—although he has never paid a capital gains tax on the appreciation in value. If he is in a high tax bracket, his donation thus becomes not so much an act of charity as a profitable transaction.

Take next a man who inherits a fortune and invests it all in municipal bonds. Since the interest on the bonds is tax exempt, he can escape income taxes entirely.

The House bill would eliminate the first kind of tax avoidance, and severely curtail the second.

It may be true that, in the cases cited, the House approach would work an unacceptable hardship on museums which depend on the "generosity" of wealthy donors, and on cities which might find it difficult to sell their bonds.

But there is something fundamentally wrong when, in the name of culture, charity or municipal financing, an astute citizen with an enormous income is allowed to get by with paying a smaller share of it out in taxes than a school principal making $14,000 a year.

ORDER OF BUSINESS

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

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

The bill clerk proceeded to call the roll.

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

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

A NEW DOCTRINE OF DOUBLE STANDARDS

Mr. ALLEN. Mr. President, the Department of Health, Education, and Welfare has presented a novel new doctrine of double standards in the interpretation and administration of the laws of Congress. This doctrine holds that schoolchildren in the South are to be treated by one set of standards allegedly authorized by Congress, while schoolchildren in all other sections of the country are to be treated by different standards. In short, racial imbalance in schools is unconstitutional in the South but legal and proper in other sections of the Nation.

Mr. President, this strange doctrine has come to light as the official policy of the Department of Health, Education, and Welfare as a result of communications with and from the Secretary and his office. These communications are self-explanatory. I request unanimous consent that they be printed in the RECORD.

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

JULY 14, 1969.

HON. RICHARD M. NIXON,
President of the United States,
The White House,
Washington, D.C.:

Public support of education in Alabama is seriously jeopardized by recently announced HEW mandates which require cross-town and cross-county busing of pupils plus prohibitive and irresponsible costs involved in closing perfectly good public school facilities in Mobile County. May I respectfully remind you of the opinion you expressed in a September 12, 1968 television broadcast that you did not believe, "it is the responsibility of the Federal Government and the Federal courts to, in effect, act as local school districts in determining how we carry out the (Supreme Court Brown decision) and then to use the power of the Federal Treasury to withhold funds or give funds in order to carry it out. . . ." Your judgment on this point was, "I think we are going too far."

I also respectfully remind you that the Department of Health, Education, and Welfare busing requirements and school closing requirements in Mobile County are contrary to the intention of Congress. As you will recall, the 1968 appropriation bill for the Department of Health, Education, and Welfare specifically provided:

"No part of the funds contained in this act may be used to force busing of students, abolishment of any school, or to force any student attending any elementary or secondary school to attend a particular school against the choice of his or her parents or parent in order to overcome racial imbalance."

In addition, may I respectfully call to your attention the provision of the Civil Rights Act of 1964 which states:

" 'Desegregation' shall not mean the assignment of students to public schools in order to overcome racial imbalance. Nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance."

As you know, the President must approve and is responsible for regulations issued by the Department of HEW pursuant to the Civil Rights Act of 1964.

Responsible education leadership in Mobile County indicates that quality education in Mobile County is seriously compromised by HEW plans and loss of public support of education will be the price of acceptance.

I respectfully urge you to exert your personal leadership in putting a halt to totalitarian trends so shockingly manifest by HEW actions in Mobile County, Alabama.

JAMES B. ALLEN,
U.S. Senate.

HON. ROBERT H. FINCH,
Secretary, Department of Health, Education, and Welfare; Washington, D.C.:

Am deeply disturbed over and opposed to HEW plan which has been submitted to Federal court in Mobile, Alabama, to provide for busing of students to achieve racial balance in Mobile public schools. The HEW plan is arbitary, unreasonable and flies in the face of the announcement by your office earlier this week that no mandatory time deadline will be applied in guideline situations. The

HEW plan is also loaded with volatile ramifications and completely disregards the positive values of neighborhood schools and the rights and wishes of parents regarding the education of their children. Both the 1964 Civil Rights Act and the HEW appropriations bill passed by Congress last year forbid the issuance of any Federal order of expenditure of Federal funds to transport pupils from one school to another to achieve racial balance. The overwhelming majority of the people of Mobile County and the State of Alabama are strongly and vehemently opposed to this HEW plan and I strongly urge your personal and earnest consideration of the matter with a view toward canceling the busing request your office has submitted to the court.

JAMES B. ALLEN,
U.S. Senator.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., July 15, 1969.

Hon. JAMES B. ALLEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLEN: The Secretary has referred your July 14 telegram regarding the bussing of students in Mobile Public Schools to the appropriate office.

A reply will be forwarded to you as soon as possible.

Sincerely,

JERRY W. POOLE,
Deputy Assistant Secretary for Congressional Liaison.

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., September 5, 1969.

Hon. JAMES B. ALLEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLEN: Thank you for your telegram of July 14 to the President concerning the submission of a plan of desegregation for the public schools of Mobile County, Alabama, to the U.S. District Court, Southern District of Alabama, on July 10, 1969, which has been referred to me for reply.

The plan to which you refer was developed in connection with a court order, by the Division of Equal Educational Opportunities, Bureau of Elementary and Secondary Education, Office of Education, Department of Health, Education, and Welfare.

In a decision dated June 3, 1969, the Court of Appeals for the Fifth Circuit remanded the Mobile case back to the District Court with the following instructions:

"The District Court shall forthwith request the Office of Education of the United States Department of Health, Education, and Welfare to collaborate with the Board of School Commissioners of Mobile County in the preparation of a plan to fully and affirmatively desegregate all public schools in Mobile County, urban and rural, together wtih comprehensive recommendations for locating and designing new schools, and expanding and consolidating existing schools to assist in eradicating past discrimination and effecting desegregation. The District Court shall further require the School Board to make available to the Office of Education or its designees all requested information relating to the operation of the school districts."

In accordance with that instruction, the District Court did make a request for assistance, and educators who are experienced in assisting school districts with desegregation were provided by the U.S. Office of Education pursuant to Section 403, of Title IV, of Public Law 88–352, the Civil Rights Act of 1964, which reads as follows:

"The Commissioner is authorized, upon the application of any school board, State, municipality, school district, or other governmental unit legally responsible for operating a public school or schools, to render technical assistance to such applicant in the preparation, adoption, and implementation of plans for the desegregation of public schools. Such technical assistance may, among other activities, include making available to such agencies information regarding effective methods of coping with special educational problems occasioned by desegregation, and making available to such agencies personnel of the Office of Education or other persons specially equipped to advise and assist them in coping with such problems."

These educators prepared a plan in conjunction with the local school officials. This plan, it should be clearly noted, only recommends. Title IV personnel are educational experts, not compliance officers, and they have no authority to impose requirements. The so-called HEW plan, therefore, is a proposal for the school district and the Court to consider.

The Title IV plan recommends reorganization which, in the professional judgment of these educators, is the most feasible way to complete the process of desegregation in Mobile.

The Courts, of course, will give all parties to the action an opportunity to be heard before it makes its decision and enters an order. In providing the technical assistance requested by the Court, the Office of Education does not, and should not, attempt to resolve questions of law which are in issue between the parties to the law suit. The disposition of the legal question of how much busing may be required is put before the Court.

Your telegram correctly notes that HEW is prohibited from requiring transportation in order to overcome racial imbalance. HEW operations financed under our regular Appropriation Act are governed by Sections 409 and 410 of Public Law 90–557, which are applicable to our current expenditures. As stated, these provisions prohibit the requirement of busing "in order to overcome racial imbalance."

The legislative history of these provisions as well as the decisions of the Federal courts, make it clear that they were intended to preclude any requirement that school officials take steps to overcome racial imbalance which has resulted from fortuitous patterns of residence. Where, however, racial segregation of students in a school system has been caused, in whole or in part, by the official action of the State, these statutory provisions provide no barrier to any steps necessary to desegregate the schools and are not steps to overcome racial imbalance prohibited by those laws. For this reason I believe that the statutes to which you refer are inapplicable to the situation in Mobile.

Sincerely,

———— ————,

SEPTEMBER 26, 1969.

Hon. ROBERT H. FINCH,
Secretary, Department of Health, Education, and Welfare,
Washington, D.C.

DEAR MR. SECRETARY: I appreciate the courtesies shown me in the conference arranged with you and Attorney General Mitchell in response to my telegram to President Nixon of July 14, 1969. At that time, I pointed out that plans formulated by the Department of HEW for the Mobile, Alabama school system, if implemented, would seriously jeopardize public education in Alabama by alienating public support. I appreciate, also, your sympathetic understanding and your promise to look further into the matter.

I am glad, therefore, to receive your letter of September 25, 1969 which outlines what I take to be the official position of the Department of HEW in this matter. Your letter concludes with the statement that the statues to which I had referred as being violated by the Department of HEW were inapplicable to the school situation in Mobile. Mr. Secretary, I take exception to this last statement for reasons which I shall point out.

Your letter cites Title IV of the 1964 Civil Rights Act as authority for using public funds to plan, recommend, and to close neighborhood schools, bus pupils, and deny parents the freedom of choice in the selection of schools which their children shall attend.

On this point, I need only to point out that subsequent laws of Congress supersede and repeal any conflicting provisions of the 1964 Act. The 90th Congress denied your Department the authority to spend funds for any of the above purposes to overcome racial imbalance in public schools. Therefore, if your Department has the authority to spend money to overcome racial imbalance in public schools, it must be found in some authority other than Title IV of the 1964 Civil Rights Act.

Your letter contends that the 1968 limitation on your power to use public tax funds to overcome racial imbalance does not apply in the Southern states but only to schools in other sections of the nation. This last contention is supported by what you refer to as history of the legislation and rulings of Federal Courts.

Of course the history of the legislation to which you refer consists primarily of the testimony by representatives of your Department under the administration of your predecessor in office. Such self-serving statements constitutes a questionable history of legislative intent and are utterly untenable as support for a conclusion in conflict with the clear language of the statute. The language imposed a limitation on the power of your Department and no amount of legislative history can transform that limitation into a grant of power.

I am somewhat surprised by the above contention since your legislative background and experience is such that you are knowledgeable of the subject of legislative delegation, and I am sure you know that neither Congress nor any responsible legislative body can delegate power to the Executive by use of undefined legal concepts or by use of any language of delegation which fails to prescribe discernible limits on the power delegated.

In essence your contention is that Congress delegated to the Department of Health, Education, and Welfare a power to run around in the South and do as it pleases. This contention can be supported only by the further contention that Congress delegated to your Department unlimited power of discretion. If that be so, you are contending that the delegation is unconstitutional. For Congress has no such power and it certainly can't delegate a power to the Executive which it does not have.

Neither do Federal Courts sustain your contention that Congress granted your Department power to close schools and bus children and cut off funds in one section of the nation and not in others. No court in the United States has ever ruled that racial imbalance in the North is Constitutional simply because it is the result of de facto segregation and is unconstitutional in the South simply because all racial imbalance in the South is due to segregation previously imposed by law.

Neither has any Federal Court declared unconstitutional "Freedom of Choice" as a method of assignment of children to public schools. To the contrary, this method of assignment has been held Constitutional but deficient only in some instances where the results of the method of assignment were not satisfactory to Federal Courts.

Furthermore, the United States Circuit Court of Appeals for the Fifth Judicial Circuit has rejected the contention that your Department is not bound by limitations imposed by Congress simply because you are withholding funds from Southern schools and not from schools in other regions.

In this connection, your Department willfully and callously disregarded the law of

Congress in withholding funds used by Southern schools to buy hot breakfasts and lunches and to provide educational opportunities for children of the poor. The U.S. Court of Appeals for the Fifth Judicial Circuit ruled that the Congressional limitation on your power in this regard is not a grant of power to overcome racial imbalance in Southern schools or in any other schools by such calloused means.

Despite the fact that you are a named party to this suit and despite the fact that your Department was bound by it, the ruling was utterly disregarded by your Department in a subsequent announcement that all school funds would be withheld from the helpless and innocent children in the hurricane devastated communities of Mississippi in order to overcome racial imbalance in the affected areas.

Your Department has used the hideous weapon of deprivation of innocent children until the people who are aware of the extent of it are sickened and nauseated. In this connection, I wrote your Department some time ago to ask how many school children had been deprived of funds and benefits authorized by Congress as a result of specific orders issued from your Department. I was told that your Department did not know.

Mr. Secretary, have we reached the point where agencies of federal government have no concern for the number of innocent school children who are adversely affected by orders that go out from their Department? You are aware, of course, that there is not even a semblance of due process of law in procedures which deny innocent persons adversely affected by your orders an opportunity to be heard or even to plead for mercy.

I have no desire or intention to engage in controversy on these subjects by correspondence. The Congress is the proper forum for the resolution of these issues and I intend to present to Congress the moral, legal, and humanitarian issues involved. But the purpose of my telegrams to you and to the President was to enlist your assistance in the resolution of a very practical down to earth problem.

Actions by your Department in Mobile, Alabama, had alienated support of public education to the point that the institution of public education was seriously jeopardized. That remains the problem in Mobile and in Alabama and throughout the South. Commonsense dictates that Congress did not empower anybody to destroy public education either by the torch or by closing schools, or by unreasonable, impractical, and irresponsible federal interference in the administration of public schools.

When public support of education is at issue, legal obfuscation, double talk, and arguments for double standards contribute nothing constructive to a solution. I urge you to weigh the education policies hatched up in your Department by standards of commonsense reasoning. I urge you to speak to impractical visionaries in your Department in words as hard as cannonballs if necessary and tell them that they are expected to obey the spirit of the law as well as the letter and tell them that they shall be held accountable for their departures from statutory and moral law.

I am disappointed that your letter seeks to rationalize and justify past lawlessness because it is likely to encourage continued actions by your subordinates which can only result in chaos and eventual disaster to public schools throughout the South and the nation.

Very truly yours,

JAMES B. ALLEN.

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

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

The bill clerk proceeded to call the roll.

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

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

S. 2875—FIRST STEPS TOWARD NEEDED PRISON REFORMS

Mr. ERVIN. Mr. President, a few weeks ago I had printed in the RECORD a poignant letter from an inmate of a prison. This letter, from a man who is presently serving a long sentence for a variety of serious offenses, was an eloquent protest against the failure of our correction system. It pointed out that our Nation's jails and prisons do not serve the function of rehabilitating the offender and returning him to society as a peaceful, law-abiding, and productive citizen. Rather, our prisons serve as training grounds for crime—graduate schools for education in the finer points of lawlessness. The writer of this letter admitted that his early contact with the prison system, and his association with older, more experienced, and hardened criminals, was decisive in sending him down the road which now has resulted in his being imprisoned for 50 years. As he writes:

> The offenses for which I was sentenced include: bank robbery, kidnapping and escape.
>
> The ideas and schooling for such gross misconduct I attribute to the United States Prison, Atlanta, where I was sent at the age of 24 for auto theft. I spent 34 months at Atlanta before being paroled on November 18, 1966. While at the United States Prison, I shared living and working arrangements with men 30 years my senior (some cases 40 years). My last 10 months was spent sharing a 2-man room with a 5-time loser (2 of which were for bank robbery), he was 49-years old. The offenses for which I am currently serving time were committed one week after my release from Atlanta.
>
> Our population here is approximately 475. Approximately 250 of these men are *over* 35 and many in their 40's and 50's and several in their 60's. The sentences these men are serving range from 20 years to 199 and double life and life plus. The hardened, bitter attitudes of these men are being indoctrinated into these young men leaving here daily.

This person's experiences illustrate dramatically how the correctional system affects the individual. In his statement of September 9, introducing S. 2875, Senator HRUSKA cataloged the shocking national picture as it exists in State after State and at the Federal level. He said there are no words adequate to describe the conditions of jails and prisons in our country. But a few come to mind, like "abhorrent," "disgraceful," "shameful," "total neglect," "unfit for humans," "lacking even minimum standards of human decency." In short, our correctional system is a national disgrace, and is unacceptable for a civilized society.

The war on crime can be fought on two fronts. The first is to concentrate on dramatic panaceas, like preventive detention, mandatory sentencing, or harsher penalties. These approaches solve no problems. They merely paper over basic defects in the criminal law system. Such proposals quickly catch the public imagination—the solution to crime is made to appear easy and simple. But in reality, such steps may result in great injustice to the individual and no important increase in public safety. Their further danger is that they distract attention from the real weaknesses in the criminal law system which cry out for correction.

Other proposals, which do not have the political "sex appeal" of preventive detention or mandatory minimum sentencing, receive less public attention. That is because they are difficult to explain, difficult to enact, and the results are not immediately visible. In this class of proposals I place such things as work release and halfway houses, public defender projects, efforts to make the public and personal rights to a speedy trial a reality, more and better trained personnel for the police, the prosecution, and the courts, and efforts to convert our prison facilities into centers of rehabilitation, not crime. The last-named effort is reflected in S. 2875, a bill introduced by Senator HRUSKA, and to which I have asked to have my name added as a cosponsor.

This bill proposes to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide assistance to States and localities in construction of correctional institutions. Senator HRUSKA is correct in recognizing that one of the first steps in improving the prison environment is to relieve the outrageous overcrowding and antiquated physical structures. Along with assisting the construction of new institutions, I hope that the Congress will also provide assistance and encouragement for the training and recruitment of correctional personnel, for creation and expansion of rehabilitation programs, job training and placement, health and psychiatric care of inmates, and for the other aspects of a modern and effective correctional system. S. 2875 reflects this concern already, but I believe that the intent of this legislation should be made even more explicit.

For far too long we have tended to consider that the problem of crime ends with the imprisonment of the convicted defendant. Once imprisoned, these people have passed from public view and from public concern. We must also turn our attention to the deplorable conditions which exist in our prisons, not only for the sake of the public interest in fighting crime, but also for the sake of the human beings who are there. I urge the Senate to give prompt and sympathetic consideration to improving our Nation's correctional system.

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. KENNEDY. 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 CALENDAR

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 425, 426, 428, and 432.

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

AUTHORIZATION OF APPROPRIATIONS FOR EXPENSES OF THE OFFICE OF INTERGOVERNMENTAL RELATIONS

The Senate proceeded to consider the joint resolution (S.J. Res. 117) to authorize appropriations for expenses of the Office of Intergovernmental Relations, and for other purposes.

EXTENSION OF INTEREST EQUALIZATION TAX

Mr. WILLIAMS of Delaware. Mr. President, could I have the attention of the acting majority leader? I wish to ask what the plan of the leadership is to deal with the interest equalization tax, which is scheduled to expire tomorrow night. We both know it is very important that that bill be acted upon.

Mr. KENNEDY. Mr. President, it is my understanding that several Senators have asked for some time to prepare to debate this legislation and that the Treasury Department has indicated they can handle this particular problem if congressional action does not come by tomorrow night.

Mr. WILLIAMS of Delaware. The Treasury Department cannot enact or enforce regulations that are not based on laws. The mere fact that there is a "hold" on this bill by some Senator does not necessarily block the entire Senate. I wonder if it cannot be made the pending business so that the Senate can act, and then if someone objects to the bill it can be discussed; but let the Senate work its will.

Mr. KENNEDY. The matter was reported late last week and is just now on the calendar. There has been a longstanding tradition on both sides of the aisle that if there are Members of this body who have an interest in legislation they ought to have a reasonable period of time to study and prepare. That tradition is wise, and is being observed. It is the intention of the leadership to avail itself of the opportunity to talk with concerned Members of the Senate to try to work out the problems and then bring it up as early as it can be scheduled.

We have other important matters before us which would require unanimous consent to be laid aside and the leadership will look into the situation, and will, in the process, take under advisement the recommendation of the Senator from Delaware before making a judgment.

Mr. WILLIAMS of Delaware. Mr. President, so that the Senator from Massachusetts will recognize the importance of this matter—and if his party wants to assume the responsibility for delay it should be made clear—I will now read a letter from the Secretary of the Treasury, similar letters having been sent to the Senator from Montana (Mr. MANSFIELD), the Senator from Pennsylvania (Mr. SCOTT), and the chairman of the committee, the Senator from Louisiana (Mr. LONG). This letter has just been received from the Treasury Department. It reads as follows:

THE SECRETARY OF THE TREASURY,
Washington, September 27, 1969.

DEAR SENATOR WILLIAMS: I feel compelled to write to you to emphasize that the Treasury feels very strongly that every effort should be made to have the legislation (H.R. 12829) extending the interest equalization tax to March 31, 1971, enacted before midnight September 30, 1969, so that there is no hiatus in the applicability of the tax.

With the current uncertainty in the world's exchange markets, with capital flows moving at a rate that only betokens apprehension and uncertainty, and with the International Monetary Fund and the International Bank for Reconstruction and Development beginning meetings in Washington on September 29, 1969, the United States will be placed in an extremely awkward, and seemingly dangerous position, if for the third time in ninety days, Congress has been unable to complete action on legislation extending the interest equalization tax for a significant period. The United States and the world monetary system need now the protection and the certainty that will be provided by the extension of this legislation until March, 1971.

Other important reasons for prompt action on H.R. 12829 can be grouped into a number of categories as follows:

1. The interest equalization tax includes an exemption for prior American ownership and compliance which is carried out through a pool of American-owned foreign securities which are traded freely among Americans. There are a series of rules designed to govern the operation of this pool and the entry of securities into the pool. If the tax were allowed to lapse, the rules governing the operation of the pool would expire. Upon the reenactment of the tax it would be very difficult to identify which securities should be in the pool. When we faced the problem of the possible expiration of the tax in July of this year, at the request of the Treasury, the National Association of Security Dealers (NASD), the New York Stock Exchange and the American Stock Exchange adopted interim rules which, in effect, required the brokerage industry to follow the rules (including the payment of a "tax" then not required by law) governing the pool of American securities even though the tax had expired. These interim rules were in effect for one day, August 1, 1969. If the tax is permitted to expire at the end of this month it would again be necessary for the Treasury to ask for the cooperation of the NASD and the Exchanges and request that they again adopt interim rules. While these organizations cooperated with the Treasury in July and were willing to expend the necessary man days to establish the interim procedures, I do not know if they would be willing to do so again. It would also be necessary, as in July, for the Treasury to issue notices as to the intended continuation of the tax so as to establish the legal foundation for retroactive application.

2. Even though the interim NASD and Exchange rules would be binding on brokers, there is no way for any private organization to bind the banks which participate in the pool of American securities. Therefore, it would be necessary to have the banks now participating reaffirm their willingness to abide by the rules during the hiatus period. There is no basis for assuming that banks that have bound themselves to participate in the pool when the interest equalization tax was in effect are willing to participate in the pool during a hiatus period when there is no legislative authority. This need to ask the banks to reaffirm their willingness to participate will, of course, place a burden on the banks themselves and also on the brokers that must keep track of the list of participating banks.

3. Any person now violating the rules with respect to the pool of American securities is subject to the civil and criminal penalties imposed by the Internal Revenue Code. During any period in which the tax has expired, the only possible sanctions would be those that the NASD and Exchanges were willing and able to impose. Such a weakening leads to a great risk of violation. In this connection, it should be noted that even one violater who improperly entered securities into the pool could cause a substantial loss to the balance of payments.

4. Every time the interest equalization tax is about to expire numerous inquiries are received at the Treasury and in Wall Street about the possibility of expiration both by foreign governments who are concerned about the U.S. determination to protect its balance of payments and by foreign brokers who are looking for an opportunity to sell in the U.S. market foreign securities that the interest equalization tax has effectively kept out of this country. A failure to complete action on H.R. 12829 for the third time in three successive months, would raise a serious question as to our credibility and our interest in maintaining the tax in force. The public posture that there is no serious opposition and that the delay results only from the additional time needed for legislative consideration becomes less convincing as time goes on.

Therefore, I must urge you to use every effort to assure that the interest equalization tax bill is passed by the Senate in time for the completion of legislative and Presidential action by midnight September 30, 1969.

I have written similar letters to Senators Mansfield, Scott and Long.

Sincerely yours,

DAVID M. KENNEDY.

Mr. President, I hope that the acting majority leader will recognize the responsibility of the Senate to act on this measure which expires tomorrow night. Certainly, if we are to act fiscally responsible, the least the leadership can do is to bring it up and let the Senate vote it up or down.

I cannot understand why no action is being taken.

Mr. KENNEDY. It is simple to understand why. There is an amendment which has been added to the Interest Equalization Tax Act, an amendment unrelated to interest equalization and on which there were no hearings, or even consideration of the question of jurisdiction of the Finance Committee, a point which is very much in question. If that amendment were not added to the bill it would not be controversial, and I am sure it would be passed this afternoon or tomorrow morning probably with no debate. But this amendment will be a matter of serious and, I suspect, lengthy discussion, the subject matter being very much in dispute. The amendment removes the noncontroversial nature of the bill. On similar matters it has been the practice and procedure of this body, when the bill contains a matter of some controversy to give interested Senators a reasonable period of time in which to express their views. This bill was not reported out until September 24. We have a bill now before the Senate which will not be concluded before tomorrow night at the earliest. It is my definite impression that we could not get unanimous consent to lay it aside to take up a controversial matter.

I can give assurances to the Senator from Delaware that if that item were not in the bill, I would certainly think it

would move through on the consent calendar. But, once again, its presence on the bill, and being a matter which is irrelevant, on which there were no hearings, and which some Members of the Senate believe dramatically alters and changes some sections of the firearms legislation passed last year, guarantees that there will be extensive discussion and extensive debate.

Thus, I would urge on my good friend from Delaware, who is talking about the financial situation, that if he is able, with his persuasiveness, to succeed in having the subject amendment withdrawn, I would certainly move that the Interest Equalization Tax Act be considered on the consent calendar tomorrow.

Mr. WILLIAMS of Delaware. This particular amendment was not my amendment. I did not cosponsor it. Perhaps the Senator can talk to his own majority leader and make known his position. The Senator from Utah (Mr. BENNETT) was a sponsor of the amendment, along with the majority leader (Mr. MANSFIELD) and others. But the point is that whether we agree to the amendment or not, let us bring it up and vote it up or down.

Mr. KENNEDY. Certainly it would be up to the leadership, but we do have other matters which are before the Senate at the present time. It takes some orderly scheduling of legislative matters. The coal mine safety bill is of great importance. It cannot be laid aside, except by unanimous consent. Such consent is not forthcoming. There are other matters which are coming up. But since this amendment has been added to the interest equalization, and it is a controversial matter, it will be discussed and debated as soon as we can reach it. The Senate will, obviously, have a chance to exercise its judgment. Hopefully, that will be done in a reasonable period of time.

What the Senator is interested in is talking about the interest equalization tax, in and of itself. I do not think it will be questioned that the tax bill could be passed on the Consent Calendar in a matter of seconds. But with the other item on it, it does present difficulties.

Mr. WILLIAMS of Delaware. I have no objection to the Senators expressing themselves, but let us get some action.

Mr. KENNEDY. I think it is certainly unfortunate that the tax itself could not be considered expeditiously. I am sure, as I have said, that it would if we did not have the other amendment on it. But I have the assurances that the Treasury Department is prepared to take steps. as it has in the past, at times when this matter has passed one House and failed to pass the other. The Senator must realize that even if we pass this bill by tomorrow, the House would still have to reconsider it, and the Bennett amendment is no less controversial over in the other body.

Mr. WILLIAMS of Delaware. When the Senator says he has such assurances, where did he get them? I have not had any such assurance.

I realize that the Democratic policy committee, of which he is a leading member, is conducting its own tax policies. Perhaps they know more about tax law and have some more assurances from the Treasury Department than do members of the Committee on Finance, but I can assure the Senator that, as one member of the committee, we have no such assurances as the Senator from Massachusetts just mentioned.

Those who let this tax lapse will have to take the responsibility because there are criminal penalties for the nonpayment of this tax, and the Treasury Department cannot enforce criminal penalties for nonpayment of a tax which has expired. They cannot collect a tax which is not the law at the time the transaction is taken. I have read the position of the Treasury Department. Perhaps the Senator has different advice from what I have, but I most respectfully remind him that we are a government of laws and not a government of men, a government where the Treasury Department only administers the law. That Department cannot issue negotiations based on the Democratic policy committee plans. So far as I am concerned, we should act on this interest equalization tax before it expires, but if we do not I want it to be very clear that I, as one Member of the Senate, think that the Treasury Department has no legal status to enforce the provisions of a nonexistent law.

Mr. SCOTT. Mr. President, I should like to make the point that the Senators who have added the amendment, beginning with the distinguished Senator from Utah (Mr. BENNETT) and others—some 30 to 40, including myself—are just as much entitled to ask for consideration of their views as any Senator is entitled to ask for a holding of legislation.

Perhaps, as both Senators in this colloquy have suggested, some solution will offer itself, but I do want to make it clear that we are prepared on this side to vote at any time on the extension of the Interest Equalization Act.

Mr. WILLIAMS of Delaware. All I am trying to point out is that the amendment should rise or fall on its own merits. I just hope we can bring it up so we can vote it up or down, take action, and let the country and the Treasury Department know what the Senate is going to do on this particular bill. It is very important in the light of the present uncertainty in the international financial community as to the stability of many currencies.

The Senate has a responsibility to vote on this measure before it expires.

Mr. KENNEDY. Let me point out that there is absolutely no intention to deny the Senate its right to exercise its judgment on this matter, both on the interest equalization and the amendment attached thereto. I would point out too, that the letter from Treasury Secretary David Kennedy, which the distinguished Senator from Delaware read in full into the RECORD, outlines emergency procedures already taken twice this year, and gives assurances that the Treasury Department is prepared if this legislation is not considered and passed by both Houses, and signed by the President before midnight tomorrow. It is very little time that is given the Congress to get a great deal done.

I am just repeating myself, when again I reiterate, that as there is no controversy involving the extension of the interest equalization tax, it would move through the Consent Calendar—at least, I would so move—this afternoon if it did not have the other item which is a fundamental matter of significant controversy, and as to which Members of the Senate want to be able to prepare themselves to speak on it, and which has little relevancy to the interest equalization tax.

It would certainly be my hope that we would be able to schedule these matters so that Members of the Senate on both sides would be able to exercise their own good judgment; but it is not the intention of the leadership at this time to set aside the pending business, which is of significance and importance, nor do we have the power to consider that measure at this time.

Mr. WILLIAMS of Delaware. I appreciate that point of the Senator, but I would merely state that it would be a sad day in the U.S. Senate if we ever reached a decision that only noncontroversial measures coming out of the Committee on Finance could be considered or matters to which Democratic policy committees had no objection. I think the views of all Senators, collectively, should be the determining factor and not just the views any group of men who want to play dictator.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. LONG. The Senate would be highly irresponsible if it allowed a law of the order of this importance to expire. Some of us thought it important that we keep capital from flowing out of this country to other nations, and we passed the interest equalization bill several years ago to keep that from happening.

The Senator from Louisiana was not anxious to put the gun amendment on the bill at all, but other Senators wanted it and the administration was for it. If any Senator did not like it, he could vote against it. The bill has been sitting out here some time now.

There is no urgency to the bill presently before us. A point of order has been made. The last I saw, there was a minibuster being used to keep it from coming to a vote.

If the Senator thinks that a revenue bill can originate in the Senate, he will soon learn that the House will send it back to the Senate with a blue sheet, saying that revenue measures must originate in the House, and citing the section of the Constitution providing for it. One could perhaps make a good argument for that bill originating here, but it will do no good, because the House will send it back. So we are wasting time when an important matter has been on the calendar for some time, ready for action——

Mr. KENNEDY. Mr. President, if the Senator will yield, as I understand, it was reported on the 24th. That makes it 5 days. Reports were not available until the following day. Then the weekend brings us to today.

Mr. LONG. Yes; but what is presently before the Senate does not have the same urgency. It does not involve legislation that is about to expire. May I say the fight over the point of order is a totally futile, make-work proposition, if I ever saw one. The House is going to

send this measure back with a blue slip saying it is a revenue measure, and as far as the House is concerned, such measures must originate in the House. We are not ever going to get the House to go to court to decide that question, because the House is just going to send it back to the Senate. I am so familiar with that type of thing and so sure that such a slip is going to come back, that I do not need to read it. As far as the House is concerned, the Senate will be sending to it a revenue bill that was initiated in the Senate. It is a waste of time to send the bill there, because the House is going to send it back as soon as it gets it.

I am not going to try to tell the House how to run its business. I have tried it previously with small success. I think other Senators will learn that when we send the House a bill that is a revenue measure, the House will send it back. There is nothing we can do about it. The House even says that an appropriation bill is a revenue bill. I do not like that construction, but we have not been able to get the House to go to court on that question, and as long as we do not get to court, the House is the final judge on whether a bill is a revenue measure.

Meanwhile here is an act that expires tomorrow night, and it should be acted on. As far as we are concerned, we are ready to vote it up or down. Let the Senate do what it wants, but it ought to be acted on because the act expires.

Mr. WILLIAMS of Delaware. Mr. President, I want to thank the Senator from Louisiana, the chairman of the Finance Committee, for his support in recognizing the necessity for action on this bill which otherwise will expire tomorrow. He is correct. When the Bennett-Mansfield amendment was offered in the committee as a part of the interest equalization bill both the Senator from Louisiana and I said that we questioned the wisdom of putting it on the bill. But it was approved as a part of that bill by a vote of the committee. The bill was then reported to the Senate. The point is that the bill and the amendment are entitled to be voted up or down.

The point was made that it was reported by the committee on the 23d or 24th of September. The Committee on Finance has been busy, as the Senator from Massachusetts can appreciate, trying to hold hearings every day since Labor Day, mornings, afternoons, and sometimes in the evenings. We have been holding hearings on a major tax reform bill. The chairman set aside 1 day for the consideration of interest equalization in order to get it out of committee.

There has been no delay on the part of the Finance Committee. The chairman of the committee has done everything he can to get this measure up for consideration as expeditiously as possible, just as he has been working day and night to get action on the tax reform bill so that it can be brought before the Senate at as early a date as possible.

The committee having worked its will on the bill, the very least we have a right to expect is that now, having reported the bill, the Senate will get a chance to vote. I want to join the chairman of the committee in urging that action on this bill be taken now; but if it is the decision of the Senator from Massachusetts, the acting majority leader, that there will be no action taken on this measure, thereby allowing the law to lapse, I want the RECORD to show clearly where the responsibility lies. In my opinion, however, such a decision would be fiscally irresponsible.

Mr. KENNEDY. Mr. President, I am not sure whether the chairman of the committee was present earlier when I stated that it would be the intention of the leadership to move the interest equalization measure through on the Consent Calendar if the sponsors of what is a controversial amendment were prepared to withdraw their amendment and submit it at another time to be considered on its merits. But since it is a matter which is in controversy and dispute and of little relevancy to the interest equalization bill, although we do understand the committee has added that amendment on the bill, there are Members of the Senate who have a deep interest in that subject and would want to prepare themselves on that particular question. Therefore, since it will have to be debated and discussed and since we do have another matter of importance and significance which is before the Senate which we cannot lay aside except by unanimous consent, which consent is quite clearly not forthcoming, we cannot bring this matter to the floor for a debate at this time.

Mr. LONG. Mr. President, if the Senator would yield, as far as the Senator from Louisiana is concerned, he is aware of the fact that the revenue bill to provide essential financing of the Government was not to be considered until we reported a so-called reform bill that we hope to report out of the committee by the end of October—a bill which does require a great deal of study if we are to be responsible about it at all.

Then we felt that this retroactive date—I believe April 18—on the investment tax credit repeal was creating an uncertainty that should certainly be the basis of some sort of answer, one way or the other, for business. Do they get it, or do they not?

So we thought about adding the repeal measure on the interest equalization tax, but because of the fact that the leadership felt that the matter should be held up and await the larger bill, it was not added to that bill, but was put on a less controversial measure that had no immediate urgency about it, and this amendment relating to firearms was added to the interest equalization tax on the basis that if it could not be readily agreed to by the House we would not insist on it.

I would think that when it gets down to the point that we cannot consider revenue bills except by unanimous consent, we are in pretty bad shape, because there are a great number of important revenue bills that will have to be considered between now and the end of this Congress; and to hope that we can pass them all by unanimous consent, I think, is asking too much.

Here is one that expires; and the responsible thing to do is call it up and vote on it, and then return to whatever subject—which is not pressing—one might care to bring before the Senate.

I think the position has been made clear with regard to what some of us feel is very important. This is a revenue bill, and it has an expiration date—tomorrow night—and could have some very serious consequences if it is not acted upon. It should be given priority over things that do not require the same urgency.

AUTHORIZATION OF APPROPRIATIONS FOR EXPENSES OF THE OFFICES OF INTERGOVERNMENTAL RELATIONS

The Senate resumed the consideration of the joint resolution (S.J. Res. 117) to authorize appropriations for expenses of the Office of Intergovernmental Relations, and for other purposes.

Mr. KENNEDY. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-430), explaining the purposes of the measure.

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

PURPOSE

The resolution would authorize the appropriation of such sum as may be necessary for the expenses of the Office of Intergovernmental Relations established by Executive Order 11455 dated February 14, 1969. The purpose of the Office is to advise and assist the Vice President with respect to his intergovernmental relations responsibilities as the President's liaison with executive and legislative officials of State and local governments.

The Execuitve order places the Office under the immediate supervision of the Vice President and provides for a Director and Deputy Director of the Office to be designated by the Vice President. The proposed resolution would provide that the Director would be compensated at a rate not in excess of that for level IV of the executive schedule and the Deputy Director at a rate not in excess of that for GS-18. In addition, the resolution would provide that compensation for two other positions may be at a rate up to the maximum pay for GS-17.

Upon signing the Executive order establishing the Office of Intergovernmental Relations, the President stated that—

• • • the Office will assure State and local officials access to the highest offices of the Federal Government, especially those having a direct impact on intergovernmental relations, so that Federal programs, policies, and goals will be more responsive to their views and needs. It will seek to strengthen existing channels of communication and to create new channels among all levels of government.

HEARINGS

Director of the Office of Intergovernmental Relations, Nils Boe, testified before the Subcommittee on Intergovernmental Relations on September 9. In his statement he pointed out that the purpose of the Office is to provide liaison between the executive branch of the Federal Government, its departments and agencies, and the official representatives of State government and their political subdivisions. The basic purpose of the Office is to strengthen and coordinate Federal, State, and local relations.

Because intergovernmental relations have become increasingly complex in recent years and new patterns of Federal-State-local relationships have emerged as major national programs have been enacted in new fields of activity such as manpower training and area economic development and established fields such as mass transportation, water systems,

and sewage treatment plants, the executive branch seeks to streamline the efforts at intergovernmental cooperation.

In the past two avenues were open for this liaison function through the Office of the Vice President and the Office of Emergency Preparedness designed for liaison with State Governors. The liaison functions of the Office of Emergency Preparedness are now housed in the Office of the Vice President.

The Office of Intergovernmental Relations has been placed under the immediate supervision of the Vice President. The Executive order creating this office assigns to the Vice President a number of important responsibilities in the field of intergovernmental relations. The Office of Intergovernmental Relations serves as the operating arm of the Vice President's office in meeting these responsibilities.

The Office would not duplicate or conflict with responsibilities presently being carried out by the Advisory Commission on Intergovernmental Relations or by the Bureau of the Budget. The Advisory Commission is an independent agency composed of members drawn from three levels of government; three from the Federal executive branch, three U.S. Senators, three members of the House of Representatives, four Governors, four mayors, three State legislators, three county officials, and three private citizens appointed by the President. The Commission is specifically directed to: (1) bring together representatives of the Federal, State, and local governments to consider common problems; (2) provide a forum for discussion of the administration of Federal grant programs; (3) give critical attention to the conditions and controls involved in the administration of grant programs; (4) make available technical assistance to the executive and legislative branches of the Government in the review of legislation to determine its overall effect on the federal system; (5) encourage discussion and study or emerging public problems that are likely to require intergovernmental cooperation; (6) recommend, within the framework of the Constitution, the most desirable allocation of governmental functions, responsibilities, and revenues among the several levels of government; and (7) recommend methods of coordinating and simplifying tax laws and administrative practices to achieve a more orderly and less competitive fiscal relationship between the levels of government and reduce the burden of compliance by taxpayers (Public Law 86–380, sec. 2).

The joint resolution (S.J. Res. 117) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S.J. RES. 117

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby authorized to be appropriated such sums as may be necessary for expenses of the Office of Intergovernmental Relations (referred to hereafter as the "Office"), established by Executive Order Numbered 11455 of February 14, 1969.

SEC. 2. (a) The Director of the Office shall be compensated at a rate of basic compensation not to exceed the rate now or hereafter provided for level IV of the Federal Executive Salary Schedule.

(b) The Deputy Director of the Office shall be compensated at a rate of basic compensation not to exceed the rate now or hereafter provided for GS–18.

SEC. 3. The Director of the Office is authorized—

(a) to appoint and fix the compensation of such personnel as he deems necessary without regard to (1) the provisions of title 5, United States Code, governing appointments in the competitive service, and (2) the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and to general schedule pay rates: *Provided,* That, except as provided in section 2 of this Act and subsection (b) of this section, no person shall receive compensation in excess of the rate now or hereafter provided for GS–15;

(b) to fix the compensation of two employees at rates of basic compensation not to exceed the rate now or hereafter provided for GS–17; and

(c) to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates not to exceed the daily equivalent of the rate now or hereafter provided for GS–18.

COMMISSION ON POPULATION GROWTH AND THE AMERICAN FUTURE

The bill (S. 2701) to establish a Commission on Population Growth and the American Future was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2701

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commission on Population Growth and the American Future is hereby established to conduct and sponsor such studies and research and make such recommendations as may be necessary to provide information and education to all levels of government in the United States, and to our people, regarding a broad range of problems associated with population growth and their implications for America's future.

MEMBERSHIP OF COMMISSION

SEC. 2. (a) The Commission on Population Growth and the American Future (hereinafter referred to as the "Commission") shall be composed of—

(1) two Members of the Senate who shall be members of different political parties and who shall be appointed by the President of the Senate;

(2) two Members of the House of Representatives who shall be members of different political parties and who shall be appointed by the Speaker of the House of Representatives; and

(3) not to exceed twenty members appointed by the President.

(b) The President shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Commission.

(c) The majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 3. (a) Members of the Commission who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) Members of the Commission who are not officers or full-time employees of the United States shall each receive $150 per diem when engaged in the actual performance of duties vested in the Commission.

(c) All members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently.

DUTIES OF THE COMMISSION

SEC. 4. The Commission shall conduct an inquiry into the following aspects of population growth in the United States and its foreseeable social consequences:

(a) the probable course of population growth, internal migration, and related demographic developments between now and the year 2000;

(b) the resources in the public sector of the economy that will be required to deal with the anticipated growth in population; and

(c) the ways in which population growth may affect the activities of Federal, State, and local government.

STAFF OF THE COMMISSION

SEC. 5. (a) The Commission shall appoint an Executive Director and such other personnel as the Commission deems necessary without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service and shall fix the compensation of such personnel without regard to the provisions of chapter 51 and subtitle II of chapter 53 of such title relating to classification and General Schedule pay rates: *Provided,* That no personnel so appointed shall receive compensation in excess of the rate authorized for GS–18 by section 5332 of such title.

(b) The Executive Director, with the approval of the Commission, is authorized to obtain services in accordance with the provisions of section 3109 of title 5 of the United States Code, but at rates for individuals not to exceed the per diem equivalent of the rate authorized for GS–18 by section 5332 of such title.

(c) The Commission is authorized to enter into contracts with public agencies, private firms, institutions, and individuals for the conduct of research and surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

GOVERNMENT AGENCY COOPERATION

SEC. 6. The Commission is authorized to request from any Federal department or agency any information and assistance it deems necessary to carry out its functions; and each such department or agency is authorized to cooperate with the Commission and, to the extent permitted by law, to furnish such information and assistance to the Commission upon request made by the Chairman or any other member when acting as Chairman.

ADMINISTRATIVE SERVICES

SEC. 7. The General Services Administration shall provide administrative services for the Commission on a reimbursable basis.

REPORTS OF COMMISSION: TERMINATION

SEC. 8. The Commission shall submit an interim report to the President and the Congress one year after it is established and shall submit its final report two years after the enactment of this Act. The Commission shall cease to exist sixty days after the date of the submission of its final report.

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to carry out the provisions of this Act.

Mr. KENNEDY. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–431), explaining the purposes of the measure.

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

PURPOSE

S. 2701 would establish a commission to be called the Commission on Population Growth and the American Future, which would conduct and sponsor studies and research and make such recommendations as may be necessary to provide information and education to all levels of government in the United

States, and to the public, regarding a broad range of problems associated with population growth and their implication for America's future.

BACKGROUND INFORMATION

On July 18, 1969, President Richard Nixon sent a message to Congress outlining the need for a commission to study the problems surrounding the growth of population in the United States as it relates to America's future.

In his message the President said there would be 300 million Americans by the year 2000. Then he posed these questions: Where will the next 100 million people live; how will we house them; what of our natural resources and quality of our environment; how will we educate and employ these people; will our transportation system move them quickly and economically; how will we provide adequate health care for them; will we have to reorder our political structure; will our institutions be swamped by growing floods of people; how easily can they be replaced or altered; and how can we better assist American families so they will have no more children than they wish to have?

The President added:

Perhaps the most dangerous element in the present situation is the fact that so few people are examining these questions from the viewpoint of the whole society.

I believe, however, that the Federal Government makes only a minimal effort in this area. The efforts of State and local governments are also inadequate.

The President then outlined what he thought the makeup of the Commission should be.

The membership of the Commission should include two Members from each House of the Congress, together with knowledgeable men and women who are broadly representative of our society. The majority should be citizens who have demonstrated a capacity to deal with important questions of public policy. The membership should also include specialists in the biological, social, and environmental sciences; in theology and law; in the arts; and in engineering. The Commission should be empowered to create advisary panels to consider subdivisions of its broad subject area and to invite experts and leaders from all parts of the world to join these panels in their deliberations.

In the 89th and 90th Congresses the Subcommittee on Foreign Aid Expenditures, under the chairmanship of Senator Ernest Gruening, held hearings on the population problem. Those hearings were directed at American and worldwide problems of the population crisis while S. 2701 focuses on America's problem in this area. The hearings were printed in 18 volumes.

In the 90th Congress the full committee held hearings on legislation introduced by Senator Karl Mundt to establish a Commission on Balanced Economic Development. This legislation, which was subsequently approved twice by the committee and passed by the Senate, is similar in nature to the proposed Commission on Population Growth and the American Future. It would study and investigate the following:

(1) an analysis and evaluation of the economic, social, and political factors which affect the geographical location of industry;

(2) an analysis and evaluation of the economic, social, and political factors which are necessary in order for industries to operate efficiently outside the large urban centers or to operate and expand within the large urban centers without the creation of new economic and social problems;

(3) a consideration of the ways and means whereby the Federal Government might effectively encourage a more balanced industrial and economic growth throughout the Nation;

(4) an analysis and evaluation of the limits imposed upon population density in order for municipalities, or other political subdivisions, to provide necessary public services in the most efficient and effective manner;

(5) an analysis and evaluation of the effect on governmental efficiency generally of differing patterns and intensities of population concentration;

(6) an analysis and evaluation of the extent to which a better geographic balance in the economic development of the Nation serves the public interest;

(7) an analysis and evaluation of the role which State and local governments can and should play in promoting geographic balance in the economic development of a State or region; and

(8) an analysis and evaluation of practicable ways in which Federal expenditures can and should be managed so as to encourage a greater geographic balance in the economic development of the Nation.

Because the purposes of the two Commissions are almost identical, the committee feel that the above factors should be considered by the Commission on Population Growth and The American Future.

MAKEUP OF THE COMMISSION

The Commission on Population Growth and the American Future would be composed of—

(1) two Members of the Senate who shall be members of different political parties and who shall be appointed by the President of the Senate;

(2) two Members of the House of Representatives who shall be members of different political parties and who shall be appointed by the Speaker of the House of Representatives; and

(3) not to exceed 20 members appointed by the President.

The President shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Commission. The majority of members shall constitute a quorum, but a lesser number may conduct hearings.

Members of the Commission who are officers or full-time employees of the United States shall serve without compensation and members of the Commission who are not officers or full-time employees of the United States shall receive $150 per diem when engaged in the actual performance of their duties. All members shall be paid expenses. The Commission shall appoint an executive director and be authorized to enter into contracts with public agencies, private firms, institutions, individuals for research and surveys and the preparation of reports. The Commission shall be empowered to request information from government agencies and departments. The Commission shall submit an interim report after 1 year and a final report 2 years after enactment of this act.

DUTIES OF THE COMMISSION

The Commission shall conduct an inquiry into the following aspects of population growth in the United States and its foreseeable social consequences:

(a) The probable course of population growth, internal migration, and related demographic developments between now and year 2000.

(b) The resources in the public sector of the economy that will be required to deal with the anticipated growth in population.

(c) The ways in which population growth may affect the activities of Federal, State, and local government.

HEARINGS

Hearings on S. 2701 were conducted by the full committee on September 15, 1969. Six witnesses from executive agencies and five private witnesses testified on the bill. All witnesses supported the idea of establishing a Commission on Population Growth and the American Future.

ABOLISHMENT OF THE COMMISSION AUTHORIZED TO CONSIDER A SITE AND PLANS FOR BUILDING A NATIONAL MEMORIAL STADIUM IN THE DISTRICT OF COLUMBIA

The bill (S. 1484) to abolish the commission authorized to consider a site and plans for building a national memorial stadium in the District of Columbia was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1484

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution entitled "Joint Resolution to consider a site and design for a National Memorial Stadium to be erected in the District of Columbia", approved December 20, 1944 (58 Stat. 844), is hereby repealed.

Mr. KENNEDY. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–432), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill is to abolish the National Memorial Stadium Commission established in 1944 by Public Law 523 of the 78th Congress. That Commission is composed of three Members of the Senate appointed by the President of the Senate, three Members of the House of Representatives appointed by the Speaker of the House, and three persons appointed by the Commissioner of the District of Columbia. The members are appointed without limitation on their terms. They serve without compensation.

BACKGROUND

Although new members have been appointed to the Commission from time to time, the role of the Commission actually ended in 1957 with congressional authorization of the District of Columbia Stadium, which was completed in 1961.

S. 1484, to abolish the Commission, was introduced by Senators Mansfield and Dirksen on March 11, 1969. Hearings were held by the Subcommittee on Public Health, Education, Welfare, and Safety on July 31, 1969. The legislation was supported by the District of Columbia government and the Bureau of the Budget.

USE OF REAL PROPERTY IN THE STATE OF MARYLAND FOR HIGHWAY PURPOSES

The bill (H.R. 10420) to permit certain real property in the State of Maryland to be used for highway purposes was considered, ordered to a third reading, read the third time, and passed.

Mr. KENNEDY. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–434), explaining the purposes of the measure.

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

EXPLANATION OF THE BILL

The act of March 4, 1923 (42 Stat. 1450), authorized the sale of certain property, including Fort Armistead, Md. Section 3 of the act provided that the conveyance of land shall be on the condition and limitation that the property shall be limited to use for pub-

lic park purposes and upon cessation of such use shall revert to the United States.

Pursuant to the act, on February 23, 1927, a deed was executed by the Secretary of War, on behalf of the United States, conveying to the mayor and City Council of Baltimore 45.5 acres of land for a price equal to the then appraised fair market value of $27,306. In accordance with section 3 of the act the deed restricts the use of the property to public park purposes and provides that property shall revert to the United States on cessation of that use. Since the conveyance in 1927 the city of Baltimore has used the property for public park purposes.

The Maryland State Roads Commission desires to acquire approximately 8 acres of the property conveyed to the mayor and City Council of Baltimore in 1927, in connection with the construction and operation of the Baltimore Harbor outer tunnel project. As a result of the restriction on use of the property contained in the act of 1923 and the deed of 1927, the city is unable to convey the property to the State for the tunnel project. The bill would authorize a conveyance of the necessary land to the State, notwithstanding the restrictions limiting the use of the land to park purposes.

Special legislation is required to release the conditions imposed upon the 45.5 acres pursuant to the act of March 4, 1923, and the objectives of this bill could not be accomplished administratively under the laws of general application for the distribution of Federal property.

This bill is so drafted as to authorize the mayor and City Council of Baltimore, Md., to convey only the real property necessary for highway purposes. The remainder of the real property conveyed in 1927 to the mayor and City Council of Baltimore will remain subject to reversion to the United States when no longer used for public park purposes. The approximately 8 acres conveyed to the State of Maryland will be again subject to such reversion provisions when no longer used for highway purposes. Any consideration that might be received by the city of Baltimore as a result of this conveyance is required to be used for development of the remaining real property for park purposes.

MESSAGE FROM THE HOUSE— ENROLLED BILLS SIGNED

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

S. 574. An act to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments; and

H.R. 4152. An act to authorize appropriations for certain maritime programs of the Department of Commerce.

VIETNAM IS NOT YET A REPUBLICAN WAR

Mr. CHURCH. Mr. President, on Saturday morning the Washington Post carried a news story by William Greider, quoting Senator FRED HARRIS, National Chairman of the Democratic Party, as saying:

It is time to take the gloves off on the Vietnam war issue.

The article is headlined "Democrats Will Fight Viet Policy" and concerns a luncheon meeting called by Senator FRED HARRIS at the Capitol on Friday noon. The article conveys the impression that it was decided the time is ripe for the Democratic Party to make a partisan issue of the Vietnam war.

Furthermore, the article goes on to say:

Senators Church and McGovern are supposed to draft a resolution on the troop withdrawals for the Senate and Representatives Brademas and Udall will work on a corresponding resolution for introduction in the House.

Now, Mr. President, it is true that I attended the luncheon and agreed to work on a resolution calling for an orderly withdrawal of American Forces from Vietnam. But I insisted that any congressional protest be bipartisan in character. I want no part in any stratagem to convert the Vietnam war into a political club for Democrats to use against Republicans.

In the first place, the strength of antiwar sentiment in Congress has grown out of its nonpartisan nature. As one of the first Senators to protest our deepening involvement in Vietnam, back in 1964, I spoke up against the policies of a Democrat in the White House, because my primary concern was the country's interest, which must be placed above considerations of party. In like manner, the dissent against the war was immensely strengthened when Republicans broke party ranks to join in the common cause. We must not forget this now, when an eager injection of partisanship could easily divide us and dissipate our efforts to end this horrid war.

I object also because it is plainly too soon for Democrats to use Vietnam as a legitimate issue against the Republican administration. After all, Democrats in the White House led this country into Vietnam. If President Nixon fails to lead us out, it may become his war. but it is not Nixon's war yet. For 8 years, we Democrats bore the responsibility. Now we must wear the hairshirt longer than 8 months. Quite apart from what our personal positions may have been, we are not yet entitled as a party to hold the Republicans to account.

That time may come. President Nixon seems to be slipping into the same trap that ensnared Lyndon Johnson. But he is more likely to resist, than to heed, a partisan outcry to bring the troops home faster. As of now, our best hope lies in keeping politics out of the war issue.

For these reasons, I shall continue to work with like-minded Republicans as well as Democrats, with protesting students and their concerned parents, with businessmen, members of the clergy and all other Americans who believe, as I do, that our country's mistaken participation in this Asian war should be brought to an end. Our goal is much too important to be impeded by partisan politics.

Mr. GRIFFIN. Mr. President, will the Senator from Idaho yield?

Mr. CHURCH. I yield.

Mr. GRIFFIN. I commend the Senator for his statesmanlike statement. It helps to keep in perspective the Vietnam war and the importance of keeping it out of politics.

Of course, coming from Michigan, I am reminded of the great leadership of Arthur Vandenberg; how he insisted—and his leadership was followed—that politics should stop at the water's edge wherever the Nation's security is involved.

How unfortunate and how unwise it would be, I think, if the Democrats as a party were to make the Vietnam war a political issue. Of course, the Democrats have the right to do that; but I believe it would be unwise, both in terms of politics and in terms of the national interest.

I shall have more to say on this subject at a later point; however, I do wish at this time to commend the Senator from Idaho.

Mr. CHURCH. I thank the Senator very much.

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

Mr. CHURCH. I shall yield next to the distinguished assistant majority leader, but I want first to stress that those who attended the luncheon on Friday were all mindful of the importance of keeping the Vietnam issue out of partisan politics at this time. I stress this, because I think it is important to head off any interpretation in the press that the Democratic Party, as such, is now going to raise the war issue against the Republican administration.

From the beginning, those of us who have opposed the war have done so without regard to party affiliation. That has given added strength to the antiwar protest in Congress; and, as we approach October 15, a day when students on many campuses intend to stage an organized protest to our continued involvement in Vietnam; a day when they hope to dramatize their opposition to the war, I think it is especially important to avoid any impression that this effort has partisan motivation.

I am happy to yield now to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I also attended the luncheon, and afterward read the news accounts of that meeting. I simply wish to underscore two points on which the distinguished Senator from Idaho has commented this morning.

First of all, in the early part of the discussion had by like-minded Senators that met at the Vandenberg room, the Senator from Idaho was one who first stressed the importance of keeping the question of criticism of our policy in Vietnam completely nonpartisan and with the broadest possible spectrum of support and that in no way should those who met last week, or who are otherwise identified with reservations about that policy express it in a partisan manner.

In fact, the Senator from Idaho was the principal exponent of that posture which, I thought, after he expressed it, was clearly reflective of the thinking of all the Members attending the luncheon. I think it is appropriate that he did mention the matter this morning. His thinking has been eloquently expressed over a period of years and has helped so much in an understanding in the Senate of our problems in Southeast Asia. The Senator from Idaho, like everyone else at the meeting wanted to keep the matter on a nonpartisan basis.

Mr. CHURCH. I thank the Senator for his comments.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the Senator from Idaho be granted 5 additional minutes.

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

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

Mr. CHURCH. I yield.

Mr. GRIFFIN. Mr President, I commended the Senator for his earlier statement. But let me make it clear insofar as that meeting is concerned, which, as I understand it, was called and presided over by the Democratic National Committee chairman, that I find it difficult to read and interpret his remarks as anything other than a partisan attack on President Nixon.

I am delighted and pleased with the statement of the Senator from Idaho. I commend him for disassociating himself from any partisan intention and for indicating that there will be no such meeting or effort in the future in which he will participate.

Mr. President, I should like to direct this question to the Senator from Idaho: am I correct in assuming that there were no Republicans present at that meeting, that it was not a bipartisan meeting, but that it was a meeting called and presided over by the chairman of the Democratic National Committee?

Mr. CHURCH. The Senator is correct. It was a Democratic luncheon meeting. It included Members from both the House of Representatives and the Senate. However, again I must reiterate that everyone at the luncheon seemed agreed that any action here in Congress, connected with the observance of Vietnam Moratorium Day on October 15, should be taken on an entirely bipartisan basis and that any resolutions introduced should have bipartisan sponsorship.

That is why I was surprised when I read on Saturday morning an article in the Washington Post which seemed to suggest that this was the start of a party drive on the part of Democrats to tag the Nixon administration with the Vietnam war.

Mr. GRIFFIN. Mr. President, I wish very much that the Senator from Oklahoma, the chairman of the Democratic National Committee, who presided over the meeting were here on the floor of the Senate. He does not appear to be. However, I cannot avoid referring to his statement, quoted in the press, at least, to the effect that it is time "to take the gloves off" with President Nixon on the Vietnam war. Perhaps he was misquoted. If he was, I would hope that he would make it clear.

Mr. CHURCH. Mr. President, I can only say that the Senator from Oklahoma (Mr. HARRIS) fully agreed at the luncheon on the importance of organizing the congressional participation in the moratorium on the widest possible bipartisan basis.

My purpose today is simply to register my own position in view of the article that appeard in the Washington Post. And I certainly do not charge the Senator from Oklahoma, the chairman of the Democratic National Committee, with any intention of making the war a partisan issue at this time.

Mr. GRIFFIN. Mr. President, I thank the Senator and commend him.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BELLMON. Mr. President, my purpose in speaking out today is to help make crystal clear that when my colleague, the senior Senator from Oklahoma (Mr. HARRIS), who is also the chairman of the Democratic National Committee, make statements against the President of this Nation as he has recently, in my opinion, he is acting in his partisan, not in his elected capacity as a representative of the people of Oklahoma.

When news reports attribute his partisan attacks to "the Senator from Oklahoma," as was done in last Saturday's Post, the junior Senator from Oklahoma feels compelled to disassociate himself and his State from such purely partisan utterances.

Mr. President, the people of Oklahoma have voted in favor of Mr. Nixon each time he has sought national office and they continue to be strongly in his support. They know that our country faces a difficult situation in South Vietnam and they are largely united behind President Nixon as he pursues a policy of peace not only for today but for the future as well.

Mr. President, the junior Senator from Oklahoma has also held partisan party positions—many of them. He realizes the difficulty his colleague faces in his present dual capacity. He means no criticism of his colleague as a Member of this body, but he feels compelled to speak out for the people of his State when partisanship seems in danger of becoming confused with the responsibilities of elected office.

Mr. President, it is an accepted fact that in some cases in our system of government one man can hold two jobs. I do not quarrel with such arrangements. However, such situations call for dual performances and as a result must be subjected to dual understanding.

Today I would like to discuss for a few moments recent statements of the chairman of the Democratic National Committee, whose partisanship is always beyond question and unfortunately sometimes without reason.

Unfortunately, some who listen to the political nonsense delivered by the chairman for partisan purposes think they are listening to a statesman who represents the people who voted for him. This, of course, is not the case.

Mr. President, in speaking here today I intend no criticisms of any Member of this body for what he has said as a Member. But I cannot let unwarranted, noisome attacks on the President of the United States continue to pass by, when they come from the official political spokesman for the other party—especially when we represent the same electorate in this august assembly.

Mr. President, the spokesman for the other party charges the President with "the wildest kind of improvisation" in dealing with the problems of Vietnam and inflation.

This, of course, is the wildest kind of charge, just as it was when it was first made 2 months ago. As a matter of fact, the similiarity of the attack made in July, as reported in the New York Times, July 11, 1969, the one made in mid-September on the "Today" show, as well as the "gloves off" policy announced last Saturday, September 27, indicates just one thing to me: the spokesman for the other party has launched a deliberate destructive campaign against the President of the United States, an attack which may prove damaging to our national interests and to the lives of American fighting men in South Vietnam—men sent into that battlefield by a leader of the chairman's own party.

One of the chairman's charges in July was that inflation is rising at a faster rate than it was under President Nixon's predecessor.

Mr. President, the chairman should be reminded that inflation is like a forest fire. I can start small, but unless it is controlled early it takes a longer time and more effort to put it out. The real fault lies with the person who lights the match. We all know that inflation started small about 8 years ago. But all we got from the White House until President Nixon came along was talk. But just like a forest fire, Mr. President, inflation can not be stopped merely by blowing hot air on it.

You do not get your teeth into the meat of the inflation problem by using jawbone economics. Our friends from the past administration found this out time after time, as the chairman of the other party should know. Certainly, President Nixon knows this. For that reason he is using a policy aimed at stopping inflation without creating a depression. It is a planned program, implemented a step at a time by a President who recognizes that the overreaction urged by the chairman is as undesirable as were the deliberately inflationary tactics of the Johnson administration. Mr. President, I am convinced the President's approach will soon bring under control the inflation begun and fostered by the leaders of the chairman's own party.

Now, Mr. President (Mr. YOUNG of Ohio in the chair), let me turn to Vietnam. I do this most reluctantly, because I feel that a war in which Americans are dying is not a just subject for political jousting. I conducted my own campaign last fall on this premise.

But, Mr. President, when the chairman of the other party goes on national television to claim that President Nixon has no plans for dealing with Vietnam, he is telling Americans that the President has no concern for their sons; that he is, in fact, betraying his trust and theirs.

I am ashamed that such an accusation would come from a fellow Oklahoman. I am distressed that partisan politics has sunk to that level. President Nixon has withdrawn 25,000 troops from Vietnam and is withdrawing another 35,000. These actions show North Vietnam and the world that the United States seeks an honorable peace. They show the world that it is not this administration that mistook the escalation of war for the road to peace.

At the same time, President Nixon has made it clear that he will not betray for any price or in any way those who depend on us for security while they build

their nation—the South Vietnamese people.

President Nixon has proved that he wants peace on this globe. From the moment of his inaugural he has devoted his best personal efforts and the best efforts of his administration to the pursuit of peace.

He has proved that he ardently desires to end the war in Vietnam. Probably more than any other man in America, President Nixon wants the killing stopped.

President Nixon's efforts to seek a common negotiating ground with the enemy, the President's words and deeds that show we are ready to negotiate, the President's concern that America has a practical foreign policy and a peace policy that is both honorable and realistic, deserve more accurate treatment from the chairman of the Democratic National Committee, even when my senior colleague is wearing his political hat.

Mr. President, the "gloves off" policy on Vietnam announced last weekend by the Democratic National Chairman amounts to a callous, partisan effort to confuse American voters and thereby make political gain from a tragic situation created by leaders of his own party. If the policy succeeds, it can only have the effect of postponing peace and increasing American casualties and costs. It is particularly unfortunate at this time, when the change in leadership in North Vietnam would seem to offer new opportunity and new hope for ending the war at an early date.

This is not the time for partisan divisiveness which can only have the effect of encouraging the North Vietnamese to hang on and keep killing Americans. This is a time for a hands-off policy so far as partisan politics is concerned. Such a policy will build unity which will help stop the killing and hasten the day of peace.

Mr. KENNEDY. Mr. President, I am aware that there has been an allegation raised that there was a partisan nature to the luncheon that was held Friday of last week, which I attended by the invitation of the Senator from Oklahoma (Mr. HARRIS). I want to say that the remarks of the distinguished Senator from Idaho (Mr. CHURCH) in that regard accurately reflect both the purposes for the meeting and the attitude of those who attended it. Now the statement of the Senator from Idaho to some degree, has been challenged by Members on the other side of the aisle. The question is who has taken the gloves off, whether it is members of the Democratic Party or those of the other party. In my opinion, the gloves were taken off last week by a member of the other party in this body, the junior Senator from New York. I think that should be stated just in completing the record on the discussion.

THE VIETNAM MORATORIUM

Mr. GRIFFIN. Mr. President, over the weekend there was a great deal in the newspapers about a demonstration which is being planned for October 15 to protest the war in Vietnam.

This demonstration has been given the name of "The Vietnam Moratorium."

Without questioning in any way the fundamental right of protest and dissent, I would suggest, most respectfully, that what we need most in this country at this particular point in time, is another kind of moratorium—a moratorium on political carping and other criticism which tends to undercut and undermine President Nixon's determined and earnest efforts to bring the war in Vietnam to an end.

All of us are aware of the terrible human cost of the war and its divisive effects at home—and no one is more aware of this than President Nixon.

I believe all Members of Congress wish to see the war ended as soon as possible—and no one desires this more earnestly than does President Nixon. No one has worked harder toward that goal.

But the road to peace is complex and difficult. It requires courage to travel it, and most of all, it requires patience and understanding.

Yet more and more we are being told that we must forego patience and commit ourselves to the delusion that, regardless of the consequences, we must withdraw unilaterally in accordance with some timetable.

I do not question the sincerity of those who demand withdrawal of all American forces in Vietnam by a given date, but I do question whether such proposals serve the cause of peace. It seems clear to me that in fact such spokesmen are actually contributing to a prolongation of the war.

Let me make it as clear as I can why I think that is so.

As we all know, there is a new government in Hanoi. We do not know what the leaders of this new government are going to do or what their approach will be.

But of one thing we can be sure: If these leaders get the impression that we are going to throw in the sponge; that we are going to withdraw unilaterally by a given date, I think it is obvious that there will be no cooperation at Paris and no response to our overtures for peace.

Mr. President, I believe that the next 30 to 60 days are of crucial importance with respect to the possibility of negotiating a peace settlement at Paris. That period of time could determine whether or not a negotiated peace is possible.

For that reason, I believe that all Senators and others in the country who are in positions of responsibility should exercise the utmost care and restraint in their comments and in their criticism.

Under the Constitution, the President is charged with the responsibility for conducting our foreign policy. As much as we might like to be there, we cannot all be sitting at the negotiating table in Paris. Nor can we all be fully informed on what our intelligence has learned or what may have been discussed at a background meeting on the war.

President Nixon and this administration have made dramatic and significant steps toward peace. The Nixon administration, at least at this point of time, deserves the backing and not the criticism of the Members of the Senate.

As we all know, when there is criticism of the President on his conduct of the war, it is immediately reported in Hanoi. Even though such criticism may be well-intentioned, it can only serve to prolong the war and the possibilities for peace.

As the President told his news conference last Friday—

> Such proposals inevitably undercut and destroy the negotiating position we have in Paris. We have not made significant progress. But any incentive for the enemy to negotiate is destroyed if he is told in advance that if he just waits for 18 months we will be out anyway . . .

Mr. President, it is something like a football game. While ahead in the score surely announcing that we are going to quit at the end of the third quarter would not be in the interest of winning the football game. All the other side would have to do in such a contest would be merely to hold out for a little while and then win the game by forfeiture.

Those who would criticize the President's peace efforts simply ignore the fact that President Nixon has already turned the war around; our boys are no longer going to Vietnam in increasing numbers, they are beginning to come home. And there is a possibility that they may all be home not at the end of 1970 or the middle of 1971 but sooner, if the President's efforts receive the support they deserve.

At his press conference last week the President said:

> I think we are on the right course in Vietnam. We are on a course that is going to end the war. It will end much sooner if we can have to an extent, to the extent possible in this free country, a united front behind very reasonable proposals. If we have that united front, the enemy will begin to talk.

In the light of that statement it was most disturbing as I have indicated and as has been alluded to by the Senator from Idaho, the Senator from Massachusetts, and the Senator from Oklahoma, that a Member of this body who also serves as chairman of the Democratic National Committee, would come out of a Friday luncheon meeting—which I understand was held in the Vandenberg room in the Capitol with other members of his party, and make the comment:

> It is time to take the gloves off on the Vietnam war issue.

It is particularly interesting to me that such a luncheon may have been held in the Vandenberg room, because that room is named for a distinguished predecessor of mine in this body. As I have noted many times, Senator Arthur Vandenberg was a symbol of nonpartisanship whenever our Nation's vital interests were concerned. He believed most deeply that politics should stop at the water's edge while our country was at war. I think it is significant that since his death, the Senate has honored this basic and fundamental understanding. I hope it is not now coming to an end.

In this regard, I am encouraged by the statement made by the Senator from Idaho and by the distinguished acting majority leader.

As a final word, I would like to think that when this war ends and peace finally settles over that distant and tortured

land of Vietnam, we can ascribe to those who served there and those who fell there these words: "Not in vain."

THE PRESIDENT'S SOCIAL SECURITY PROPOSALS

Mr. LONG. Mr. President, President Nixon has just submitted his social security proposals to the Congress. Certainly, his recommendations will receive most careful consideration by both the House and Senate. In particular, I believe we will all want to act to see to it that our wonderful older Americans get the substantial increase in cash benefits which they deserve.

That is the good news. But, before we relax and commend ourselves, there are some very hard and sobering facts of life about medicare which the Congress, every taxpayer, and every social security beneficiary should know.

First. The President proposes a 55-percent increase in medicare payroll taxes.

Second. The medicare hospital plan's funds will be completely exhausted by 1973 under present financing—despite a 25-percent tax increase in 1967.

Third. Under present financing, the costs of the hospital plan—part A—will exceed income by $126 billion over the next 25 years.

Fourth. Effective January 1, 1970, older beneficiaries will be required to pay the first $52 of their hospital bill, instead of the present $44.

Fifth. Additional general revenues—above previous estimates—totaling $820 million will be required to pay part A costs for uninsured persons during the period 1971 through 1975.

Sixth. It is estimated that an increase in part B—medical insurance plan—monthly premium per beneficiary from the present $4 to at least $5.20 will be necessary to bring that plan into actuarial balance. The Government would match that $5.20 from general revenues. Total increased annual part B premium costs would be about $560 million—of which general revenues would have to come up with $280 million.

Seventh. Medicaid costs will also be substantially increased by the effects of increases in the medicare part A deductibles as well as the jump in the part B premium.

Mr. President, I want to assure the Senate and every taxpayer and every older American that the Finance Committee will very carefully review the entire medicare and medicaid programs. That review is well underway and we are developing and will consider constructive alternates within medicare to present provisions and procedures.

Very simply, this Senator is just not willing to vote to impose new medicare taxes of $126 billion over the next 25 years, without first trying to control the programs we now have. This Senator is not willing to saddle 20 million older people with another $280 million a year in premium charges, without first trying to cut the fat out of the part B program as we now know it. This Senator is not willing to up the general revenue expenditures for medicare by $400 to $500 million a year without first trying to correct the abuses we have found, and are finding, in the Finance Committee investigations of medicare and medicaid.

We are going to meet the health care needs of our older citizens, and we are going to improve it. But I do not believe Congress will just sit by and finance a $126 billion medicare mortgage, without first trying to get a responsible, hardheaded, businessman's attitude into the administration of these important health programs. I believe there are a number of ways we can solve some of the financial problems facing medicare and medicaid without just thowing in the towel and quietly acquiescing in a new $126 billion tax increase.

DRAFT REFORM LEGISLATION

Mr. KENNEDY. Mr. President, on September 19, President Nixon announced that if the Congress did not act this session on his draft reform legislation, then he would, by administrative action, institute a number of important reforms in the operation of the selective service system.

The legislation he spoke of was announced in a White House message on selective service on May 13 of this year, and was sent to the Congress on the same day in a letter from Lt. Gen. Lewis Hershey, the Director of the Selective Service System. This legislation would have repealed that section of the draft law which prohibited the President from instituting a true random selection system for determining the order of induction. It would also have made a number of other changes relating to drafting the youngest first. The President's bill was introduced in the Senate on August 13.

Revised legislation, reflecting the President's statement of September 19, was introduced in the House on September 25, but has not yet been introduced in the Senate. This revised bill is limited to repealing the restriction on instituting a random selection system. It is on this revised legislation that the House Committee on Armed Services will begin hearings this week.

Few issues are more important than reforming our draft. When about 35 percent of Army fatalities in Vietnam are draftees; when our young people view the draft with a cynical knowledge of its discriminatory policies; when parents and employers must confront its disruptive effects on the lives of our young men and women; and when our campuses find the draft a focus of turmoil—then we know we must seek an answer to the question: Why must our draft procedures be so unfair, so uncertain, and so outdated?

It is unlikely that the Congress can complete work this session on a full-dress revision of our draft laws. It could not justifiably do so without the comprehensive examination of the laws traditionally undertaken by the Committee on Armed Services, and the backlog of work confronting that committee probably precludes such a comprehensive review before the end of the session.

If we do not enact a full-dress revision, then we would expect that early next year the President will, as he said, take "unilateral action by Executive order" to institute reforms. Even if the Congress does complete work on the President's bill, however, the bulk of the reforms will still rely upon administrative action for their effect. This is because of the narrow scope of the revised bill, which would repeal only that sentence of the draft law restricting the President's authority to institute a true random selection system.

Thus, it seems plain that no matter whether the Congress does or does not act on the President's legislation—or any other legislation—the bulk of the reforms will come by administrative regulation instead of legislative action.

This is not inappropriate, at least in terms of the draft statute itself. The Congress in 1967 devoted considerable time and effort to the extension and revision of the draft law, complete with many days of hearings and debate on the Senate floor. The Senate-passed bill, while not incorporating a number of essential basic reforms, nevertheless continued in force and effect the wide flexibility traditionally accorded the President in the administration of the draft laws. But the House-passed bill, which prevailed in conference, was considerably more harsh and restrictive. It was for this reason that I and 22 other Senators voted and argued against adopting the conference bill.

The 1967 bill extended the draft law for 4 years, until June 30, 1971. Under normal procedure, the Congress would undertake a comprehensive review of that law in late 1970 and early 1971, in preparation for acting on its future before June 30, 1971. But let me emphasize that, even though the 1967 law imposed new restrictions on the President's authority, there are few statutes which permit as wide administrative flexibility as does the draft law. This is due in part to a recognition by the Congress of the wide variations in the world situation which can occur over a 4-year period, and to a desire to give the President the necessary authority to meet these variations.

As examples of the flexibility of the draft law, let me cite a few of the changes the President could make without any further action by the Congress:

Moving to drafting the youngest—the 19-year-olds—first;

Eliminating all occupational deferments;

Reducing geographic disparities;

Requiring that local boards must be truly representative of the areas they serve;

Adopting a modified selection procedure for determining the sequence of induction, which has some of the characteristics of a true randon selection system;

Streamlining the organization of the selective service system;

Insuring procedural fairness for draft registrants;

Securing some national uniformity in the interpretation of the draft laws and regulations;

Decreasing the need for inductees by placing civilians in nonmilitary jobs now filled by military personnel;

Decreasing the need for inductees by

increasing the number of women in the Armed Forces; and

Studying the feasibility of national service alternatives to military service.

The chairman of the House Committee on Armed Services, MENDEL RIVERS, in a statement to the House on September 18, compared the statutory authority given the President under the existing draft laws to the reforms advocated by the administration. In essence, this comparison demonstrates that most of the reforms sought by the President can be accomplished through administrative action. Because of its significance to the need for reforming the draft, I will append excerpts from the chairman's statement at the conclusion of my remarks.

The need for reform is made all the more acute by the reduction in draft calls announced by President Nixon for November and December. This reduction means that while fewer young men will actually be called for induction during the last quarter of this year, the problem of selecting which ones to call becomes even more difficult. For not all draft-eligible men are called; the selective service system must choose the few to be drafted from among the many eligible. With fewer called, the subjective elements involved in choosing the few from the many are made much more prominent. Thus, there is heightened need for scrutiny of these elements.

Because the draft is so badly in need of reform, President Nixon deserves the praise of us all for announcing his intention to make the changes by administrative action if Congress does not act. But serious policy questions confront us as we focus our attention on just what the contours of the changes should be. For example, one of the difficulties we faced in 1967, as we debated the extension and revision legislation, was the lack of specific information about how the draft system actually operated. One specific illustration is occupational deferments, which are not now available unless local boards determine that community need requires them. There are no guidelines for community need, which means that each of the more than 4,000 local boards makes its own policies.

Today, we face that same question, as well as a number of others arising since passage of the 1967 law. Let me just cite one example: Despite administration orders to the contrary, there are persistent reports that the Selective Service System continues to induct registrants as punishment for participation in peaceful, legitimate demonstrations. The courts have declared this practice unlawful; yet local boards continue to follow it. We must know whether the Selective Service System is abusing its authority in these inductions, and using the draft as punishment.

Later this week I will announce a witness list for hearings on the present and future administration of our draft laws. These hearings will be held by the Senate Subcommittee on Administrative Practice and Procedure, and they will examine the administration of the draft laws today, to measure how closely they hew to the congressional intent as embodied in the draft statutes; and examine the changes which could be made in the administration of the law to make the system more fair.

Let me state plainly that these hearings will consider no specific pending legislation affecting our draft laws. Instead, they are premised on the assumption that major changes in our draft procedures will be made by Executive action. They proceed on the further assumption that these changes will be strengthened by a public expression of what changes are both possible and most needed. It is my hope that the information we develop, and the expert advice we hear, will be of substantial and substantive help to the administration as it drafts its administrative regulations. I think the hearings can highlight the areas of highest concern, and serve as a yardstick against which to balance the twin concerns of equity to all our young men and strength for our national security.

Many individuals call for the abolition of the draft. This is a desirable goal, because the compulsion inherent in the draft is repugnant to a free, democratic society. But we simply do not have the base of information we need, now, to make a decision to end the draft. We do, on the other hand, have more than adequate information readily available to know that our draft must be made more fair and less disruptive. And while we are assembling the long-range information we need to know whether and how we can end the draft, we simply must not permit today's unfair, uncertain, discriminatory, and outdated draft procedures to remain in force.

Mr. President, I ask unanimous consent that the excerpts from the statement by MENDEL RIVERS be printed at this point in the RECORD.

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

EXCERPTS FROM REMARKS BY THE HONORABLE MENDEL RIVERS TO THE HOUSE OF REPRESENTATIVES, SEPTEMBER 18, 1969

On May 13 of this year, the President of the United States sent a message to the Congress relative to his proposals concerning reform of the Selective Service System.

President Nixon's message reflected his conviction that—

The disruptive impact of the military draft on individual lives should be minimized as much as possible, consistent with the national security.

The President went on to say:

For this reason I am today asking the Congress for authority to implement important draft reforms.

The President then outlined in some detail the six major changes he wished to make in the Selective Service System "if Congress grants this authority."

At the outset, let me say that I was favorably impressed by the President's message to the Congress on this subject.

Let me elaborate . . . by reviewing each of the six changes recommended by President Nixon, and identifying the authority in the law which now applies.

The first change recommended by President Nixon reads as follows:

1. Change from an oldest-first to a youngest first order of call, so that a young man would become less vulnerable to the draft as he grows older.

This change now recommended by the President is one which had been recommended by the House of Representatives in the 1967 changes to the Draft Act.

To illustrate this point, let me quote from the conference report on S. 1432, House Report No. 346, in which it was stated:

It should be emphasized that the language adopted by the conferees will in no way proscribe or inhibit the President in changing the priorities of various age groups for induction, nor will it preclude him from adopting the so-called "modified young age system" which would involve identifying the 19 to 20 year age group as the "prime age group" for induction.

The second recommendation of the President reads as follows:

2. Reduce the period of prime draft vulnerability—and the uncertainty that accompanies it—from seven years to one year, so that a young man would normally enter that status during the time he was nineteen years old and leave it during the time he was twenty.

This second change recommended by the President is simply an elaboration of the first recommendation, that is, a decision to concentrate future draft calls on a smaller and young group of draft registrants, thereby decreasing their period of actual vulnerability to the draft. This authority is provided the President in section 5(a) of the 1967 Draft Act which, among other things, states:

Nothing herein shall be construed to prohibit the President, under such rules and regulations as he may prescribe, from providing for the selection or induction of persons by age group or groups.

The third recommendation of the President reads as follows:

3. Select those who are actually drafted through a random system. A procedure of this sort would distribute the risk of call equally—by lot—among all who are vulnerable during a given year, rather than arbitrarily selecting those whose birthdays happen to fall at certain times of the year or the month.

The Draft Act now specifically prohibits this action by the President unless approved by the Congress in the form of a legislative change in the Draft Act.

The fourth recommendation of the President reads as follows:

4. Continue the undergraduate student deferment, with the understanding that the year of maximum vulnerability would come whenever the deferment expired.

This fourth recommendation of the President is already covered in existing law. Section 6(h) of the existing Draft Act which provides for the granting of college student deferments includes the following language:

Any person who is in a deferred status under the provisions of subsection (i) of this section after attaining the nineteenth anniversary of his birth, or who requests and is granted a student deferment under this paragraph, shall upon the termination of such deferred status or deferment, and if qualified, be liable for induction as a registrant within the prime age group irrespective of his actual age. . .

The fifth recommendation of the President reads as follows:

5. Allow graduate students to complete, not just one term, but the full academic year during which they are first ordered for induction.

Existing law provides the President with broad discretionary authority in establishing graduate student deferment policy. Section 6(h)(2) authorizes the President—

Under such rules and regulations as he may prescribe, to provide for the deferment from training and service in the Armed Forces of any or all categories of persons whose employment in industry, agriculture, or other occupations or employment, or whose activity in graduate study, research, or medical, dental, veterinary, optometric, osteo-

pathic, scientific, pharmaceutical, chiropractic, chiropodial, or other endeavors is found to be necessary to the maintenance of the national health, safety, or interest.

Again, in respect to this fifth recommendation of the President, he can accomplish his desires by issuing the appropriate regulations and directives to the Director of Selective Service.

Finally, the President's sixth recommendation reads as follows:

6. In addition, as a step toward a more consistent policy of deferments and exemptions, I will ask the National Security Council and the Director of Selective Service to review all guidelines, standards and procedures in this area and to report to me their findings and recommendations.

The last and final recommendation of the President is obviously simply an administrative action which involves no further requirement for legislative sanction.

Mr. GOLDWATER. Mr. President, will the Senator from Massachusetts yield?

The PRESIDING OFFICER. The time of the Senator from Massachusetts has expired.

Mr. GOLDWATER. Mr. President, I ask unanimous consent to proceed for 3 minutes under my own time.

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

Mr. GOLDWATER. I have listened to the Senator's statement. He may have mentioned it and I might not have heard it. Does the Senator mention anything in there about administrative ability to change the rules relative to students? For example, can the President defer those students who are seeking masters or doctors degrees?

Mr. KENNEDY. The President has wide flexibility under existing law with regard to graduate students. The 1967 law provides, however, that the President cannot take away deferments of college students except in times of national emergency. As to graduate students, their deferments have been eliminated. This has brought about certain disruptions to many of these students, and to campuses as well. A number of students have been able to get around this, though, in that universities have helped them to get teaching positions, which then gives them deferments. This would be one of the areas I should like to find out more about, where some students appear to have been able to circumvent the law, and others are unable to do so.

Mr. GOLDWATER. I am interested, because I have not only believed that the draft should be repealed, but if we cannot repeal it, that we should definitely allow a student to seek a higher degree without the danger of being called up by the draft. I would hope that if the Senator has further discussion concerning any legislation he might be contemplating, if he would provide for that.

There is a great shortage in this country of young people with masters' and doctors' degrees, as the Senator knows, particularly in engineering and electronics, and even more, and growing more, in medicine. I hope we can see the day when, if we have to be burdened with the draft, we have it understood completely and clearly that those seeking higher education will not be penalized.

Mr. KENNEDY. This is a terribly important question. I think it is very basic to the whole question of extending the draft law. This would be the kind of difficulty to which I know the Armed Services Committee would give a great deal of attention. Student deferments in many instances are unfair. We find, for example, that students attending community colleges and junior colleges are treated differently from those going to 4-year colleges. Many inequities still remain. I think the point the Senator from Arizona has raised is something that we should consider in its broadest scope.

I have a little different viewpoint. I think student deferments ought to continue when we are not involved in a war situation. In the legislation I introduced on other occasions, I tried to provide for a formula which would permit the continuation of such deferments when we were not at war, so the educational experience of young people would not be interfered with, but when we were involved in conflict, a triggering device would go into effect and deferments would be suspended. But these are all matters which should be discussed and debated.

I am sure the Armed Services Committee will talk to educators and members of the Office of Emergency Preparedness and the National Security Council about our national requirements and needs and deficiencies in the areas to which the distinguished Senator from Arizona just referred.

Hopefully, that study will be done by the Armed Services Committee. I would not think our committee would deal with that patricular question.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. I ask unanimous consent for 1 additional minute.

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

Mr. KENNEDY. If we find there are ways being devised, either through local draft boards, or universities, to skirt what was the real intention of the Congress, I would hope we could bring them to light and present them to both the administration and this body so that we could act accordingly.

Mr. STENNIS. Mr. President, there have been numerous statements and discussions on the subject of selective service in recent weeks and I believe that a current statement from me would be in order on this entire subject.

First. Mr. President, as the Senate may recall, the President on May 13 this year sent to the Congress a message containing six proposed changes in the Selective Service System. I shall not discuss these in detail, Mr. President, other than to say that five of these changes could be accomplished by Presidential regulation, with only one—that relating to the random selection system by lottery—requiring a change in the statute. I might add that the principal change which requires no statutory revision was a shift of the order of induction from the oldest first to the youngest first.

As a matter of legislative history, the draft extension enacted in 1967 as passed by the Senate would have permitted the President to institute the random selection system. The House however adopted language which precluded the lottery system and this provision prevailed in conference. At that time it was suggested that the system could be revised by going to the youngest first system and at the same time using the oldest first method within the vulnerable age group.

A pilot study is now underway within the executive branch to determine whether this method known as the conveyor belt system is feasible.

Second. Mr. President, the matter of method of induction whether it be random selection or date of birth within the youngest age group is only one of many issues surrounding the Selective Service System. I announced on August 14 that the committee early next year will begin hearings on all pending legislation with respect to the Selective Service System.

I might emphasize at this point, Mr. President, that there are now pending before the Committee on Armed Services 11 seperate bills on selective service, with S. 1145—which is 86 pages in length—sponsored by Senator KENNEDY and others proposing the greatest number of changes in the system. Except for the one change on random selection, the executive branch has not had sufficient time to even formulate a position on these other legislative items which cover a broad scope of proposed changes.

I will state to the Senate, however, that, even though there is insufficient time to initiate hearings during the remaining portion of this session, we will hold hearings on the broad subject of selective service as early as reasonably possible next year.

Third, with respect to the limited item which would permit the President in his discretion to establish the random selection system, Mr. President, I observe that the Subcommittee of the House Committee on Armed Services will hold hearings tomorrow, September 30. I do not know, Mr. President, what the House committee will recommend on this particular item. I would state, however, that, should the House pass this measure, it would be my position that at the time the bill is received in the Senate our committee would examine all the circumstances existing at that time to see if this bill, with its limited application, could be considered as a separate item during this session.

Fourth, Mr. President, another point relates to the general problem of committee jurisdiction over legislation relating to selective service. Senator KENNEDY and I have conferred informally and he has also sent me a letter regarding his plans for hearings by his Subcommittee on Administrative Practices and Procedures of the Judiciary Committee with respect to the administrative interpretation of the selective service laws as they appear in the regulations. Senator KENNEDY has further indicated that his subcommittee would not concern itself with the many bills relating to the Selective Service System which are now pending before the Committee on Armed Services.

As the Senate may recall, Senator KENNEDY conducted hearings on certain aspects of the Selective Service System before the Committee on Labor and Public Welfare several years ago prior to the

extension of the present law, enacted in 1967.

Mr. President, I realize that even though a committee may not have legislative jurisdiction over a given subject, it may nevertheless examine this same subject in a limited way by virtue of some general oversight authority.

There are many subjects that may be indirectly related to a subject matter over which another committee has the primary legislative jurisdiction. I make two comments in this regard, Mr. President.

First, the record should be unmistakably clear that the committee which has jurisdiction over selective service legislation is the Committee on Armed Services. Among the matters which the Legislative Reorganization Act places within the jurisdiction of the Committee on Armed Services is all "proposed legislation and other matters relating to 'Selective Service'" which is listed as item number six among the subjects of jurisdiction. Mr. President, the Committee on Armed Services has always fully carried out its duties and we intend to continue as we have in the past.

Second, I would only observe that if caution is not exercised by the Senate, there could be an erosion of the committee system. I am certain that no one intends this result but I think that all committees and subcommittees must exercise the rule of reason in these matters lest there be complete duplication of effort within the committee system of the Senate. I in no way wish to imply this motive to Senator KENNEDY since his letter makes clear that his subcommittee will restrict itself to a review of the administrative interpretations of the various regulations.

Mr. President, I ask unanimous consent to have the letter from the Senator from Massachusetts printed in the RECORD.

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

U.S. SENATE,
OFFICE OF THE MAJORITY WHIP,
Washington, D.C., September 26, 1969.

Hon. JOHN STENNIS,
Chairman, Senate Committee on Armed Services, Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I very much appreciated the opportunity to talk with you on Wednesday. As I indicated, the draft has been a subject much on my mind, and one about which many, many individuals—members of Congress, academicians, former Administration officials, parents, students—have spoken to me.

I have long been concerned, as you know, both with the draft laws themselves and the administration of them. The President has committed himself to changing the operation of the Selective Service System by administrative action, in the absence of Congressional action, and Congressional action appears unlikely this year. In this context, I think it important that we examine, in an open Congressional forum with a wide range of viewpoints presented, the impact on our draft system of the potential administrative opportunities available to the President.

After considerable reflection on our discussion, and after consultation with others, I believe that the Subcommittee on Administrative Practice and Procedure could proceed to hold a limited number of hearings on the present administration of the Selective Service laws without infringing on the responsibilities of the Armed Services Committee. The Subcommittee could, furthermore, examine what changes could be made by administrative action to make the system more equitable. A preliminary study by the staff, for example, indicates that the President has ample authority by administrative means to effectuate virtually all of the changes sought by the Senate bill passed in the spring of 1967.

We would, as we proceeded in our hearings and other work, of course restrict ourselves to the administrative interpretations of the Selective Service legislation, primarily as they appear in the regulations. This would, too, require us to look at the day-to-day operations of the system, insofar as they reflect these regulations. It is important, I think, to evaluate how closely the actual operation of the Selective Service System conforms to Congressional intent. Of particular significance are many of the procedural practices long held by the Selective Service System. We would not concern ourselves with any of the many bills relating to the legislative structure of the draft laws themselves.

I anticipate that the work of the Subcommittee will be helpful to the comprehensive review of the draft laws you indicated the Committee on Armed Services will undertake prior to the present law's expiration in June of 1971. It is my recollection that as we worked on the 1967 draft law extension and revision, there was a distinct lack of specific information about the actual operation of the system, and I would hope that the information we developed could remedy this and be of material assistance to the work of the Committee on Armed Services.

Again, let me say how much I appreciated the opportunity to talk with you on Wednesday, and I hope you understand the deep feeling I have for the importance of this examination of the administration of our draft laws.

With my warm regards.

Sincerely,

EDWARD M. KENNEDY.

MEDICARE CRISIS

Mr. AIKEN. Mr. President, I wish to commend the distinguished chairman of the Finance Committee (Mr. LONG) for his analysis of the medicare crisis and for bringing this intolerable situation out into the open. I will say, however, I do not feel that President Nixon should be held responsible for conditions which were created during the years before he assumed office and which he inherited.

I think Congress must bear a large share of the responsibility for this situation.

The law, as enacted, provides that medicare will pay 80 percent of the reasonable fees charged by doctors and the reasonable charges of the hospitals.

In 1965, doctors and hospitals, alarmed by the coming of medicare, immediately began raising their fees and rates.

This was a natural reaction, for they feared their fees and rates would be frozen at what were reasonable charges at the time of enactment.

As the law has operated since then, our doctors and hospitals have found that they enjoy very special privileges under the law.

They have the legal right to set the level of their own subsidy.

Medicare has, of course, proved to be one of the most inflationary devices ever enacted, for medical and hospital charges have risen at a greater rate than almost any other item of cost in the economy.

Most of this has been caused by medicare, which has proved to be the greatest boon to organized medicine in our entire history.

Of course, medicare is of substantial benefit to retired people living on low fixed incomes, but the doctors and hospitals have shared handsomely in this subsidy.

They, rather than the old people they serve, have been the greatest beneficiaries under medicare.

I have been concerned over this trend for several years, for I could see the handwriting on the wall.

Last January I introduced a bill, with the cosponsorship of the Senator from New Mexico (Mr. ANDERSON), a member of the Finance Committee.

This bill is designed to put a brake on physicians' fee increases by tying medicare payments to doctors to the average charge in each Blue Cross-Blue Shield area for the same medical service in the preceding year.

It would make the doctors' own average payments, under their own Blue Shield schedule of fees for low-income patients, the yardstick for reasonable allowances under medicare.

When I introduced this measure I proposed that the Finance Committee provide the necessary language to extend this provision to medicaid.

Then, a month later, the Senator from New Mexico introduced a similar bill with me as cosponsor to tie hospital and nursing home charges to Blue Cross schedules.

The recent news that the $4 monthly charges for medicare coverage, and the $44 deductible are going to be substantially increased is very disturbing.

It means that before any social security increase in enacted, the doctors and hospitals will receive a significant increase that will eat deeply into the payments made to people who are struggling to get by on their small social security checks.

As the Senator from Louisiana (Mr. LONG) has pointed out, we should not saddle 20 million older people with $280 million more in premium payments.

Nor, I must add, should we saddle our working people with another $280 million in medicare taxes.

Mr. President, Congress cannot stand by and allow this to happen.

We cannot allow highly paid doctors and elaborate hospitals to dig into the pittances paid those on social security.

It may be that the proposals advanced by Senator ANDERSON and me are not sufficiently stringent.

A more direct approach may be needed.

Instead of putting the doctors and hospitals first, maybe we should turn our attention to the old folks and have medicare set all the fees without reference to Blue Cross and Blue Shield schedules.

I hope we do not have to come to this, however, and that the method in the amendments proposed by Senator ANDERSON and me will be sufficient.

Not being on the Finance Committee, I frankly do not know which course of action is needed.

I, therefore, commend the committee chairman for bringing this critical problem to the attention of the Senate today.

The need is immediate; the time for action is now.

I hope the committee will make a specific recommendation to the Senate before the new increases go into effect.

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

Mr. AIKEN. I yield.

Mr. LONG. May I congratulate the Senator from Vermont for his diligence and for his effort to see that the money for medicare and medicaid is not wasted; that it is spent effectively and that we do not pay extravagantly for services under these programs, for which, as the Senator and I indicated today, we are already paying too much—far more than anticipated. The Senator is to be congratulated for directing attention to this matter with the objective of seeing to it that the public is not taxed unneeded billions of dollars and that we do not pay exorbitant fees under a program that should be held to reasonable cost levels.

Mr. AIKEN. I felt that medicare was a badly needed program. At the time it was enacted I realized that there were serious weaknesses in the program. Nevertheless, I supported it, feeling that those weaknesses would be removed and corrections made soon thereafter. I think the time has come now to have the medicare program put on a workable basis and be made to serve the people that the Congress intended it should serve best.

Mr. LONG. No doubt many of us, at the time the program went into effect, knew that we would be paying for medical services that doctors were rendering free at the time, but we did not like the idea that we would not only be paying for the service but paying two or three times what the cost of the service was for people who could afford to pay for the service at the time we enacted the program.

Those are the kinds of abuses we hope to bring to a halt.

Mr. AIKEN. May I also add that a very large percentage of the doctors recognize the weakness of the existing program and, I feel, would like to have it corrected. Nevertheless, as long as others who enjoy setting their own subsidies exist, there is not very much they can do about it. It is up to Congress to make the corrections in this program.

VISIT TO THE SENATE BY SENATOR TUBMAN AND REPRESENTATIVE PEAL OF LIBERIA

Mr. MUNDT. Mr. President, the Senate is honored today by the visit of two distinguished parliamentarians from the friendly country of Liberia. It is my privilege now, as a member of the Committee on Foreign Relations, to present them to the Senate.

I present first Senator Tubman, whose father is President of Liberia, and second, Representative Peal, the brother of the Ambassador from Liberia. [Applause, Senators rising.]

I ask unanimous consent that the Senate stand in recess for 5 minutes, so that Senators who are present will have the opportunity to greet our distinguished visitors.

The PRESIDING OFFICER. Without objection, the Senate will stand in recess for 5 minutes.

Thereupon, at 1 o'clock and 40 minutes p.m., the Senate took a recess for 5 minutes. At the expiration of the recess, the Senate was called to order by the Presiding Officer (Mr. YOUNG of Ohio in the chair).

EXECUTIVE COMMUNICATIONS, ETC.

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

REPORTS OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on Savings Available Through Consolidation of Veterans Administration Insurance Field Offices, September 29, 1969 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a secret report on the supply management for Army and Marine Corps Hawk missiles in Vietnam (with an accompanying secret report); to the Committee on Government Operations.

PROPOSED LEGISLATION TO PROMOTE AND REGULATE THE USE OF THE FEDERAL AREAS KNOWN AS NATIONAL PARKS, MONUMENTS, AND RESERVATIONS

A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to promote and regulate the use of the Federal areas known as national parks, monuments, and reservations (with accompanying papers); to the Committee on Interior and Insular Affairs.

FINANCIAL REPORT OF THE LEGION OF VALOR OF THE UNITED STATES OF AMERICA, INC.

A letter from the National Corporation Agent, Legion of Valor of the United States of America, Inc., transmitting, pursuant to law, the financial report of the Legion of Valor of the United States of America, Incorporated for the period August 1, 1968, to July 31, 1969 (with accompanying papers); to the Committee on the Judiciary.

REPORT OF THE NATIONAL LABOR RELATIONS BOARD

A letter from the Chairman, National Labor Relations Board, transmitting, pursuant to law, the 33d annual report of the National Labor Relations Board for the fiscal year ended June 30, 1968 (with an accompanying report); to the Committee on Labor and Public Welfare.

REPORT OF OPERATIONS IN CONNECTION WITH THE BONDING OF GOVERNMENT OFFICERS AND EMPLOYEES

A letter from the Secretary of the Treasury, transmiting, pursuant to law, a report of operations in connection with the bonding of Government officers and employees, fiscal year ended June 30, 1969 (with an accompanying report); to the Committee on Post Office and Civil Service.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the PRESIDENT pro tempore:

A resolution adopted by the city of Grandville, Mich., remonstrating against any proposed amendment of the Internal Revenue Code relating to the abolition of the existing tax exemption for interest on municipal bonds; to the Committee on Finance.

A resolution adopted by the Honest Abe Council No. 109, Junior Order United American Mechanics, Louisville, Ky., urging the Congress to adopt legislation providing for the display of the American Flag in every public school classroom and that appropriate exercises being held explaining the symbolism of the Flag; to the Committee on the Judiciary.

A resolution adopted at the annual meeting of the Travelers Protective Association of America, expressing its gratitude for the constructive work and accomplishments of the Department of Safety; ordered to lie on the table.

REPORT ENTITLED "AIR FORCE RESERVE GENERAL PROMOTIONS"—REPORT OF A COMMITTEE (S. REPT. NO. 91-436)

Mrs. SMITH of Maine. Mr. President, on behalf of the Senate Committee on Armed Services I submit a report of the Subcommittee on Reserve General Officer Promotions, which report of the subcommittee has been approved by the full committee. I ask unanimous consent that the report be printed.

The PRESIDING OFFICER. The report will be received; and, without objection, the report will be printed, as requested by the Senator from Maine.

BILLS INTRODUCED

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

By Mr. RIBICOFF:

S. 2968. A bill to amend the Internal Revenue Code of 1954 to increase the credit against tax for retirement income; and

S. 2969. A bill to permit State agreements for coverage under the hospital insurance program for the aged; to the Committee on Finance.

(The remarks of Mr. RIBICOFF when he introduced the bills appear later in the RECORD under the appropriate headings.)

By Mr. MONDALE:

S. 2970. A bill to restore the postal service seniority of Elmer Erickson; to the Committee on Post Office and Civil Service.

S. 2971. A bill for the relief of Trevor Lloyd; to the Committee on the Judiciary.

S. 2968—INTRODUCTION OF A BILL INCREASING THE CREDIT AGAINST TAX FOR RETIREMENT INCOME

Mr. RIBICOFF. Mr. President, I introduce for appropriate reference a bill to restore an element of tax equity to many of our older citizens.

Social security cash benefits are paid to millions of Americans each year. For many, these benefits are their only substantial, continuing income in the years of retirement. For this reason, social security benefits are not subject to the Federal income tax. This bill is necessary because, while social security benefits are tax free, retirement income from other pension plans is taxable.

However, millions of public employees in a number of States throughout the country are not covered by social security, belonging instead to their own local or State public employee retirement sys-

tem. These retirement plans are perfectly adequate to meet the needs of these citizens in their later years. But, because benefit payments under these retirement systems are taxable, these public employees are placed in a weaker economic position than regular social security beneficiaries.

To alleviate this unfairness, the retirement income tax credit was introduced in the Internal Revenue Code in 1954. Its purpose was to extend approximately the same tax treatment to retired public employees as is due regular social security beneficiaries.

Under present law, the maximum tax credit is 15 percent of $1,524 and is correspondingly reduced by any amount of earned income above a certain level as well as the receipt of other tax-free income.

The base figure, now $1,524, is computed on the average maximum individual social security benefits paid per year. That figure was last updated in 1962.

Since 1962, social security benefits have been adjusted upward by 7 percent in 1965 and 13 percent in 1967. Unfortunately, the retirement income tax credit has not been correspondingly increased.

The legislation which I have introduced today would rectify this injustice by increasing the base amount on which the retirement credit is based to $1,872. Under this bill, the maximum allowable credit would be raised from $228.60 to $280.80.

Mr. President, over half a million older Americans depend on the retirement income tax credit. This is almost one of every eight people over 65 who pay an income tax. Included among these taxpayers are thousands of teachers, policemen, and firemen who for a combination of reasons draw little or no social security benefits but receive retirement income from various public and private pension plans. By updating the retirement income credit, we can restore equivalency of treatment for these people with the over 20,000,000 people who regularly draw social security benefits.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 2968), to amend the Internal Revenue Code of 1954 to increase the credit against tax for retirement income, introduced by Mr. RIBICOFF, was received, read twice by its title, and referred to the Committee on Finance.

S. 2969—INTRODUCTION OF A BILL PERMITTING STATE AGREEMENTS FOR COVERAGE UNDER THE HOSPITAL INSURANCE PROGRAM FOR THE AGED

Mr. RIBICOFF. Mr. President, I introduce, for appropriate reference a bill permitting States to purchase hospital insurance protection for State and local employees who belong to retirement systems other than social security.

In the few short years since the medicare program was enacted, over 20 million Americans have been enrolled and are eligible for its benefits. The daily lives of these older Americans as well as the future security of all citizens have been materially enhanced by medicare.

Regrettably, not all Americans are permitted to share these benefits. Public employees in over a dozen States across the Nation—including Connecticut—are not, at this date, eligible for medicare. These public servants are not part of the national social security system because of the existence of their own perfectly adequate retirement plans. Yet, because medicare eligibility is based primarily on the right of a retired person to receive cash benefits under social security, these public employees are not covered by the hospital insurance provisions of medicare enacted in 1965. In Connecticut, for instance, State and local employees have excellent retirement programs—but they are not covered by medicare.

The bill I introduce today would provide an alternative means for these Americans to join the medicare program. It could remedy the defect which now keeps thousands from enjoying the security of adequate hospitalization insurance.

My legislation would allow the State of Connecticut—and other States in similar situations—to make an agreement with the Secretary of Health, Education, and Welfare to purchase medicare coverage for its employees who belong to a qualified retirement program.

Hospital insurance coverage under this agreement could also extend to the wives, husbands, widows, and widowers over 65 of these employees.

Mr. President, among those presently excluded from medicare are over three-quarters of a million public schoolteachers in 13 States and Puerto Rico. Thousands of policemen and firemen as well as various State and local employees will also be affected. I am particularly concerned that this gap in medicare program should affect these people who have dedicated their lives to teaching our young and serving the public.

It should be pointed out that adoption of this legislation will not cost the Federal Government 1 extra penny. A State which elects to participate in this program will make an agreement with the Secretary of Health, Education, and Welfare to reimburse the medicare trust fund for all benefits paid as well as for administrative costs incurred. In the meantime, however, public service employees would have the benefit of the hospital insurance coverage now denied them through a legal technicality.

Mr. President, this bill is similar to legislation which I introduced in the 90th Congress and which was passed by the Senate in the Social Security Amendments of 1967. Unfortunately, the House of Representatives failed to act on this subject and the provision was dropped in conference.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 2969), to permit State agreements for coverage under the hospital insurance program for the aged, introduced by Mr. RIBICOFF, was received, read twice by its title, and referred to the Committee on Finance.

ADDITIONAL COSPONSORS OF BILL S. 1466

Mr. GOLDWATER. Mr. President, on March 11 I introduced S. 1466, a bill to permit the FCC to issue amateur radio licenses to resident aliens who have filed a declaration of intent to become U.S. citizens. This will correct the unreasonable and unfair situation that now exists under which our future citizens must wait out a residence period of 5 years before they are allowed to operate ham radio equipment.

Shortly after I introduced S. 1466, it received the endorsement of the American Radio Relay League which represents a great many of the 268,000 Americans who are members of the ham fraternity in this country. It also has the stamp of approval of the International Amateur Radio Union which is made up of the 80 national societies who represent the radio amateurs in most of the other countries of the world.

In addition, the bill has received the strong editorial support of CQ magazine and QST magazine, two of the leading national periodicals in this field.

Mr. President, I am pleased to announce today that 21 Senators have decided to join with me in sponsoring this measure. I would like to note that these Senators represent 18 different States, which indicates a widespread national interest in assisting this important group of future citizens.

Mr. President, at this point, I ask unanimous consent that, at the next printing, the names of the Senator from Arizona (Mr. FANNIN), the Senator from California (Mr. MURPHY), the Senator from Colorado (Mr. DOMINICK), the Senators from Hawaii (Mr. INOUYE and Mr. FONG), the Senator from Indiana (Mr. BAYH), the Senator from Kansas (Mr. DOLE), the Senator from Montana (Mr. METCALF), the Senators from Nebraska (Mr. CURTIS and Mr. HRUKA), the Senator from Nevada (Mr. BIBLE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from New York (Mr. JAVITS), the Senator from Oregon (Mr. PACKWOOD), the Senator from Rhode Island (Mr. PELL), the Senator from South Carolina (Mr. THURMOND), the Senator from Tennessee (Mr. BAKER), the Senator from Texas (Mr. TOWER), the Senator from Utah (Mr. BENNETT), and the Senator from West Virginia (Mr. RANDOLPH) be added as cosponsors of S. 1466, to amend the Communications Act of 1934 to provide that certain aliens admitted to the United States for permanent residence shall be eligible to operate amateur radio stations in the United States and to hold licenses for their stations.

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

FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969—AMENDMENTS

AMENDMENT NO. 213

Mr. KENNEDY submitted amendments, intended to be proposed by him, to the bill (S. 2917) to improve the health and safety conditions of persons working

in the coal mining industry of the United States, which was ordered to lie on the table and to be printed.

DISTRICT OF COLUMBIA REVENUE BILL—AMENDMENT

AMENDMENT NO. 214

Mr. COOPER. Mr. President, I submit an amendment to strike section 801 of the District of Columbia Revenue Act of 1969 as reported by the Committee on the District of Columbia. It is, I understand, a provision which was inserted by the House of Representatives, and came to the Senate in the bill passed earlier by the House. I think the section offensive to the ideal of home rule, that it tends to degrade responsible local government which the Senate and the Congress certainly wish to encourage, that it attempts to employ a heavy-handed device which would never be applied to any other State or city by the Congress, and that it is unnecessary.

Whatever the origins of the amendment may have been, the events of the last few days, which have been greeted with expressions of relief and approval by local officials and also by the President of the United States, certainly indicate that the provision is not necessary at this time. The section would prohibit the appropriation of the Federal payment to the District of Columbia until certain conditions are fulfilled. Before the Federal payment could be appropriated, the section requires the President of the United States to report to the Congress that the District of Columbia government has committed itself to complete the project listed in section 23(b) of the Federal Aid Highway Act of 1968—or has not begun work on each of those projects or made or carried out that commitment solely because of a court injunction.

It seems to me demeaning to the District of Columbia government that the President be required to certify to the Congress as to its intention and commitment. And it appears to attempt by legislation to enlist the President in support of the questionable and often overstated effect of section 23 of the Highway Act.

The section 801 is unworthy of the Senate.

I should think it much better to strike section 801, and to place some faith and confidence in local government, in the citizens and officials of the area, in the principles of home rule and local responsibility—and in the uniform application of title 23 of the United States Code, the body of law under which highways and bridges in this area and all areas must be constructed.

I have always thought it a bad thing to threaten or withhold action in one area in an attempt to force some unrelated action. It is a means sometimes used when a proposal is not adopted on the merits of the arguments made for it; it is a form of coercion, and it is offensive in proportion to the critical and essential nature of the thing withheld as a means of forcing resolution of a separate issue. I recognize that this provision did not originate in the Senate and may have been maintained by the Senate committee with great reluctance. But whatever the reasoning at that time, it appears evident that the subway will now be allowed to proceed, and that the District of Columbia is proceeding on the highway projects so long in controversy.

There is a further reason to strike section 801, to which I would like to address myself. I do so because, as the ranking minority member of the Senate Committee on Public Works, I was a member of the Senate-House conference which finally accepted, in modified form, the provision pressed so adamantly by the House conferees which became section 23 of the Federal Aid Highway Act of 1968.

It was because of this section among others, that I refused to sign the conference report, spoke against the provision in the Senate, and voted against the conference report. I said at that time that section 23 was dangerous because it could create a precedent—a precedent for provisions such as that in section 801 of the bill before the Senate today. Section 23—despite the representations that appear to have been made about it—is far from clear on its face, and I believe is of doubtful validity and efficacy. In fact, President Johnson stated, upon signing the Highway Act, that he could do so only because of the clause in section 23 stating that construction "shall be carried out in accordance with all applicable provisions of title 23 of the United States Code." I quote from the President's statement of August 23, 1968:

> By far the most objectionable feature of this bill is the requirement that the District of Columbia Government and the Secretary of Transportation construct all interstate routes passing within the District as soon as possible—with the District required to commence work on four specific projects within 30 days. These provisions are inconsistent with a basic tenet of sound urban development—to permit the local government and the people affected to participate meaningfully in planning their transportation system.
>
> Under the Constitution, the Congress does possess special and unique responsibilities—different from its powers over the fifty states—to legislate for the Nation's Capital. The desire of the Congress to move forward with the construction of a highway system to serve the Washington area is understandable. But it is vitally important that these roads be constructed in accordance with proper planing and engineering concepts and with minimum disruption of the lives of District citizens.
>
> Fortunately, the Congress has called for construction only in accordance with the applicable provisions of the Federal highway law.
>
> If the authority of the Executive Branch were not so preserved, I would have no choice but to veto this bill as an infringement of basic principles of good government and Executive responsibility.

I know that the District government adopted on August 9, 1969, a resolution to comply with section 23. Surely that must include compliance with the applicable provisions of title 23, and other applicable statutes and regulations which are not irreconcilable on their face with the section. I do not know whether these conditions have been fulfilled, for these are matters properly left to officials, local and Federal, responsible for the programs. But in view of the essential requirement that the roads be constructed in accordance with proper planning and engineering concepts, and in accord with the laws applicable to all Federal aid highways, in the District of Columbia and elsewhere, it would be unfortunate for the Senate to acquiesce in language which might be interpreted as an attempt by the District Committees or the Congress to construe section 23 of the Highway Act.

I point out that the Senate, at least, has made no expression as to the intent and effect of section 23 of the Highway Act of 1968. The Senate was confronted with a conference report which, under the rules, could not be amended or changed in any particular, but had to be accepted or rejected as a whole. The Highway Act contained authorizations of several billion dollars and authorized programs vitally affecting every State in the Union. I did not expect or recommend that Senators vote, as I did, against the conference report because of their objections to section 23 or other sections, or because of any doubts about its validity similar to those expressed by the President after consultation with the Secretary of Transportation, the Secretary of the Interior, and I understand the Department of Justice.

But the Senate now has before it a section which refers to section 23. I believe we should not give the impression of sanctioning that earlier provision, of approving the interpretation that has been given by some, or appearing to join in the effort to thrust down the throats of the District government or the citizens of the area the highway system laid out in the report of the managers on the part of the House almost as in some engineering proposal.

As I stated in the Senate last July 29:

> I oppose the idea of Congress arrogating to itself the wisdom or the authority to attempt to lay down a road system in the District of Columbia, in any other State, or in any other city in the United States. I think it is a local matter.

Mr. President, the principle involved here is not a narrow or local one. Our system of government is one of three branches, with different authority and responsibility. The Congress may authorize, and it may make funds available. By its nature it cannot execute programs, it cannot carry out projects, it cannot construct highways. To attempt to do so, or to direct the precise execution of projects as if we were an engineering body or executive agency, is not only folly but it is wrong.

I believe it would be a mistake to maintain in the Senate the House provision contained in section 801 of H.R. 12982, and I hope the provision will be struck down by the Senate.

The PRESIDING OFFICER. The amendment will be received and printed and will lie on the table.

FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969—AMENDMENTS

AMENDMENT NO. 215

Mr. BYRD of West Virginia (on behalf of himself and Mr. RANDOLPH) submitted amendments, intended to be proposed by them, to the bill (S. 2917), to improve the health and safety conditions of persons working in the coal mining industry of

the United States, which was ordered to lie on the table and to be printed.

FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969—AMENDMENTS

AMENDMENT NO. 216

Mr. RANDOLPH (on behalf of himself, Mr. BYRD of West Virginia, Mr. SCOTT, Mr. SCHWEIKER, and Mr. COOK) submitted amendments, intended to be proposed by them to the bill (S. 2917) to improve the health and safety conditions of persons working in the coal mining industry of the United States, which was ordered to lie on the table and to be printed.

(The remarks of Mr. RANDOLPH when he submitted the amendments appear later in the RECORD under the appropriate heading.)

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. ERVIN. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Harlan R. Hosch, of Illinois, to be U.S. marshal for the eastern district of Illinois for the term of 4 years, vice Harry C. George.

Leon B. Sutton, Jr., of Tennessee, to be U.S. marshal for the eastern district of Tennessee for the term of 4 years, vice Harry D. Mansfield.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Monday, October 6, 1969, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE OF HEARING ON NOMINATION OF HOWARD A. GLICKSTEIN TO BE STAFF DIRECTOR OF THE COMMISSION ON CIVIL RIGHTS

Mr. ERVIN. Mr. President, as chairman of an ad hoc subcommittee of the Committee on the Judiciary, I wish to announce that immediately following hearings on the nominations of Maurice B. Mitchell and Stephen Horn to be members of the Commission on Civil Rights, a hearing will be held on the nomination of Howard A. Glickstein to be Staff Director of the Commission on Civil Rights.

The hearings are scheduled for October 9, 1969, at 10:30 a.m., in room 2228 of the New Senate Office Building. Any person who wishes to testify or submit statements pertaining to these nominations should send the request or prepared statement to the subcommittee, 102–B Old Senate Office Building.

NOTICE OF HEARINGS ON THE CONSTITUTIONAL RIGHTS OF THE MENTALLY ILL IN THE DISTRICT OF COLUMBIA

Mr. ERVIN. Mr. President, this is to announce that hearings have been scheduled by the Constitutional Rights Subcommittee to consider the constitutional rights of the mentally ill. Beginning November 4, we plan to conduct a careful review of the state of the law governing those who are subject to loss of their liberty and to hospitalization because of mental illness.

Our review will include a study of the operation of the 1964 act for the hospitalization of the mentally ill in the District of Columbia. This act was a model of its kind in the mental health movement in this country, and I and the subcommittee members share considerable pride in the fact that it resulted from our investigations and hearings begun in 1961.

The subcommittee's comprehensive, national study was the first congressional review of one of the most neglected areas of American law. We heard from Federal, State, and local officials, judges, hospital administrators, doctors, psychiatrists, lawyers, and many other individuals and organizations with special knowledge and interest in this area of the law. The nationwide story that unfolded during those hearings was shocking and chilling. Witnesses presented reports of archaic, cumbersome laws and procedures, and of judicial machinery geared to problems of a century ago. Lack of funds, of personnel and facilities augmented the complex legal problems. But if these reports were depressing, there were encouraging ones also. There was apparent a new determination on the part of private citizens and mental health associations to do something about these appalling conditions. We heard from leaders in this movement which was beginning in the State legislatures and in Congress. At the time these early trends held great promise and hope.

While our investigation pointed up acute due process problems in many States, we found in the District of Columbia some of the least desirable procedures in the United States for protecting the legal and medical rights of the mentally ill patient. Here, as throughout the Nation, the moral right to treatment implicit in our affluent society and under our constitutional form of government, was lacking legal recognition.

There prevailed in Washington, as elsewhere, the popular attitude that mental illness connoted insanity, and hospitalization, past or present, carried a social stigma which often was almost impossible to erase in the community. Judicially ordered hospitalization also meant an automatic loss of one's ordinary rights of citizenship. It was difficult and often impossible to gain admission to a public hospital for treatment on a voluntary basis.

In the District of Columbia, as in many other jurisdictions, the law assured the patient but one right, the right to be forgotten.

Many other due process problems were described during the subcommittee hearings, all illustrating the gap between the promises of the Bill of Rights and the actual law and practice. The resulting impact of such laws on the prospect for mental health was alarming to all concerned with this subject in Congress and elsewhere.

On the basis of the subcommittee findings from those hearings, a new law was developed to govern the constitutional rights of those who might be hospitalized for mental illness in the District of Columbia.

This bill, S. 935 of the 88th Congress, was finally enacted into law on September 15, 1964, as Public Law 88–597. Its passage, I believe, represented a victory for modern medical, psychiatric, and legal principles, and for the civil liberties of the individual.

Primarily, it was designed to encourage voluntary hospitalization; to define and protect the rights of a patient once he was in the hospital; and to insure, as far as legally possible, that there is no stigma attached to the fact that a person has been hospitalized for a mental illness. The core of the law is the legal recognition of the right of civilly committed patients in public hospitals to medical and psychiatric care and treatment and to periodic review of their cases.

A "bill of rights" was provided to protect the individual before as well as after he enters the hospital. By separating the judicial finding of a need for hospitalization from a finding of legal incompetency, the law sought to safeguard the civil and personal rights of the patient. This meant that Congress for the first time recognized that mental illness does not necessarily mean that one lacks the ability to exercise his rights.

During hospitalization, the law carefully defined for civil patients such matters as communication privileges, visitation rights, the right to protest against unreasonable physical restraints, the capacity to seek release under certain conditions, and more important, the right to medical treatment, and not just custodial care or detention.

Many times, the subcommittee was told, the cumbersome legalistic procedures proved embarrassing and distressing to the voluntary patient and his family, thus preventing early treatment. One of the most significant features of the 1964 act, therefore, is the emphasis it places on voluntary admission procedures. By requiring admission of all voluntary applicants who are shown to need hospitalization, the law was supposed to encourage voluntary admittance and accord such patients the same treatment status as those hospitalized under court order.

Furthermore, other nonjudicial procedures established by the bill allow admission of a patient who for one reason or another lacks the capacity to apply for hospitalization but who does not object to being hospitalized if someone else applies on his behalf. At the same time, the voluntary patient's rights are protected by a requirement of a signed statement by him at the time of admission and a stipulation that he must be released upon written request. This is critical to the policy of encouraging voluntary and nonprotesting admissions.

Another important change was made in the law of the District of Columbia by the provision for emergency hospitalization. Many of the complaints received by the subcommitteee arose from a disregard of the procedural rights of individuals who were hospitalized on an emergency basis by officials who had little or no guidance from a statute and

who often construed broad grants of power to suit their own convenience. The new act set a specific statutory standard for such hospitalization, by requiring a belief that the person is mentally ill and likely to injure himself or others if not detained immediately.

When it was enacted, I predicted that Public Law 88–597 would prove a model for the States as they revised their mental health statutes. I am thankful that time has fulfilled my hopes. In the year after its enactment, Dr. Dale Cameron, then superintendent of St. Elizabeths Hospital, reported that the law was having the effect its sponsors and supporters sought, and that patients were increasingly availing themselves of needed hospital services without the necessity of being forced to do so. In the first 12 months alone, the number of civilly committed patients had dropped by a large percentage while the number of voluntary and nonprotesting patients had risen.

This month marks the fifth anniversary of the passage of the Hospitalization of the Mentally Ill Act. Over the past 5 years, the Constitutional Rights Subcommittee has continuously monitored the implementation and administration of the act. This has included surveys, review of individual cases and communication with groups and individuals instrumental in developing the act. We have also provided information to private groups and State legislative committees working in this area of the law.

Along with reports of satisfaction with the new system, there have also been complaints. Some have come from those persons who were never reconciled to the 20th century idea that persons who are mentally ill have any rights. Other suggestions for changes have come from some administrators who had difficulty implementing the new act. Still other persons have reported that sometimes the new system, for one reason or another, does not work to the benefit of the patient. They too, have advocated amendments.

Since a comprehensive new system was inaugurated with this legislation, it was to be expected that some time would be necessary to implement it smoothly under new regulations. We did not attempt to close every loophole or deal with every detail by statutory provision, for one of the complaints about the old law was its rigidity and its complex, involved machinery. One of its major defects was the fact that it had been amended in piecemeal fashion over many years in an attempt to meet every problem, real or imagined, which might arise. These old statutes left no room for creative administration of the law.

Furthermore, other Federal and local health programs have been initiated and much has occurred in this field since 1964. There is now a need to review the relationship of these new developments of the 1964 act.

In the course of the subcommittee's forthcoming hearings, we shall hear testimony on how well the act has worked in policy and in practice; how it has been implemented and how it is being administered. We shall also seek statistics for each section of the law, and shall determine the need, if any, for amendments. We shall attempt, in short, to discover to what extent the constitutional rights of the mentally ill, of the prospective mentally ill, and their families are being respected in the District of Columbia and elsewhere.

It is an appropriate time for a national accounting.

Mr. President, for the convenience of the Senate, I ask unanimous consent that the text of the 1964 act, containing the brief 1965 amendment, be printed at this point in the RECORD.

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

DISTRICT OF COLUMBIA CODE, PART III

CHAPTER 5—HOSPITALIZATION OF THE MENTALLY ILL

SUBCHAPTER I—DEFINITIONS; COMMISSION ON MENTAL HEALTH

Sec.
21–501. Definitions.
21–502. Commission on Mental Health; composition; appointment and terms of members; organization; chairman; salaries.
21–503. Examinations and hearings; subpenas; witnesses; place.

SUBCHAPTER II—VOLUNTARY AND NONPROTESTING HOSPITALIZATION

21–511. Voluntary hospitalization.
21–512. Release of voluntary patients.
21–513. Hospitalization of nonprotesting persons.
21–514. Release of patients hospitalized under section 21–513.

SUBCHAPTER III—EMERGING HOSPITALIZATION

21–521. Detention of persons believed to be mentally ill; transportation and application to hospital.
21–522. Examination and admission to hospital; notice.
21–523. Court order requirement for hospital detention beyond 48 hours; maximum period for observation.
21–524. Determination and order of court.
21–525. Hearing by court.
21–526. Extension of maximum periods of time.
21–527. Examination and release of person; notice.
21–528. Detention of person pending judicial proceedings.

SUBCHAPTER IV—HOSPITALIZATION UNDER COURT ORDER

21–541. Petition to Commission; copy to person affected.
21–542. Hearing by Commission; presence and rights of person affected; hearing regarding liability.
21–543. Representation by counsel; compensation; recess.
21–544. Determinations of Commission; report to court; copy to person affected; right to jury trial.
21–545. Hearing and determination by court or jury; order; witnesses; jurors.
21–546. Periodic requests for examination of hospitalized patient; procedure for examination and detention or rerelease; petition to court.
21–547. Judicial determination of petition filed under section 21–546; order; physicians as witnesses.
21–548. Periodic examinations by hospital authorities; release.
21–549. Preservation of other rights to release.
21–550. Surety.
21–551. Nonresidents.

SUBCHAPTER V—RIGHT TO COMMUNICATION; EXERCISE OF OTHER RIGHTS

21–561. Mail privileges; censored mail; return to sender; visiting hours.
21–562. Medical and psychiatric care and treatment; records.
21–563. Use of mechanical restraints; record of use.
21–564. Exercise of property and other rights; notice of inability; persons hospitalized prior to Septmeber 15, 1964.
21–565. Statement of release and adjudication procedures and of other rights.

SUBCHAPTER VI—MISCELLANEOUS PROVISIONS

21–581. Proceedings instituted by Commissioners of the District of Columbia.
21–582. Petitions, applications, or certificates of physicians.
21–583. Physicians and psychiatrists as witnesses.
21–584. Witness fees.
21–585. Confinement in jail prohibited.
21–586. Financial responsibility for care of hospitalized person; judicial enforcement.
21–587. Veterans' Administration and military hospital facilities.
21–588. Forms.
21–589. Persons hospitalized prior to September 15, 1964.
21–590. Discharge as cured; restoration to legal status.
21–591. Offenses and penalties.

SUBCHAPTER I—DEFINITIONS; COMMISSION ON MENTAL HEALTH

§ 21–501. Definitions

As used in the chapter:

"administrator" means a person in charge of a public or private hospital or his delegate;

"chief of service" means the physician charged with overall responsibility for the professional program of care and treatment in the particular administrative unit of the hospital to which the patient has been admitted or such other member of the medical staff as the chief of service designates;

"Commission" means the Commission on Mental Health;

"court" means the United States District Court for the District of Columbia;

"mental illness" means a psychosis or other disease which substantially impairs the mental health of a person;

"mentally ill person" means a person who has a mental illness, but does not include a person committeed to a private or public hospital in the District of Columbia by order of the court in a criminal proceeding;

"physician" means a person licensed under the laws of the District of Columbia to practice medicine, or a person who practices medicine in the employment of the Government of the United States or of the District of Columbia;

"private hospital" means a nongovernmental hospital or institution, or part thereof, in the District of Columbia, equipped and qualified to provide inpatient care and treatment for a person suffering from a physical or mental illness; and

"public hospital" means a hospital or institution, or part thereof, in the District of Columbia, owned and operated by the Government of the United States or of the District of Columbia, equipped and qualified to provide inpatient care and treatment for persons suffering from physical or mental illness.

§ 21–502. Commission on Mental Health; composition; appointment and terms of members; organization; chairman; salaries

(a) The Commission on Mental Health is continued. The United States District Court for the District of Columbia shall appoint the members of the Commission, and the Commission shall be composed of nine members. One member shall be a member of the

bar of the court, who has engaged in active practice of law in the District of Columbia for a period of at least five years prior to his appointment. He shall be the Chairman of the Commission and act as the administrative head of the Commission and its staff. He shall preside at all hearings and direct all of the proceedings before the Commission. He shall devote his entire time to the work of the Commission. Eight members of the Commission shall be physicians who have been practicing medicine in the District of Columbia and who have had not less than five years' experience in the diagnosis and treatment of mental illnesses.

(b) Appointment of members of the Commission shall be for terms of four years each, which shall be staggered as provided by section 2 of the Act approved June 8, 1938 (chapter 326, 52 Stat. 625), under which, except for the original four-year term of the lawyer-member, staggered terms of one year for two members, two years for two members, three years for two members, and four years for two members, were made.

(c) The physician-members of the Commission shall serve on a part-time basis and shall be rotated by assignment of the Chief Judge of the court, so that at any one time the Commission shall consist of the Chairman and two physician-members. Physician-members of the Commission may practice their profession during their tenure of office, but may not participate in the disposition of the case of a person in which they have rendered professional service or advice.

(d) The court shall also appoint an alternate lawyer-member of the Commission who shall have the same qualifications as the lawyer-member of the Commission and who shall serve on a part-time basis and act as Chairman in the absence of the permanent Chairman.

(e) The salaries of the members of the Commission and its employees shall be fixed in accordance with the provisions of the Classification Act of 1949, as amended. The alternate Chairman shall be paid on a per diem basis at the same rate of compensation as fixed for the permanent Chairman.

§ 21–503. Examinations and hearings; subpenas; witnesses; place

(a) The Commission shall examine alleged mentally ill persons, inquire into their affairs and the affairs of persons who may be legally liable for their support, and make reports and recommendations to the court.

(b) Except as otherwise provided by this chapter, the Commission may conduct its examinations and hearings either at the courthouse or elsewhere at its discretion. The court may issue subpenas at the request of the Commission returnable before the Commission, for the appearance of the alleged mentally ill person, witnesses, and persons who may be liable for his support. The Commission, or any of the members thereof, are competent and compellable witnesses at any trial, hearing, or other proceeding conducted pursuant to this chapter and the physician-patient privilege is not applicable.

SUBCHAPTER II—VOLUNTARY AND NONPROTESTING HOSPITALIZATION

§ 21–511. Voluntary hospitalization

A person may apply to a public or private hospital in the District of Columbia for admission to the hospital as a voluntary patient for the purposes of observation, diagnosis, and care and treatment of a mental illness. Upon the request of such a person 18 years of age or over, or, in the case of a person under 18 years of age, of his spouse, parent, or legal guardian, the administrator of the public hospital to which application is made shall, if an examination by an admitting psychiatrist reveals the need for hospitalization, or the administrator of the private hospital to which application is made may admit the person as a voluntary patient to the hospital for the purposes described by this section, in accordance with this chapter.

§ 21–512. Release of voluntary patients

(a) A voluntary patient admitted to a hospital pursuant to section 21–511 may, at any time, if he is 18 years of age or over, obtain his release from the hospital by filing a written request with the chief of service. Within a period of 48 hours after the receipt of the request, the chief of service shall release the patient making the request. A voluntary patient under 18 years of age, so admitted, may, at any time, obtain his release from the hospital in the same manner, upon the written request of his spouse, parent, or legal guardian.

(b) When the chief of service determines that a voluntary patient hospitalized pursuant to section 21–511 has recovered or that continued hospitalization of the patient is no longer beneficial to him, or advisable, the chief of service may release him from the hospital.

§ 21–513. Hospitalization of nonprotesting persons

A friend or relative of a person believed to be suffering from a mental illness may apply on behalf of that person to the admitting psychiatrist of a hospital by presenting the person, together with a referral from a practicing physician. For the purpose of examination and treatment, a private hospital may accept a person so presented and referred, and a public hospital shall accept a person so presented and referred, if, in the judgment of the admitting psychiatrist, the need for examination and treatment is indicated on the basis of the person's mental condition and the person signs a statement at the time of the admission stating that he does not object to hospitalization. The statement shall contain in simple, nontechnical language the fact that the person is to be hospitalized and a description of the right to release set out in section 21-514. The admitting psychiatrist may admit a person so presented, without referral from a practicing physician, if the need for an immediate admission is apparent to the admitting psychiatrist upon preliminary examination.

§ 21–514. Release of patients hospitalized under section 21–513

Unless proceedings for hospitalization under court order have been initiated under subchapter IV of this chapter, a hospital, upon the written request of a patient hospitalized pursuant to section 21–513, shall immediately release him.

SUBCHAPTER III—EMERGENCY HOSPITALIZATION

§ 21–521. Detention of persons believed to be mentally ill; transportation and application to hospital

An accredited officer or agent of the Department of Public Health of the District of Columbia, or an officer authorized to make arrests in the District of Columbia, or the family physician of the person in question, who has reason to believe that a person is mentally ill and, because of the illness, is likely to injure himself or others if he is not immediately detained may, without a warrant, take the person into custody, transport him to a public or private hospital, and make application for his admission thereto for purposes of emergency observation and diagnosis. The application shall reveal the circumstances under which the person was taken into custody and the reasons therefor.

§ 21–522. Examination and admission to hospital; notice

Subject to the provisions of section 21–523, the administrator of a private hospital, may, and the administrator of a public hospital shall, admit and detain for purposes of emergency observation and diagnosis a person with respect to whom application is made under section 21–521, if the application is accompanied by a certificate of a psychiatrist on duty at the hospital stating that he has examined the person and is of the opinion that he has symptoms of a mental illness and, as a result thereof, is likely to injure himself or others he is immediately hospitalized. Not later than 24 hours after the admission pursuant to this subchapter of a person to a hospital, the administrator of the hospital shall serve notice of the admission, by registered mail, to the spouse, parent, or legal guardian of the person and to the Commission on Mental Health.

§ 21–523. Court order requirement for hospital detention beyond 48 hours; maximum period for observation

A person admitted to a hospital under section 21–522 may not be detained in the hospital for a period in excess of 48 hours from the time of his admission, unless the administrator of the hospital has, within that period, filed a written petition with the court for an order authorizing the continued hospitalization of the person for emergency observation and diagnosis for a period not to exceed 7 days from the time the order is entered.

§ 21–524. Determination and order of court

(a) Within a period of 24 hours after the court receives a petition for hospitalization of a person for emergency observation and diagnosis, filed by the administrator of a hospital pursuant to section 21–523, the court shall:

(1) order the hospitalization; or

(2) order the person's immediate release.

(b) The court, in making its determination under this section, shall consider the written reports of the agent, officer, or physician who made the application under section 21–522, the certificate of the examining psychiatrist which accompanied it, and any other relevant information.

§ 21–525. Hearing by court

The court shall grant a hearing to a person whose continued hospitalization is ordered under section 21–524, if he requests the hearing. The hearing shall be held within 24 hours after receipt of the request.

§ 21–526. Extension of maximum periods of time

If the maximum period of time prescribed by section 21–512, 21–523, 21–524, or 21–525, during which an action or determination may or shall be taken, expires on a Saturday, Sunday, or legal holiday, the period may be extended to not later than noon of the next succeeding day which is not a Saturday, Sunday, or legal holiday.

§ 21–527. Examination and release of person; notice

That chief of service of a hospital in which a person is hospitalized under a court order entered pursuant to section 21–524 shall, within 48 hours after the order is entered, have the person examined by a physician. If the physician, after his examination, certifies that in his opinion the person is not mentally ill to the extent that he is likely to injure himself or others if not presently detained, the person shall be immediately released. The chief of service shall, within 48 hours after the examination has been completed, send a copy of the results thereof by certified or registered mail to the spouse, parents, attorney, legal guardian, or nearest known adult relative of the person examined.

§ 21–528. Detention of person pending judicial proceedings

Notwithstanding any other provision of this subchapter, the administrator of a hospital in which a person is hospitalized under this subchapter may, if judicial proceedings for his hospitalization have been commenced under subchapter IV of this chapter, detain the person in the hospital during the course of the judicial proceedings.

SUBCHAPTER IV—HOSPITALIZATION UNDER COURT ORDER

§ 21–541. Petition to Commission; copy to person affected

(a) Proceedings for the judicial hospitalization of a person in the District of Columbia may be commenced by the filing of a petition with the Commission on Mental Health by his spouse, parent, or legal guardian, by a physician, by a duly accredited officer or agent of the Department of Public Health, or by an officer authorized to make arrests in the District of Columbia. The petition shall be accompanied by:

(1) a certificate of a physician stating that he has examined the person and is of the opinion that the person is mentally ill, and because of the illness is likely to injure himself or other persons if allowed to remain at liberty; or

(2) a sworn written statement by the petitioner that:

(A) the petitioner has good reason to believe that the person is mentally ill, and, because of the illness, is likely to injure himself or other persons if allowed to remain at liberty; and

(B) the person has refused to submit to examination by a physician.

(b) Within three days after the Commission receives a petition filed under subsection (a) of this section, the Commission shall send a copy of the petition by registered mail to the person with respect to whom it was filed.

§ 21–542. Hearing by Commission; presence and rights of person affected; hearing regarding liability

(a) The Commission shall promptly examine a person alleged to be mentally ill after the filing of a petition under section 21–541 and shall thereafter promptly hold a hearing on the issue of his mental illness. The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure and in a physical setting not likely to have a harmful effect on the mental health of the person named in such petition. In conducting the hearing, the Commission shall hear testimony of any person whose testimony may be relevant and shall receive all relevant evidence which may be offered. A person with respect to whom a hearing is held under this section may, in his discretion, be present at the hearing, to testify, and to present and cross-examine witnesses.

(b) The Commission shall also hold a hearing in order to determine liability under the provisions of section 21–586 for the expenses of hospitalization of the alleged mentally ill person, if it is determined that he is mentally ill and should be hospitalized as provided under this chapter. The hearing may be conducted separately from the hearing on the issue of mental illness. If conducted separately, it may be conducted by the Chairman of the Commission alone.

§ 21–543. Representation by counsel; compensation; recess

The alleged mentally ill person shall be represented by counsel in any proceeding before the Commission or the court, and if he fails or refuses to obtain counsel, the court shall appoint counsel to represent him. The counsel so appointed shall be awarded compensation by the court for his services in an amount determined by it to be fair and reasonable. The compensation shall be charged against the estate of the individual for whom the counsel was appointed, or against any unobligated funds of the Commission, as the court in its discretion directs. The Commission or the court, as the case may be, shall, at the request of the counsel so appointed, grant a recess in the proceeding to give the counsel an opportunity to prepare his case. A recess may not be granted for more than five days.

§ 21–544. Determinations of Commission; report to court: copy to person affected; right to jury trial

If the Commission finds, after a hearing under section 21–542, that the person with respect to whom the hearing was held is not mentally ill or if mentally ill, is not mentally ill to the extent that he is likely to injure himself or other persons if allowed to remain at liberty, the Commission shall immediately order his release and notify the court of that fact in writing. If the Commission finds, after the hearing, that the person with respect to whom the hearing was held is mentally ill, and because of the illness is likely to injure himself or other persons if allowed to remain at liberty, the Commission shall promptly report that fact, in writing, to the United States District Court for the District of Columbia. The report shall contain the Commission's findings of fact, conclusions of law, and recommendations. A copy of the report to the Commission shall be served personally on the alleged mentally ill person and his attorney. An alleged mentally ill person with respect to whom the report is made has the right to demand a jury trial, and the Commission, orally and in writing, shall advise him of this right.

§ 21–545. Hearing and determinations by court or jury; order; witnesses; jurors

(a) Upon the receipt by the court of a report referred to in section 21–544, the court shall promptly set the matter for hearing and shall cause a written notice of the time and place of the final hearing to be served personally upon the person with respect to whom the report was made and his attorney, together with notice that he has five days following the date on which he is so served within which to demand a jury trial. The demand may be made by the person or by anyone in his behalf. If a jury trial is demanded within the five-day period, it shall be accorded by the court with all reasonable speed. If a timely demand for jury trial is not made, the court shall determine the person's mental condition on the basis of the report of the Commission, or on such further evidence in addition to the report as the court requires.

(b) If the court or jury, as the case may be, finds that the person is not mentally ill, the court shall dismiss the petition and order his release. If the court or jury finds that the person is mentally ill and, because of that illness, is likely to injure himself or other persons if allowed to remain at liberty, the court may order his hospitalization for an indeterminate period, or order any other alternative course of treatment which the court believes will be in the best interests of the person or of the public. The Commission, or a member thereof, shall be competent and compellable witnesses at a hearing or jury trial held pursuant to this chapter. The jury to be used in any case where a jury trial is demanded under this chapter shall be impaneled, upon order of the court, from the jurors in attendance upon other branches of the court, who shall perform the services in addition to and as part of their duties in the court.

§ 21–546. Periodic requests for examination of hospitalized patient; procedure for examination and detention or release; petition to court

(a) A patient hospitalized pursuant to a court order obtained under section 21–545, or his attorney, legal guardian, spouse, parent, or other nearest adult relative, may, upon the expiration of 90 days following the order and not more frequently than every 6 months thereafter, request, in writing, the chief of service of the hospital in which the patient is hospitalized, to have a current examination of his mental condition made by one or more physicians. If the request is timely it shall be granted. The patient may, at his own expense, have a duly qualified physician participate in the examination. In the case of such a patient who is indigent, the Department of Public Health shall, upon the written request of the patient, assist him in obtaining a duly qualified physician to participate in the examination in the patient's behalf. A physician so obtained by an indigent patient shall be compensated for his services out of any unobligated funds of Department of Public Health in an amount determined by it to be fair and reasonable. If the chief of service, after considering the reports of the physicians conducting the examination, determines that the patient is no longer mentally ill to the extent that he is likely to injure himself or other persons if not hospitalized, the chief of service shall order the immediate release of the patient. However, if the chief of service, after considing the reports, determines that the patient, continues to be mentally ill to the extent that he is likely to injure self or other persons if not hospitalized, but one or more of the physicians participating in the examination reports that the patient is not mentally ill to that extent, the patient may petition the court for an order directing his release. The petition shall be accompanied by the reports of the physicians who conducted the examination of the patient.

§ 21–547. Judicial determination of petition filed under section 21–546; order; physicians as witnesses

In considering a petition filed under section 21–546, the court shall consider the testimony of the physicians who participated in the examination of the patient, and the reports of the physicians accompanying the petition. After considering the testimony and reports, the court shall either (1) reject the petition and order the continued hospitalization of the patient, or (2) order the chief of service to immediately release the patient. A physician participating in the examination shall be a competent and compellable witness at any trial or hearing held pursuant to this chapter.

§ 21–548. Periodic examinations by hospital authorities; release

The chief of service of a public or private hospital shall, as often as practicable, but not less often than every six months, examine or cause to be examined each patient admitted to a hospital pursuant to this subchapter and if he determines on the basis of the examination that the conditions which justified the involuntary hospitalization of the patient no longer exist, the chief of service shall immediately release the patient.

§ 21–549. Preservation of other rights to release

Sections 21–546 to 21–548 do not prohibit a person from exercising a right presently available to him for obtaining release from confinement, including the right to petition for a writ of habeas corpus.

§ 21–550. Surety

The court in its discretion may require a petitioner under this subchapter to file an undertaking with surety to be approved by the court in such amount as the court deems proper, conditioned to save harmless the respondent by reason of costs incurred, including attorney's fees, if any, and damages suffered by the respondent, as a result of any action under this subchapter.

§ 21–551. Nonresidents

(a) If a person ordered committed to a public hospital by the court pursuant to section 21–545 is found by the Commission, subject to a review by the court, not to be a resident of the District of Columbia, and to be a resident of another place, he shall be transferred to the State of his residence if an appropriate institution of that State is willing to accept him. If the person is an indigent, the expense of transferring him, including the traveling expenses of necessary attendants, shall be borne by the District of Columbia.

(b) For the purposes of this section, "resident of the District of Columbia" means a person who has maintained his principal

place of abode in the District of Columbia for more than one year immediately prior to the filing of the petition referred to in subsection (a) of section 21–541.

SUBCHAPTER V—RIGHT TO COMMUNICATION; EXERCISE OF OTHER RIGHTS

§ 21–561. Mail privileges; censored mail; return to sender; visiting hours

(a) A person hospitalized in a public or private hospital pursuant to this chapter may:

(1) communicate by sealed mail or otherwise with an individual or official agency inside or outside the hospital; and

(2) receive uncensored mail from his attorney or personal physician.

(b) All incoming mail or communications other than mail or communications referred to in subsection (a) of this section may be read before being delivered to the patient, if the chief of service believes the action is necessary for the medical welfare of the patient who is the intended recipient. Mail or other communication which is not delivered to the patient for whom it is intended shall be immediately returned to the sender.

(c) This section does not prohibit the administrator from making reasonable rules regarding visitation hours and the use of telephone and telegraph facilities.

§ 21–562. Medical and psychiatric care and treatment; records

A person hospitalized in a public hospital for a mental illness shall, during his hospitalization, be entitled to medical and psychiatric care and treatment. The administrator of each public hospital shall keep records detailing all medical and psychiatric care and treatment received by a person hospitalized for a mental illness and the records shall be made available, upon that person's written authorization, to his attorney or personal physician. The records shall be preserved by the administrator until the person has been discharged from the hospital.

§ 21–563. Use of mechanical restraints; record of use

A mechanical restraint may not be applied to a patient hospitalized in a public or private hospital for a mental illness unless the use of restraint is prescribed by a physician. If so prescribed, the restraint shall be removed whenever the condition justifying its use no longer exists. A use of a mechanical restraint, together with the reasons therefor, shall be made a part of the medical record of the patient.

§ 21–564. Exercise of property and other rights; notice of inability; persons hospitalized prior to September 15, 1964

(a) A patient hospitalized pursuant to this chapter may not, by reason of the hospitalization, be denied the right to dispose of property, execute instruments, make purchases, enter into contractual relationships, vote, and hold a driver's license, unless the patient has been adjudicated incompetent by a court of competent jurisdiction and has not been restored to legal capacity. If the chief of service of the public or private hospital in which the patient is hospitalized is of the opinion that the patient is unable to exercise any of the rights referred to in this section, the chief of service shall immediately notify the patient and the patient's attorney, legal guardian, spouse, parents, or other nearest known adult relative, the United States District Court for the District of Columbia, the Commission on Mental Health, and the Board of Commissioners of the District of Columbia of that fact.

(b) A person in the District of Columbia who, by reason of a judicial decree ordering his hospitalization entered prior to September 15, 1964, is considered to be mentally incompetent and is denied the right to dispose of property, executive instruments, make purchases, enter into contractual relationships, vote, or hold a driver's license solely by reason of the decree, shall, upon the expiration of the one-year period immediately following September 15, 1964, be deemed to have been restored to legal capacity unless, within the one-year period, affirmative action is commenced to have the person adjudicated mentally incompetent by a court of competent jurisdiction: *Provided, however,* That in those cases in which a committee has heretofore been appointed and the committeeship has not been terminated by court action, such committee shall continue to act under the supervision of the United States District Court for the District of Columbia under its equity powers.

§ 21–565. Statement of release and adjudication procedures and of other rights

Upon the admission of a person to a hospital under a provision of this chapter, the administrator shall deliver to him, and to his spouse, parents, or other nearest known adult relative, a written statement outlining in simple, nontechnical language all release procedures provided by this chapter, setting out all rights accorded to patients by this chapter, and describing procedures provided by law for adjudication of incompetency and appointment of trustees or committees for the hospitalized person.

SUBCHAPTER VI—MISCELLANEOUS PROVISIONS

§ 21–581. Proceedings instituted by Commissioners of the District of Columbia

(a) Proceedings instituted by the Commissioners of the District of Columbia to determine the mental condition of an alleged indigent mentally ill person or a person alleged to be mentally ill, with homicidal or otherwise dangerous tendencies, shall be according to the provisions of subchapter IV of this chapter.

(b) The jury in proceedings instituted upon the petition of the Commissioners of the District of Columbia shall be impaneled by the United States marshal for the District, upon order of the court, from the jurors in attendance upon the District Court, who shall perform the services in addition to and as part of their duties in the District Court. When jurors are not in attendance upon the District Court the court may direct the marshal to impanel the jurors in attendance upon the Court of General Sessions, who shall perform the duties in addition to and as part of their duties in the Court of General Sessions, or the court may direct a special jury to be summoned for the inquisition.

§ 21–582. Petitions, applications, or certificates of physicians

(a) A petition, application, or certificate authorized under section 21–521 and subsection (a) of section 21–541 may not be considered if made by a physician who is related by blood or marriage to the alleged mentally ill person, or who is financially interested in the hospital in which the alleged mentally ill person is to be detained, or, except in the case of physicians employed by the United States or the District of Columbia, who are professionally or officially connected with the hospital.

(b) A petition, application, or certificate of a physician may not be considered unless it is based on personal observation and examination of the alleged mentally ill person made by the physician not more than 72 hours prior to the making of the petition, application, or certificate. The certificate shall set forth in detail the facts and reasons on which the physician based his opinions and conclusions.

§ 21–583. Physicians and psychiatrists as witnesses

A physician or psychiatrist making application or conducting an examination under this chapter is a competent and compellable witness at any trial, hearing or other proceeding conducted pursuant to this chapter and the physician-patient privilege is not applicable.

§ 21–584. Witness fees

Witnesses subpenaed under the provisions of this chapter shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States.

§ 21–585. Confinement in jail prohibited

A person apprehended, detained, or hospitalized under any provision of this chapter may not be confined in jail or in a penal or correctional institution.

§ 21–586. Financial responsibility for care of hospitalized persons; judicial enforcement

(a) The father, mother, husband, wife, and adult children of a mentally ill person, if of sufficient ability, and the estate of the mentally ill person, if the estate is sufficient for the purpose, shall pay the cost to the District of Columbia of the mentally ill person's maintenance, including treatment, in a hospital in which the person is hospitalized under this chapter. The Commission on Mental Health shall examine, under oath, the father, mother, husband, wife, and adult children of an alleged mentally ill person whenever those relatives live within the District of Columbia, and ascertain their ability or the ability of the estate to maintain or contribute toward the maintenance of the mentally ill person. The relatives or estate may not be required to pay more than the actual cost to the District of Columbia of maintenance of the alleged mentally ill person.

(b) If a person made liable by subsection (a) of this section for the maintenance of a mentally ill person fails so to provide or pay for the maintenance, the court shall issue to him a citation to show cause why he should not be adjudged to pay a portion or all of the expenses of maintenance of the patient. The citation shall be served at least 10 days before the hearing thereon. If, upon the hearing, it appears to the court that the mentally ill person has not sufficient estate out of which his maintenance may properly be fully met and that he has relatives of the degree referred to in subsection (a) of this section who are parties to the proceedings, and who are able to contribute thereto, the court may make an order requiring payment by the relatives of such sums as it finds that they are reasonably able to pay and as may be necessary to provide for the maintenance and treatment of the mentally ill person. The order shall require the payment of the sums to the District of Columbia treasurer annually, semiannually, quarterly, or monthly as the court directs. The treasurer shall collect the sums due under this section, and turn them into the Treasurer of the United States to the credit of the District of Columbia. The order may be enforced against any property of the mentally ill person or of the person liable or undertaking to maintain him in the same way as if it were an order for temporary alimony in a divorce case.

§ 21–587. Veterans' Administration and military hospital facilities

This chapter does not require the admission of a person to a Veterans' Administration or military hospital facility unless the person is otherwise eligible for care and treatment in the facility.

§ 21–588. Forms

All applications and certificates for the hospitalization of a person in the District of Columbia under this chapter shall be made on forms approved by the Commission on Mental Health and furnished by it.

§ 21–589. Persons hospitalized prior to September 15, 1964

(a) Subject to subsection (b) of this section, the provisions of sections 21–546 to 21–551, subchapter V of this chapter and

sections 21–585 and 21–588 apply to a person, who, on or after January 1, 1966, is a patient in a hospital in the District of Columbia by reason of having been declared insane or of unsound mind pursuant to a court order entered in a noncriminal proceeding prior to September 15, 1964.

(b) A request made by a patient referred to in subsection (a) of this section for an examination authorized by section 21–546 may be made on April 15, 1966, by the patient, or his attorney, legal guardian, spouse, parent, or other nearest adult relative, and not more frequently than every six months thereafter.

§ 21–590. Discharge as cured; restoration to legal status.

When a person adjudged to be of unsound mind in the District of Columbia who is committed to Saint Elizabeths Hospital, or any other institution, recovers his reason, and is discharged from the institution as cured, the Superintendent of Saint Elizabeths Hospital, or the official in charge of the institution where he has been under treatment and has been so discharged, shall immediately file with the clerk of the United States District Court for the District of Columbia his sworn statement that, in his opinion, the person was not of unsound mind at the time of his discharge. The statement is sufficient to authorize the court to order the person restored to his former legal status as a person of sound mind.

§ 21–591. Offenses and penalties

Whoever:

(1) without probable cause for believing a person to be mentally ill:

(A) causes or conspires with or assists another person to cause the hospitalization, under this chapter, of the person first referred to; or

(B) executes a petition, application, or certificate pursuant to this chapter, by which he secures or attempts to secure the apprehension, hospitalization, detention, or restraint of the person first referred to;

or

(2) causes or conspires with or assists another person to cause the denial to a person of a right accorded to him by this chapter; or

(3) being a physician or psychiatrist, knowingly makes a false certificate or application pursuant to this chapter as to the mental condition of a person—

shall be fined not more than $5,000 or imprisoned not more than three years, or both.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, September 29, 1969, he presented to the President of the United States the enrolled bill (S. 574) to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments.

PUBLIC HEARINGS, TAX REFORM ACT OF 1969—SUMMARY OF TESTIMONY

Mr. LONG. Mr. President, today the Committee on Finance received testimony on that part of the House tax reform bill which proposes substantial changes in the areas of interest deductions and installment method of reporting gain on certain corporate securities transactions. We also received further testimony on the subject of advertising income of tax exempt organizations and multiple surtax exemptions. Additionally, the committee received testimony from several distinguished individuals with respect to the House bill in general.

So that Senators might follow the progress of these tax reform hearings, I ask unanimous consent that a summary of the testimony be printed in the RECORD.

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

WITNESSES

HON. FRANK E. MOSS, U.S. SENATOR, STATE OF UTAH

Tax reform

States that if Congress expects to stem the so-called "taxpayers' revolt," more than token changes must be made. Feels that Congress must produce genuine tax reform as well as tax relief for the middle- and low-income taxpayer, and that it must be this session of Congress.

Regards the House bill as commendable, but with room for improvement and broader tax reform. Comments that Congress has patched up the Internal Revenue Code so many times that the tax structure seems to be held together in places with "a string and baling wire," and so complicated that the taxpayer cannot understand his taxes.

Tax loopholes

Maintains that the tax structure is filled with inequities so that some rich people can get by without paying any taxes at all. Believes the tax system must be fair in order to be accepted.

Recommends that Congress do something about the following tax loopholes: (1) untaxed appreciation of assets transferred by noncharitable gift or at death; (2) tax-exempt municipal bonds; (3) hobby farming; (4) accelerated depreciation of real estate; (5) the 25-percent maximum and 6-month holding period for capital gains; (6) oil depletion; and (7) unlimited charitable deduction. Recommends, further, that the investment tax credit be repealed and a minimum income tax be established.

Hopes that the Senate will not ignore, as did the House bill, the appreciation of assets transferred at death. Finds Senator Metcalf's farm loss provision more satisfactory.

Treasury proposals

Considers the administration's proposals to remove tax-exempt-interest income and appreciated property from the LTP as indefensible. Contends that this would continue to permit some millionaires to pay little or no taxes. Objects to the proposal to cut the average taxpayer's tax relief by $1.7 billion and turning $1.6 billion of it over to corporations in a 2-percent reduction in corporate tax rates.

HON. JOHN B. CONNOLLY, HOUSTON, TEX., ON BEHALF OF THE LIVESTOCK PRODUCERS COMMITTEE

Farm losses

Believes there are certain changes which should be made in the Revenue Code to eliminate what may be called the tax-profit operation. Is of the opinion, however, that there is no set of "farm loss" circumstances under which an economic loss produces a more favorable tax result than an economic profit.

States that the House proposals respecting the excess deduction account, farm losses in the limitation on tax preferences and the allocation of deductions, and the so-called hobby loss change, would cause at least two disastrous economic changes to substantial farmers and ranchers. First, the drying up of new capital which is badly needed in agriculture. And, second, chaos from an impossible accounting situation.

Indicates that some witnesses before the Ways and Means Committee suggested the House approach with respect to farm losses would lower farmland prices. States that if this is correct, the result would be disastrous—pointing out that many farmers and ranchers have borrowed funds and pledged their lands as collateral, and any reduction in farmland prices would almost certainly mean that many outstanding loans based on increased land value would be in jeopardy and could be called because of inadequate security. Contends this could have an adverse compounding effect of causing businesses in farming and ranching communities to close their doors.

GEN. EARL RUDDER, PRESIDENT, TEXAS A. & M. UNIVERSITY

Farm losses

Expresses concern about those individuals who have ranches of farms but apparently intend only to have some type of "tax profit." States that as a matter of equity no one should defend such individuals, but believes the problem should be put into its proper perspective—and while some congressional action is warranted, it should not be in the form of "overkill" provisions which could produce severe economic upheaval.

Points out that agriculture in a highly variable income source and has tremendous variations in profitably: the farmer and rancher are not only subject to the elements of nature, but are also tremendously affected by national situations, economic crises, Government programs, and the "whims of the American consumer and her demands." States that it is not uncommon for losses to be experienced for 1, 2, or 5 successive years, and then be followed by several profitable years.

States that agriculture in the United States today is dynamic and growing, but that if it is to remain strong it must be guided through new problems occurring every day—including the general indifference of the urban-oriented society which agriculture serves.

GENERAL

GEORGE S. DILLON, ON BEHALF OF MANUFACTURING CHEMISTS ASSOCIATION

Corporate rate reduction

Urges a compensatory corporate rate reduction to offset the repeal of the investment tax credit, and various other reform provisions increasing the tax burden of corporations.

Deferred compensation

Recommends deletion of the proposed new rule for taxation of deferred compensation.

Fifty-percent maximum rate on earned income

Endorses the concept of placing a maximum tax rate of 50 percent on earned income and recommends that deferred compensation, bonus awards, and all payments attributed to either qualified or nonqualified employer plans which are considered as ordinary income be treated as earned income for purposes of this section.

Restricted stock

Recommends that the controlling date for transfers under prexisting plans be changed from February 1 to April 1, 1970, to give corporations more time to accommodate to this provision.

Total distributions from pension, etc., plans

Believes the current rules provide a relatively simple and equitable basis for taxing lump-sum distributions accrued to an individual over a substantial portion of his employment career and recommends against the change proposed in the House bill.

Moving expenses

Argues that the $2,500 limitation on deduction of certain moving expenses is inadequate and recommends the removal of this limitation. Urges the retention of the 20-mile test as proposed by the administration.

Effect on earnings and profits

Maintains that the amendments proposed in the House bill would create substantial hardships in the corporation foreign income area. Recommends that this section be modified to make clear that its provisions do not apply to the computations of earnings and profits of foreign subsidiary corporations.

Real estate depreciation

Recommends that the new, more restrictive rules on depreciation provided in the House bill not apply to industrial real property, but that the full recapture of depreciation be provided for to the extent of gain on later sale of the property.

Foreign tax credit

Recommends: (a) extension of the foreign tax credit to all situations where the United States imposes Federal income tax on undistributed profits of foreign corporations under subpart F; (b) the reduction of the 50-percent stock ownership test in section 902 to 10 percent; and (c) the extension of the foreign tax credit to foreign corporations which are below the second tier and are connected by a 10-percent stock ownership.

Alternative capital gain rate for corporations

Opposes the increase from 25 to 30 percent as proposed in the House bill.

Natural resources

Recommends retention of the existing percentage depletion rates for natural resources.

THOMAS M. EVANS, CHAIRMAN, CRANE CO., NEW YORK, N.Y.

Real estate

Objects to the disallowance of the use of accelerated depreciation methods for real property. States that at a time of high cost of money, labor, and construction materials, all possible means of encouragement should be given to the building business.

Donative sales ("bargain sales") to charity

Objects to the provisions of the House bill dealing with donative sales—that is, selling securities at cost and donating the difference to charity—stating that this change in the law would not increase Government revenues but would decrease charitable giving.

Capital gains on horses

Regards the House proposal dealing with capital gains on horses to be completely unnecessary. Suggests that any present abuses in this area could be corrected by providing for recapture of depreciation on sales of breeding animals, in the same manner applied to sales of machines in a manufacturing business.

INTEREST DEDUCTIONS

STANLEY R. FIMBERG, BEVERLY HILLS, CALIF.

Investment interest deduction

States that the House bill would amend section 163 of the Code (relating to the deductions for interest) by placing a limitation on the amount of "investment interests" which certain specified taxpayers could deduct. Maintains that the proposed amendment is unsound both from a policy standpoint and in certain respects from a technical standpoint. Indicates that the effect of the amendment will result in unfairly penalizing taxpayers who have made certain business decisions and closed transactions before they had obtained any knowledge of the effect of this proposed legislation.

Argues that the basic policy of the statute would tend to discourage an individual who does not already have investment assets from acquiring such assets. Contends that the statute discriminates against individuals who do not have investment assets and who borrow funds in an attempt to create such investment assets, and in favor of individuals who have investment assets and borrow money to create additional assets.

Inconsistency between section 163(d)(3)(D) and section 163(d)(4)(C)

States that a technical problem with this statute arises because of an inconsistency between the definition of investment interest and a special definition governing rents. Believes that the deficiency could be corrected by amending the definition of investment interests by providing a sentence at the end: "Any property, the income from which is considered to be derived from the conduct of a trade or business, pursuant to section 163(d)(4)(C), will not be considered to be property held for investment."

Problem of construction interest

Argues that the House bill should be amended to provide that a taxpayer who is responsible for construction and improvement of property is entitled to deduct the interest paid in connection with any indebtedness thereon during the useful life of the property.

Partnership limitation

States that another provision, which is unfair is the proposed section which provides as follows: "In the case of a partnership, the provisions of this subsection shall apply with respect to the partnership and with respect to each partner." Maintains that this provision is discriminatory in that it discriminates in favor of a particular method of the ownership of property as opposed to another. States that there is no reason why a tax provision should cause people to be forced to restructure their legal relationship in some manner which would have most of the benefits of a partnership without being considered a partnership for tax purposes.

Effective date provisions

Contends that fundamental fairness would require that the proposed limitation should not apply to interest paid in connection with any indebtedness or obligation incurred or contracted to be incurred before the date the statute becomes law.

CONGLOMERATES: INSTALLMENT METHOD

SIDNEY KESS, C.P.A., PARTNER, MAIN, LAFRANTZ, & CO., NEW YORK, N.Y.

Conglomerate mergers

States that the task of controlling conglomerate mergers is within the province of the antitrust and securities law, and is not one which should be engrafted into the Revenue Code. Believes the House proposal dealing with conglomerate mergers is an improper use of the taxing power.

States that the House proposal utilizes incorrect standards in differentiating "tainted" debt from "nontainted" debt. Expresses the opinion that the proposal would add another extremely complex and unnecessary provision to an already overcomplicated code, and suggests the addition of such provisions inevitably leads to breakdowns in compliance and administration.

T. F. DIXON WAINWRIGHT, ATTORNEY, PHILADELPHIA, PA.

Installment method of reporting gains

Points out that the provisions of the House bill regarding installment method of reporting gains apply to sales or dispositions occurring after May 27, 1969, and suggests that in some instances this effective date will result in inequity and hardship to taxpayers who prior to May 28, 1969, in reliance upon present law, executed binding contracts of sale.

States that prior to May 28, 1969, a taxpayer could not know that tax reform would include amendments with respect to installment sales and that such amendments would be retroactive.

Urges that the House provision respecting installment sales should not apply in cases where the contracts are entered into before the effective date.

TAX-EXEMPT ORGANIZATIONS; ADVERTISING INCOME

S. RAYBURN WATKINS, PRESIDENT, AMERICAN SOCIETY OF ASSOCIATION EXECUTIVES

Tax-exempt organizations

Indicates that the association represents the interest of business and professional associations. Points out a problem under the House bill in the case where a membership organization forms a foundation for eleemosynary purposes, which is funded by members contributions and is exempt from tax. States that the small contributions of the members are paid to the member organization which will make one large payment to the charitable organization it has formed. Points out that under the House bill the membership organization would be considered a "disqualified person" when the funds were contributed to the charitable foundation so that the charitable foundation would be a private foundation. Suggests that this result could be avoided by amending the support tests to provide that the test is to be applied on a direct or indirect basis. Believes that this change should be made to preclude the possibility that foundations which are supported by association members through contributions channeled through the association will not be classified as private foundations and thus become subject to the restrictions not consistent with the policing intent of the House bill.

Advertising income

Opposes the provisions in the House bill which would tax advertising revenues of business and professional association journals. Believes that the proper measure of the unrelated business tax as applied to the advertising revenues of association publications should be whether or not the magazine itself is related to the exempt functions of the organization involved, and if it is related in the main to the exempt functions, then no part of its net revenues should be taxed. Points out that their magazines and publications are operated primarily to serve the exempt purposes of the particular operation involved, and to say that these magazines compete in the marketplace for advertising is a misrepresentation. Indicates that many of the educational functions that are performed by associations are paid for in whole or in part in some instances by advertising revenues.

Opposes the heading in section 121(c) of the House bill which states "Advertising, etc., Activities". Believes that in the event Congress desires to tax advertising and trade journals that this mandate should be expressed in terms which will prevent future litigation to determine the taxing limits of the section.

Limitation on deductions of certain nonexempt membership organizations

Opposes the provision in the House bill which limits the allowable deductions for services to members to the amount if income derived from members. Points out that because of the annual tax accounting concept on which one system is based this would mean that a loss in one year from this kind of operation would not be deductible against the same kind of income in the next year. Believes that there is no policy to support such treatment, and that the provision should either be deleted or amended to allow a carryover or carryback of losses.

MULTIPLE SURTAX EXEMPTIONS

LEON O. STOCK, PEAT, MARWICK, MITCHELL & CO.

Multiple surtax exemptions

Opposes the specific provisions included in the House bill to phase out multiple surtax exemptions in the case of controlled corporate groups. Believes that the allowance of multiple surtax exemptions are justifiable in appropriate circumstances and should not be indiscriminately or prematurely terminated.

Points out that chainstore corporations, particularly in smaller communities, would be placed in a competitive disadvantage, vis-a-vis, one store corporations and franchised store corporations, if their tax burden is increased through the elimination of the multiple surtax exemptions. Indicates that chainstore corporations in smaller communities realized relatively small earnings after tax, leaving little margin for an increase in tax cost.

States that one problem to consider is that chainstore corporations may be "locked in" until the expiration of their leases. Suggests, for this reason, the following proposals to be considered by the committee: (1) provide a moratorium period of 3 years beginning with taxable years after 1969 during which no statutory changes would be made in the allowance of multiple surtax exemptions; (2) provide for a phaseout period of 8 years following the 3-year moratorium period, during which the exemptions would be scaled down not according to the House bill; (3) alternatively, provide a 5-year moratorium to be followed by a phasing out period of 5 years or simply a straight 10-year phaseout period; (4) increase in equal annual amounts the dividends received deduction from 85 percent to 100 percent over the phaseout period; (5) permit without the filing of a consolidated return, the operating loss of a member of the controlled group to, and deducted by, other members of the group, limited to the same percentage of such loss as the disallowed percentage of the multiple surtax exemption for the year in which the loss occurred.

SENATOR SCOTT SUPPORTS PRESIDENT NIXON ON VIETNAM PEACE AND AUTOMATIC INCREASE IN SOCIAL SECURITY BENEFITS

Mr. SCOTT. Mr. President, I warmly applaud President Nixon's straightforward statement of his policy on our search for Vietnam peace, outlined again at his press conference on Friday. Certainly it is increasingly apparent to the American public as well as to the nations of the world that there is a new emphasis. President Nixon has offered Hanoi peace with honor and justice for both sides. His quest for peace does not rest upon simple threats. He has articulated a formula to which we all sincerely hope Hanoi will respond. The facts cited by President Nixon, 60,000 troops returned, 50,000 that will not be drafted, an infiltration rate from North Vietnam into South Vietnam which is two-thirds of that for the corresponding period last year, casualities down one-third from last year, and his far-reaching peace offer, all will contribute to an increasing majority of the American people supporting this clear and concise policy of deescalation.

I have not engaged in any precise demands, as some have, which set a definite and arbitrary timetable for complete U.S. troop withdrawl from Vietnam. I have indicated previously that I would like to see approximately one-half of our troops out of South Vietnam by the end of 1970, but I do not participate in any numbers game. I am confident that we are moving toward peace. I certainly do not intend, in any way, to disrupt the direct negotiations for peace which are going on in Paris. I have stated before that the American people must look at our efforts toward peace in Vietnam as including both military aspects as well as the all-important diplomatic aspects. As President Nixon has so aptly stated, it does us no good to withdraw all our troops from Vietnam if this will not precipitate a lasting and just peace. We hope for that peace, we work for that peace; and we are committed to that peace as we wait most anxiously for responsible signals from Hanoi. We have deescalated and I am sure the President will continue to increase the urgency of our signals to Hanoi. I am hopeful, and I strongly desire, that this war will be ended, and I support the President's hope that the military deescalation and the diplomatic negotiations will go hand in hand toward a final end to this war. As President Nixon has repeatedly made clear, we are pursuing both aspects—military deescalation and diplomatic negotiation—toward a permanent peace in Vietnam. Certainly there is one objective which must remain quite clear. That objective is the objective that the South Vietnamese must decide for themselves who their leaders will be. I am solidly behind the President's policy of realism in the search for a just and lasting peace in Vietnam.

I think it is significant to note also the President's clear desire that Congress act this year to increase social security benefits to protect our Amercan citizens who depend upon the social security system from the continuing brunt of inflation. I have proposed myself the automatic cost-of-living increase and I agree with the President that rather than being inflationary, it will assist us in maintaining a continuing deinflationary pressure. Too often Congress overreacts and I feel strongly that by providing automatic cost-of-living increases, that the pressure to hold social security benefit increases within responsible fiscal policies will be increased. I assure my colleagues that I will do all I can to press for Senate action this year on social security benefits.

SOCIAL SECURITY BENEFITS INCREASE

Mr. PERCY. Mr. President, earlier this year, President Nixon recommended a 7-percent increase in social security benefits, effective February 1970, to take account of the rise in the cost of living since the last benefit increase in 1968.

At the time this proposal became public, the President stated that a message on social security would be sent to Congress in the near future.

Recently, the President announced he would ask Congress for a 10-percent increase in social security benefits, effective April 1, 1970. Explaining his reason for increasing the benefits beyond his earlier recommendation, President Nixon said:

> This is a matter of simple justice for those living on Social Security, because as we look at the record of rising costs over the past five years, those who have suffered most are our older citizens who are living on a fixed income.

The President is aware of the loss of purchasing power experienced by those people receiving fixed social security benefits due to the rapidly rising cost of living.

This has been a matter of concern to me, as well. Every day I receive scores of letters explaining the difficult situation facing our senior citizens. Because I believe that Congress has a definite responsibility to the millions of Americans who depend on social security, I have introduced proposed legislation which will help social security meet the needs of those for whom it was designed to assist. Included in my package of legislative proposals are bills to provide for automatic adjustment of social security benefits corresponding to changes in the cost of living, elimination of the income earnings limitation, and provision for full benefits for widows.

However, I recently became disturbed to learn that the House might not take up social security legislation this year. On August 8, in a speech on the Senate floor, I asked why no action had been taken on this important matter. Would party platforms again be designed for campaign oratory, to be forgotten after the elections were over?

Clearly the President intends to honor his pledge. His across-the-board 10-percent increase responds to many retired Americans who have no control over the inflationary process. The President's proposal that future benefits in social security be automatically adjusted to account for increases in the cost of living assures the social security recipient that he will be insulated from the ravages of spiraling inflation. His proposed increase from $1,680 to $1,800 in the earnings limitation and his proposal for only a $1 reduction in benefits for every $2 earned reassures our people that we do indeed reward productive labor. Finally, I am delighted to learn that the President will press for a series of additional reforms for widows, veterans, disabled citizens, people over 72, and others particularly in need.

Mr. Nixon stated, and I agree, that these reforms are needed immediately. Further, I am encouraged to know that the administration promises to continue work to assure fairness in the treatment of all individuals depending on social security. As the President explained:

> We will lay the groundwork for further study and improvement of a system that has served the country well and must serve future generations more fairly and more responsively.

Clearly, the President's initiative is to be commended. Now it is time for Congress to act. To fail to respond to President Nixon's message is to fail to respond to the needs of millions of American citizens who depend upon the social security system.

MEMORIAL SERVICE AT LOVINGSTON, NELSON COUNTY, VA.

Mr. BYRD of Virginia. Mr. President, on Sunday, September 21, a memorial service was held at Lovingston, in Nelson County, Va., to express sorrow for those who lost their lives during the devastating floods which struck the area on August 19. The floods resulted from storms on the fringe of Hurricane Camille.

More than 100 Virginians lost their lives in the flooding, many of them in

Nelson County, one of the hardest hit sections of the State.

At the service, a splendid tribute to the dead, and to the living who came to the aid of flood victims, was delivered by Mr. Sam G. Eggleston, Jr., an attorney in Lovingston.

I ask unanimous consent that Mr. Eggleston's address be printed in the RECORD.

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

LIVING MEMORIALS

Friends, Neighbors, Fellow-Nelsonians and Fellow-Virginians: We are appropriately assembled here this day, on this Memorial Field, in memory and tribute to our neighbors and loved ones who no longer walk among us—they having been taken from our midst by an epochal storm; from which, by the Grace of God, we were spared.

I know we come humbly. I trust we come united. I pray we come with the knowledge and blessed with the wisdom emcompassed in the scriptures, as set forth in the 8th Chapter of Romans where it is written at the 28th verse as follows:

"We know that in everything God works for good for those who love him."

When I was asked by two of our most beloved and able ministers to make this address, I said to myself, "Who am I that I should presume myself able to appropriately express and deliver a fitting eulogy? What can I say to honor the dead? How can I comfort the living? What words can portray the grief, describe the sorrow, or placate the void in our very being, as a result of this tragedy?" And yet—even though these questions remain unanswered, I am here.

Two years ago, in August, my family and I came among you as strangers, determined to adopt Nelson County as our home, but we failed, for before we accomplished our purpose you adopted us. From the very first day since we arrived here, everyone, from the headwaters of the Tye and Rockfish in the West to the James in the East, and from Afton in the North to Gladstone in the South, both the living and those now dead, received us openly—with kindness, helpfulness and encouragement. Is not this personal experience of my family a living memorial to the people of Nelson County—both the living and the dead?

On the night of August 19, 1969, in the midst of our adversity, at Tyro, at Massies Mill, at Lovingston, at Woods Mill, on Hickory Creek, on Davis Creek, on Stoney Creek, on the Piney, on the Tye, on the Rockfish and elsewhere, throughout the county, those who were awake and aware of the calamity which could come upon us, went from place to place, from neighbor to neighbor, to warn and to rescue them from the jaws of disaster. Are these acts living memorials to the people of Nelson County—both the living and the dead?

In the early morning hours of August 20th and in the days and weeks that followed, in the midst of our horror, shock, disbelief, grief and tragedy, neighbor turned willingly to help neighbor, with courage, resourcefulness and dedication. Are not these acts living memorials to the people of Nelson County—both the living and the dead?

But who among us believes that we have stood alone, or for that matter, could have stood alone? Certainly not a one of us here assembled, for when the full scope of the calamity which had struck became known, help came from every hand. From neighbors and friends in adjoining communities; from friends and strangers in distant communities; from our state agencies and officials, from our federal agencies and officials; from sources far and wide, too numerous to enumerate, the helpful compassionate spirit within men, in all walks of life, was directed to us in our tragedy. Were not these acts living memorials to the people of Nelson County—both the living and the dead?

Now, today, we have come to this place, built in memory of men who died in the tragedy of wars created by men, to remember in a public way, those neighbors and loved one taken from us in one of natures great tragedies. There are no words to adequately memorialize them, but within us is the will and spirit through which we can adequately memorialize them. Let us this day pledge to go forward, in unity of mind and in harmony of purpose, resolved to the depths of our very being, to build a new and better Nelson County which shall be a vibrant living memorial to our dead—whose faces are forever etched on our minds, and, whose spirits, shall forever live in our hearts.

TREATY HEARINGS

Mr. GOLDWATER. Mr. President, on numerous occasions during our consideration of the military procurement authorization bill, I urged the appropriate committee of the Senate to conduct an exhaustive investigation of this Nation's treaty commitments around the world. It was my belief that this information was essential to our efforts to reach any kind of sound judgment and legislative conclusions regarding the projected level of our military expenditures.

It was my firm belief that this body and the American people were in need of a full understanding of our numerous treaties and agreements with other nations, especially those which commit us to armed intervention if other nations party to those treaties are attacked.

It is, therefore, gratifying for me to learn that a subcommittee of the Committee on Foreign Relations will tomorrow launch a reappraisal of our commitments under eight treaties which call upon us to defend 42 countries.

As I understand the program, the subcommittee, headed by the able Senator from Missouri (Mr. SYMINGTON), will begin its consideration of treaties that involve the countries of Southeast Asia with the exception of Vietnam. If the press reports of these hearings are correct, the subcommittee would start with agreements involving the Philippines and go on next month to agreements that involve Laos.

One thing that disturbs me profoundly about this highly worthwhile and long-needed reappraisal of our world commitments is the announced intention of Senator SYMINGTON to hold these hearings in closed session. I submit that there is no reason for secrecy in questions involving treaties which were openly ratified by the Senate. I believe there are no security matters that would be breached by cautious questioning of witnesses in open session.

But if there is very flimsy reason for having these deliberations conducted in secret, there is very great and overwhelming reason to have them aired publicly.

I say this because the American people have over the past couple of months been treated to a steady stream of arguments to the effect that we do not need to arm as heavily as our military leaders believe we should. Very little of this argument was conducted in secret. In fact, many special pleaders against the Pentagon and the Department of Defense estimates made free use of classified documents in their efforts to arouse Senate opposition to some weapons programs.

If anything, these forthcoming hearings represent the horse following the wagon. To make an educated judgment on our possible need for military expenditures in the future, it stands to reason that we should have first had in hand an up-to-date appraisal of this country's worldwide agreements which could commit us to armed intervention. It is one thing for the opponents of the ABM, the C–5A, AMSA, and other defense projects to argue that the time has come for the United States to pull back from its worldwide commitments such as the one which led us to our involvement in Vietnam. But it is something else for an honorable nation to forget its commitments to defend 42 countries should they be the victims of attack.

What I am saying is that one or even a collection of speeches on the Senate floor cannot erase the reality of signed treaties which place the honor, the integrity, the dependability and the credibility of the United States on the dotted line in the view of other nations of the world.

So I take this occasion to congratulate and encourage Senator SYMINGTON in his upcoming endeavor and to urge him as strongly as I possibly can to open these hearings for the inspection and consideration of the American people as well as for nonmembers of his subcommittee.

OPERATION OF WHOLESOME MEAT ACT OF 1967

Mr. HOLLAND. Mr. President, Congress passed the Wholesome Meat Act in December 1967, and it was signed into law (Public Law 90–209) on December 15, 1967.

As approved, the law provided for a 2-year period for the various States to comply with Federal standards for the inspection of red meats. It also provided that 1 additional year could be allowed for the various States to comply with the law if the Secretary of Agriculture found that satisfactory progress was being made by the States to comply with the act.

Mr. President, the 2-year period allowed in the act for State compliance will expire on December 15, 1969. I bring this to the attention of the Senate at this time because I understand that the regulations promulgating the act, which runs some 400 pages, were not published by the Department of Agriculture until about a month ago. During this interim period, from the time of passage of the act until the issuance of the regulations, the great majority of the States, including my State of Florida, have entered into Federal-State agreements under the Talmadge-Aiken Act.

Unfortunately, the delay in the publication of regulations by the Department, which I do not criticize in any way, as I understand completely the problems that confronted it upon passage of the act, will not allow the interstate packing plants in States which have entered into agreements with the Department of Agriculture to comply fully with the new

regulations just issued. Therefore, I am hopeful—and I strongly urge this upon the Secretary of Agriculture—that States which have entered into agreements with the Department and which are earnestly endeavoring to comply fully with the law will be allowed the additional year's grace period to comply, as provided in the act as approved. I believe this is only fair and reasonable in view of the lateness of the issuance of promulgating regulations by the Department.

I ask unanimous consent that an editorial, entitled "Common Sense and Wholesome Meat," published in the Florida Times-Union of Friday, September 26, 1969, be printed in the RECORD.

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

[From the Florida Times-Union, Sept. 26, 1969]

COMMON SENSE AND WHOLESOME MEAT

The intrastate meat packing industry and state enforcement officials are on solid ground in protesting as unreasonable the rapidly approaching December 15 deadline for setting up approved intrastate meat inspection programs complying with regulations issued under the authority of the Wholesome Meat Act of 1967.

Under the law, unless states agree to establish such an approved program before the deadline, providing inspection of meat sold entirely within the state under standards "at least equal to" federal standards in interstate meat marketing, the federal government is empowered to move in and take over the inspection of intrastate operations.

The difficulty arises from the fact that although the law was passed more than two years ago, it took the Agriculture Department two years simply to draft the regulations with which state inspection systems would be expected to comply.

The regulations, running to more than 400 pages, were published only about a month ago, leaving the states only four months to learn and prepare to do what they would be required to do in order to conform.

Florida is in at least as favorable a position as any other state in compliance with the law. It signed the required federal-state agreement on July 1, becoming the 40th state to do so. Since then, four others have signed, leaving only six—Connecticut, Indiana, Maine, Nebraska, New Hampshire and Wyoming—which have not signed.

Florida state inspection officials say the standards under which the state's intrastate packing plants operate comply fully with the new code, and more than 140 inspectors are on duty in the state's plants to enforce compliance.

Relief is available under the law for the squeeze some states now find themselves in. A provision of the act permits a one year extension of the deadline for states which are making "significant progress" toward compliance. J. Phil Campbell, former Georgia Commissioner of Agriculture and now assistant Secretary of Agriculture with jurisdiction over the Wholesome Meat Act, has indicated Washington under the present administration would be far more likely to grant extensions than to move in and take over intrastate inspection.

If such is the case, it would afford a welcome change from the former pattern of operation which led to the present squeeze and which strongly supported the suspicion that the federal agency was more interested in harassing the states than in encouraging and helping them to do an adequate job for themselves.

LAKE SUPERIOR

Mr. NELSON. Mr. President, tomorrow, the Federal-State conference on pollution of Lake Superior will reconvene in Duluth, Minn., to make recommendations for a cleanup program. The conference was called last January by former Secretary of the Interior Stewart Udall after I had for several years been urging the Governors or the Federal Government to take this essential step.

The danger flags are up on this last clean Great Lake and third largest body of fresh water on earth. Federal reports have shown that the fragile ecology of this lake is already being affected by pollutants that could set off that disastrous and destructive chain of events which we have seen time and again on other lakes in this country. We need only to look at Lake Erie to see the result.

The major uncontrolled pollution source on Superior is at the Reserve Mining Co. taconite processing plant on the Minnesota north shore. There, 60,000 tons of taconite tailings—waste from low-grade iron ore processing—are being dumped into the lake each day.

If, as scheduled, the plant operates at current levels for the next 40 years, it will put into the lake 1,881,600 million pounds of taconite tailings.

Incredibly, 1 year of Reserve's tailings discharge nearly equals 30 years of natural discharge of sediments by all U.S. tributaries to Lake Superior.

There should be absolutely no question that this artificial discharge of massive amounts of material into the lake is a pollutant, and is bound to have serious and possibly catastrophic long-range consequences. For instance, Federal reports have concluded that the tailings are already damaging the ecology of a portion of the lake, and are affecting unique Lake Superior values such as its low mineral content, extreme clarity, limited fish spawning grounds, and the deep blue color of the water.

Yet Reserve Mining Co., jointly owned by Armco and Republic Steel Corps., denies there is any problem at all. Most recently, the company has been running newspaper advertisements stating that "the tailings are having no harmful effects whatsoever on Lake Superior."

It is extremely unfortunate that Reserve continues to spend money to promote an already disproved case, rather than investing in ways to avoid any further damage to this priceless international resource.

It is a classic case of industry indifference to its responsibilities to make protection of our environment a part of doing business.

And it is a nationally significant test of the effectiveness of our present Federal water pollution control law. If appropriate Federal and State action is not taken to halt this pollution, I will introduce an amendment in Congress that will make it unmistakably clear in the law that pollutants such as the taconite tailings must be dealt with, whether they are defined as "interstate" or "intrastate"; or inorganic or not.

Unfortunately, the first meeting of the Lake Superior conference, last May, did not reveal that any public agency, State or Federal, was ready to act.

I would hope that at this critical stage, with the conference reconvening to make cleanup recommendations, the Governors of Wisconsin and Minnesota will remove any possible obstacles to appropriate action by initiating a request to the Secretary of the Interior that all Lake Superior pollution, interstate or intrastate, be declared a matter of conference jurisdiction. This would remove any question as to whether the taconite tailings pollution can be dealt with under present law.

It is also important that the Federal Government not hesitate tomorrow in removing any doubt that there is adequate authority to deal with this dangerous pollution source, and that the Federal conferees insist on action.

It is almost inevitable that the tailings have moved to the Wisconsin side of the lake and are affecting fish and other aquatic life.

There should be little difficulty now in making this clear from a scientific point of view. Last May, the Federal conferees revealed evidence that showed almost conclusively that the tailings had moved across State boundaries. They said the further necessary research would be done to resolve any questions that might have remained. The more than 4 months that have passed should have provided ample time to do any further work needed to make a final technical determination.

I might also point out that Senate bill 7, the water quality bill scheduled for Senate floor action shortly, provides that the States must certify that federally licensed projects meet their water quality standards.

Since the U.S. Army Corps of Engineers permit for the Reserve operation is now up for revalidation, the provisions of S. 7 clearly would apply.

Thus, if enacted, Senate bill 7 would require that if not reissued within a year, the corps permit to Reserve could be revalidated only if the State of Minnesota certified that the taconite operation was meeting its water quality standards for Lake Superior.

Even if the corps reissued the permit within a year, Minnesota certification would still be required within 2 years of S. 7 enactment, or the corps permit could not continue.

Without question, these new provisions in Federal law would make it impossible for the State of Minnesota to continue to ignore this serious pollution problem sitting right on its doorstep. They would require the State to make the reassessment of the Reserve operation that is so long past due. Review by the State of Wisconsin for the taconite effects on its Lake Superior standards would also be appropriate.

If the Federal and State conferees at the Lake Superior conference do not act, then Congress must. It is time we said, as a nation, that no one has a right to pollute the air, the water, the land. It belongs to us all, and must not be used for the special benefit of any community, or company, or individual.

There is no better place to start than on Lake Superior, which is uniquely well qualified for the very best protection we can give it.

NEWS PRESERVATION BILL

Mr. FONG. Mr. President, everyone knows that nothing is more vital to our democracy than the fullest possible reporting of news events and the widest possible dissemination of these reports, together with editorial comment and analysis; and no industry is more important in accomplishing these things than the newspaper industry.

Within our system of competitive enterprise, the newspaper's ability to perform these essential roles in our society depends not only on its journalistic excellence, but also on its ability to succeed as a commercial venture.

To assure the free flow of information and to assure public access to a variety of editorial voices, we must see to it that first amendment principles are rigorously adhered to; but, just as important we must foster editorial competition and diversity as much as possible in every community.

During a series of hearings on this issue called last year and this year by the very distinguished and able Senator from Michigan (Mr. HART), as chairman of the Subcommittee on Antitrust and Monopoly—hearings which were thoroughgoing in the investigation of a very complex problem—considerable evidence was presented showing that although the total number of newspapers in operation has not changed radically over the years, nevertheless economic conditions have created a situation in which a very large majority of American communities have already become one-newspaper communities.

As of early 1968, only 45 of 1,500 daily newspaper cities had two or more competing dailies. Editorial competition between different publishers has been maintained in 21 cities only by resort to joint operating arrangements. Thus, only by resort to these joint arrangements have separate editorial voices in the 21 communities, including the city of Honolulu, been preserved.

The Antitrust Subcommittee's hearings also revealed that this startling trend away from multiple-newspaper cities, and the trend toward a centralization of control of the printed newspaper media has been produced by economic conditions which have made it increasingly difficult for many newspapers to coexist in the same community under conditions of all-out economic competition.

In response to these economic pressures, the newspaper industry developed the joint newspaper operating arrangement in order to achieve two goals—one, to reduce costs and thus eliminate potential losses, and two, to maintain editorial independence. In this way, two newspapers, one of which was in a threatened economic condition, were able to maintain their editorial independence by combining their production and business operations. The joint arrangement permitted a substantial reduction in costs by eliminating duplicate equipment and manpower, and especially by more efficient use of expensive printing plant facilities.

In 1967, the Department of Justice interpreted the Nation's antitrust laws in such a way as to rule that these joint operating arrangements were illegal and subject to prosecution under the antitrust laws. The Department thus brought suit against one of these joint arrangements.

It was in response to this interpretation and action by the Department which prompted the drafting and introduction of the newspaper preservation bill, S. 1520.

This proposal, which I consider an extremely significant and vital piece of legislation, is now pending in the Senate Judiciary Committee which will no doubt soon act upon it.

On September 25, the Committee on the Judiciary of the House opened hearings on a companion measure, H.R. 279.

In connection with those hearings, Mr. Roy C. Kruse, administrative officer of the Hawaii Newspaper Guild, AFL–CIO, testified and strongly supported the bill on behalf of the approximately 400 members of his labor union—whose members work on the two major Honolulu dailies, the Advertiser and the Star-Bulletin, on the Hawaii Tribune Herald of Hilo—which publishes daily except Saturday—and the semiweekly Maui News.

Mr. President, I commend this outstanding testimony to each Member of the Senate. It is an especially lucid and clear exposition of the situation in the city of Honolulu and the implications the News Preservation Act holds for my community. I ask that the text of Mr. Kruse's statement be printed in the RECORD in full at this point.

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

STATEMENT OF ROY C. KRUSE ON THE NEWSPAPER PRESERVATION ACT

Mr. Chairman and members of the Subcommittee, my name is Roy C. Kruse and I am the Administrative Officer of the Hawaii Newspaper Guild, Local 117, affiliated with the American Newspaper Guild, AFL–CIO. I appear today on behalf of the approximately 400 members of the Hawaii Guild; they work on the two major Honolulu dailies, The Advertiser and The Star-Bulletin, on the Hawaii Tribune-Herald of Hilo, which publishes daily except Saturday, and the semiweekly Maui News.

I was born in Honolulu 39 years ago, attended the public schools, and in 1950 began work as a printing salesman in the Star-Bulletin's printing company. In 1956 I joined The Star-Bulletin's newspaper operation as a member of the advertising sales staff, served in that capacity until 1962 when the Star-Bulletin and Advertiser entered into a joint operating arrangement; I then became an advertising salesman for the Hawaii Newspaper Agency, which conducts the commercial functions for the two papers, and held this position until taking on full time Guild duties as Administrative Officer on July 1 of this year. For the preceding nine years I served as President of the Hawaii Newspaper Guild. So I appear today as one who has spent the past 13 years in daily newspaper advertising sales in Honolulu and who for the last nine of those years has been President, and now Administrative Officer, of the Hawaii Newspaper Guild.

During all of that time I was a leader of the Guild team which negotiated independently with The Star-Bulletin and The Advertiser. In The Advertiser contract discussions I was the only Guild representative who was not a member of The Advertiser staff; it was clear that The Advertiser was facing certain death or a complete takeover by The Star-Bulletin unless a merger of just its commercial functions could be worked out with The Star-Bulletin. I have never revealed until now that The Advertiser opened its books to us to show the desperate state of its finances.

It was losing money heavily, its efforts to obtain further loans failed, it had outmoded equipment which it estimated would require a minimum of $1.4 million to replace. Honolulu, with its roots in a plantation economy, had historically been an early-rising community which preferred to read newspapers *after* work. There was a great gap between the morning Advertiser's circulation and, therefore, advertising lineage and those of the afternoon Star-Bulletin. It was obvious that with rising costs and increasing competition from television and radio stations that the Honolulu market could not keep alive two daily newspapers without a consolidation of their commercial departments.

Even so, we of the Guild and the members of the other newspaper unions in Hawaii were extremely apprehensive about what might result from a joint operating agreement. At the time, even though the newspapers consulted with us about their plans, we feared we would lose job opportunities and thus lose members.

Today, a little over seven years later, we have full and sincere confidence in the newspaper industry in Honolulu. Viewing it first from the standpoint of a union, we have lost no work opportunities; in fact, we in the Guild have experienced an increase of more than 50 percent in our membership, from January 1962 through January 1969. And every other union represented in the newspapers in Honolulu has also shown substantial growth. Our contracts with The Star-Bulletin and The Advertiser and the Hawaii Newspaper Agency have produced salaries which are more than 50 percent higher, throughout the entire plant, than in the pre-joint production period. So in terms of the people who work at the two newspapers, the present arrangement is healthy and beneficial—and greatly needed.

From the standpoint of the buyer of advertising space, it is likewise a highly satisfactory and productive situation. Businessmen who advertise can purchase space in both newspapers today at a *lower* cost than they could prior to the joint arrangement more than seven years ago, and this in the face of higher circulations by both papers. This has been made possible by sharing with the advertisers the ecnomies effected by the joint facility. It is, of course, optional with the buyer of advertising as to whether he wants space in one paper or in both; in some cases they prefer to use one paper more heavily than the other, although more and more there is a fuller use of both papers.

As a longtime salesman of advertising, as one who for 13 years made personal calls on scores of accounts, I can speak first-hand about how pleased the business community in Honolulu is with the daily newspaper situation, as now constituted.

I think it says a great deal that the Retail Board of the Chamber of Commerce of Hawaii, representing more than 600 firms, large and small, has solidly voiced its support of the Newspaper Preservation Act. So have the merchants of the Ala Moana Shopping Center, one of the world's largest. So have the Japanese and Chinese Chambers of Commerce. And so have many operators of supermarkets and other enterprises.

I am convinced that while they speak as businessmen, they are also aware of the importance of the joint newspaper arrangement to the general readership. Certainly,

the unions are. The Newspaper Preservation Act has been endorsed not only by the Guild but, also within the industry, by the Honolulu Printing Pressmen & Assistants Union, Local 413; the 1,400-member International Association of Machinists, Lodge 1245 (AFL–CIO); the Lithographers & Photoengravers International Union, Local 201 (AFL–CIO); the 26,000-member International Longshoremen's and Warehousemen's Union, Local 142, which represents the circulation employes.

Other labor unions who have endorsed the legislation include the 17,000-member Hawaiian Government Employees' Association; the 7,500-member United Public Workers; the 4,500-member Carpenters Union, Local 745 (AFL–CIO); the 4,000-member Teamsters & Allied Workers, Local 996 (AFL–CIO); the 4,500-member Hotel, Restaurant Employees and Bartenders Union, Local 5 (AFL–CIO); and the 7,500-member Hawaii Education Association, which consists of school teachers and administrators.

In the field of government, the State Legislature of Hawaii unanimously adopted a concurrent resolution backing the Newspaper Preservation Act. The Honolulu City Council and the governing body of every other county in the State—Maui, Kauai, Hawaii—has also endorsed the measure.

This amazingly widespread support demonstrates the high regard in which the two newspapers are held throughout the community and State. It is a high regard which I feel they have well earned through fairness in their news columns and vigorous commentary on the editorial pages.

Last month's issue of Honolulu Magazine, which in a limited way competes with the two dailies for advertising, said in answer to a letter to its editor about the Newspaper Preservation Act: Honolulu Magazine's editors believe that in the case of Hawaii's two largest dailies "the community has gained since they combined plant, ad and circulation facilities. Their editorial departments are fiercely competitive and the content of the two papers has never been better. Both papers have younger, brighter staffs—attracted by better pay made possible because of savings resulting from the mergings."

That, I believe, is an accurate capsule of the situation.

We have two separate, independent and healthy editorial voices that serve the people of Honolulu and the State with exceptional news coverage and distinctive points of view.

The Star-Bulletin, with a circulation now of 118,316, tends toward the conservative side on its editorial page. The Advertiser, with a daily circulation of 71,063, has a more liberal outlook. The Star-Bulletin takes the Associated Press, the United Press International and the New York Times news service. The Advertiser uses the United Press International and the Washington Post-Los Angeles Times news service.

On Monday morning, The Advertiser by special arrangement prints the two-page Review of the Week from the Sunday Los Angeles Times and that afternoon The Star-Bulletin carries the Sunday New York Times' review section. I know of no other two papers in the same market which provide this for their readers.

Because Hawaii has a special responsibility as a bridge between the U.S. and Asia and the Pacific, the two papers frequently send editors and reporters through the region for first-hand reports. These are often reprinted and made available to the public, private and parochial schools for classroom use.

The news and editorial staffs of the two papers are highly competitive. Both are highly public-service-minded, with full-time writers in such fields as planning and education.

The editorial pages of the two papers often differ in their outlook. I cite one example: The Advertiser has a policy of editorially endorsing candidates in all major races at election time; The Star-Bulletin usually endorses in fewer races and sometimes not at all.

When the Legislature is in session, the Honolulu dailies assign more staff and provide more space for coverage than any other paper in the U.S. with which I am familiar. Their reason, of course, is that they feel the citizen needs full information about the government process if he is to make intelligent judgments and act on them. The League of Women Voters has publicly praised the Honolulu papers for their outstanding service in this field. So has the Legislature.

Further evidence of the editorial quality and competition of The Star-Bulletin and The Advertiser is in the awards and honors won by the papers.

Each of the papers presently has a staffer traveling on study grants from the Alicia Patterson fellowship fund, a Star-Bulletin reporter in Eastern Europe and the editorial-page editor of The Advertiser in the South Pacific.

Reporters of both papers have won fellowships to seminars and study programs at such leading universities as Stanford and Northwestern.

Each of the papers has won a national Headliners' Club award. The Advertiser's editor, who was a Nieman Fellow at Harvard, is a winner of the Overseas Press Club award for outstanding interpretation of foreign affairs.

The papers have won local and national honors for medical reporting, for science reporting, for traffic safety campaigns, for excellence in the coverage of city and regional planning.

The editors of the Honolulu papers are both extremely active in community affairs, including directorships in the Friends of the East-West Center, the institution of technical and cultural interchange which you gentlemen of the Congress finance; in the Pacific and Asian Affairs Council, which conducts world affairs forums for thousands of Hawaii high school students; in the Honolulu Symphony Society and numerous other community organizations.

The Advertiser sponsors a Contemporary Arts Center in the News Building, primarily designed to encourage and recognize the paintings and sculpture of Island artists and to widen public appreciation of the arts. This arts center two years ago won a national "Business in the Arts" award from Esquire Magazine.

I have gone into some detail about the editorial excellence and community service of the Honolulu papers to demonstrate that participation in a joint operating arrangement need have no effect on the intense editorial competition or on the high sense of journalistic craftsmanship.

Hawaii is a young and vibrant State, the nation's youngest, having observed its 10th anniversary of Statehood only last month. It places tremendous emphasis on education, at all levels. It has a young population. It is a society which needs and must have the widest possible competition of news, ideas and opinion. Television and radio, as all know, are essentially media of entertainment. Both provide news programs but these represent but a fraction of the broadcast day. For a citizen to be truly informed he must read—he must read not only "spot" news but the kind of background and analytical articles which in Honolulu both papers provide on a regular basis.

Even though my years in the newspaper field have been devoted to the commercial side, to the sale of advertising, I recognize that newspapers fundamentally exist to present news and commentary, for without competition in ideas our free society cannot survive.

The late Joe Liebling of the New Yorker magazine, a very perceptive critic, once wrote that "A city with one newspaper or with a morning and evening paper under one ownership, is like a man with one eye—and often the eye is glass." In some cases that may be harsh, but certainly no one can argue that a community is better served by one voice than by two independent voices.

In Honolulu, I have at times been asked whether the arrangement between The Star-Bulletin and The Advertiser could not function just as well if it were limited to the mechanical operation, and possibly to a common business office, and did not include the advertising and circulation departments. My answer has been and is that it will not function as well; in fact, it won't function at all, since I believe the economies from the mechanical side are insufficient.

It is my understanding that in its best year since entering the joint arrangement, The Advertiser has never made as much as $300,000 net. If it had to establish a separate advertising department and a separate circulation department, it would very quickly be in the red and once again in danger of dying.

If it did vanish, I am enough of a realist and well enough versed with the economic situation in Honolulu to know that no new independent newspaper would take its place. The market would not sustain it. So the prospect would be for the Star-Bulletin to acquire The Advertiser and create a full monopoly.

I am no expert on newspapers nationally, but I can't recall a single city where one of two newspapers has died and a fresh, independent newspaper has moved in to take its place. On the other hand, suburban papers have flourished in Hawaii as elsewhere. I think it is pertinent that a chain of suburban papers in Honolulu and elsewhere in Hawaii was bought several years ago by a division of the Scripps League *after* the Honolulu papers had entered into their joint arrangement. To the best of my knowledge, those suburban papers are doing very well indeed. They, like other suburban papers, serve a most useful purpose in printing neighborhood news. But for wider local news and for national and international news, the reader is dependent upon city newspapers, especially at a time when world issues are more complex than ever.

The choice in Honolulu, and I say this with the deepest conviction, is between having a commercial merger with two separate, independent and hearty voices or having both a commercial and editorial monopoly with one viewpoint. The Newspaper Preservation Act would assure a continuation of the first, which operates to the benefit of the general community. A breakup of the present arrangement would result in the latter, bringing the tragic death of an important editorial voice.

On behalf of the Hawaii Newspaper Guild, I voice enthusiastic support of the Newspaper Preservation Act and express the hope this Subcommittee will act favorably on it. I should also like to submit for inclusion in the record the endorsements of the Guild, of other unions and of various government bodies in Hawaii. I am grateful to you for giving me this opportunity to appear.

THE FUTURE OF MAN

Mr. NELSON. Mr. President, there is great concern these days about national and world priorities, and how they are affecting the future of man. There is a questioning of the relevancy of many of our goals, and some of our values. There is an insistence by our youth that we take a new look at what "progress" really means, and that we pursue the objective of quality as well as quantity in our lives.

I believe it boils down to the fact that we are going through a historic period of reassessment, realizing that perhaps the greatest challenge we face as we enter the last third of the 20th century is finding new standards by which we must measure our achievements.

Will it be an achievement for America, for instance, to produce the supersonic transport plane, or will we simply be springing loose a technological innovation whose byproducts will be even more gigantic airport needs in already crowded metropolitan areas and an increase in the already noisy clamor of day-to-day living?

Will it be an achievement for America to produce an antiballistic missile and other exotic new devices, such as MIRV, the multiheaded nuclear missile, or will we simply be assuring a tragic new spiral in the world arms race?

Will it be an achievement to continue to produce an endless stream of automobiles that, as they are now made, spew masses of pollutants into our atmosphere each day?

An editorial entitled "Nigerian Debate on Man," written by Mr. Norman Cousins and published in the September 20 issue of Saturday Review, puts the question nicely. Mr. Cousins reports watching on television an interesting debate in Lagos, Nigeria, between a young man and a young woman on the future of the human race. The young man was pessimistic, the young woman was the optimist.

Mr. Cousins said:

What was especially striking was the extent to which the evidence offered by both sides was drawn from life in the United States.

The debate judges awarded a verdict in favor of the young woman.

The real question, though, is which view will win the verdict of history?

At this stage, man is showing a tragic unwillingness to utilize his capability, which sets him apart from the other species, to manage his own destiny. Today, in fact, man can be said to be on the endangered species list. Some ecologists and biologists have already concluded that it will only be a matter of time before mankind breeds and pollutes itself to extinction.

The Nigerian debate on man raises grave questions which must move immediately to the top of our priority list. 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:

A NIGERIAN DEBATE ON MAN

(By Norman Cousins)

Watching our hotel television set in Lagos, Nigeria, we were fascinated by an hour-long program in which college students debated the proposition that the human race is decadent. The debate took the classical form, with prepared opening statements followed by rebuttals and counter-rebuttals, and with supporting statements by members of each team. What was especially striking to an American observer was the extent to which the evidence offered by both sides was drawn from life in the United States.

The Nigerian student who took the gloomy view of the human race was a tall, bespectacled, neatly dressed young man. He spoke about the personal tragedy in store for any leader who genuinely tried to upgrade the conditions of life, then referred to the assassinations of four men—John F. Kennedy, Robert F. Kennedy, Martin Luther King, and Kenya's Tom Mboya. Any civilization that is unable to tolerate men of stature, he said, could only be considered decadent.

The young man proceeded to develop the theme that violence was the dominant characteristic of our time. He cited the large number of Nigerian television programs glorifying brutality or cruelty. I couldn't help noting that most of the programs were imported from the United States. He then said that most of the energies of mankind today were turned to the manufacture of weapons that could smash civilization beyond recognition or repair. He found it difficult to accept the argument that these weapons would never be used in actual warfare. He reminded his viewers that the United States had not hesitated to use atomic explosives even on a living target, not once but twice, when it was in its interest to do so. He also spoke about the great disparity of wealth in the world, pointing to the fact that 80 per cent of the world's goods was produced or owned by only 6 per cent of the world's peoples—again a reference to the United States.

The young man referred to the increased poisoning of the human environment. He spoke of millions of dead fish in the Rhine River and the Great Lakes to prove his point that man was unable to use his scientific knowledge in his own interest. He quoted from sociologists who warned it may be only a few years before all the oceans will be vast dead bodies of water unable to contribute any longer to the sustaining of life on land. He spoke of the mammoth automobile industries and the networks of highways as creating a perilous combination resulting in vast quantities of poisons in the air.

The television camera panned to the applauding studio audience as the young speaker observed that man reveals himself in his entertainment. He declared that the dominant entertainment tastes today were depraved, judging by motion pictures, plays, books and magazines. In particular, he spoke of Broadway plays in which men and women cavorted in total nudity and exploited each other's bodies, not excluding sexual intercourse on stage. He referred to the high divorce rates in many parts of the world, then quoted from research studies showing the prevalence of extramarital relations in the United States and elsewhere. All in all, he said, the preponderance of evidence was that our age was not merely decadent but downright degenerate.

The young man acknowledged the further applause of the studio audience and stepped down. His opponent, a lovely and attractively dressed young lady, came forward. She began by saying that at any given time in history it would be possible to point to any number of serious faults in the human record. But the general movement of history was forward. Man was not perfect but he was at least perfectible. Whatever his propensity for error, she declared, he had an unerring instinct for justice that was at least equal to his instinct for survival. Man's ability to define the right and his insistence on achieving it, even at fearsome cost, were his main tools in fashioning an ever-better life. She spoke of the inexorable process by which peoples liberated themselves from outside rule, beginning with the American Revolution of 1776 and extending to the national freedom movements in Africa today.

The young lady did not despair of man's ability to use his science for his own good. She felt that human intelligence was on the verge of its greatest victories; disease, ignorance, poverty, and venality would eventually all fall before it. Meanwhile, all humanity could exult over man's voyage to the moon, representing as it did the combined triumph of man's knowledge, technology, and spirit. She emphasized the expedition to the moon as offering proof of man's ability to meet any problem worth meeting.

The sense of affirmation was vibrant in everything she said and was reflected in the enthusiastic and frequent applause of the studio audience. It didn't take the judges very long to reach a unanimous decision in favor of the young lady.

To repeat: What seemed most significant about the TV debate to an American viewer was the frequency with which the debaters referred to life in the United States for their main arguments, and the ease with which they could find evidence that was salutary or saddening. There is nothing new, of course, in the fact of the American mixture as a center of world attention. This side-by-side abundance of the good and the bad in the United States is a phenomenon that has attracted the analytical eyes of America-watchers all the way back to Tocqueville and Crèvecoeur. What is new today is that we have aroused fresh expectations and anticipations.

The message from the moon which we have flashed to the far corners of this planet is that no problem need any longer be considered insoluble. When we mobilize brains, energies, money, and resources on an unprecedented scale in putting a man on the moon, we also proclaimed the doom of disease and squalor in the human habitat. For no one is going to believe any longer that we can sustain human life on the moon but are unable to do it on earth.

The young Nigerian lady, in her television debate, spoke for millions of people everywhere when she declared she had new hopes about the human future as the result of America's demonstration of man's infinite capacities.

Now, when does our mobilization against famine, wretchedness, and unnecessary death begin?

ISOLATIONIST HYSTERIA

Mr. DOLE. Mr. President, there are some in America who have, apparently, succumbed to an isolationist hysteria, the like of which we have not seen in this century, not even in the days before World War I or World War II.

They would have us withdraw not only from Vietnam, but also from Laos and Thailand. And if they succeed there, would they have us abandon our commitments to the rest of Asia and eventually to Europe?

Finally, would they have us curl up in the fetal position and withdraw, literally and actually, from the world?

The demand from the Nation surely is not that great; and surely is not a demand that we abandon honor and principle and responsibility.

Some would have the Nation flee when no man follows. Others would destroy the right and duty of the President of the United States to conduct the foreign affairs of the Nation.

A sample is clearly evident in the effort by some to turn the U.S. presence in Laos into a cause célèbre.

Mr. President, the Washington Star yesterday, in a lengthy editorial, put our presence in that little country in the proper perspective. I ask unanimous consent that it be printed in the RECORD.

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

ANOTHER VIETNAM UNLIKELY IN "SECRET" WAR

Efforts on the part of Senators John Sherman Cooper, Mike Mansfield and Stuart Symington to force a full-blown debate on

the U.S. role in Laos—with the inference, in Senator Mansfield's words, that we could get involved there "in the pattern of Vietnam"—are ill-advised, badly timed and dangerous.

They are ill-advised because the senators concerned—and any members of the press or public interested in the question—would have to be remarkably obtuse not to know what the small number of U.S. troops and intelligence agents are doing in Laos and why they are doing it.

They are badly timed because Senator Symington's subcommitteee on foreign commitments will begin hearings on the subject on October 14, which is the beginning in Laos of the dry season which traditionally heralds a major offiensive by the Communist Pathet Lao and their North Vietnamese allies. Consequently, Communist negotiators at the Paris peace talks once again will be in the happy position of having at their disposal quotations from high U.S. officials to justify North Vietnam's far greater intervention in the Southeast Asian jungle kingdom.

They are dangerous because, as anyone capable of distinguishing between the Jersey Turnpike and the Laos-straddling Ho Chi Minh Trail should appreciate, American ability to inderdict the flow of North Vietnamese men and supplies into South Vietnam—and to deny landlocked Laos to the Communists—has a direct bearing not only on the conduct of the war in Vietnam but on the future political shape of Southeast Asia.

Laos, as visitors to that improbable land know, is more a state of inertia than a nation. Conditions there have been desperate but not serious for years. A long, squiggly, Idaho-sized blob of apple-green mountain and jungle which touches upon Red China, the two Vietnams, Burma, Thailand and Cambodia, it lacks geographic, linguistic or ethnic unity, produces little and exports nothing but illegal opium and smuggled gold.

Political scientists who seek a rational solution to the problem of Laos, which has been catapulted abruptly into the Fifteenth Century by recent events, are trying to build on sand. Most Ho, Lu, Kha, Khalom, Black Thai, Meo and Yao tribesmen—some of whom have been advised by American intelligence agents in the war against the Communists since 1964—would not know King Savang Vatthana from Frank Howard. Equally, 99 percent of the third of the country's three million people nominally under Communist control would find it difficult to distinguish between Karl Marx and Groucho.

The rest of the population, Buddhist, valley-dwelling Lao closely related to the Thais, don't even call the kingdom Laos. To them it is LanXan, which means "Land of One Million Elephants and the White Parasol."

To Laotian hillbilly and flatlander alike, American "kings" with implausible names such as Kennedy, Johnson and Nixon—despite the herculean efforts of USIS—remain remote, almost mythical monarchs who, for reasons best known to themselves, delightfully drench the country in economic and military aid totaling nearly one billion dollars since 1955.

Laos, as it always has been, remains run in Byzantine fashion for the benefit of its top 100 families, be they pro-Communist, pro-Western or, more ingenuously, pro-themselves. Even those who have lost out have not done too badly: General Phoumi Nosavan, former right-wing deputy premier and sometime CIA protege, is alive, well and rich in Bangkok; Captain Kong Le, the Hamlet-like former neutralist not-so-strong man, now savors the delights of Hong Kong.

The French, who had ruled it since 1893, created the kingdom of Laos in 1946 by pasting together the principalities of Vientiane ("The Place of Sandalwood"), Luang Prabang and Champassak. They gave the throne to King Sisavang Vong of Luang Prabang, thought to be the most tractable of the three pretenders. The gentle king died in 1959 and in his place reigns his crew-cut French-educated son, Savang Vatthana, 62.

The Lao, who are Buddhists of the Little Vehicle (they believe Buddha was a great prophet, not God), loathe taking life and are among the world's most reluctant warriors. But the long-haired, tattooed hill-tribes, advised by American agents and supplied by the CIA-chartered aircraft of Air America and Continental Air Services, are animists and hence untroubled by this confessional impediment.

Although there have been exceptions, most encounters between opposing units—there are as many armies in Laos as there are political persuasions—bear a marked similiarity to the campaigns of old-time Chinese war lords: Much marching and countermarching, mutual heroic posturing, a tremendous expenditure of ammunition . . . and few casualties.

Some 97 U.S. airmen have been lost over Laos. Even allowing for a far deeper U.S. involvement in Laos than seems probable—President Nixon said Friday that our activities there are confined to "logistical support and some training" plus "some other activities"—it is doubtful if more than 200 American lives have been lost in Laos over the past decade.

If the Lao do not enjoy fighting, they are addicted to pagoda parties (a mixture of state fair, fireworks display, revival meeting and barbecue), cremations (jolly affairs designed to dispatch the departing spirit to its reincarnation in a good mood), badminton, charcoal-broiled toads, story-telling and, unaccountably, parachuting.

It is the tyranny of geography which has betrayed this fragant land and its shy, improvident people. Forming the Indochinese peninsula's central corridor, the rice-rich Mekong River valley flanks embattled South Vietnam, forms a long border with anti-Communist Thailand and touches upon neutralist Cambodia. For this reason alone, while absolute control of Laos is essential to neither side in the Vietnam war, each must seek to deny the other domination there.

The fourteen-nation 1961–62 Geneva Conference accords, signed by both Vietnams, the U.S., Russia and Red China, guaranteed the neutrality of Laos, called for the withdrawal of all foreign troops, and created a dangerous power-vacuum. According to Averell Harriman, Hanoi violated that accord "before the ink of the treaty was dry": The U.S. pulled out its 666 military advisers; North Vietnam, which had an estimated 7,000 troops there, withdrew only 40 through official control points.

Both China and North Vietnam now are flagrantly violating the Geneva accord. Peking has two battalions of troops in northern Laos guarding coolies building a road leading from the Chinese border to a hamlet called Dienbienphu near the North Vietnamese frontier. The North Vietnamese, according to Laotian Premier Prince Souvanna Phouma—whose half-brother, the decidedly unproletarian Prince Souphanouvong, is titular head of the Pathet Lao—have 60,000 troops in Laos (at his press conference on Friday, President Nixon set the number of Honoi's troops in Laos at 50,000 with "more perhaps coming").

Not too much should be expected from the recent recapture after five years of the Plain of Jars by the American-backed Meo irregulars of General Vang Pao. The government's objective apparently is to clear the plain of civilians anxious to escape conscription into the Pathet Lao, to deny the rice crop to the Communists, and to knock off balance the expected Pathet Lao dry-weather offensive.

That offensive will have two objectives: To solidify Communist control of the Ho Chi Minh Trail and to make the case that anti-government "neutralists" allied with the Communists are entitled to the eleven neutralist cabinet seats agreed to by the Geneva conferees, who gave four portfolios to the Communists (they left the government in 1963) and an equal number to the rightists.

Both sides, in short, are fighting the Laotian war for limited but important objectives. Even the most strident of the Nixon administration's critics has yet to claim that more than a couple of thousand U.S. government personnel—military, paramilitary or CIA—are involved in Laos. Small, covert and relatively bloodless wars fought by volunteers may not be desirable. But they are preferable to large, overt and bloody conflicts fought by draftees. And after the Vietnam experience, no American president in his right mind is going to allow a side show such as Laos to expand into a full-scale war involving commitment of large numbers of U.S. ground troops.

The most frequently heard Lao phrase is "'bo pen nyan," which can mean "never mind," "too bad" or "it doesn't matter." In that spirit, King Savang Vatthana has dealt with the pocket-war which has sputtered in his country since 1953 by ignoring it. Senators Cooper, Mansfield and Symington would be well-advised to do the same.

COURT ADMINISTRATORS

Mr. TYDINGS. Mr. President, despite hundreds of years of criticism, our courts are administered today in essentially the same way that they were two centuries ago. Congestion, waste, and delay, unfortunately, too often characterize many of our Federal and State courts. And too often in the past the only solution judges, executives, and legislators have offered to redress these evils are more judges or more supporting personnel.

This manpower, though often necessary, offers little hope for making our courts truly modern instruments of our justice. Courts will not have modern and efficient administration until they begin to tap the knowledge of management consultants and systems analysts. To date, such experts have largely been ignored in the development of ideas for improving the administration of our courts. In order to make our courts function effectively and to avoid administrative chaos, any court system of substantial size needs, as an integral part of its administrative machinery, a court administrator or executive subject to the general supervision of the judge responsible for administration.

The court executive should be skilled in modern management techniques and the social sciences and capable of utilizing such knowledge and modern business machines, including computers, to study and improve the administration of the court system. His job would be not only to plan more effective use of court space and supporting personnel, but also to streamline management of the court's calendars and dockets and supervise the flow of cases through the system. He would not make judicial decisions. He would be responsible for seeing that cases are moved to a point where the judges' art can be employed to hear and decide the matter.

A judge's time must be conserved for the exercise of the judicial function. He should not be, as too many judges are now forced to be, a personnel manager and a calendar controller. His expertise lies in applying the rules of law to the

facts of a case and in preserving the integrity of our judicial process. His expertise does not lie, nor can it be expected to lie, in the more mundane but indispensable management function of assuring that cases are not lost or ignored on the dockets or that competent and professional supporting personnel are hired and employed effectively.

This year the Subcommittee on Improvements in Judicial Machinery, of which I am chairman, was assigned the task of reviewing S. 952, a bill to create additional Federal district court judgeships. During the hearings on the bill, the subcommittee heard persuasive testimony disclosing not only a need for additional district judgeships, but also documenting the need to improve the administrative capacity of the Federal judicial system. The subcommittee recommended, and the Judiciary Committee approved amendments to S. 952 designed to improve the administrative efficiency of the Federal judicial system. I am proud to say that the Senate recognized that need, and on June 23, 1969, passed the amended version of S. 952, thus signaling its approval of not only additional judgeships for the Federal courts, but also several provisions designed to improve the administration of the courts. Among these provisions were amendments requiring the creation of a position of court executive for each judicial circuit and also permitting district courts with six or more permanent judges to appoint such an executive. The bill is now pending before the House of Representatives. Hopefully it will be enacted in the relatively near future.

As chairman of the Committee on the District of Columbia, I introduced, in April of this year, S. 1711, a bill to provide a court executive for the local trial court in the District of Columbia. The need for such an administrative officer was well documented in the District Committee's hearings on the operation of the local courts. Indeed, the so-called Ellison committee which has been studying in depth the operation of the District of Columbia courts for more than 2 years cited the need for a local court executive as the top priority in making the local courts operate effectively. The Ellison committee quite correctly declared in May that no method of court reorganization or transfer of jurisdiction could succeed without a professional court executive to supervise the nonjudicial functions of the local court.

When the administration put forth in July its long-awaited proposal to improve the courts of the District of Columbia, the proposal wisely included provision for a local court executive officer. The Committee on the District of Columbia endorsed this proposal in reporting to the Senate S. 2601, as amended.

During this year, then, we have witnessed two Senate committees report legislation to improve court operations and both committees have included court administrators in their proposals for improvement. Both committees have stressed that the court executive be a professional management expert who could bring his knowledge of systems analysis and social sciences to bear on court administrative problems. I genuinely believe, therefore, that the efficacy of better court operations through the use of professional management experts has been recognized. It is an idea that has come of age.

Support for the concept of court administrators has also come from a most important and influential source, the Chief Justice of the United States, the Honorable Warren E. Burger. Speaking in Dallas during the American Bar Association Convention, the Chief Justice gave clear indication of his intense interest in more effective court administration and clear support for court administrators. He argued eloquently and persuasively for the utilization of the services of skilled court administrators and endorsed the legislation passed by the Senate.

The Chief Justice's comments received much discussion in the press, and I ask that the several of these news reports and the Chief Justice's comments be printed in the RECORD.

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

[From the Louisville (Ky.) Courier-Journal, Aug. 14, 1969]

WHAT WE'VE BEEN DOING ISN'T WORKING

There is nothing new in what Warren E. Burger has been telling the American Bar Association about our correctional system and our courts. Others have made similar criticisms and called for changes.

The difference is that Warren E. Burger is the new Chief Justice of the United States, and his words have the prestige of the office behind them. We hope this is sufficient to stir the Bar Association to bring its influence to bear upon improving our penal system and modernizing our courts, in both civil and criminal procedures.

It is plain in his statements that the Chief Justice wants to shift the emphasis from the rights of criminal defendants to what happens to people after they are convicted. The implication is that we have been overly concerned with the rights of the accused. We do not agree, but the two points are not mutually exclusive. There is no doubt that we have not been concerned enough about whether our correctional system corrects. Our court system, as the Chief Justice says, is in many respects obsolete and inefficient. The administration of justice proceeds at a snail's pace. Except in details, Mr. Burger said, a criminal trial today is essentially the same as in Daniel Webster's day. "I do not know the answer," he added, "but I do know that the patience of the American people with the processes of litigation is wearing thin."

CRIMES ARE TOO FREQUENT

As a possible solution he suggested the training of skilled court administrators to take over the administration of much of court business, leaving the judges with more time to judge. He endorsed legislation before Congress to provide administrators for the federal court system. They are needed even more, however, in state and local courts.

As for the correctional system, Chief Justice Burger urged the Bar Association to take the leadership in a serious study of the way we handle people convicted of crimes and to underwrite the costs of a "comprehensive and profound examination into our penal system," including approaches to dealing with the abnormal psychology of the habitual offender.

God knows whatever we have been doing isn't working, as the daily run of crime news makes frighteningly clear. The recent outbreaks of bizarre and seemingly motiveless murders suggests that our society produces psychopathic personalities we are not prepared to cope with. We cannot spot them in advance; we do not know what to do with them when and if they are apprehended, except incarcerate them for varying periods of time.

Crimes of violence, whether motiveless or otherwise, we are entirely too frequent in a society which considers itself civilized. It is time for our best minds, in and out of the legal profession, thoughtfully, but with a sense of urgency, to grapple with the problem of crime in America.

[From the Valdosta (Ga.) Times, Aug. 16, 1969]

TOWARD JUDICIAL REFORM

For years the courts of our land have operated without basic change. The system is little different from what it was 100 years ago.

When there are demands for change, they usually come in the form of adding more courts and additional judges. The basic structure remains the same.

As a result court dockets are so crowded in some areas that it is three or four years before a case is called up. The progress of justice is so slow that in many cases justice is never served.

Lawyers and judges have recognized the problem for years. Yet little has been done.

It is one basically of court administration. Cases are handled on dockets and processed as though it were the 19th Century.

Chief Justice Warren E. Burger feels there are changes that must be made. In a speech to the American Bar Association he said it is not unusual for a criminal case to take three to four years as it goes through appeals. The Chief Justice pinned the blame on, among other things, the "lack of up-to-date effective procedures and standards for administration or management and the lack of trained managers."

The problem can not be solved by merely asking Congress or the state legislatures for more money, said Chief Burger. "We must demonstrate the need and make a solid case that court managers will be effective and possibly even save the country money in the long run," he said. There is a need for a review and revision of standards of judicial administration.

In short, the problem is one of bringing the courts of this land into this modern era. It is one of implementing sound practices of business administration.

Until our courts are put on a business-like basis, while retaining all safeguards demanded by our system of justice, they will continue to plod on almost totally in the dark with dockets stacked up and cases years behind.

[From The Dallas Morning News, Aug. 13, 1969]

BURGER PROPOSES CORPS OF MANAGERS

(By John Geddie)

Supreme Court Chief Justice Warren Burger revealed the third of three major proposals—the creation of a corps of court managers to expedite justice—during his final appearances here Tuesday before the American Bar Association.

Justice Burger said there is "urgent and immediate" need for a lay-member planning board and pilot programs to demonstrate the feasibility of a system of court administrators.

"The day is gone when a few judges resisted because they felt that court managers or administrators would in some way impinge on judicial independence," he said.

"With few exceptions—and I think they are very few—every large courthouse in this country regularly witnesses the spectacle of frustrated and angry citizens called for

jury service and finding that perhaps 20 per cent of their time is spent in trials and 80 per cent just waiting.

"As I see it, the primary available option is to secure skilled managers to run the litigation machinery so that judges can get on with what they are presumed to be qualified to do—namely disposing of cases," he told the Institute of Judicial Administration at a Statler Hilton breakfast meeting.

He urged the ABA to contact the Federal Bar Association and the Institute of Judicial Administration in an effort to develop a plan palatable to state and federal legislators.

In his final apeparance before the ABA House of Delegates Tuesday afternoon, Justice Burger summarized his court administrator program and two other recommendations made in Dallas:

"I have urged and I now urge that the American Bar Association followup the great Criminal Law Project with a searching inquiry into the penal and correctional systems and the correctional problems at every level of government.

"Without it was continue the revolving door of crime-punishment-crime-punishment," he added. "Every one of the many organizations and institutions concerned with this problem should be drawn into this enterprise."

[From the Boston (Mass.) Christian Science Monitor, Aug. 23, 1969]

JUSTICE BURGER SPEAKS OUT

(By Roscoe Drummond)

WASHINGTON.—Another voice of national leadership is being heard in the land—and to good effect.

It is the voice of the new Chief Justice of the United States, Warren Earl Burger, who is putting himself without delay or timidity at the head of a campaign to bring off a set of legal reforms touching nearly every aspect of the administration of justice.

VOLUNTEERS

His goal: to bring the nation's creaking judicial system—from outdated legal education to outmoded court procedures and prison methods—into the second half of the 20th century.

His strategy: to mobilize public-minded lawyers, law deans, social scientists, business administrators, and judges to volunteer their services to propose how best to do it.

His target: the leaders of the prestigious American Bar Association with whom Burger's relations are more cordial and cooperative than any recent chief justice, and public opinion from which the hot breath of popular pressure must come to help cut through the traditional resistance to change among lawyers and judges.

He is setting out to win support on both fronts simultaneously, and his beginning is impressive. He has just spent a week mingling with the members of the ABA with outstretched hand and a comfortable "Hello, I'm Warren Burger." They know him all right; they like him; they will be hearing from him often in the coming months.

Justice Burger is seeking to carry forward with something more than all deliberate speed the kind of legal reform which Chief Justice Earl Warren tried to get. He tried but didn't make much headway. The difficulty was that Warren's associations with both the state chief justices and the ABA soon became so controversial and strained—because of the direction of the Warren court decisions—that they were unable to work together effectively. Warren never attended ABA meetings after 1958.

SWEEPING CHANGES

Two things stand out from the public speeches and private conversations on which Justice Burger is embarked.

He is not talking about minor, peripheral reforms to tidy up the administration of justice. He is talking about improving *justice* not just improving its administrations. He is talking about radical, far-reaching, wide-ranging reforms modernizing legal education, shaking prison methods and correctional institutions to their foundations, and taking the management of the courts out of the hands of the judges and putting them in the hands of expert court administrators.

He is convinced that such sweeping changes in the ways things are done by the law and with the law must be forthcoming soon—with evidence at once that they are coming—if the administration of justice is to regain the confidence and respect of the American people as a whole.

He points out that jurors and witnesses "become frustrated and angry citizens when they find that 20 percent of their time is spent in trials and 80 percent just waiting around." Court procedures have become so slow that it takes years to bring cases to completion and the Chief Justice thinks it is not only unnecessary but intolerable and that public patience is wearing dangerously thin.

COURT ADMINISTRATORS

What to do? Burger contends that judges are not usually qualified to manage the courts any more than doctors are qualified to manage hopsitals. He proposes the training of skilled court administrators and giving them the authority to bring the courts out of the horse-and-buggy era.

He also urges that people with fresh minds take a look at the nation's penal institutions. After putting so much protective safeguard around the accused, he would like to see more attention given to rehabilitating more of those who are sent to prison and he favors creating a panel of social and behavioral scientists, correctional experts with a few lawyers (not too many) to produce new ideas on how to do better.

As to education, Burger holds that "the modern law school is not fulfilling its basic duty to provide society with people-oriented and problem-oriented" lawyers to meet the social needs of our changing world.

One thing is sure—the new Chief Justice is going to be heard, and he isn't going to stop until he is heeded.

COURT ADMINISTRATORS: WHERE WOULD WE FIND THEM?

(Remarks of Warren E. Burger, Chief Justice of the United States at Institute of Judicial Administration Breakfast, American Bar Association Convention, Dallas, Tex., Aug. 12, 1969)

The courts of this country need management which busy and overworked judges, with vastly increased caseloads, cannot give. We need a corps of trained administrators or managers, just as hospitals found they needed them many years ago, to manage and direct the machinery so that judges can concentrate on their primary professional duty of judging.

Such administrators do not now exist—except for a handful who are almost entirely confined to State court systems. We must literally create a corps of court administrators or court managers and we must do so at once. I propose a program to do this—at once—because the need is now, not at some distant future date.

For many years we have worked at improving the efficiency of handling or processing the trial of cases. Vanderbilt's Minimum Standards of Judicial Administration were a landmark but they must be brought up to date. The Institute for Judicial Administration, the Section of Judicial Administration, the Conference of State Trial Judges and many others have labored and their work has been very valuable. We dare not think how grave our problems would be if dedicated lawyers and judges and law teachers had not done so much.

The day is gone, I think, when a few judges resisted because they felt that court managers or adminstrators would in some way impinge on judicial independence. This always seemed to me an unfounded fear. Judges need trained help in administration or management in the same way they need skilled secretaries and court reporters who do for the judge what he cannot do for himself.

The pressing need for swift action was pointed up to me in a simple question put by a college student who read a news account of a criminal trial in which a guilty verdict had just been returned. The news account said that "informed legal experts" estimated it would be three or four years before the appeals and other processes were concluded, and longer if he secured a new trial.

The student then asked "Why should it take so long?"

This is not the question of just one baffled and troubled student. It is the question that millions of Americans—and countless friends of America in other lands—are asking.

Why does American justice take so long?

I could suggest several reasons why it takes so long but today will focus on just one of the reasons—which has two parts. That reason is the lack of up-to-date, effective procedures and standards for administration or management, and the lack of trained managers.

We know that, except for human anatomy, virtually all basic medical knowledge of 25 years ago is obsolete. Most industrial production and business management techniques have changed drastically in that period. Ponder for a moment if you will on the changes in air transport and the space program not in 25 but in 10 years.

Is it not a paradox that, except in details, a civil or a criminal trial today, for example, is essentially the same as in Daniel Webster's time? With slight brief on how to move to exclude evidence, Webster could step into any court room in America and be quite at home. Is it inevitable that all the mechanisms for resolving legal issues should be immune from change? Frankly, I do not know the answer but I do know that the patience of the American people with the processes of litigation is wearing thin.

With few exceptions—and I think they are very few—every large court house in this country regularly witnesses the spectacle of frustrated and angry citizens called for jury service who find that perhaps 20% of their time is spent in trials and 80% just waiting. Witnesses called for a precise day and hour, having left their private concerns, find themselves, like the jurors, spending most of their time waiting. Expert witnesses fume and fuss at the waste of their professional time. We should not be surprised that most of these people criticize the courts.

Many lawyers have come to accept this philosophically and many have simply surrendered to "The System." The public will not.

Whether the future will bring basic changes in the litigation mechanism no one knows; answers to these larger questions must wait. Now—immediately—we must take some emergency steps to meet what may be called problems of deferred maintenance and modernization of our court machinery. In the short run we must do the best we can with parts of the machinery and take whatever steps are available to us. As I see it, the primary available option is to secure skilled managers to run the administrative machinery so that judges can get on with what they are presumed to be qualified to do—namely trying and disposing of cases.

Courts with few judges can perhaps continue to function reasonably well with what they now have; but at some point—whether it is 4–6—or 8 judges I am not sure—highly skilled management is needed. We should not use "judge time" to accomplish tasks that others with less training can do at less expense to the public.

Lawmakers who control the appropriations are already harassed with overwhelming demands for more money and more personnel It will do no good simply to ask for more money. We must demonstrate the need and make out a solid case that court managers will be effective and economical in the long run.

How can we do this? As I see it, the solution will require several stages, some immediate and some long range.

First: We need a review and revision of the Vanderbilt Standards of Judicial Administration and I believe the Institute of Judicial Administration is already studying this at staff level. The Institute needs the sponsorship and leadership of the American Bar Association, the Federal Bar Association, and others, to accomplish this task.

Second: An immediate step is to find out how to supply the potential demand for court management specialists. It is surely a paradox that our Space Program which is barely a dozen years old, has produced more Astronauts than we have genuine specialists in court management. Most of them are now employed in state court systems.

The Committee on the Judiciary under Chairman Eastland has had a Subcommittee under Senator Tydings studying the problem and legislation has been drafted to provide Administrators for the Federal Courts If that legislation were passed at once we could not begin to fill the positions. We should indeed pass the legislation but we must also take immediate steps to ensure a supply of administrators. We cannot legislate court administrators any more than we can legislate Astronauts; they must be trained.

I therefore propose that we call together a dozen or more of the best informed people in this country and ask them to plan a program to train the large number of managers we need. I know this can be done and it must be done at once. It should begin in the next 60 or 90 days. We have not demonstrated great imagination or skill in this area and hence I would ask that the Planning Conference be composed of perhaps six court managers of established standing, four experts in public administration, and two in business administration, and perhaps a few progressive trial judges and experienced litigation lawyers.

I hope the American Bar Association will take the leadership and call on The Federal Bar Association, the Institute of Judicial Administration and others. They in turn can draw on the skills and experience of the best brains in public administration and in business administration. This planning should ultimately draw in Universities which have a demonstrated capacity to train public administrators.

Third: A third step must wait on the second I have just mentioned—but it cannot wait very long. The third step should consist of carefully planned pilot programs such as those which proved so valuable in The Ford Foundation Public Defender Program and bail projects. Once the private sector has demonstrated the feasibility and the techniques, I am confident the Congress and the State Legislatures will respond.

We must not assume Congress or the States will act on "pie in the sky promises." It is up to the profession to bring the "pie" down to earth and put it in the court houses. When we do this, I am confident the courts will get the support we need from the Congress and from the States.

THE SWANSON RIVER FIRE

Mr. STEVENS. Mr. President, recently more than 4,000 men battled for weeks against the disastrous Swanson River forest fire on the Kenai Peninsula of my State. This was a massive effort, and I invite the attention of Senators to the fine work that was done by the people of Alaska, working in concert with the Bureau of Land Management, the military, and the Forest Service in containing this huge fire.

The fire burned out an oblong strip about 18 miles long and 5 to 6 miles wide in the middle of the Kenai National Moose Range, destroying a total of almost 90,000 acres. This land is among the most beautiful and well-preserved wildlife areas in Alaska. It is a widely used recreation area, being within a 3-hour drive of more than half the population of the State.

I commend the many men who worked so hard to stop and contain this fire. We owe a vote of thanks to the Bureau of Land Management team of over 1,900 men; the U.S. Army's contribution of over 800 men, including trucks, cats, aircraft, and helicopters; and finally to the over 2,000 Alaska natives who left their villages and went to Kenai to fight that fire.

I ask unanimous consent that a list of the towns and villages and the number of men participating in suppressing this blaze be printed at this point in the RECORD.

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

Akiachak, 29; Alakanuk, 18; Akiak, 11; Allakaket, 25; Anchorage, 413; Aniak, 29; Anvik, 14; Holy Cross, 6; Beaver, 12; Bethel, 155; Chalkyitsik, 9; Chevak, 35; Crooked Creek, 7; Sleetmute, 15; Dillingham, 67; Emmonak, 46; Fairbanks, 121; Fort Yukon, 66; Galena, 20; Glennallen, 69; Grayling, 6;

Homer, 16; Hooper Bay, 78; Huslia, 29; Iliamna, 10; Kalsag, 13; Kaltag, 36; Kenai, 200; Kiana, 21; Kipnuk, 17; Kotlik, 24; Kotzebue, 111; Koyukuk, 15; Kwethluk, 25; Kuka, 10; Marshall, 18; McGrath, 25; Minto, 26; Medfra and Nicolai, 14;

Mentasta, 15; Mt. Village, 28; Mukluk, 21; Nanana, 27; Noatak, 21; Noorvik, 23; Napakiak, 17; Nome, 57; Nondalton and Iliamna, 29; Northway, 51; Nulato, 47; Nunapitchuk, 20; Pilot Station, 23; Quinhagak, 15; Ruby, 27; Russian Mission, 18.

Selawik, 16; St. Mary's 23; St. Michaels, 17; Scammon Bay, 40; Shageluk, 10; Stebbins, 19; Stony River, 12; Tanacross, 39; Tetlin, 17; Tooksook Bay, 31; Tanana, 30; Tununak, 25; Tuluksak, 23; Unalakleet, 36; Venetie, 16.

Mr. STEVENS. Mr. President, serious, perhaps fatal, damage has been done to a precious wilderness area in my State. The Bureau of Sport Fisheries and Wildlife informs me that they are extremely concerned about the possible effects of this fire on salmon spawning grounds. In the area of the fire are over 35 miles of streams and rivers, and over 700 lakes and ponds. The fire has destroyed the natural ground cover along these watersheds, and the problems of siltation into the lakes and streams is very great.

The Bureau is planning to request a supplemental appropriation of $1.2 million to clear the banks of the streams and lakes and then reseed, to prevent erosion and speed up the recovery of the burned area.

Senators from the Western States can appreciate the tremendous damage that occurs when fire strikes a great forest. The effects are often disastrous to the wildlife and ecology of the area, and the process of natural reforestation takes many, many years. It is my sincere hope that when the request for a supplemental appropriation comes before the Senate in regard to the Swanson River fire, Senators will give it their fullest consideration. I intend also to ask the Bureau of Public Roads and the State department of highways to work toward the establishment of roads in this area in order that firefighters and firefighting equipment will be provided with easier access to this area.

The people of Alaska, working in concert with many members of the Federal Government fought very hard to stop and contain that forest fire. It is up to us now, to see that enough funds are provided to repair the damage to the fullest extent possible.

A GRIM REMINDER: LIST OF NATIONS WHICH ARE PARTIES TO THE CONVENTION ON THE POLITICAL RIGHTS OF WOMEN

Mr. PROXMIRE. Mr. President, as is common knowledge, the Committee on Foreign Relations voted to table any further consideration of the Convention on the Political Rights of Women.

This action by the committee continues both to puzzle and anger advocates of U.S. ratification of the human rights conventions. The United States, through the inaction of the Committee on Foreign Relations, remains in the company of Spain, Yemen, Saudi Arabia, Iran, Iraq, Algeria, the Union of South Africa, the United Arab Republic, and Burma as nations which have refused to ratify the Convention on Political Rights of Women.

Because I believe it would be of great interest to the Senate and to the American people, I ask unanimous consen that a list of the countries which are parties to the Convention on Political Rights of Women be printed in the RECORD:

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

A LIST OF 54 COUNTRIES WHICH ARE PARTIES TO THE POLITICAL RIGHTS OF WOMEN CONVENTION

Afghanistan, Albania, Argentina, Belgium, Brazil, Bulgaria, Byelorussia, Canada, Central African Republic, China, Congo (Brazzaville), Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador.

Finland, France, Gabon, Ghana, Greece, Guatemala, Haiti, Hungary, Iceland, India, Indonesia, Israel, Jamaica, Japan, Lebanon, Madagascar, Malawi, Mongolia.

Nepal, Nicaragua, Niger, Norway, Pakistan, Philippines, Poland, Republic of Korea, Rumania, Senegal, Sierra Leone, Sweden, Thailand, Trinidad and Taboga, Turkey, Ukraine, USSR, United Kingdom, and Yugoslavia.

VIETNAM

Mr. HATFIELD. Mr. President, the continuation of the Vietnam war is causing the needless devastation of that land and is deepening alienation within our own. Those who in the past have questioned our policies have done so in the spirit of nonpartisanship, speaking to the principles that are involved rather than exploiting circumstances for expedient political gain.

The chairman of the national Democratic Party has recently given indications that members of his party intend to speak out against the course of our Vietnam policies.

I believe that a high-principled, thoughtful national discussion of this issue is mandatory. The expression of responsible congressional concern can contribute substantially to accelerating our military disengagement from Vietnam. However, I believe that a highly partisan discussion of this issue would be gravely detrimental to the cause of peace in Vietnam. One cannot help but question those who, while standing loyally in support of President Johnson's Vietnam policies, now rise in criticism of President Nixon.

It is my firm hope that members of both parties will join together in a reasoned, sincere debate of the future of our Vietnam involvement. It is urgent that we who have questioned the course of past policies now remain united in our intention to promote disengagement. Dedication to this cause must transcend partisan interests if we are to be credible in promoting this end.

President Nixon is facing strong pressures against his policy of withdrawing our forces from Vietnam. I have advised him that I intend to do all that is possible to mobilize public opinion and political support for his stated intention of our disengagement from this conflict.

Our military presence must be withdrawn from Vietnam. It is my hope to encourage credible congressional concern that supports this goal.

POLLUTION AND THE ENVIRONMENT

Mr. RIBICOFF. Mr. President, the Committee on Public Works is bringing to the Senate floor further proposed landmark legislation to deal with the serious water pollution and environmental problems facing the Nation. The bill is a significant and worthy addition to the previous environmental legislation reported to the Senate by the committee. The bill is a tribute to the Public Works Committee's continued concern with this problem.

I wish to pay a special tribute to the Senator from Maine (Mr. MUSKIE), who has undertaken the leadership in this most important field of eliminating water and air pollution. The Nation owes him a debt of gratitude.

I am pleased to be a cosponsor of the bill.

S. 7 has two important titles. The first deals with water pollution and sets out for the first time, effective controls over three major sources of water pollution—oil pollution, vessel pollution, and thermal pollution.

Since January of this year, more than 100 oil spills and discharges have been recorded. The spill from the *Torrey Canyon* in 1967 and the ongoing Santa Barbara discharge are spectacular and widely known examples of oil pollution. Others, less publicized and less widely known, have similarly seriously damaged beaches, fish, and wildlife.

These serious and continuing incidents of oil damage have clearly demonstrated the need for strong Federal legislation prohibiting the discharge of oil into our Nation's waters.

The prompt notification procedures required by title I will minimize the results of this ruinous pollution.

The large fines and clean up costs assessed against the polluter for the incidents which do occur, will severely punish the contaminator.

Sewage and wastes that pour out from commercial and pleasure vessels have polluted scores of bays, lakes, harbors, and marinas. S. 7, establishing standards for marine sanitation devices, will prevent the continued deposit of inadequately or untreated waste into these waters.

The third form of pollution dealt with by this legislation is thermal pollution. Recent estimates indicate that our Nation's need for electric power is doubling every decade. To meet this need, numerous, large power generating plants will have to be constructed. Many of these plants will be nuclear fueled.

These nuclear-fueled powerplants will need vast amounts of water for cooling purposes. The return of this water, which is usually 11 degrees to 23 degrees hotter than when it was taken into the powerplants, can have a disastrous effect on the water quality of the water into which it flows.

Under title I, no Federal agency will be allowed to issue a license or permit for the operation of a powerplant if its water discharge would seriously and adversely affect the water quality of the water into which it is ejected.

The second title of S. 7 establishes an Office of Environmental Quality to develop standards to protect and enhance the environmental life in all areas affected by Federal and federally assisted projects and programs.

The need for an office to integrate national environmental policies has become readily apparent as the effects of technology, population, and urbanization on environmental life are increasingly felt.

The Senate has already begun to recognize the need for greater coordination of Federal programs in the environmental area. Earlier this session, we passed the bill, S. 1075, introduced by the Senator from Washington (Mr. JACKSON), establishing a three-member Board of Environmental Quality Advisers to be appointed by and to report to the President. Either this group of advisers or the Office of Environmental Quality proposed by S. 7 would be a step in the direction of better Federal coordination. Ultimately, I think we will be successful only by establishing a Department of Human Environment and Natural Resources to control environmental programs presently scattered through 18 departments and agencies of our Government. Following preliminary hearings by my Subcommittee on Executive Reorganization on this subject, I wrote the President's Advisory Committee on Executive Organization—the Ash committee—asking them to give priority to this problem.

The President, if he is to successfully define a comprehensive Federal conservation policy, must have the advice and counsel of Americans from all walks of life.

The Office of Environmental Quality at the White House proposed by S. 7 would mobilize competent spokesmen from the private and public sector to participate in a national effort to preserve and protect our environment.

Through the Office of Environmental Quality, the capacity of the President and the Congress to give continuing, thoughtful attention to the varied and interrelated problems which compromise our environment would be greatly increased and could serve as a forerunner to the creation of a Cabinet-level Department of Human Environment and Natural Resources.

The legislation will provide for the establishment of environmental advisory committees and biannual environmental forums. These advisory committees and the forums will allow concerned citizens to express their ideas and recommendations on environmental problems.

Through the Office of Environmental Quality, their ideas and recommendations will filter up to the President, giving him the benefit of many approaches to environmental problems and giving this Nation the opportunity to formulate an overall conservation and environmental policy. Now regrettably, there is no comprehensive policy—only a hodgepodge of many Federal programs, operating with a kind of independence of their own and with little or no coordination.

Too often we have taken the rich natural resources of this continent and turned them into unusable and ugly stains on the landscape. Our rivers, lakes and coastlines have been subjected to such wanton disregard that today, filth and waste threaten their continued existence.

Fortunately, Congress has wakened to this peril and enacted legislation to combat this disgrace. However, existing laws have left some serious gaps, which threaten the success of these prior efforts.

The bill will fill these gaps, and take the needed forward steps to repair and prevent the continual damage to our environmental life.

THE GREEK GOVERNMENT'S NONINVITATION

Mr. PELL. Mr. President, when it comes to insuring that the Greek people have a government responsive to their wishes and one that does not acquiesce in the practice of torture on its citizens, we see little progress.

To my mind, the danger in Greece is that, in desperation, the people there may turn toward communism as being the only way of escaping the ugly embrace of their present regime. As of now, this is not the case, since the opposition to the regime seems still to be centered amongst citizens who have middle-of-the-road or conservative philosophies.

But in time I believe there is a real danger of the pendulum of opposition swinging to the left. This is one more reason why the sooner the regime is changed, the better off both Greece and the free world will be.

In connection with the Greek Government's practices of permitting torture and police station abuse to be used as a

method of discouraging political opposition, I placed in the CONGRESSIONAL RECORD of May 12, 1969, an excellent article written by Christopher Wren that was published in Look magazine of May 27, 1969. Following the publication of this article, the Greek Government went through the motion of inviting Look to send a representative to Greece to see for himself.

At that time, I commended the Greek Government for this response. In my comments on the Senate floor on June 26, I said:

I am very glad indeed that the Greek Embassy responded by issuing a press release in which Look Magazine was invited to send a representative over to Greece to investigate the truth of the article.

I said further:

I trust, too, that since the Greek Government has invited him, every effort will be made by Greek officials to let Mr. Wren travel and visit where he wishes.

However, if ever there was an invitation that was false and not meant to be accepted, that was it! In this regard, I ask unanimous consent that the article published in the current—October 7—issue of Look describing the eventual outcome of this invitation—or, rather, non-invitation—be printed in the RECORD.

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

GREECE: THE TORTURE GOES ON

(By Christopher S. Wren)

Last June 7, George Papadopoulos, the Greek colonel who runs Western Europe's only new dictatorship since World War II, mused before an Athens news conference that he might agree with the view that the press was a "whore." The self-appointed Prime Minister was referring to Look magazine's disclosure of political torture in Greece (May 27, 1969).

His indignant response was delivered once the offending article, *Greece: Government by Torture*, was safely off the newsstands (in Athens, copies were bought up by the junta): "How could we consider ourselves part of a civilized society when we accept the most imaginary and malignant accusations produced by a mentally deranged person . . . and how could we reproduce those accusations for the use of tens of millions of readers throughout the world?" Under the subhead "Feeble Author," the censored Athens *News* picked up the cue: "Papadopoulos said this article was written by a mentally deranged person." It was later quietly explained the Prime Minister really meant not this writer, only his sources.

Papadopoulos thereupon invited Look to send to Greece "a duly authorized representative with the purpose of investigating the truth. He could be accompanied by the person who supplied the writer with the false accusations. . . ."

The Prime Minister promised that if he were shown torture did take place, he would hang the culprits in Constitution Square. The last such public executions in central Athens, Greeks recall, were carried out by the Nazis during the Occupation. The Prime Minister never bothered to send his invitation to Look. It appeared the next week among the routine Greek Embassy press releases handed out to the Washington press corps. Still, Look accepted.

Since the details had come from torture victims within and outside Greece, Look had no single "person who supplied the writer with the false accusations." It proposed sending James Becket, an American lawyer who has investigated torture charges within Greece for Amnesty International, the worldwide organization concerned with political prisoners. Becket had given some of his documentation to Look. Congressman Don Edwards of California was suggested as an observer. Rep. Edwards, chairman of the U.S. Committee for Democracy in Greece, offered skill as a former FBI agent and current member of the House of Representatives Judiciary Committee.

Following the Prime Minister's invitation, further evidence and offers of assistance came in to Look from Europe. Thirteen prisoners in Averoff prison, Athens, smuggled out a signed statement that they wanted to talk about their torture. A Scandinavian diplomat wrote: "I could furnish you with a number of names of people who have been tortured much worse than those you mention in your article."

A month later, the Greek Prime Minister finally authorized the consul general in New York to inform LOOK that Representative Edwards and Becket, as "participants of movements inspired by prejudice and anti-Greek hysteria" were not welcome in Greece. The article's author was "absolutely unacceptable." As for the Prime Minister's promise to summarily execute anyone guilty of brutality, this, the consul general explained, was merely a "Greek metaphor" used "by the Prime Minister to emphasize the depth of his convictions. . . ."

Yet as long ago as April, 1968, the Greek junta was given *prima facie* evidence that political prisoners had been abused. Anthony Marreco, a British lawyer for Amnesty International, was allowed into three Greek prisons. Afterward, he gave Minister of Interior Stylianos Pattakos the histories of ten prisoners whom he had interviewed and believed were tortured. Pattakos dismissed them as Communists and Marreco's findings as Communist propaganda. Pattakos closed the matter: "The Greek Government has to protect its people against its Communist enemies." Amnesty International is now banned from Greece as "Communist," just as it has been banned from the Soviet Union as "CIA-controlled."

The Greek dictatorship insists that torture claims have been refuted by the International Red Cross and the so-called British Parliamentarians Committee. It was in fact the subsidiary International Committee of the Red Cross that visited Greece. Its initial report dealt with prison-camp conditions, not torture. A second report concluded that the ICRC did not wish to declare whether or not prisoners were tortured. Because the ICRC cannot release its findings without the permission of the host government, no other reports have been published. The ICRC in July, 1968, and again in February, 1969, privately protested to the junta its misrepresentation of the reports.

The Red Cross has secured from the junta some improvement in prison conditions. But its business is mercy, not politics. Restricted to diplomatic channels, it can see only what the government decides to show. In World War II, for instance, a Danish Red Cross team finally allowed into the Theresienstadt concentration camp in June, 1944, found new flowerbeds and freshly painted barracks. To tidy up, the Nazis had shipped 2,780 Jews to Auschwitz.

The British Parliamentarians Committee turns out to be five British Members of Parliament who were junketed with wives to Greece for the 1968 Easter holidays by Maurice Fraser Associates. Fraser, a former gambling-casino promoter, had persuaded the junta to pay his new firm $253,000 a year to handle its public relations in Britain. Two of the MP's did visit the prison camp on the island of Leros, where torture did not occur. The spokesman, Gordon Bagier, MP, scoffed: "Quite frankly, I am getting a bit fed up with the sensationalist reporting to come out of Greece. We found that reported torture had always 'happened to someone else.'"

After a long court fight the following fall, the London *Sunday Times* won the right to publish a secret memorandum from Maurice Fraser to the junta that he had a British MP in his employ. Confronted with it, Gordon Bagier confessed that Fraser was paying him £500 ($1,200) a year.

The junta has grown desperate for good publicity. It reprints in government pamphlets—*The Foreign Press About Greece*—favorable letters to the editor under the masthead of the foreign newspaper that has carried them. The casual reader will take the unlabeled private letter for an official editorial endorsement. The government recently extended roundtrip New York-Athens air fare and 24 days of full hospitality to a California radio-TV team of four, in the hopes of some friendly spot reports.

But when Christopher Janus, Jr., a 25-year-old vacationing Peace Corps teacher, visited Greece on August 2, he was detained overnight and deported without explanation to Nairobi. His father, Christopher Janus, a Chicago stockbroker of Greek descent, had written two articles for the Chicago *Sun-Times* after visiting Greece in 1967 and 1968.

Janus, who was decorated by an earlier Greek Government for his work in Greece during the civil war, had simply repeated what a lieutenant colonel in Athens told him last year: "A little torture is necessary to preserve civilization."

The LOOK article has been translated, mimeographed and circulated inside Greece along with the novels and poetry banned by the regime. But a half-dozen new escapees from Greece separately insist that the beatings in the police stations have been stepped up in an attempt to stem the bombings and other stiffening resistance among the Greek people.

Six weeks after the article appeared, Athens radio felt free to boast: "The U.S. Government recently decided to include Greece among the four countries to which 90 percent of U.S. military aid for 1970 will be distributed."

When 50 American congressmen petitioned the Secretary of State in a July 30 letter for "a clearer sign of U.S. moral and political disapproval of the dictatorship," an Assistant Secretary of State, William B. Macomber, conceded that "we see an autocratic government denying basic civil liberties to the citizens of Greece," but insisted that the junta was meeting Greece's NATO treaty obligations. Calling the NATO argument an excuse for U.S. inaction, Rep. Don Edwards took issue: ". . . the present dictatorship violates the very principles of NATO, the very reason for NATO, the protection of free people through the preservation of governments chosen by the people."

American taxpayers' money still flows to a government that relies on torture to survive. Among the new allegations of brutality is a letter from a woman who wrote LOOK that her aunt, a middle-aged dressmaker, was arrested and, the niece heard, tortured the week after Papadopoulos issued his angry denial. "She was released after having been kept for 40 days under strict confinement [and] continuous interrogation. . . . Before her release, she signed a declaration saying that she was treated 'very politely and kept under very human conditions of imprisonment.' She has been warned, of course, that in case she is going to say anything to anyone related to her interrogation, she will be rearrested and 'properly' treated." Her name, like dozens of others, has been sent to the Human Rights Commission of the Council of Europe, which has been examining such cases and will announce its conclusions later this fall.

If, in the meantime the Prime Minister is anxious to examine the validity of the

pyramiding charges of torture, he has only to honor his pledge of June 7 to let LOOK into Greece to "investigate the truth" he says he so desperately wants.

ABOLISHMENT OF RURAL COMMUNITY DEVELOPMENT SERVICE

Mr. MONDALE. Mr. President, disquieting rumors have reached me to the effect that last Thursday, September 25, without fanfare and without—to the best of my knowledge—any public notice, the Rural Community Development Service of the Department of Agriculture was abolished and its personnel ordered to return to their respective agencies.

The RCDS, as its name implies, was established to coordinate the efforts of the Department to further rural industry and nonfarm employment in an era of increasing farm mechanization and less demand for farm labor. It was the first Government-wide effort, to my knowledge, attempting to redress the problem of rural-urban imbalance, a disastrous population trend that has crowded some 70 percent of the American people into less than 2 percent of the U.S. land mass.

Now, without fanfare, without formal announcement, this program is dead—again, according to information reaching me.

Certainly the RCDS did not solve the problem of too little opportunity in the countryside. But hopeful beginnings were made; more than 3,000 interagency committees, one in each U.S. county, were formed; a formal apparatus to provide information to industry seeking rural locations was established; multicounty conservation-industrialization panels were formed and operated successfully in many areas.

The Secretary of Agriculture, if we are to believe the testimony he presented to the House Agriculture Committee last week, believes in more rural jobs. The Secretary all but admitted in this testimony that farm programs alone hold out little hope for providing the so-called marginal operator with a decent living.

Why, then, has he abolished the one USDA agency specifically set up to deal with this problem?

Mr. President, I believe that we who believe that something can be done to stem the flood of rural to urban migration deserve the answers to this question.

PHILADELPHIA AND PITTSBURGH URGE ENACTMENT OF URBAN AND RURAL EDUCATION ACT

Mr. MURPHY. Mr. President, on July 15, 1969, I introduced the Urban and Rural Education Act of 1969, S. 2625. Because of the importance of the bill in helping to deal with the education crisis that exists in rural and urban America, I have been placing in the CONGRESSIONAL RECORD some of the letters endorsing the measure.

Today, I ask unanimous consent that two letters from the State of Pennsylvania be printed in the RECORD; one letter from Superintendent Kishkunas of Pittsburgh, and the other from Superintendent Shedd from Philadelphia, both calling for the enactment of the bill. Superintendent Shedd said that he is "quite excited about its possibilities."

Superintendent Shedd continued:

This Act, is indeed a significant start in providing this funding and affording us the opportunity to overcome the educational handicaps faced by so many of our children.

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

THE SCHOOL DISTRICT OF PHILADELPHIA,
Philadelphia, Pa., August 26, 1969.

Hon. GEORGE MURPHY,
U.S. Senate,
Committee on Armed Services,
Washington, D.C.

DEAR SENATOR MURPHY: After having carefully reviewed the Urban and Rural Education Act of 1969, I am quite excited about its possibilities. This infusion of new money will provide the impetus for the development of new concepts to solve the problems now facing us in the inner city.

I am particularly heartened by the fact that you have placed major emphasis for the expenditure of funds in the elementary years. The School District of Philadelphia, in adopting its goals and priorities, has decided to concentrate its new thrusts in the early years thus paralleling the intent of this legislation.

In order to develop new strategies for solving the problems of the inner city school district such as ours we must have large infusion of new money from the Federal Government. This Act, is indeed a significant start in providing this funding and affording us the opportunity to overcome the educational handicaps faced by so many of our children.

Sincerely,

MARK R. SHEDD,
Superintendent.

PITTSBURGH PUBLIC SCHOOLS,
Pittsburgh, Pa., August 13, 1969.

Hon. GEORGE MURPHY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MURPHY: I am pleased to give full support to the concept of your Urban and Rural Education Bill (S. 2625) which amends Title I of the Elementary and Secondary Education Act. The additional monies planned for this bill would provide some relief to the desperate financial straits confronting urban school districts as they seek to compensate for the educational deficiencies of disadvantaged children.

The ESEA program does not currently provide sufficient funds to meet the needs of disadvantaged children. Pittsburgh and other urban districts have had reductions in appropriations per pupil because of the increase in AFDC children reported nationwide. The additional $200 million requested will help to overcome this deficiency.

Sincerely,

LOUIS J. KISHKUNAS.

SENATOR MURPHY TESTIFIES ON THE GROWING PROBLEMS OF ALCOHOLISM

Mr. MURPHY. Mr. President, on September 26, the Special Subcommittee on Alcoholism and Narcotics of the Committee on Labor and Public Welfare held hearings in Los Angeles. I testified on the growing national problem of alcoholism. I ask unanimous consent that my remarks be printed in the RECORD.

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

Mr. Chairman and my distinguished Colleagues, I would like to take this opportunity to welcome the Subcommittee to the great State of California and to tell you how much I appreciate the attention this Subcommittee has given to two of the most pressing and important problems which face the future of our nation today.

At yesterday's hearings, the focus quite properly was placed on the dangerous destruction resulting from the presently widespread—and still spreading, may I say—use of drugs and narcotics.

Today your agenda will focus attention on witnesses whom I am certain, will reiterate what most of us already know and understand: the evil, moral and physical erosion and general destruction caused by alcoholism.

Alcoholism is a major health problem, both in our state of California and the entire nation. It is so serious that it is now the nation's fourth leading health problem. Only heart disease, mental illness and cancer rank ahead of alcoholism.

Alcoholism is clearly a most tragic disease, and I am sure that many of us have seen at first hand the destruction and destitution it can cause. It is estimated that there are five to six million Americans afflicted with this disease and that a minimum of 250,000 are added to the ranks each year.

In California one million individuals are estimated to have an alcohol problem. The state already leads the country in this disease and alarmingly their numbers are increasing at a rate more rapidly than the state's population. By 1971 it is estimated that the number will increase to one million, three hundred thousand.

The cost of alcoholism in terms of dollars is astronomical and a luxury we can no longer afford, but the cost in terms of human suffering is even greater, and gives all the more urgency to the determination of this Subcommittee to find answers where we have only encountered problems in the past.

We have no way of knowing the number of lives lost, dreams shattered, talents destroyed, families broken, marriages ended, and successful careers crushed because of alcoholism. There is no way we can completely compute the total of destruction brought about each year by this dread disease.

We do have estimates of what alcoholism costs in America. American industry, for example, which until the late forties refused to recognize any "problem with alcohol" now realizes the tremendous dollars lost each year as a result of alcohol-associated absenteeism and reduced worker efficiency. At long last—they began to realize the real problem that must be faced and somehow resolved. For instance, it is estimated that the cost to industry is well over two billion dollars yearly and two hundred American companies have now instituted programs aimed at coping with the problem. A more updated figure in California places the cost to California industry within the state at $750 million.

Lately we have heard a great deal about crime in the streets and rampant lawbreakers. Mr. Chairman, I point out that there is a tremendous amount of evidence connecting excessive drinking and the resulting drunkenness with the crime rate. The National Crime Commission reported that in 1965 one out of the three arrests, or a total of two million persons, were arrested for misdemeanors on drunkenness. Certainly the cost to the American taxpayer for the arrest, trials, and for the detention periods in jail must run into millions of dollars more each year.

With the already too great burden on our courts and law enforcement officers, we must find some way to relieve this burden and, indeed, we would if we could discover the means to prevent alcoholism, or even reduce it, or begin to provide alternate methods of

dealing with men afflicted and affected by this disease.

Accidents on our highways cost the country nine billion dollars annually.

Prior to this year, I was a member of the Senate Public Works Committee which helped to write some of the legislation dealing with highway safety problems. Appalled as everyone is with the astronomical costs in connection with these problems—I supported this safety legislation which was primarily addressed to improving the safety of roads and vehicles. At the same time I was, and remain, concerned about what we sometimes refer to as "the nut behind the wheel," for when a driver has been drinking he threatens the safety not only of himself and those riding with him but also the sober and unsuspecting motorist on the road.

The Public Health Service has estimated that alcohol contributed to—or is associated with—the cause of fifty per cent of fatal motor vehicle accidents.

In California alone, I understand that forty-six thousand people were injured and fifteen hundred killed as the result of driving under the influence of alcohol.

Such unnecessary carnage on our highways must be stopped. I personally urged the State Legislatures to get tough in this area—for it is clear that when a driver is drinking he is both dangerous to himself and to his fellow citizens.

In California, alcoholism is the tenth leading cause of death. For individuals in the most productive ages of 20 through 40, one-third of all deaths result from alcohol.

And this is another point, Mr. Chairman, that I would like to emphasize because I do not believe it is generally known or understood by the American public, and that is that the life expectancy of an alcoholic is usually ten to twelve years below the general average.

As a member of the Senate Subcommittee on Health, I have a deep interest in alcoholism and its ill effects—a subject which I think has been neglected too long in this country. And I was pleased to have co-sponsored with Senator Javits and others, S. 1508, a bill aimed at initiating programs for the care and control of alcoholism. Naturally, as a conferee on the regional medical program to which this alcoholism program was added, I was pleased that several parts of S. 1508 were included in the final measure. The nation thus started to do what we must do—deal with the growing, unbearable, and costly problem. Building on this beginning, I again this year joined Senator Javits in introducing S. 1997—the Alcoholism and Control Act of 1969. This bill I hope will do much to advance the nation's methods of treatment and cure of alcoholism.

It would establish a division of alcoholism and alcohol problems within the National Institutes of Mental Health. It would provide incentive grants for the construction, staffing and operation of treatment and preventive programs. And it would provide grants for public education which are so badly needed. It would authorize purpose grants for training and material development. It would provide scholarship grants to meet critical manpower shortages in the area—specialists who have a complete understanding of the problems and first-rate training in how to cope with them. It would establish regional centers for research in alcoholism.

Thus, I urge this Subcommittee to take early and favorable action on S. 1907. As we all know the stakes are very high in this nation's battle against alcoholism. The total cost to my State of California each year is a staggering one billion dollars, and I think there are better ways in which we could spend this money.

For Los Angeles County—where we are today holding these hearings, a 1964 study showed alcoholism costing $27 million. It is now believed that the cost to the county would approach $50 million.

So, Mr. Chairman, Los Angeles County, the State of California and the nation appreciates the efforts that you and the other members of this Subcommittee are putting forth in attempting to focus the national spotlight on these two pressing subjects—drug addiction and the horrible disease of alcoholism. And I must hope that as a result of your efforts and the efforts of this Committee we may soon be able to show positive advance and the prevention and treatment in both.

ATOMIC TESTS

Mr. MONDALE. Mr. President, questions of grave concern are being raised about the forthcoming Atomic Energy Commission nuclear tests on Amchitka Island, in Alaska. The first test, scheduled for Thursday, will be an underground blast of 1.2 megatons, as large as any underground test ever conducted in this country. Later tests on the island, in the heart of a national wildlife refuge, could range up to 5.5 megatons, which would be on a scale 300 times greater than the atomic bomb dropped on Hiroshima during World War II.

Not even the AEC is willing to say that these tests could not set off devastating earthquakes and tidal waves in the northern Pacific. Environmentalists and scientists are voicing grave doubts on whether, because of these and other dangers, the tests can be conducted without great risk. Additionally, both Canada and Japan have protested the tests.

At a hearing on the matter this morning before the Committee on Foreign Relations, the Senator from Wisconsin (Mr. NELSON) presented an excellent statement on a situation which is clearly of pressing concern to all Americans. I ask unanimous consent that his statement be printed in the RECORD.

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

STATEMENT BY SENATOR GAYLORD NELSON

Mr. Chairman, I appreciate this oportunity to testify as a cosponsor in support of the resolution of my colleagues, Senators Gravel and Fong, for a commission to study the effects of weapons testing on our international relations and foreign policy.

Speaking for myself, but also, I am sure, for many who are concerned about the Amchitka tests, you are to be commended for holding these hearings.

One of the impressive achievements of this Congress is its increasing insistence that our national defense ventures and expenditures be debated in public, within the bounds of legitimate security needs.

And I would hope that this becomes a pattern for all future Congresses and Congressional committees. Time and again, we have seen the dramatic evidence that the missions of National Defense and Foreign Affairs have grave implications for the other concerns of America and the world: for public health and safety, for the quality of our environment, for our national priorities of ending hunger and poverty, and of providing a quality education, to name just a few.

The proposed underground nuclear tests at Amchitka, which are scheduled to start just three days from now, are a classic example. The mission is apparently to test ABM warheads. Circling in the periphery are grave concerns which don't mean a thing to the bombs at the bottom of that hole, but do to the public.

And if the history of the Amchitka test preparations by the Atomic Energy Commission is any indication, we have far from adequate assurances that these other matters have fully been taken into account.

The situation has a disturbing similarity to others where Federal agencies have very effectively pursued what they felt was a primary mission, while at the same time, destroying priceless natural resources. Protecting wilderness, scenic rivers, or national parks has frequently been too big a price to pay to get the job done.

Unfortunately, it is beginning to appear that the Atomic Energy Commission is following in the same footsteps. One example has been the AEC's failure to accept responsibility for some of the environmental effects of the nuclear power generating plants which it has helped develop around the country.

Now, in its nuclear testing program, the AEC is again proving reluctant to take on the responsibilities for the fullest possible preparation for all contingencies.

Hard-pressed in Nevada because of rising public concern and the need to conduct larger tests, AEC has had to look elsewhere. The irony of Amchitka, the new site AEC found, is expressed eloquently in a document entitled "Welcome to Amchitka" that is presented to the island's visitors.

One section of the brochure says: "The fact that Amchitka is part of a National Wildlife Refuge makes it evident that hunting of wildlife of any kind is definitely prohibited and any firearms landed on Amchitka will be immediately confiscated and held until the owner's time of departure."

Through some incredible twist of logic, the regulations are bent to allow the biggest firearms of all, nuclear bombs. Nothing will ever convince me that a wildlife refuge and a nuclear blast go together.

The Amchitka test is just one more dramatic instance of a distressing trend in this country: If people won't tolerate it, move it out in the hinterland, with the birds and the fish. The international jetport that is being planned six miles from the edge of Everglades National Park is a prime example. The intensifying interest in using the oceans as a depository for the massive wastes of our society is another.

Until we accept the fact that there is no longer any "hinterland" left on earth, in the sense that it is apart from any contact or any value to man, we will continue to create disaster for ourselves.

To us in Washington, Amchitka seems a distant place. But because it is closer to Japan than to San Francisco and closer to the Russian mainland than to Anchorage, Alaska, what happens on the island means as much to millions of others as it does to us. This is confirmed by the fact that Japan and Canada have already issued protests to the U.S. government on the Amchitka tests.

The problems that have come up with the scheduled tests range from the certainty of new damage to the area's fragile ecology to questions as to wehther nuclear tests can be conducted there without setting off devastating earthquakes and tidal waves.

Although twice ravaged by man—first by Russian fur hunters in the 19th Century, then by American military encampments during World War II—Amchitka has been making an astonishing return to its unique natural state, with the help of biologists and wildlife experts who have been working since the 1940's to repair the ecological damage and restore the balance of wildlife.

Now, according to a report late last year, at least twenty pairs of bald eagles nest on the island, as well as several pairs of the almost extinct peregrine falcon.

The Aleutian Islands, including Amchitka, are also the home of the sea otter, the Stel-

ler's sea lion, the gray-crowned rosy finch, and the nearly extinct Aleutian Canada goose. During the nesting season, Amchitka also abounds with puffins, comorants, murres, and guilemots. Plant life on the island varies from brilliant wildflowers to sea grasses. As *Audubon* magazine described last year, Amchitka and its wildlife are "a national treasure as surely as the Everglades or the Canyonlands."

But with the onset of nuclear test preparations, the web of nature is being smashed again, making a mockery of the name "wildlife refuge." A *Washington Post* reporter visiting the island recently saw an Amchitka tundra "scarred by roads and drilling rigs, chewed and plundered in a hundred places. . . ."

Test preparations have included the sinking of eight exploratory holes, plus four "emplacement" holes for bombs, one of them, the reporter notes, abandoned when the drillers encountered a transverse fissure. Then there are "shallower 'satellite' holes for instruments, vast bins scraped in the earth to hold the drilling mud, and miles of instrument cables."

The AEC says there is room for nine more bomb holes on the 42-mile-long, three-mile-wide island.

Some indication of the after-effects that might be expected is revealed by the Department of Defense "Long Shot" nuclear blast on Amchitka in 1965. The heavy influx of people to prepare that shot cut bird nesting grounds, and the result has been a downward trend in the Amchitka bird population ever since.

Although the relatively small 1965 shot, 80 kilotons, apparently did little itself to disturb the environment, the oily drilling mud used to sink the test hole escaped from its lagoons and poisoned salmon in nearby streams.

Although the Defense Department promised to "police up" after the 1965 test, observers since have noted the leftovers of a still-standing frame for a steel building and a collection of remnant metal and wooden waste materials littering the surrounding countryside.

Clearly, the preparations and the aftermath of the nuclear tests are a major environmental concern. Regardless of what transpires further on Amchitka, both Congress and the Department of the Interior should insist on a complete AEC program to restore the island.

Another significant after-effect of the 1965 "Long Shot" test was radiation seepage from the test hole. And in the last several years, small amounts of radioactivity have been found in the water near the old site.

Department of Defense plans for the 1965 Amchitka test shot were at first so secret that, according to a later report by former Presidential press secretary Pierre Salinger, even the President was not let in on the decisions.

To mollify conservationists, Defense Department officials gave assurances that there would be no more tests on the island after the "Long Shot." Those concerned about the Amchitka tests thought they had a promise, but since then, the AEC has made it clear it feels the Defense assurance was not binding whatsoever on other federal agencies. There is little wonder that the credibility of the federal government continues to be called into question.

The most disturbing aspect of the Amchitka tests, however, has been the willingness of the AEC to proceed in the face of as yet unanswered questions about the possibility of the nuclear tests setting off earthquakes and tidal waves, and leaking radiation into the ocean and the atmosphere.

Until last spring, the AEC was denying that underground tests could set off earthquakes. Then, they were proven wrong. Scientists at the annual meeting of the American Geophysical Union reported that two nuclear tests in Nevada had set off earth tremors up to 1,200 miles away from the explosion site. One of the tests, called "Boxcar," caused a fracture in hard rock 4,900 feet from the explosion, creating a "fault" nearly three miles long.

Now, AEC has a new position: Underground nuclear tests *probably* won't set off *big* earthquakes.

Amchitka is a good place to find out the hard way whether this statement is valid.

For one think, the 1.2 megaton "calibration" shot with which the AEC will launch the Amchitka series is as large as any underground test ever conducted in this country, an indication of the dramatic turn of our nuclear weapons testing program toward larger and large shots. The "calibration" shot will have an explosive force equal to 1.2 million tons of TNT and will be 60 times the size of the atomic bomb dropped on Hiroshima to finish World War II.

Information in an underground nuclear testing report published by *Environment* magazine in St. Louis, Missouri, indicates that future Amchitka blasts could range as high as five and a half megatons, five times larger than any U.S. underground test to date, and 300 times larger than the Hiroshima bomb. The *Environment* magazine report was prepared by the Committee for Environmental Information, a respected scientific goup.

Secondly, unlike the Nevada testing grounds, Amchitka is in the heart of one of the most earthquake-prone regions in the world. The last sizable earthquake in the area was reported less than one month ago.

Last May, a severe earthquake of 6.7 on the Richter scale hit the area, and a tidal wave alert was issued for Adak, Amchitka, and Shemya islands. The shock's epicenter was only a few miles from Amchitka.

On February 4, 1965, the largest earthquake to occur anywhere in the world that year originated 20 miles from Amchitka, measuring 7.75 on the Richter scale.

Some distance away, the Great Alaskan Earthquake of March 28, 1964, hit, killing 113 people and reaching 8.3 on the Richter scale.

Significantly, a one megaton test in Nevada—nearly the same size as the shot scheduled this week on Amchitka—had an impact measuring 6.5 on the Richter scale. If later nuclear blasts at Amchitka reach five megatons, the impact will be about 7 on the scale, a shock comparable to that of a major earthquake.

Coupled with the earthquake danger is the possibility of a *tsunami*, a tidal wave. Again, Amchitka is in the center of an area notorious for its history of generating these waves, one of the most destructive and terrifying forces in nature. A 1946 Aleutian earthquake, for instance, caused a tidal wave that reached a height of 44 feet in Hawaii. A 1960 earthquake-induced tidal wave from the Aleutians also reached Hawaii, killing 60 people.

The Alaskan earthquake of 1964 produced a tidal wave that reached 30 feet in height along the Alaskan coast and caused damage as far south as Crescent City, California.

The tidal waves are not only a threat to people and property, but can devastate valuable natural resources and whole coastlines. A tragic example was the 1964 Alaskan tidal wave, in which, according to a report to the President, "walls of water surged into estuaries, scouring out beds of clams and other life in some areas, and elsewhere depositing layers of mud and debris that suffocated underlying life."

Independent scientists are refusing to rule out the danger that the Amchitka tests could kick off major earthquakes and tidal waves. And even the AEC talks in terms of probabilities, rather than uncertainties.

Far more complete assessments of earthquake and tidal wave dangers from underground nuclear testing have been made by the federal government, but, unfortunately, these reports have never been made public. One such study was presented to the President's Science Adviser last fall and remains confidential, even though the chairman of the study committee has said that it could easily be released after editing and removal of classified information. Also, I understand, another report—prepared for the AEC by a special advisory committee—was scheduled for completion last summer.

In view of the imponderables which continue to surround our entire underground testing program, Congress should insist that these reports be made public immediately. If the underground tests pose no dangers, it is in the best interest of AEC to let it be known. If they do threaten problems, however, it is in the interest of Congress and the American public to know and have the opportunity to weigh the risks.

Another "imponderable" facing the Amchitka test series is whether radiation could be vented to the Pacific and to the atmosphere. In the past, even deeply buried nuclear explosions have on occasion released radiation into the air. In view of Amchitka's relatively close proximity to Canada, Japan, and Russia, a large-scale release from a test could well cause a violation of the Nuclear Test Ban Treaty, which says treaty signers shall not cause radioactive material to be present beyond their own boundaries.

Another radiation concern is the possibility that tests in the watery Amchitka area could produce fracture zones in the rock extending to the Pacific floor, affording ocean waters easy access to the radioactive zone where they could become highly contaminated. Circulation would then spread the radiation to other areas of the Pacific.

Just recently, the manager of the Aleutians wildlife refuge pointed out that Amchitka's waters are a major feeding ground for the Pacific salmon. At some stage in their lives, each of the 19 million salmon in the Bristol Bay Run probably feeds near Amchitka, he added.

Could an Amchitka test lead to contamination of this vital international resource? Again, another unanswered question.

For these reasons, the Amchitka tests are a classic example of our insistence on plunging ahead with new technology at any cost and in the face of great potential dangers. Speak the words "national security," and any risk becomes worthwhile. Far too often, defending the public health and welfare and defending the environment have been overlooked in the rush.

In all fairness, the dangers we face with the Amchitka tests are not solely the blame of the AEC and the Department of Defense. The fault lies in our failure to provide the mechanisms to insure that, while the AEC pursues its mission of promoting and developing nuclear power, all the risks will be adequately taken into account.

However, Congress is now on the verge of taking a major and precedent-setting step in the right direction. Now close to final enactment is a bill which would establish in the White House an independent, Presidentially-appointed Board of Environmental Quality Advisers. This group of experts would review Federal activities to assure their compatibility with the natural environment and other important concerns. The bill also contains an important provision which would spell out in law a national policy on the environment to halt environmental abuse by Federal activities.

If the Board is created, as I believe it will be, I will urge that its first task be an immediate, thorough review of our underground nuclear testing program and its effects on the environment, on our safety, and on our international relations. The Board would make its report and recommendations to the President, Congress, and the American

public, so that a determination could be made on whether underground testing can safely continue.

The same purpose could also be readily accomplished by the proposal before this committee by my colleagues, Senators Gravel and Fong, to set up an independent, Presidentially-appointed commission to study and report on the underground tests. Or, the review and report could be done by Presidential initiative.

In the interim, all nuclear testing, including the Amchitka tests, should be halted. The cost of continuing in the face of the grave questions that have been raised by distinguished scientists and environmentalists, and by other countries, could be great.

Especially since Congress has not finally enacted the authorization for the Safeguard ABM, I believe a delay in development of the ABM warhead can certainly be justified. The evidence is strong that the Amchitka tests are for the ABM development.

Furthermore, it is evident that as we turn to larger and larger tests, such as those scheduled in the Amchitka series, the dangers of some great disaster—from an earthquake, a tidal wave, environmental destruction, a massive venting of radiation that could violate our treaty obligations—will inevitably increase.

In view of this, as well as the painfully obvious need to put a halt to the dangerous and spiraling arms race, I believe we should immediately begin exploration of the idea of a treaty to ban underground nuclear weapons testing.

THE PESTICIDE PERIL—LVII

Mr. NELSON. Mr. President, considerable evidence has been presented which clearly attributes the growing extinction of some species of wildlife to the accumulation of persistent, toxic pesticides in the environment. This evidence is not only true of species whose natural habitat is in direct contact with man, but is also true of species who never come into direct contact with man or the mainland, such as the Bermuda petrel.

An article published in a recent issue of Science tells the results of a study where the patterns of reproductive failure in declining populations of several European and North American wildlife species were duplicated experimentally with captive American sparrow hawks that were given a diet containing two commonly used organochlorine insecticides, DDT and dieldrin. The article reports that major effects on reproduction were increased egg disappearance, increased egg destruction by parent birds, and reduced eggshell thickness.

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:

[From Science magazine, July 11, 1969]

DIELDRIN AND DDT: EFFECTS ON SPARROW HAWK EGGSHELLS AND REPRODUCTION

Marked declines in populations and reproductive success of several species of North American and European raptors have occurred during the past two decades (1–3). These declines have been attributed to effects of organochlorine insecticides which these birds obtained from their food and accumulated in their tissues (1, 3–5). Reproductive failures of some species were associated with significant decreases in eggshell thickness (6–7) and, especially in British species, with marked increase in frequency of egg-eating and of egg breakage in the nests (5, 8). These changes were ascribed to alterations in calcium metabolism of adult birds (7).

We have investigated effects of two sublethal dietary levels of DDT and dieldrin (9), in combination, on reproductive success of captive American sparrow hawks, Falco sparverius and the influence of these chemicals on eggshell thickness.

The sparrow hawk was selected because it had been bred successfully in captivity on a limited scale (10), was relatively abundant, was easily handled and sexed, and was closely related to the peregrine falcon F. peregrinus, a declining species of raptor (1).

The principal experimental group consisted of 27 pairs of hawks, all obtained as fledgings in the summer of 1964 from the Northeast and maintained as pairs since early in 1965. Nine pairs of these birds were randomly assigned to each of three treatments—control, low dosage, and high dosage (11). An additional group of nine pairs of hawks that had a heterogeneous history and were housed at a different location were randomly assigned, three pairs each, to the same treatments as the principal group. Females of this latter group were birds caught from the wild in Florida in the winter of 1965–66; males were produced by the parent colony in 1965 before dosage began on 11 March 1966.

Low dosages represented amounts equal to residues often found in raptor food items in the field (12). High dosage was calculated to be just short of lethal to adults and it was equivalent to that obtainable in the field, at least in some areas containing prey items with unusually high pesticide residues (13).

Birds of both sexes were carried over from one year of the experiment to the next. Females that died during the experiment were not replaced. Males that died during the experiment were replaced at the onset of each reproductive season. Dosed males that died were replaced with males of the same treatment when available; otherwise, they were replaced with nondosed males.

In 1968, reproduction of first-generation (yearlings) hawks was investigated. These hawks were produced by the experimental colony in 1967 and were retained on the same diet as their parents. The 24 pairs of hawks used in this experiment were selected on the basis of body condition. In pairing them, the heaviest females were mated with the heaviest males to insure successful pairing. Siblings were not paired with each other. Dosages were randomly assigned to pens. In respect to age and history of pesticide exposure, yearling hawks were our most homogeneous group.

To determine whether a mixture of DDT and dieldrin could cause thinning of eggshells, we marked the first egg laid in each clutch, where possible, of both the parental and yearling groups in 1968, and removed it after the third egg was laid and before incubation was begun. All eggs collected were frozen, and their contents were removed later. The remaining albumen was then gently washed from the inner shell surface, so as not to disturb the shell membranes. Shells were then dried at room temperature for several weeks. Thickness of each shell plus its membranes was measured to the nearest 0.01 mm at four points around its equator with a micrometer, and these measurements were then averaged.

Reproductive success of untreated hawks in 1967 and 1968 was equal to that of a wild population, except for that of parental birds in 1968 (14). Reduced success of the parental group in 1968 was due mainly to embryonic mortality (Table 1) which may have been caused by bacterial infection of the eggs (14).

TABLE 1.—REPRODUCTIVE SUCCESS OF TREATED SPARROW HAWKS. DATA WERE ANALYZED BY CHI-SQUARE AND PRESENTED AS NUMBERS OF BIRDS OR EGGS

[Abbreviations: C, control; L, low dosage; H, high dosage (1.1)]

Category	Parental group												Yearling group 1968		
	Northeastern females						Florida females								
	1967			1968			1967			1968					
	C	L	H	C	L	H	C	L	H	C	L	H	C	L	H
Pairs (clutches)	8	8	7	8	8	7	2	3	3	2	2	3	8	8	8
Eggs laid	40	40	33	39	40	32	10	14	13	10	10	13	41	33	42
Eggs taken for study	0	0	0	8	8	7	0	0	0	2	2	3	8	6	8
Eggs incubated	40	40	33	31	32	25	10	14	13	8	8	10	33	27	34
Eggs disappeared [1]	1	[2]7	[2]9	2	[2]8	[2]10	0	2	2	0	0	0	0	[2]7	[2]4
Eggs remaining	39	33	24	29	24	15	10	12	11	8	8	10	33	20	30
Infertile eggs [3]	1	0	3	1	2	2	0	1	3	1	0	0	2	1	2
Dead embryos	6	9	2	13	6	3	0	2	0	2	5	6	3	0	[4]9
Eggs hatched, of eggs incubated	32	[5]24	[2]19	15	16	10	10	[2]9	[2]8	5	3	4	28	19	[2]19
Young fledged:															
Of eggs incubated	30	[6]22	[6]18	13	13	[4]4	7	8	7	4	3	4	28	19	[4]13
Of eggs hatched	30	22	18	13	13	[4]4	7	8	7	4	3	4	28	19	[4]13

[1] May include disappearance of some young early in the posthatching period.
[2] Significant difference between dosed group and controls at $P<.05$.
[3] Refers to eggs without obvious embryonic development.
[4] Significant difference between dosed group and controls and also from other dosed group at $P<.05$.
[5] Significant difference between dosed group and controls at $P=.06$.
[6] Significant difference between dosed group and controls at $P=.07$.

The influence of the pesticides on reproductive success was greatest in the yearling group (Table 1). Differences between yearling control and yearling dosed birds were significant ($P<.05$) at most major points of their reproductive cycle (Table 1). The same trend was apparent in the parental group in both 1967 and 1968 (Table 1), but differences between control and dosed groups were not always significant ($P<.05$).

The crucial factor responsible for reproductive failure of dosed birds was disappearance of eggs through time of hatching and may have included the disappearance of some newly hatched young. Differences in egg disappearance between dosed and control hawks were significant ($P<.05$) in most experimental groups (Table 1). Egg disappearance probably was due to breakage of thin-shelled eggs and to eating of eggs or newly hatched young by parent birds. Reproductive failures in declining populations of British raptors were similarly characterized by egg disappearance, egg breakage, and egg-eating by the parents (8).

Eggshells of dosed birds of the parental generation in 1968 were thinner by 8 to 10 percent on the average than those of controls of the parental group; eggshells of the first-generation dosed birds were thinner by 15 to 17 percent on the average than those of first-generation controls (Table 2). These differences were significant in both the first ($P<.01$) and parental ($P=.056$) generations

of hawks. These reductions in shell thickness approached those that occurred after 1947 in declining populations of peregrine falcons both in the United States (18.8 to 26.0 percent) (6) and in Great Britain (19 percent) (7). Reductions in shell thickness also have occurred in declining populations of bald eagles *Haliaeetus leucocephalus* (18.0 to 19.8 percent) and ospreys *Pandion haliaetus* (25.1 percent) in the United States (6), and also in golden eagles *Aquila chrysaetos* (9 percent) and sparrow hawks *Accipiter nisus* (16 to 25 percent) in Great Britain (7).

The occurrence of the same pattern of reproductive failure among dosed birds for two consecutive years and in both parents and offspring strengthens the hypothesis that chlorinated-hydrocarbon pesticides have reduced the reproductive success of bird- and fish-eating raptors. The remarkable similarity in pattern of reproductive failure between our experimental hawks and wild raptor populations strongly supports the hypothesis that recent reproductive failures in several raptor populations in the United States and Western Europe were due to common physiological and behavioral responses to intake of sublethal amounts of persistent chlorinated hydrocarbons.

RICHARD D. PORTER,
STANLEY N. WIEMEYER,
Bureau of Sport Fisheries and Wildlife, Patuxent Wildlife Research Center.
LAUREL, MD.

TABLE 2.—CHANGES IN THICKNESS OF SPARROW HAWK EGGSHELLS. DATA WERE ANALYZED BY ANALYSIS OF VARIANCE DUNCAN'S NEW MULTIPLE RANGE TEST WAS USED TO TEST DIFFERENCES BETWEEN MEANS

Experimental group	Treatments: Control Number	Control Average shell thickness (millimeter)	Low dosage Number	Low dosage Average shell thickness (millimeter)	Low dosage Deviation from control (percent)	High dosage Number	High dosage Average shell thickness (millimeter)	High dosage Deviation from control (percent)
Parental group [1]:								
1967	8	0.197	5	0.177	10	10	0.165	16
1968	10	.189	10	[2].173	8	10	[3].170	10
First-generation group (yearlings): 1968	8	.198	8	[4].164	17	8	[4].168	15

[1] Eggs of the parental group in 1967 were haphazard samples. Although they suggested the occurrence of thickness differences they were not suitable for a reliable statistical test. The parental group contained birds from both the Northeastern United States and Florida. A randomized block design permitted the inclusion of data from both these sources for 1968.
[2] Significant difference between dosage group and controls at $P=.06$.
[3] Significant difference between dosage group and controls at $P<.05$.
[4] Significant difference between dosage group and controls at $P<.01$.

REFERENCES AND NOTES

1. J. J. Hickey, Ed., *Peregrine Falcon Populations: Their Biology and Decline* (Univ. of Wisconsin Press, Madison, 1969); D. A. Ratcliffe, *Bird Study* 10, 56 (1963).

2. P. L. Ames and G. S. Mersereau, *Auk* 81, 173 (1964); A. Sprunt, IV, and F. J. Ligas, in *A Florida Notebook, Proc. Nat. Aubudon Soc. Annu. Conv.* (1963), p. 2.

3. C. L. Broley, *Audubon Mag.* 60, 1962 (1958).

4. P. L. Ames, *J. Appl. Ecol.* 3 (Suppl.), 87 (1966); T. J. Cade, C. M. White, J. R. Haugh, *Condor* 70, 170 (1968); J H. Enderson and D. D. Berger, *ibid.*, p. 149.

5. J. D. Lockie and D. A. Ratcliffe, *British Birds* 57, 89 (1964).

6. J. J. Hickey and D. W. Anderson, *Science* 162, 271 (1968).

7. D. A. Ratcliffe, *Nature* 215, 208 (1967).

8. ———, *British Birds* 51, 23 (1958); *ibid.* 53, 128 (1960).

9. DDT is 1,1,1-trichloro-2,2-bis(*p*-chlorophenyl)-ethane; dieldrin is composed of 95 percent HEOD, which is 1,2,3,4,10,10-hexachloro - 6,7 - epoxy - 1,4,4a,5,6,7,8,8a - octahydro-1,4-endo, exo-5,8-dimethanonaphthalene.

10. E. J. Willoughby and T. J. Cade, *Annu. Cornell Lab. Ornithol.* 3, 75 (1964).

11. The high-treatment group was given a diet containing 3 ppm of dieldrin plus 15 ppm of p,p'-DDT, dry weight basis (0.84 ppm dieldrin and 4.7 ppm DDT, wet weight); food of the low-treatment group contained 1 ppm of dieldrin plus 5 ppm of p,p'-DDT, dry weight basis (0.28 ppm dieldrin and 1.4 ppm DDT, wet weight); no insecticide was added to the food of the control group. Toxicants were dissolved in cottonseed oil and mixed into a diet of ground meat. Clean oil was added to the food of the control birds in amounts equal to that added to the diets of each of the dosed groups.

12. J. O. Keith and E. G. Hunt, *Trans. North American Wildlife Natural Resources Conf. 31st* (1966), pp. 150–177; R. W. Risebrough, D. B. Menzel, D. J. Martin, Jr., H. S. Olcott, *Nature* 216, 589 (1967).

13. G. M. Woodwell, C. E. Wurster, Jr., P. A. Isaacson, *Science* 156, 821 (1967).

14. R. D. Porter and S. N. Wiemeyer, in preparation.

15. The plan for use of sparrow hawks for experimental studies with pesticides originated with W. H. Stickel. E. H. Dustman, L. F. Stickel, W. H. Stickel, and R. G. Heath contributed to the original experimental design. The authors assumed responsibility for the research in February 1967. In addition, we thank C. E. Knoder for help and suggestions, C. D. Gish and R. G. Heath for assistance with statistical analyses, and L. N. Locke for autopsy of many of the birds. F. G. Schmid procured the birds from the field and cared for them during the first years of establishment of the colony. Permission to obtain nestling hawks from their nest boxes was very kindly granted by J. Holt, L. Van Camp, and A. Nagy. A Sprunt, IV, provided the wild-caught birds from Florida.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is their further morning business? If not, morning business is concluded.

What is the will of the Senate?

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

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR ADJOURNMENT

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.

THE MATTER OF INTRODUCTION OF BILLS

Mr. WILLIAMS of Delaware. Mr. President, I am very much concerned over the implications arising from a series of recent articles by Seth Kantnor, published in the Washington Daily News, concerning the circumstances under which a number of bills have been introduced in the U.S. Senate.

According to these articles, which in some instances quote Members of the Senate and certain staff members, some of these bills have been introduced by administrative and legislative assistants without the knowledge of the Senators, and allegedly some of these bills have been introduced on the basis that gifts of value or gifts in the form of contributions were a contingency.

In discussing these allegations, I cannot overemphasize the importance of keeping one point in mind; and that is, the mere fact that Senator X may have introduced one of these bills or any other bill with which we may disagree is not the point at issue. The point raised in these articles goes beyond the merits of the bill.

The questions involved are: First, the alleged irregular procedure under which these bills were introduced, presumably in some cases without a Senator's knowledge; second, the charge that bills have been introduced upon the contingency that gifts of value or campaign contributions are involved.

When either of these points is involved, the merits of the bill itself are unimportant. Such a procedure could be a violation of the Senate rules or a violation of the law even though it involved the bill which had the unanimous approval of the Senate.

I emphasize these points because, as we explore the circumstances involved in these allegations, we want to make sure that it does not result in a blanket indictment of those Senators who may have introduced such bills in the proper manner.

I have no personal knowledge of such a procedure as outlined having been followed, and I want to make it clear that I am making no allegations as to the accuracy of these articles. It is clear from reading these articles, however, that, if left unchallenged, the inference will be drawn by the general public that bills have been introduced and supported not on the basis of their merits but rather on the basis of the considerations involved.

I cannot conceive of such a situation prevailing; but the allegations have been made, and the integrity of the Senate is being challenged. The questions raised cannot remain unanswered.

The rules of the Senate provide that Members of the Senate—and Members of the Senate only—can introduce bills. There is no provision in the rules for administrative or legislative assistants to perform the functions of a Senator. If

bills have been introduced without the knowledge of the Members of the Senate, then there has been laxity not only in the Senatorial office but also on the part of Senate clerks accepting these bills without the direct orders of the Senator.

Furthermore, if any bill or any amendment to a bill, regardless of how meritorious, has been introduced or supported by any Member of the Senate on a contingency that gifts of value or campaign contributions were involved, then such action is a violation of the law.

In America we have one of the greatest forms of government, and the U.S. Senate is an important segment of that government. As one who has served for nearly 23 years in the Senate, I have developed a tremendous respect for the integrity of its Members and their dedication to public service; but if there are instances of abuse, they must be recognized and corrected if we are to maintain the respect of our constituency.

In fairness to the Senate and all parties concerned, the circumstances from which these allegations are drawn should be clarified, and I have, therefore, asked the Senate Ethics Committee to examine these charges.

At this point I ask unanimous consent that the series of articles referred to be printed in the RECORD.

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

[From the Miami Herald, Detroit Free Press, Aug. 3, 1969]

THE INTEGRITY OF CONGRESS IN QUESTION: DID PAYOFFS KEEP ALIENS IN THE UNITED STATES?

(By James K. Batten)

WASHINGTON.—Since 1967, a number of U.S. Senators or their top aides have been offered payoffs to help protect Chinese seamen who jumped ship in U.S. ports from being kicked out of the country.

These brazen offers are part of a large and unpublicized operation that has quietly taken root on Capitol Hill, fattening the pocketbooks of New York lawyers and Washington lobbyists and raising fresh questions about the integrity of the Congress.

Most of the proposed payoffs—usually offered as campaign contributions—apparently have been sternly rebuffed. But reports persist that a few have been accepted.

Even where no explicit offers were made—and that includes most cases—the lawyers and lobbyists often reaped handsome profits and won special treatment for their Chinese clients simply because they had political pull with certain senators.

The background is this:

In 1967, during the first session of the 90th Congress, Federal court rulings plus a get-tough policy by the Immigration and Naturalization Service suddenly threatened the early deportation of hundreds of Chinese ship-jumpers, many of them living in New York.

To save their clients from this unpleasant fate, several New York immigration lawyers hit upon the device of private legislation in the Senate.

Bills introduced for the Chinese seamen, who entered the country illegally, had virtually no chance of passage. But while the bills were officially pending before the senate, the seamen would not be deported.

Soon, scores of ship jumpers were paying fees as high as $2,500 to "buy a bill," as the practice was matter-of-factly called in New York's Chinatown. Usually the cash was advanced by their employers or by Chinatown's family benevolent associations.

The money was split between New York lawyers and middlemen who persuaded the Senators to introduce the bills. Sometimes the intermediaries were politically influential lawyers in the senators' home states. But increasingly, as time went on, the contracts were made by an assortment of Washington lobbyists.

In a little over two years' time, several dozen senators have introduced private bills for 702 Chinese crewmen. During the preceding two years of the 89th Congress—in 1965 and 1966—there were bills for fewer than 25 such individuals.

For some lobbyists who place large numbers of bills with friendly senators, the ship-jumper business has proved quite lucrative.

One well-known Washington lobbyist, who confirms placing bills for at least 200 Chinese ship-jumpers, scoffed at reports that he had made $250,000 from his unusual specialty in the last two years. He modestly admitted that $50,000 might be more accurate.

As for the senators and their staffers, they stoutly deny any suggestion of impropriety.

Their cooperation, they say, was prompted by humanitarian considerations or simply by the old-fashioned necessity of "taking care of your political friends."

Most of the senators who have introduced large numbers of Chinese ship-jumper bills are moderate or liberal Democrats. And curiously, almost all of them have been favorites of organized labor. They include, among others:

Sen. Gaylord A. Nelson of Wisconsin, ex-Sen. Daniel B. Brewster of Maryland, Sen. Harrison A. Williams Jr. of New Jersey, Sen. Daniel K. Inouye and Hiram L. Fong of Hawaii, ex-Sen. Ernest Gruening of Alaska, Sen. Lee Metcalf of Montana, Sen. Frank Moss of Utah, Sen. Joseph Montoya of New Mexico and Sen. George McGovern of South Dakota.

Of this group, all are Democrats except Fong, who is a Republican. Brewster and Gruening were defeated last year.

For no obvious reason in most cases, these and other Senators have been remarkably willing to extend special legislative help to Chinese aliens who entered the country clandestinely and in violation of U.S. immigration laws.

Except for Williams of New Jersey, they come from states far removed geographically from the concentration of Chinese ship-jumpers in New York City—where most of the private bill requests originate.

When ex-Sen. Brewster was questioned by Knight Newspapers about his private bills—and about some odd campaign contributions reports he filed last year—he emphatically denied that he received any payoffs for introducing the bills.

But Brewster, in an interview, admitted deliberately falsifying one of the reports in question.

Receipts of $14,000, reported originally as donations from staff members, actually came from an AFL–CIO dinner in Baltimore in 1967, he said.

The ex-senator said he filed a corrected report last January with the Maryland Secretary of State. And he insisted that no payoffs from Chinese bills were camouflaged in any of his campaign-finance reports.

Among critics of the private bill operation—and they include high U.S. Immigration officials—there have been several areas of deep concern.

The offers of payoffs to senators or their staff members are merely the most dramatic and potentially explosive aspect of what these critics regard as a clearly unhealthy situation.

F.B.I. Director J. Edgar Hoover, for example, recently expressed concern that some of the hundreds of Chinese ship-jumpers arriving in the U.S. each year might be communist espionage agents sent by Peking. Hoover did not mention the private-bill question.

Also, some U.S. Immigration officials suspect that many of the Chinese ship-jumpers had jobs pre-arranged for them in the U.S. before they ever left their home ports in Asia.

If these suspicions are correct, that would make senators who introduce bills for those particular ship-jumpers unwitting accomplices in a sophisticated scheme to thwart U.S. Immigration Laws.

Under present laws and immigration quotas, these Chinese could come to America legally if they had a prospective employer in this country willing to help obtain the necessary papers.

There also have been reported abuses by lawyers who took fancy fees from ship-jumpers, got private bills introduced to postpone deportation, and then did nothing further for their clients.

Stuart Wadler, a New York immigration lawyer who handled many of the private bills in 1967 and 1968—and who staunchly defends their propriety in certain situations—explained it this way:

"Instead of using the time provided by a bill to accomplish something for the client, some people let these bills become an end-all in themselves. Some law offices began to sell private bills."

Wadler added: "Chinese crewmen knew they could pay $1,500 to $2,000 to any of a half-dozen law firms in New York and get a private bill introduced. These lawyers then would do nothing else but get private bills."

Private bills, as the name suggests, are designed for the relief of specific individuals. In the ship-jumpers' case, the bills would give them permanent residence in the U.S. But because the bills never pass, they are only useful as a delaying tactic.

If bribes have actually been paid to senators or their aides for introducing Chinese bills, they are extremely difficult to document.

The payoffs are allegedly made in cash and are never reported to state or federal elections officials.

The lobbyists' offers, however, are amazingly simple to pin down. They have been frequent and persistent over the past two years.

Robert J. Keefe, administrative assistant to Sen. Birch Bayh, D-Ind., told Knight Newspapers:

"They call in and say, 'Are you in the market for any Chinese bills?' It's like they're selling a bag of beans.

"They tell me it would be worth, say, $500 to Sen. Bayh. But the going rate is lower than that. The minimum is $100, and the average would be higher $200 to $250."

Keefe added: "Since this session of Congress started, they've been at least a half a dozen guys call."

And some of the offers, he recalled, came not from private lobbyists but from staffers on Senate committees.

In some instances, the pleas for immigration bills apparently are channeled through party fund-raising committees. A former top assistant to another Democratic senator recalled:

"I was contacted once by someone from the Democratic senatorial campaign committee. He said they had this particular fellow they were trying to get papers for. The people representing him were a very reputable legal firm in New York who appreciated senators and congressmen who were of assistance to them when they needed help.

"He said they'd make a nice political contribution of $1,000. I told him a flat 'no.'"

At times, the offers are more subtle.

Mrs. Beverly Rodman, appointments secretary to Sen. Charles E. Goodell, R-N.Y., reported that lobbyists pushing Chinese ship jumper bills frequently have hinted to her that they could "make it worth your while."

"If I had ever said, 'how much worth my while?' I think we could just sit and talk about figures . . . all I'd have to do would be to ask for $500 a case, and I know I could get it"—she snapped her fingers—"just like that."

Another approach, Mrs. Rodman added, is an "invitation to take what would be a very interesting trip. They might say, 'I go to Hong Hong a couple of times every month and I'd love to have you go along with me.' "

While many senators have introduced at least a few Chinese ship-jumper bills in the last two years, a handful of senators have been conspicuously active in the field.

In the 90th and 91st Congress (1967 to present), four senators—all moderate to liberal democrats—have accounted for private bills for about 315 Chinese ship-jumpers, or 45 percent of the Senate's total for that period.

Three were up for re-election last fall, and the fourth will seek re-election in 1970.

While their explanations vary, all four senators, speaking either directly or through their aides—vigorously defend their activity on behalf of the ship-jumpers and strongly deny any trace of impropriety. They include:

Sen. Gaylord A. Nelson of Wisconsin, a former governor of his state, who has introduced bills for about 100 Chinese crewmen—more than any other senator. He was re-elected last November.

Ex-Sen. Daniel B. Brewster of Maryland, who introduced bills for about 75 crewmen in a seven-month period leading up to last year's election. He was defeated.

Sen. Harrison A. Williams, Jr. of New Jersey, who has introduced bills for about 70 Chinese crewmen. He will seek election to a third term in 1970.

Sen. Daniel K. Inouye of Hawaii, who has introduced bills for about 70 crewmen. He was re-elected last November.

Gaylord Nelson, speaking through Warren Sawall, his administrative assistant, declined to make any direct response to Knight Newspapers' inquiries.

"He doesn't handle each of the cases individually," Sawall explained. "We've handled all the stuff at the staff level."

Sawall said that Nelson was sympathetic to the personal plight of Chinese crewmen fighting to stay in the U.S. He added that "most" of Nelson's bills had been referred to him by "other senators."

Asked to name the other senators, Sawall cited only one: George McGovern, D-S. Dak., who battled briefly and unsuccessfully last summer for the Democratic presidential nomination.

Actually, Sawall continued, the bills were routed to Nelson's office by McGovern's legislative assistant, Benton J. Stong, a 64-year-old former newspaperman and farm lobbyist.

Most of the referrals, Sawall added, came when McGovern was away from Washington and unavailable to introduce the bills himself. Since 1967, McGovern has introduced more than 20 Chinese bills of his own.

Stong recently quit McGovern's staff to help organize the congressional office of the new Democratic representative from Montana, John Melcher.

In an interview, Stong said that some of the bills he passed to Nelson's office came to him from Charles A. Murray, a Washington lobbyist and son of the late Sen. James Edward Murray, D-Mont., who was chairman of the interior and insular Affairs Committee during the 1950.

Charles Murray was his father's righthand man and such an influential fellow that some wags called him "the senator from Montana."

His "whole relationship" with Charles Murray, Stong explained, stemmed from the fact that in 1955, Murray helped Stong get a staff job on his father's committee.

Occasionally in the last two years, Stong went on, Murray would drop by McGovern's office with Chinese shipjumper bills and asked Stong to help get them introduced.

"He was inclined," Stong recalled with a faint smile, "to get pretty urgent with me at times."

(Murray reportedly once told a colleague in the private-bill business that if he ever needed bills introduced when Murray was out of town, he should contact Stong directly.)

Of the Senate's general handling of the Chinese bills, Stong conceded: "This is a criticizable procedure that is subject to abuse. And there has been talk about it."

Have Senators accepted campaign donations in exchange for introducing the bills? "I wouldn't think it was a per-head operation," Stong replied. "I've heard this, but I don't know of any instance of it."

He added: "My assumption is that people (lawyers and lobbyists) who handle these bills have, at the time of the campaign, contributed to the senators' campaigns."

Stong insisted, however, that Murray had not contributed to Sen. McGovern's campaign for re-election in South Dakota last fall. Stong also insisted that he had never taken any money for his role in the bills' introduction by McGovern or Nelson.

Ex-Sen. Daniel Brewster, knocked out of his seat last fall by Republican Charles Mathias Jr., set some sort of record by introducing bills for about 75 Chinese shipjumpers in the seven months before the election—a breathless rate of one every three days.

Confronted with this curious record in a recent interview at his northwest Washington Townhouse, Brewster professed surprise that he had introduced so many private bills.

Pressed for explanation, he quietly replied: "I have no explanation."

His immigration bills, explained the handsome and wealthy ex-Senator, were handled entirely by his staff. His policy, he said, was to introduce any bill he was asked to introduce—without examining its merits.

"It was entirely impossible to sort them out with the staff available. It was my policy to introduce the bills and leave the investigation up to the Judiciary Committee."

During the same period last summer and fall when Brewster was dumping Chinese ship-jumper bills into the Senate Hopper, he also was submitting campaign contributions reports that raised eyebrows in Washington and elsewhere.

Under oath, Brewster listed more than $14,000 in contributions from his Senate staff and relatives of his staff members. Several relatives of Brewster's administrative assistant, John F. Sullivan, were listed for donations as high as $2,500.

Even Sullivan's five-year-old son, Tim, was down for a $1,000 donation—a claim later questioned by FBI agents.

Knight Newspapers asked Brewster about reports that part or all of the money attributed to aides and their relatives was, in fact, payments from lobbyists for whom Brewster had introduced private bills.

"Now that is not true," he replied.

But the ex-Senator quickly went on to admit that he had knowingly falsified one of his campaign donation reports, filed with the Maryland Secretary of State on Aug. 30, 1968.

Brewster said that $14,000 listed on that report—submitted by the Citizens for Brewster Committee and signed by Brewster himself—came not from staff members but from a 1967 AFL–CIO dinner in Baltimore.

He permitted the false report, he said, because neither he nor his staff knew the names of those who purchased tickets to the dinner.

On Jan. 14 of this year, more than two months after his defeat at the polls, Brewster filed a correction of his earlier report. Although the correction has been in the public file in Annapolis ever since, it has not come to light until now.

Sen. Harrison A. Williams Jr. of New Jersey, another of the Senate's most prolific sponsors of Chinese ship jumper bills, is now preparing for a Republican challenge, possibly by Rep. Peter H. B. Frelinghuysen, next year.

Until a few months ago, Williams was beset by a drinking problem that some observers believed were hampering his effectiveness. But friends now say he has licked the problem and is vigorously back on his legislative feet.

Williams' long list of ship-jumper bills stands in sharp contrast to the other three senators from the New York-New Jersey area, where almost all of the private-bill requests have originated. These senators' offices approach the ship-jumper requests with extreme skepticism.

For example, since the 91st Congress convened in January, Williams has introduced bills for 41 Chinese ship-jumpers.

But Sen. Charles Goodell and Sen. Jacob K. Javits, Republicans from New York, and Sen. Clifford P. Case, Williams' Republican colleague from New Jersey, have together accounted for bills for only four ship-jumpers.

In general, immigration lawyers and private-bill lobbyists stay away from the offices of Goodell, Javits and Case, knowing that they will not be warmly received.

For example, Mary McFerran, the pert and knowledgeable immigration case worker on Javits' staff, is wryly called "The Irish Witch" by some New York lawyers who find her unsympathetic to their pleas for private bills.

But Miss McFerran explains that Javits' policy is that Chinese ship-jumpers should use the normal immigration machinery. "There's administrative relief available," she said, "and that's why we stay away from private bills."

But Williams sees it differently. He said he's not surprised that he has far more Chinese bills than his New York-New Jersey colleagues in the Senate.

"They come to me first because I have the softest heart—and that's known."

A number of his bills, Williams confirmed, have come from Charles Murray, the son of his one-time colleague from Montana.

"Charlie Murray," declared Williams, "comes with good credentials."

Murray approached Williams about two years ago through Frederick R. Blackwell, an ex-Marine who is associate counsel to the Senate Labor and Public Welfare Committee. The two men became friends while Murray worked on Capitol Hill.

Blackwell came to Washington originally on the staff of Sen. Strom Thurmond, R–S.C. He later shifted to Williams and now is regarded as one of the New Jerseyan's closest political advisers.

In a recent interview, Blackwell recalled that he agreed to relay Murray's request for private bills to William. And at Williams' suggestion, Blackwell added, he checked into the situation underlying the demand for Chinese private bills.

A friend at the Immigration and Naturalization Service persuaded him that many of the requests for bills were legitimate and deserved consideration, he continued.

The only caution given to him, Blackwell added, was that Williams should be wary of "hit-and-run" immigration lawyers who get a private bill introduced and do nothing more for their clients.

Armed with this advice, Williams then proceeded to introduce bills for Murray and others.

Recently Williams was asked if he was concerned that he might have introduced too many bills.

"Some concern, yeah," he replied. "I have a good relationship with the chairman (Sen. James O. Eastland, D-Miss., chairman of the Judiciary Committee, where the bills are referred) and I don't want to feel I'm overburdening the committee."

Williams said he had never received any

offers to introduce bills in exchange for campaign contributions or other payoffs.

The other member of the Senate's "Big Four" in Chinese ship-jumper bills—Sen. Daniel Inouye of Hawaii—had no immediate response to Knight Newspapers' inquiries.

His administrative assistant, Henry K. Clogul, confirmed that Inouye introduced about 48 Chinese bills for ship-jumpers on the U.S. mainland during the 90th Congress and 35 more so far in the first six months of the 91st Congress.

Giugni said he had no firsthand information on the origin of the first 48 bills. Of this year's 25, he said a number of them came from Stephen L. Deburr, a Washington real estate man who has placed bills with several senators.

"I introduced them for him because I felt sorry for him," Giugni explained. Asked why he "felt sorry" for Deburr, the Inouye aide said Deburr was "a struggling lawyer."

Deburr, a former member of the Capitol Hill police force, attended law school some years ago but does not practice law. He manages family real estate properties in Washington and also has a farm.

Pressed about his remark that "I introduced them for him" Giugni quickly added that Inouye, of course, approved all legislation introduced in his name.

Other Senators, while not matching the wholesale volume of the Nelson-Brewster-Williams-Inouye quartet, have also introduced substantial numbers of Chinese ship-jumper bills.

Several of them are from land-locked states far from any coastal port and far from the Chinese ship-jumper colony in and around New York City.

Some of their totals for the 90th and 91st Congresses, include:

Lee Metcalf, D-Mont., who has Sen. Murray's old seat, bills for about 35 crewmen; Frank E. Moss, D-Utah, for about 35; Joseph M. Montoya, D-N.M., for about 25; Alan Bible, D-Nev., for about 18; and Gale McGee, D-Wyo., for about 18.

HOW TO "BUY A BILL" IN THE U.S. SENATE

WASHINGTON.—Would you like to "buy a bill" in the U.S. Senate to delay a friend's deportation?

David L., a veteran Chinese restaurateur in Washington, can tell you how it's often done—although he emphasized that he does not do it himself. He thinks it's a "stupid" thing to do.

One way to get a senator to introduce a private immigration bill, he said, is to go to the senator's assistant and tell him you'll contribute to his boss' campaign kitty in exchange for a bill.

"The senator himself will never accept anything," explained Mr. L., a smiling, middle-aged man who manages one of Washington's most popular Chinese restaurants, a few blocks from the White House.

"The assistant will tell you to write a check to so-and-so. You never deal with the senator. They want it clean."

How much does it cost? "Oh, $800, $900, $1,000, $1,500."

Which senators' offices should you approach?

"You've got to get way away from Washington," Mr. L. emphasized.

Senators far removed from Washington are less worried about repercussions. Their constituents would be less likely to find out, he said.

If any senator got caught, he explained gravely, it would be "a black mark against him."

It helps, Mr. L. added, if you know somebody on a senator's staff.

"If they don't know you at all, well, they're taking a chance to do a thing like this. It reflects pretty bad taste."

LOBBYISTS SMOOTH WAY: SENATORS "RESCUE" ALIENS

(By James K. Batten)

WASHINGTON.—"Actually," murmured Stephen L. Deburr as he stirred a cup of coffee, "I felt good about it. Like any halfway decent citizen, I felt sympathy toward them."

Deburr, a stocky, fourth-generation Washingtonian who calls himself a "real estate man and farmer," was talking about his unusual, money-making sideline on Capitol Hill: Persuading U.S. senators to introduce private legislation for Chinese ship jumpers.

"These guys," he declared, referring to the seamen struggling to avoid deportation to Hong Kong, "act scared to death that when they get back over there they'll have their heads blown off."

Until recently, Deburr and others who shared his specialty had a thriving business.

But now, as rumors of attempted bribes and other possible improprieties seep through the Capitol, many senators' offices are suddenly leery of Chinese ship jumpers.

Deburr, once a policeman and elevator operator at the Capitol, is one of a dozen or so lobbyists who since 1967 have cashed in on the booming demand for special legislation for Chinese crewmen living in the New York area.

These lobbyists are the middle men between immigration lawyers in New York, who want private bills to delay their clients' deportation, and the senators in Washington, who introduce the bills.

Most of these intermediaries are men who, like Deburr, once worked on Capitol Hill and still retain wide contacts among the senators and their key aides.

In many cases, the lobbyists earned their fees—sometimes as much as $750 a bill or even higher—by relying strictly on old friendships and political IOUs to get their bills introduced.

But in some instances, at least some lobbyists have prodded senators or their assistants to introduce the bills by offering payoffs—usually campaign contributions.

These offers, a few of which allegedly were accepted, ranged as high as $1,000 a bill. But $250 to $500 seems to have been a more normal price range.

Whether or not illegal payoffs have stimulated some senators' interest in the plight of Chinese ship jumpers, the Senate's experience with these bills has had several curious aspects. Among them:

Earlier this year, some senators were warned in memos from the Senate Immigration subcommittee that they were being asked to submit ship-jumper bills introduced by other senators during the previous Congress. In most cases, the subcommittee warned the new sponsors were not being informed that the same bills had been introduced before.

Several dozens of this year's bills had somehow reversed the beneficiaries' Chinese names. For example, in 1965 a bill was introduced for Chan Yiu Ip. This year, a bill was introduced for Yiu Ip Chan, who proved, upon investigation, to be the same man.

Because delay is the sole function of the Chinese bills, some immigration subcommittee staffers suspect that reversal of the names was intentional and designed to create time-consuming confusion. "It could have been deliberate," conceded one subcommittee source.

High officials of the Immigration and Naturalization Service, on at least two occasions about 60 days ago, received telephone calls from a woman or women impersonating Mrs. Beverly Rodman, an aide to Sen. Charles Goodell, R-N.Y., and Mrs. Jean Arens, an aide to Sen. Harrison A. Williams Jr., D-N.J.

On both calls, a woman—claiming to be Mrs. Rodman and then Mrs. Arens—asked that deportation of certain Chinese crewmen be delayed. The senators were considering private legislation, the voice explained.

Later the immigration authorities discovered that neither Mrs. Rodman nor Mrs. Arens made such calls.

But lobbyists like Deburr, who agreed to discuss their operations with Knight Newspapers, steadfastly insisted that they knew nothing of such shenanigans.

And they also vehemently denied offering campaign funds in exchange for private bills.

Deburr said that bills for his 55 to 60 Chinese ship jumpers were simply introduced by friendly senators who agreed they were meritorious cases. He added that he never got more than $100 per bill from the lawyers in New York who sent the bills to him for placement.

But an old friend of Deburr, Jerome Gulan, whose regular job is lobbyist for the National Federation of Independent Businesses, tells a somewhat different story.

Gulan said he and Deburr became acquainted several years ago when both were working as Capitol policemen. Deburr was a patronage employe of the late Sen. E. L. (Bo) Bartlett of Alaska, while Gulan got his job from the Senate's other Alaskan, then-Sen. Ernest Gruening.

As Gulan tells it, when Deburr began scouting around the Senate for co-operative senators he enlisted Gulan's help.

Gulan began calling senators' offices. One Democratic administrative assistant recalls that Gulan was persistent, calling "every couple of weeks."

This aide's recollection is that Gulan was offering $100 to $200 a bill. "He was cheap" compared to other, more open-handed lobbyists, the aide says.

Asked about this, Gulan said:

"I don't recall Steve (Deburr) ever giving me any figures on what he was willing to put out—I mean any precise figure.

"Honestly can't recall if I said something specific about $100 or $200 a bill. I'd say, 'If you put it (the bill) in, the desire of this man (Deburr) would be to contribute to his (the senator's) campaign.'"

Deburr denied that he "ever authorized anybody to make any campaign contributions or to make any money offers . . . I never paid anybody a nickel."

But he added: "If someone came to me and asked for a campaign contribution for people who had helped me, it would be kind of stupid for me to turn around and say I wouldn't give 'em anything."

So far, however, Deburr insists that he has given no money to any senator who introduced his bills.

In addition to Deburr, lobbyists active in the Chinese ship jumper field have included:

Charles A. Murray, 52, son of the late Sen. James Edward Murray, D-Mont., and a man with numerous friends on Capitol Hill. His father was a Senator power and chairman of the Interior and Insular Affairs Committee when he retired in 1960.

Michael B. Deane, a veteran lobbyist, public relations man and past president of the National Capitol Democratic Club. He came under fire in the early 1960s for his activities as a sugar lobbyist.

Col. R. E. (Bud) Vandervort Jr., a retired Army officer, who served as a Defense Department liaison man in the Senate for several years in the early 1960s. He is now assistant to the vice-president of Koppers Co., Inc., in Washington.

Hayden and Jan Bennett, a husband-and-wife team who for a time allowed Charles Murray to use their Connecticut Ave. office as a base for his lobbying activities. The Bennetts, who have other business interests, apparently handled only a few bills over a short period of time.

Of all those who have tried their hand at the Chinese ship jumper game, the undis-

puted champion is Charlie Murray. No one else has placed so many bills or made so much money.

A tall, florid, personable man who wears black, horn-rimmed glasses, Murray served as administrative assistant to his father for years and also held several other jobs on the Senate payroll.

Murray was "one of the great pros" in the Senate staff ranks in the 1950s, one acquaintance recalled. He was on a first-name basis with a long list of powerful senators. And since leaving Capitol Hill, he has not permitted his contacts to wither.

More than once, Murray has impressed clients by taking them to lunch in the Senate private dining room and basking in the warm hellos from his old and famous friends.

Over lunch the other day at Paul Young's, one of Washington's favorite expense-account watering holes, Murray cheerfully admitted that he had made a very good thing out of New York lawyers' voracious appetite for private bills for their Chinese clients.

But he staunchly defended the bills he has handled as legitimate and proper.

Because of the erratic workings of U.S. immigration laws, Murray contended private bills sometimes are the only solution for aliens who need time to win permanent-resident status.

Murray estimated that since 1967 he has placed about 200 Chinese ship jumper bills with senators and their aides—about two of every seven Chinese bills introduced during that period. He emphasized that his cases got a thorough follow-thorough and most of his clients eventually gain permanent residence.

He chuckled when asked about one educated guess that his income from ship jumper bills might have reached as high as $250,000 in two years' time.

"It was not a half of that, not a quarter of that," he protested amiably.

One source familiar with Murray's operations, however, when asked if he had ever offered senators or their aides campaign donations to introduce Chinese bills, replied without emotion:

"I'm clean as a hound's tooth. I can go before anyone and justify any bill I've ever asked a senator to put in. I know senators and staff people who've been my friends over the years and I go up and ask for a favor . . . I've nothing to hide."

To underscore this point, Murray cited as an example his relationship with former Sen. Gruening, D-Alaska, an old friend.

"For me to go in to Gruening and say, 'You put a bill in and I'll give you a contribution,' I believe he would have thrown me out on my tail, I really do."

Murray was asked if he had ever discussed possible campaign contributions with Sen. Harrison A. Williams, the New Jersey Democrat who has introduced dozens of Murray's bills.

"No, definitely not," he replied. "I never talked to him about a campaign contribution of any kind. I've had it in my mind that I would send $100 (to Williams' campaign fund in 1970). That would be all I could afford."

Michael Deane, another lobbyist active in the ship jumper field, refused to discuss the matter with Knight Newspapers.

"I'm not going to be able to be of any assistance to you," he said in a brief telephone conversation from his office in the National Press Building. "Because I know nothing about the subject."

He denied handling any ship jumper bills, then, abruptly, hung up.

Deane was in the news in 1965 when the Senate Foreign Relations Committee was investigating the shadowy world of sugar lobbyists who represented foreign nations jousting for a share of the U.S. sugar quota.

Deane, who received $57,459 in fees from Dominican sugar interests in one 12-month period in 1960–61, reportedly sent his clients overblown accounts of his influence with such men as then Sen. Hubert H. Humphrey and then-Secretary of Agriculture Orville Freeman.

Sen. J. William Fulbright, D-Ark., chairman of the Foreign Relations Committee, remarked that Deane "apparently filed exaggerated and sometimes inaccurate reports to his (foreign) principal."

Several senators' offices have been asked by Deane to introduce ship jumper bills. For a time he seems to have been fairly successful. But in recent months Deane's luck apparently has faltered.

Since February, according to one immigration lawyer, Deane has not been able to place any bills. "He says he's used up all his personal favors," the lawyer said.

Bud Vandervort, who retired from the Army in 1965, learned his way around Capitol Hill during six years as a Pentagon liaison man at the Senate.

"I'm not much of an operator in this area (of Chinese bills)," he said in an interview. "I've turned a lot of 'em down, because they wanted to pay for 'em and that was something I didn't want to get involved in."

The retired colonel, a hearty, barrel-chested man estimated that he had placed only about 10 bills with four or five senators. And he insisted that he had accepted no fees for any of them.

At least one Democratic senator now wishes he'd been less co-operative with the colonel.

"Vandervort asked if, as a favor to him, we would put in several of his bills," recalls the senator's administrative assistant. "But two of 'em were bad apples—One of 'em was suspected of supporting a marriage mill."

[From the Washington Daily News, Sept. 17, 1969]

CHINESE SHIP-JUMPERS

(By Seth Kantor)

Sen. Joseph M. Montoya, D., N.M., reported that legislation has been introduced in Congress under his name which "I have known nothing about."

Specifically, he said that certain private immigration bills—known as special legislation to aid Chinese ship-jumpers—allegedly have been introduced by him, but without his knowledge.

In a recent series of articles by James K. Batten in the Knight Newspapers, it was reported that "some lobbyists have prodded senators or their assistants to introduce the bills by offering payoffs—usually campaign contributions."

Sen. Montoya, up for re-election next year, said yesterday he was "unware" of most of the bills introduced by him in the 90th and 91st Congresses, aimed at blocking the deportation of 26 Orientals.

Chinese seamen have been paying up to $1,500 apiece to New York lawyers to get special legislation introduced that would block or delay their deportation to Hong Kong, Mr. Batten reported.

During questioning by the Scripps-Howard Newspapers, Sen. Montoya summoned Antonio Anaya, his legislative aide, into his office.

"You didn't tell me about these bills, did you?" snapped the Senator.

"No, not entirely," said Mr. Anaya.

"I have a rule here," said Mr. Montoya, "that bills cannot be introduced from this office without my knowledge."

Mr. Anaya pointed out three instances where the subjects of Sen. Montoya's private bills, referred to the Senate Judiciary Committee for consideration, had nothing to do with Chinese sailors in New York.

"We have never introduced a bill in this office," said Mr. Anaya, "that we felt did not have full merit."

Left unexplained were descriptions of the following subjects of private bills submitted under Sen. Montoya's name—reliably identified as Chinese ship-jumpers—which appear in Judiciary Committee records over the past two years:

Wong Kam Cheung, Wong To Pan, Kong Wing Sik, Au Yeung Kwai Wing, Lam Kan Wo, Chung Chuen Fong, Lam Wan Tung, Koo Sho Feng, Lau Chum, Wou Chi May, Chen Mei Tung, Tsai Tse Ming, Cheung Cheun Chung, Wong Yeung Pui, Yuen Hing, Won Hing, Wu Fuk Ching, Cheung Kwai Leung, Siu King, Lau Kwun Ching, Pui Li Wu Ching Ting and Lam Chow.

Mr. Anaya denied that professional Chinese ship-jumper lobbyists urged him to submit the bills.

He said: "The people who came to me were personal friends of Paul (Sen. Montoya's administrative assistant Paul Demos) or myself. There were no strings attached. There were no funds or favors coming with it."

"It was a matter of wanting to help someone who had merit to his case."

MONTOYA ASKS SENATE TO KILL BILLS

(By Seth Kantor)

Sen. Joseph M. Montoya, D-N.M., has asked the Senate to kill four private bills that would help keep alien "Chinese ship-jumpers" in the United States, after the Washington Daily News revealed yesterday that Mr. Montoya was sponsor of the legislation.

He wrote a letter yesterday to Sen. James O. Eastland, D-Miss., Judiciary Committee chairman, saying that "I disavow any knowledge of having approved the introduction of these measures on my behalf and I am, therefore, asking that at your next regularly scheduled committee meeting you postpone action on these indefinitely."

He said it is possible for an aide to introduce a Senate bill without a senator's knowledge, because "it is customary for staff members to take bills to the bill clerk in the chamber and submit them."

NOT SIGNED

Bills do not have to be signed by the senators who author them, Sen. Montoya said.

As a result of the easy-going system in the Senate, Mr. Montoya said he instituted a policy early this year of personally initialing each piece of legislation he was to sponsor.

Chinese ship-jumpers are seamen who have gained improper entry into the United States. Mostly they are in New York. In many cases they pay fees of hundreds of dollars apiece to lawyers who promise to get Congress to block or delay their deportation.

The lawyers, thru some lobbyist manipulators, have been able to reach some members of the Senate. As a result several hundred private immigration bills have been introduced in the past two-and-a-half years.

During that time-span, Mr. Montoya was listed as sponsor of legislation aimed at snagging deportation of more than two dozen alien orientals who never came within hundreds of miles of New Mexico.

DIDN'T KNOW ABOUT "RACKET"

"Nobody on my staff to my knowledge knew they were ship-jumpers or paying anybody," Mr. Montoya told a press conference yesterday afternoon. "We didn't even know about this racket."

He said "a stranger" tracked him down in a Senate reception room more than a year ago and asked him to "introduce a private bill for a Chinese alien or aliens." Mr. Montoya said he quickly learned the aliens were in no way connected with New Mexico.

"I spent about one minute with him and walked away from him," Mr. Montoya said. "I was pretty damn mad. I walked back into the chamber and forgot about it."

Asked why the ship-jumper agent selected him as a potential patron, Mr. Montoya said "he must have come to me because I was from out in the sagebrush somewhere and not awakened to the modern world, to his way of thinking."

WISCONSIN SENATOR "EMBARRASSED" BY 98 TOTAL—NELSON: SHIP-JUMP CHAMP

(By Seth Kantor)

Sen. Gaylord Nelson (D-Wis.), the Senate's champion sponsor of "Chinese ship-jumper" bills, said the 98 such bills which carry his name were introduced without his knowledge.

Several senators have been involved in submitting hundreds of the bills aimed at postponing the deportation of Oriental aliens who entered in U.S. illegally. Sen. Joseph M. Montoya (D-N. M.) also reported this week that legislation carrying his name, to aid more than 20 of the aliens, was introduced without his knowledge.

Reports of payoffs to New York lawyers, and then to elements of Capitol Hill by ship jumpers, have reached the Senate Judiciary Committee, where the bills are sent and ultimately killed.

BAG OF BEANS

Robert J. Keefe, administrative assistant to Sen. Birch Bayh (D-Ind.), said certain lobbyists and even some Senate committee employees "call in and say, 'Are you in the market for any Chinese bills?' It's like selling a bag of beans."

Mr. Keefe said the callers promise to make it worth from $100 to as high as $250 per bill if the senator would sponsor them.

Sen. Nelson not only reports he knows of no money transactions with the bills submitted with his name—but confirms the bills were introduced without his knowledge by Warren J. Sawall, Sen. Nelson's executive assistant. Mr. Sawall is now on sick leave.

"I won't permit anything to go in now unless cleared by me," Sen. Nelson told the Washington Daily News and other Scripps-Howard newspapers.

"A batch" of the bills with Sen. Nelson's name on them was referred to Mr. Sawall by Benton J. Stong who, until this summer, was legislative aide to Sen. George S. McGovern (D-S.D.).

Mr. Stong told the Daily News and other Scripps-Howard newspapers "I did handle some of those bills for Charles A. Murray, a lobbyist here in town." Mr. Murray is the son of the late political strongman from Montana, Sen. James E. Murray, who served as chairman of the Senate Interior and Insular Affairs Committee.

Mr. Murray is described by Mr. Stong as "an effective guy, operating a legitimate service." Mr. Stong is with Rep. John Melcher (D-Mont.) now.

SAFEGUARDS

The House has safeguards against Chinese ship-jumper bills, so the Senate is where all the action is.

Senate Judiciary Committee rules are firmly established that none of these bills will pass. But the Committee seeks a report from the Justice Department's Immigration and Naturalization Service on each individual case—automatically delaying the killing of each bill for up to two years, the duration of a term of Congress. Until such a bill is killed, the individual ship jumper cannot be deported.

A Senate Immigration Subcommittee aide said today that an overwhelming majority of the ship-jumpers board vessels at Hong Kong. They usually are not seamen and "very frequently" are cooks, on their way here strictly to jump ship.

Sen. Nelson, who is described by an office aide as being "terribly embarrassed" by all the ship-jumping bills credited to him, sent a letter to each involved Oriental recently, which said:

"It has been brought to my attention that some lawyers and lobbyists have charged some aliens large fees for preparing such petitions on the specific pretext that it costs money to get a bill introduced. If any such representation has been made it is dishonest . . ."

LOBBYIST HERE GOT $40,000 TO $50,000: SHIP JUMPERS PAID OFF WELL

(By Seth Kantor)

Charles A. Murray makes a very good living getting U.S. senators to introduce bills that can't get passed.

Mr. Murray, 53, a Washington lobbyist, admits having been paid "between $40,000 and $50,000" in recent times for getting introduced legislation intended to delay the deportation of certain Oriental aliens. On Capitol Hill these are called "Chinese ship-jumper bills."

They have come in such floods that the House Judiciary Committee no longer will accept them. The Senate Judiciary Committee refuses to act favorably on them—but accepts them for "study." The bills ask that the alien be permanently admitted to the U.S.

And so long as such bills are under congressional study, the alien can't be deported, frequently to the frustration of the U.S. Immigration and Naturalization Service.

DID NOT KNOW

Mr. Murray's name has come to light as Sens. Joseph M. Montoya, D-N.M. and Gaylord Nelson, D-Wis. revealed they did not know bills introduced to aid 121 Chinese ship-jumpers had been submitted in their names. Sen. Nelson and Montoya said staff aides introduced the bills without their knowledge.

"Oh, I think some aides have gotten a couple of bucks, a case of whisky or something, in connection with the bills," said Mr. Murray. "I have given a couple hundred dollars to some senators, to buy tickets to testimonial dinners, or something like that."

But Mr. Murray said, "I feel so clean and decent about all this, altho there are some unscrupulous operators."

ANOTHER LOBBYIST

Another Washington lobbyist, identified by several Capitol Hill sources, as a dealer in Chinese ship-jumper bills, is Michael B. Deane, a fund-raiser for politicians. Six years ago the Senate investigated Mr. Deane's role as a sugar lobbyist who was paid more than $90,000 by the Dominican Republic in trade for his influence on Capitol Hill.

Mr. Deane refused to discuss his dealings in ship-jumper bills. When asked if he approached Sen. Montoya on the edge of the Senate chamber to make a deal, he hung up the phone.

Sen. Montoya has identified a man named "Dean or Deane" as a stranger who tried for three days in 1968 to "get me to introduce a private bill for a Chinese alien." Sen. Montoya said he refused.

"I and my associates would welcome—eagerly welcome—a congressional investigation on the use of private bills" said Mr. Murray, a garrulous veteran of the Washington scene, son of the late Sen. James E. Murray, a power in the Senate from Montana.

The identity of Mr. Murray's associates is not easy to pin down. He works out of his home in McLean, Va., and has an unlisted telephone.

TWO NEW YORK ATTORNEYS

Mr. Murray identifies two New York area attorneys as his associates on the Chinese ship-jumper bills, but said he had a permanent falling-out with one of them months ago. Mr. Murray estimates 85 per cent of the lawyers who handle these immigration cases are in New York.

Mr. Murray gets his pay from the lawyers who, in turn, are paid fees by ship-jumpers trying to buy time in the U.S. Employers of the ship-jumpers often put up the money.

Sen. George McGovern D-S.D. "put in several bills for me," said Murray. "I never gave him a dime." He said he never made payments to Sens. Nelson and Lee Metcalf, D-Mont, whose names are on other bills pushed by Mr. Murray.

Mr. Murray said he was unhappy over reports that he dealt with western, liberal Democrats only. He thought awhile and then said Sen. Milton R. Young, R-N.D. had introduced ship-jumper legislation for him.

Mr. Murray named Sen. Harrison A. Williams, D-N.J. as a major source for introducing the special bills for him. A check of the records shows Sen. Williams has introduced bills involving 70 ship-jumpers in the 90th and 91st Congresses.

SCANDAL IN CONGRESS

It is an incredible fact that a portion (who knows how much?) of the bills entered into the legislative mills of Congress are originated by employes of Congressmen and Senators without their knowledge.

And it is an infuriating fact that, altho steps were taken 15 years ago to block bills seeking to protect illegal aliens, there still are lobbyists taking money—and very likely paying out money—to get such measures introduced.

In a series of articles in 1954, Scripps-Howard writer Jack Steele exposed the traffic in bills seeking to prevent or stall deportation of aliens who had entered the United States illegally. As a result, the House Judiciary Committee banned such bills. The Senate Judiciary Committee adopted a policy of refusal to act favorably on them, but still accepts them "for study." And as long as a case is under "study" the Immigration Service cannot order deportation.

So the Senate is the target of a flood of what are now called "Chinese ship jumper" bills—bills intended to delay the deportation of certain Oriental aliens, many of whom "jumped ship" in this country.

Compounding all of this is the fact that some Senators whose names appear on the bills apparently know nothing about them. Scripps-Howard writer Seth Kantor, in a series of articles that began last week, reported denials of authorship by Sen. Joseph M. Montoya, D-N.M., and Sen. Gaylord Nelson, D-Wis., and in at least one case the introduction of the bills was traced to a couple of office assistants.

Mr. Kantor talked with a lobbyist who readily admitted having been paid "between $40,000 and $50,000" for getting "Chinese ship jumper bills" introduced. Another lobbyist who reputedly conducts such business refused to discuss it.

The matter is shocking from several angles:

That such bills continue to appear at all, after the practice was exposed and condemned 15 years ago.

That it should be possible for an employe of a Congressman or Senator to introduce bills without the knowledge of his employer.

That it should be possible for a lobbyist to conduct this business in spite of the blockades that both Judiciary Committees set up.

We strongly urge:

That Congress require that every piece of legislation submitted carry the actual signature of the sponsor and that heavy penalties be provided in the event of forgery.

That Congress and the Immigration Service have another look at the problem of "ship jumper" bills and take whatever additional steps may be necessary to eliminate them.

SENATOR JOINS "SHIP JUMPER" NAVY: MOSS DID FAVOR FOR OLD FRIEND

(By Seth Kantor)

Sen. John E. Moss, D-Utah, said today he has introduced bills at the request of Washington lobbyist Charles A Murray to thwart the deportation of 26 "Chinese ship-jumpers," as "a favor to an old friend."

Sen. Moss, member of the Senate Interior and Insular Affairs Committee, said he first

got to know Mr. Murray years ago, when Mr. Murray's father, the late Montana Sen. James E. Murray, was chairman of the Interior Committee.

But Sen. Moss said he is convinced the legislation was for a good cause. He said Mr. Murray told him the bills were to aid "refugees from communist tyranny, whom he represented." Sen. Moss said he also checked with a New York attorney on the aliens involved.

Sen. Moss said he has learned "with great amazement" that Mr. Murray and other lobbyists had got other senators—and even some Senate aides—to introduce hundreds of the ship-jumper bills in the 90th and 91st Congresses.

"I thought Charley Murray was just coming to me alone, for old times sake," he said, and expressed shock at reports payments have been made to get the private bills introduced.

Sens. Joseph M. Montoya, D-N.M., and Gaylord Nelson, D-Wis., revealed last week that their own aides, unknown to them, had introduced "Chinese ship-jumper" bills.

Sen. Wallace F. Bennett, R-Utah, vice-chairman of the Senate Ethics Committee, said he "never before heard of" aides introducing bills without the knowledge of the senators they work for.

Dr. Floyd M. Riddick, Senate parliamentarian, said "technically, aides have no right to submit bills." It is against Senate rules.

But Mr. Riddick said "it has been the practice for some time, if the bill is not controversial and if the senator is in town—we check on this carefully—then we do accept a bill at the desk from an aide."

A bill can be submitted by an aide without a senator's signature on it, or without indication of a senator's approval, said David Lambert, the Senate's assistant bill clerk.

"Chinese ship-jumper bills" are aimed at delaying the deportation of Oriental aliens who have reached U.S. shores illegally.

The individuals or their employers pay fees to lawyers to delay deportation proceedings. The lawyers have made payoffs to lobbyists—Mr. Murray admits having made at least $40,000 in payoffs in recent times—to get bills introduced in the Senate.

The bills are automatically referred to the Senate Judiciary Committee, which has a rule that none of these bills will be passed. But they are placed "under study," a process which keeps the alien from being deported for a period of up to two years.

Mr. Murray said he thinks "some (Senate) aides have received a couple of bucks, a case of whiskey or something," in the placing of some of the bills. He admits having "given a couple hundred dollars to some senators" in getting the ship-jumper bills introduced.

He said he has given no money to Sen. Moss and the senator said there there was no contribution from Mr. Murray.

Sen. Bennett said he introduced one ship-jumper bill as a favor to a lobbyist—not Mr. Murray—in the 90th Congress.

"The man came to a member of my staff," said Sen. Bennett, "and said it was urgent that I put in a bill to block deportation of a cook in the District of Columbia.

"I was busy on the Senate floor. When advised of the request, I said, 'No, no, no. Give me time to look into the matter.' I was told the alien was to be deported right then."

Sen. Bennett said he introduced a bill to save the man, but then checked and found "he was not of the sterling character he was supposed to be. I asked that my bill be killed immediately and the Judiciary Committee obliged."

SEN. INOUYE ADMITS GETTING CAMPAIGN HELP: "SHIP-JUMPERS" CONTRIBUTE

(By Seth Kantor)

Sen. Daniel K. Inouye, D-Hawaii, said today, he has submitted many "Chinese ship-jumper" bills and has received campaign contributions in return.

"I have subsequently received contributions from some of these people," said Sen. Inouye. "I would not only be naive but I would be lying to say I haven't.

"Some have come to me and asked how much would it cost to get a bill submitted in their behalf in the Senate, which might indicate the policies of others on Capitol Hill. I should never take a dime to help someone.

"I am certain there have been some bums among them—the so-called ship-jumpers. But I will continue to submit these bills to help people other senators have turned down. Otherwise, what's this Democracy all about?"

Sen. Inouye has introduced bills to aid 75 Chinese ship-jumpers" in the 90th and 91st Congresses. The bills delay deportation proceedings for up to two years against Oriental aliens who have entered the U.S. illegally.

It has been reported that attorneys, primarily in New York, receive fees to get such bills introduced. The lawyers in turn make payments to certain Washington lobbyists who can get certain senators to introduce the bills.

The bills are referred to the Senate Judiciary Committee, which has a flat policy against approving the bills. But the legislation is put "under study," which buys time for the alien.

"I don't know who brings these bills to my staff people," said Sen. Inouye. "They show the legislation to me and I say, Throw it in (the hopper).

Henry K. Giugni, Sen. Inouye's administrative assistant, said he occasionally has submitted some of the bills in the senator's name and only later told him about it.

Mr. Giugni said Stephen I. Deburr, an ex-Capitol Hill policeman, is one of these who has placed bills in Sen. Inouye's office for introduction.

Mr. Giugni also said Mr. Deburr "never offered me a thing." He accepted the bills from Mr. Deburr because "I felt sorry for him, that's all."

The aide said "we check with the Senator nine times out of 10 on these bills. I mean, when he's out of town, he's out of town. Occasionally I have used my own judgment and put in a bill and then told the Senator about it.

"SHIP-JUMPER" BILLS IN SENATE: HILL BRIBE OFFERS ALLEGED

(By Seth Kantor)

Aides to two members of the Senate Judiciary Committee said today they have been offered bribes by other Senate employes to get "Chinese ship-jumper" bills introduced.

"Pushers of these bills have been operating very much in the open, offering me wide-ranging amounts of money to get Sen. (Hiram L.) Fong, R-Hawaii, to introduce the bills," said Donald M. Chang, minority counsel of Judiciary's Refugees and Escapees subcommittee.

Robert J. Keefe, administrative assistant to Sen. Birch Bayh, D-Ind., also said he has received offers ranging "from $100 to about $250" from other employes.

REJECT BRIBES

They rejected all bribe offers, but declined to identify those who made them.

Mr. Chang said he talked the matter over with Sen. Fong and immigration officials in New York were notified. No official report to the Judiciary Committee was made by either man. "Frankly," said Mr. Keefe, "I considered the offers preposterous and I ignored them."

"Chinese ship-jumper" bills are aimed at slowing the deportation of Oriental aliens who have reached the U.S. illegally.

Lawyers, most of them in New York, are paid fees of hundreds of dollars, frequently by a ship-jumper's employer, to get a delaying bill put into the Senate. Lawyers commonly work thru go-betweens who have influence in the Senate.

"These tactics are so bad; so obvious," said Mr. Chang. "Ship-jumpers immediately become victims of blackmail—faced with threats of deportation by the people they have become indebted to."

Mr. Chang and Mr. Keefe said they have been propositioned with money offers from lobbyists as well as from entrepreneurs working from within the Senate.

AT LAST MOMENT

Charles A. Murray, a lobbyist who admits having handled scores of bills which have been introduced, says he has succeeded more than once in getting an alien freed from a deportation plane at the last moment by getting a bill introduced.

A spokesman for the immigration subcommittee said "frequently they wait until the last moment, when the deportation flight is about ready to take off, after the government already has gone to a hell of a lot of expense, to play on a senator's sympathies.

"We always have informed the offices of bill-sponsoring senators that there is no chance of getting a jumped-ship crewman bill passed. Despite that, the bills often remain in."

The spokesman said "there appears to be an international network of communications involving the Chinese benevolent associations, which used to be known as tongs.

"How else would it be possible for a guy to jump ship at, say, Norfolk on Sept. 25 and be at work Sept 27 in a New York City restaurant, when he's unable to speak the English language? They know where they're heading before starting out from the Orient."

Mr. STENNIS. Mr. President, as the chairman of the Select Committee on Standards and Conduct, I have a brief statement to make on behalf of the committee on the subject of so-called Chinese ship-jumper bills.

Beginning early last month, articles began appearing in various out-of-town newspapers alleging that private relief bills had been improperly introduced in the Senate by a number of Senators or their assistants. Similar articles are now appearing in newspapers in other places including Washington.

Our committee, through its staff, has been looking into these allegations for several weeks, and after a recent meeting of the committee decided to continue its interest in the form of a preliminary inquiry.

There appear to be two aspects of this matter which warrant the attention of our committee. First, it is alleged that some of these private bills have been filed, without the full knowledge of the sponsoring Senator, by his legislative or other assistants. Second, it is alleged that payments have been made by persons seeking to place these bills with Senators for introduction.

In considering the first type of allegations, the committee took note of rule 7 of the Standing Rules of the Senate on morning business which states in paragraph 2, among other things, that—

> Senators having bills for the payment of private claims to present after the morning hour may deliver them to the Secretary of the Senate, endorsing upon them their names.

It is the committee's understanding that the practice for many years has been for some of these bills to be presented by a representative or a messenger

of a Senator, with the Senator's name simply typewritten or otherwise shown on the bill. As an immediate recommendation, the committee has concluded that the better interpretation of the provision of rule 7 in the future is for a Senator actually to sign all bills that he is introducing. In our considered judgment, moreover, the rule contemplates the physical presence of the endorsing Senator. We recognize that the language of rule 7 may be open to other constructions, but we believe that the proper and the safest practice requires the signature and the presence of the Senator.

The other issue here, alleging the passage of money in return for the introduction of these bills, is a very serious one. In order to obtain the facts and the circumstances underlying this allegation, the Committee on Standards and Conduct has directed its chief counsel to conduct a preliminary inquiry of all private relief bills in the 90th Congress and thus far in the 91st Congress dealing with so-called Chinese ship-jumpers. The staff of our committee will examine the bases of these allegations and will report its findings to the committee.

By these actions, we believe that we are providing an immediate remedy to what may be abuse in the handling of private relief legislation, and we are collecting evidence to determine the validity of the other allegations that have been made.

The staff of our committee will examine the provisions of these allegations and report its findings to the committee. By these actions we believe we are providing an immediate remedy to what may be an abuse in the handling of private relief legislation; and we are collecting evidence to determine the validity of the other allegations that have been made.

I call the special attention of Senators to rule 7 which has a special provision for private bills and payment of private claims, which permits them merely to be turned in at the desk rather than introduced in the ordinary way. And it provides bills of that type shall have the signature of the Senator.

For many years the practice has grown up not to require anything more than the Senator's name on the bill, even if it was merely typewritten, and the bill did not have to be handed in by the Senator.

We think another interpretation of the rule, and a better one, is for the Senator to endorse his name on the bill and also hand it in himself. I think the rule contemplates that; we all did.

I wish to emphasize that these points should not be considered as a blanket indictment of any group of Senators or any individual Senator. This merely relates to a practice and it seems that in the 90th Congress and the 91st Congress it began picking up so much.

These people are merely here without any legal authority; and under the practice the Immigration Service had held up proceedings adverse to the party until the bill had been disposed of one way or another. The practice has proved to be greatly abused, it seems to me, but I do think it is unfair just because one introduced one or several of these bills for it to carry any kind of sinister meaning or purpose.

Mr. SYMINGTON. Mr. President, will the Senator Yield?

Mr. STENNIS. I yield.

Mr. SYMINGTON. Mr. President, I respectfully commend the chairman of the Select Committee on Standards and Conduct for what appears to me to be a very logical recommendation.

Those recommendations to handle this matter which has been given considerable publicity is typical of the Senator from Mississippi and I congratulate him on the job he has done.

Mr. STENNIS. Mr. President, I thank the Senator for his remarks. Other Members of the Senate were at the meeting. The Senator from Utah was there, as were the Senator from Kentucky, and the Senator from Minnesota.

Mr. SYMINGTON. My remarks were intended to include the entire committee.

Mr. STENNIS. I am sure the Senator did include the entire committee in his remarks.

Mr. BENNETT. Mr. President, will the Senator from West Virginia yield to me briefly?

Mr. RANDOLPH. I am happy to accommodate the Senator. I yield to the Senator from Utah.

Mr. BENNETT. Mr. President, as a member and vice chairman of the Select Committee on Standards and Conduct, I think this is the kind of situation we were organized to investigate. The fact that a responsible Member of this body asked for the investigation automatically calls us to our responsibility.

I am sure the attitude of the members of the committee is as has been stated by our chairman: To go into this matter for the purpose of ascertaining the truth. We are not starting out with any preconceived prejudices against any of our colleagues with respect to this pattern that has grown up regarding a rather casual and careless interpretation of the rule referring to the introduction of private bills.

I think it will be good for all of us to be required physically to endorse the bills that we introduce so we will be required to face them and their consequences.

While I am sure our staff people have been trying to save us from some annoyance, or to speed the progress of legislation, I think it is wise under the circumstances that we go back and do the job properly.

I am happy to associate myself with the chairman of the committee.

Mr. WILLIAMS of Delaware. Mr. President, I wish to join the distinguished Senator from Missouri and others in expressing confidence in the chairman, vice chairman, and all members of the Ethics Committee. I think they deserve the commendation of the Senate for the manner in which they have approached many of these delicate problems. I agree fully with what the chairman and the vice chairman have said, that as we approach this study it is to be done without any preconceived conclusions or blanket indictments of anyone.

I know this committee will do its job with the efficiency it has demonstrated within the past. As one who has complete confidence and respect in the committee, I thank them for their cooperation.

Mr. President, I should add it is my understanding that the committee was already investigating these allegations before my letter of last Friday.

Mr. STENNIS. Mr. President, I wish to call attention to rule 7, section 2, which states:

> 2. Senators having petitions, memorials, pension bills, or bills for the payment of private claims to present after the morning hour may deliver them to the Secretary of the Senate, indorsing upon them their names * * *

That is a recommendation that this matter be interpreted as I have stated. "Indorsing" to me means writing one's name on a piece of paper, and it seems only a Senator can present them.

The question has been raised with regard to what the Parliamentarian is to do if a Senator sends over a bill which is not in compliance. I think the Senator would have to be the judge of his own conduct, and I have no instructions to give to the Parliamentarian. I am addressing my remarks to Senators.

FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 2917.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (S. 2917) to improve the health and safety conditions of persons working in the coal mining industry of the United States.

The PRESIDING OFFICER. Without objection, the Senate will resume its consideration.

The question now is: Is it the judgment of the Senate that the point of order raised by the Senator from Vermont (Mr. PROUTY) is well taken?

The Senator from Vermont is recognized.

Mr. PROUTY. Mr. President, the pending business is the point of order which I raised last Friday against section 502 of S. 2917.

For the benefit of my colleagues who were not present on the floor Friday, I point out that section 502 of this bill requires that an assessment be paid to the United States for each ton of coal produced in or imported into the United States. This assessment starts at 1 cent per ton, and increases by 1 cent at the start of each new fiscal year until it becomes 4 cents per ton on and after July 1, 1972.

However, Mr. President, the Constitution of the United States specifically prohibits the Senate of the United States from originating this type of measure. Article I, section 7 of our Constitution states clearly and unambiguously:

> All Bills for raising Revenue shall originate in the House of Representatives . . .

I regard this assessment on every ton of coal produced in or imported into the

United States as a tax on coal production, even though the word "tax" is never used in this section.

I would point out to the Senate, however, and particularly to my good friend, the senior Senator from Florida, who raised this subject last Friday that the constitutional issue here is not whether this assessment on coal production is or is not a tax.

The question presented, rather, is whether the assessment on coal production is for the purpose of raising revenue. For the Constitution of the United States, like section 502 of the pending bill, does not contain the word "tax."

The clear constitutional prohibition is much broader than that, prohibiting the Senate from originating "all bills for raising revenue."

I submit, Mr. President, that the imposition of this assessment on all coal production with the proceeds to be deposited in the Treasury of the United States, is obviously a provision for the raising of revenue.

Let me note briefly the provisions of section 502 of S. 2917.

Subsection (a) establishes the assessments on coal I have just discussed, progressing from 1 cent a ton by stages to 4 cents a ton on July 1, 1972.

Subsection (b) provides that the Secretary of the Interior shall collect the assessments imposed on coal production and deposit them with the Treasurer of the United States, unless he enters into an agreement with the Treasurer of the United States for the collection of those assessments directly by the Treasury.

Subsection (c) authorizes the Secretary of the Interior to enter into such an agreement. It further provides that if such an agreement is entered into, the Secretary of the Treasury is authorized to collect the assessments on coal production, "In the same manner and with the same powers as if such assessments were excise taxes imposed by subtitle D of the Internal Revenue Code of 1954, as amended."

Subtitle D of the Internal Revenue Code of 1954 is entitled "Miscellaneous Excise Taxes."

The Secretary of the Treasury is further authorized to collect the assessments on each ton of coal imported into the United States. In the same manner and with the same powers as if such assessments were custom duties imposed by the Tariff Schedules of the United States."

I submit, Mr. President that this is a valid constiutional point of order. The constitutional issue is simple, not complex. The objectives of title V may be highly meritorious but that is not the question at issue. Let me emphasize that we are not now concerned with the merits of title V in its attempt to provide funds for necessary research and training.

What will be determined by the pending vote, Mr. President, is whether the Senate intends to abide by the provisions of our Constitution, or whether the Senate desires to go on record as holding that it is above and beyond the constitutional restraints which our Founding Fathers in their wisdom saw fit to place upon this body.

Mr. RANDOLPH. Mr. President, I rise in opposition to the point of order brought before the Senate by my friend, the able Senator from Vermont (Mr. PROUTY), a member of the Committee on Labor and Public Welfare.

As we know, the pending business before the Senate is S. 2917, a bill reported from the Committee on Labor and Public Welfare to improve the health and safety conditions of persons working in the coal mining industry of the United States.

I am sure that the Senator from Vermont will recall, because he was very attentive to the subject matter of the pending legislation, that a stubstantial part of the discussion during the committee consideration was title V, to which reference has been made—section 501, which establishes a coal mine health and safety research trust fund, and section 502, which provides for an assessment on the coal operators and importers of coal.

I think that the Senator from Vermont will also remember that these provisions were retained in the bill by a one-vote margin. I know the Senator recalls this situation.

On that issue, I voted for an amendment offered by the Senator from Vermont to strike section 502. However, we now have pending before the Senate as the privileged business, the point of order which has been raised by the distinguished Senator from Vermont, that the inclusion of section 502 in S. 2917 contravenes article I, section 7, clause 1 of the U.S. Constitution.

Our colleague's point is that the inclusion of section 502 makes this a "bill for raising revenue," and that the Senate cannot do this under the constitutional provision which requires that a "bill for raising revenue" can originate only in the House of Representatives.

The Senator from Vermont did not raise this point of order in the committee. If I recall correctly, his action was that of proposing an amendment to strike the section for other reasons.

Mr. President, I am joined with other senior members of the Committee on Labor and Public Welfare, including the distinguished chairman (Mr. YARBOROUGH), the chairman of the Subcommittee on Labor (Mr. WILLIAMS), and the ranking minority member (Mr. JAVITS) in a letter offered for the consideration of all Members of the Senate on this point-of-order issue.

Although I was on the same side as Senator PROUTY in the vote against section 502 in the committee, it does not follow that I am or that I will be a supporter of his point of order against that section. This is an entirely different issue that involves principles entirely outside of the merits of the provisions in question. Involved here is the competence of the Senate to legislate in certain areas of finance.

This point of order could very well set highly significant precedents for the Senate of the United States for all time to come—not just on the single issue before us today.

As we have written in our joint letter urging that there be full debate and careful consideration on this vital point-of-order issue: We have found no record of a point of order of this nature ever having been sustained in the Senate, and we urge our colleagues not to uphold it when it comes to a vote whether it be today, tomorrow, or later in the week.

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

Mr. RANDOLPH. I yield.

Mr. PROUTY. Mr. President, I wonder if there is any record indicating that a point of order of a similar character has ever been rejected by the Senate.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator from Vermont yield at that point?

Mr. PROUTY. I yield.

Mr. WILLIAMS of Delaware. I think that perhaps the reason a point of order has never been sustained or overridden is that heretofore the Senate has recognized when the question was raised that it was not the proper procedure. Without debating or passing upon the merits of the particular section in question, it may be an essential part of the bill, but I would strongly suggest to Senators interested in the bill that it does embrace an amendment to the Revenue Code. Senators who are in favor of it should introduce it as an amendment to a revenue bill so that there will be no question either as to its constitutionality or to the fact that it is being handled in the proper manner.

Revenue bills will be before the Senate shortly, and this proposal can be offered as an amendment to, say, the tax reform package or to any other revenue bill from the House. The precedent heretofore has been that amendments to revenue bills would only be considered when offered to House-passed bills.

We would have this problem if the Senate passes the amendment as a part of the pending bill; in conference a part of the bill should go to the Ways and Means Committee of the House whereas the other part should go to the Committee on Labor and Public Welfare.

I think that Senators who are interested in this section would be well advised not to defeat the bill itself by adding this revenue amendment but to offer it later to some other revenue bill where it could be considered and acted upon on its merits.

Mr. RANDOLPH. I will say again, especially to the Senator from Delaware (Mr. WILLIAMS), that this question was not raised by the Senator from Vermont in the Committee on Labor and Public Welfare. We voted on the deletion of a certain section, and I joined him in reference to that matter. But as to the constitutionality, as it will be developed in our discussion, certainly, as I understand it, the provisions of the Constitution do not refer to assessments of taxes which are not general revenue-raising measures, but are merely incidental to the special purposes of a statute, such as in Senate bill 2917, in which they are provided for merely to further those particular purposes. They are included, of course, in this bill.

This principle has been consistently expounded and applied by the Supreme Court, so I am advised, to sustain special-purpose assessments designed to further particular legislative programs, even

though such provisions have originated in the Senate.

I think mention will be made of certain cases—at least three, which I shall not discuss—that go directly to this point. Under the principle, the provision to which the present point of order has been raised, is clearly, we believe, one which may originate in the Senate. Section 502 of Senate bill 2917 provides for an industry benefit assessment to be used only for research into means for improving the health and safety of the coal miners of the United States.

Thus the assessment applies only to the coal mining industry and its proceeds would be used only for the benefit of those engaged in that industry. If such a measure can be attacked on the ground that the inclusion of an assessment for a specific purpose can originate only in the House of Representatives, then I think it will serve as a precedent to jeopardize future action on many types of programs which in the past, as I shall indicate very strongly, have been initiated in the Senate.

As stated in our communication to the Members of the Senate—

Furthermore, a vote in rejection of the point of order would not constitute a vote in favor of the assessment provided in section 502.

It is true that a vote in favor of the point of order does strike the assessments, but not necessarily as an action on merit but, rather, as one based on an interpretation of the Constitution.

Again quoting from the joint letter now in circulation to Senators:

A few examples of the numerous analogies to the provision now under challenge which can be found in existing provisions of law may be cited: registration fees levied under the Securities Act; the annual assessments for administrative costs imposed on hydroelectric power facilities under the Federal Power Act; fees authorized to be levied by the Land and Water Conservation Fund Act; the duck stamp charge under the Migratory Bird Hunting Stamp Act; fees for administrative expenses imposed under the Perishable Agricultural Commodities Act; the "debris tax" imposed on hydroelectric mining operations under the California Debris Commission Act; and the special fund payments required to be made under the Longshoremen's and Harbor Workers' Compensation Act.

Some of the foregoing and other comparable types of provisions have been initiated in the Senate, and it is clear that in formulating such legislative programs, the Senate has not considered itself restricted from including such incidental funding provisions. The Senate should not want to preclude itself from initiating such legislation in the future.

Aside from its extremely important broad implications for future legislation, the point of order on which we will be voting would strike down the assessment provision which would enable use of some of the proceeds of the assessment to provide, on a temporary and limited basis, interim and emergency benefits to miners who are totally disabled by black lung disease. If the assessment is eliminated by the point of order, the anticipated means for funding these benefits will be lost.

We are therefore most hopeful that you will join in voting against the point of order, for the sake of its effect on the current vital legislation, as well as its effect as a precedent on a great variety of future legislation.

Mr. President, I ask unanimous consent that the complete text of my letter to Senators be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C., September 29, 1969.

DEAR COLLEAGUES: Last Friday, a point of order was raised by Senator Prouty with respect to the Health and Safety Research Trust Fund assessment provision contained in Section 502 of S. 2917, the Coal Mine Health and safety bill now before the Senate. The point of order asserted that this provision is a "bill for raising revenue," which, under Article I, Section 7, clause 1, of the Constitution can originate only in the House of Representatives.

We have found no record of a point of order of this nature ever having been sustained in the Senate, and we urge our colleagues not to uphold it when it comes up for a vote on Monday or Tuesday of this week. Important principles of great significance to all Senators, now and in the future, are at stake in this vote.

As will be pointed out during the floor debate on this point of order, the foregoing provision of the Constitution does not have reference to assessments or taxes which are not general revenue-raising measures, but which are merely incidental to the special purposes of a statute, and which are provided for merely to further those particular purposes. This principle has been consistently expounded and applied by the Supreme Court to sustain special-purpose assessments designed to further particular legislative programs, even though such provisions have originated in the Senate. See United States vs. Norton, 91 U.S. 566 (1876); Twin City Bank vs. Nebeker, 167 U.S. 196 (1897); Milliard vs. Roberts, 202 U.S. 429 (1906).

Under this principle, the provision to which the present point of order has been raised is clearly one which may originate in the Senate. Section 502 of S. 2917 provides for an industry benefit assessment to be used only for research into means for improving health and safely in our Nation's coal mines. Thus, the assessment applies only to this industry, and its proceeds would be used only for the benefit of this particular industry. If such a measure can be attacked on the ground that it can originate only in the House of Representatives, it will serve as a precedent to jeopardize future action on innumerable other types of programs which, in the past, the Senate has freely initiated. Furthermore, a vote in rejection of the point of order would not constitute a vote in favor of the assessment.

A few examples of the numerous analogies to the provision now under challenge which can be found in existing provisions of law may be cited: registration fees levied under the Securities Act; the annual assessments for administrative costs imposed upon hydroelectric power facilities under the Federal Power Act; fees authorized to be levied by the Land and Water Conservation Fund Act; the duck stamp charge under the Migratory Bird Hunting Stamp Act; fees for administrative expenses imposed under the Perishable Agricultural Commodities Act; the "debris tax" imposed upon hydroelectric mining operations under the California Debris Commission Act; and the special fund payments required to be made under the Longshoremen's and Harbor Workers' Compensation Act.

Some of the foregoing and other comparable types of provisions have been initiated in the Senate, and it is clear that in formulating such legislative programs, the Senate has not considered itself restricted from including such incidental funding provisions. The Senate should not want to preclude itself from initiating such legislation in the future.

Aside from its extremely important broad implications for future legislation, the point of order upon which we will be voting, would strike down an industry benefit assessment provision which would provide the means for achieving desperately needed research toward improvement of the working conditions in our Nation's coal mines In addition, an amendment to S. 2917 has been offered, with wide support, which would use some of the proceeds of the assessment to provide, on a temporary and limited basis, interim and emergency benefits to miners who are totally disabled by pneumoconiosis. If the assessment is eliminated by the point of order, the anticipated means for funding these benefits will be lost.

We are therefore most hopeful that you will join in voting against the point of order, both for the sake of its effect upon the instant legislation, as well as its effect as a precedent upon a great variety of future legislation.

Sincerely yours,
JENNINGS RANDOLPH,
RALPH YARBOROUGH,
JACOB K. JAVITS,
HARRISON A. WILLIAMS, JR.

Mr. PROUTY. Mr. President, will the Senator from West Virginia yield?

Mr. RANDOLPH. I yield.

Mr. PROUTY. Were any of these measures initiated in the Senate, or were they added to tax bills or bills first approved by the House?

Mr. RANDOLPH. They were added to bills that came from the House.

Mr. PROUTY. From the House?

Mr. RANDOLPH. Will the chairman of the subcommittee clarify that point?

Mr. WILLIAMS of New Jersey. Yes.

Mr. RANDOLPH. We will do it on some of these. I think that one or two of them were initiated in the Senate, even from the standpoint of taxes. The Senate should not want to preclude itself from initiating such legislation in the future.

Mr. PROUTY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator yield for that purpose?

Mr. RANDOLPH. Yes, certainly.

Mr. PROUTY. Mr. President, does the rule of germaneness prevail at this time on the point of order?

The PRESIDING OFFICER. The rule pertaining to germaneness of debate is in order now.

Mr. PROUTY. In other words, as I understand it, a Senator in discussing the point of order must restrict his debate to the question of the point of order which I have raised?

Mr. RANDOLPH. Mr. President, does my colleague maintain that I have not addressed myself to the point of order?

Mr. PROUTY. May I have the ruling of the Chair first?

The PRESIDING OFFICER. The Chair would like to read to the Senator from Vermont the last part of rule VIII:

At the conclusion of the morning hour or after the unfinished business or pending business has first been laid before the Senate on any calendar day, and until after the duration of three hours, except as determined to the contrary by unanimous consent or on motion without debate, all debate shall be germane and confined to the specific question then pending before the Senate.

And the time for germaneness of debate started at 1:45 p.m.

Mr. PROUTY. A point of order could be raised against a Senator who did not follow the rule of germaneness?

The PRESIDING OFFICER. That is correct.

Mr. RANDOLPH. Mr. President, I think the inquiry made was a proper one, and I was glad to yield the floor for the inquiry as to the kind of debate that shall be carried on.

Mr. COOK. Mr. President, I rise to speak in favor of the point of order raised by the Senator from Vermont. I am sure the precedent that would be set by the Senate would be a precedent for doing this that was set for the first time. The Constitution does not say "taxes." The Constitution says "All bills for raising revenue."

There is no question about the fact that this bill raises a substantial amount of revenue. Because we call it an "assessment," somehow or other we feel it must rise and fall on the word "assessment."

If that be true, I would suggest to the Senator from West Virginia and I would suggest to the chairman of the committee, if it is to stand on its own as an assessment, that they remove the words in subsection (1) "as if such assessments were excise taxes imposed by subtitle D of the Internal Revenue Code."

In other words, but for the Internal Revenue Code and but for title D of the Internal Revenue Code, there would be no machinery to collect these assessments.

As to importers, it provides, "as if such assessments were customs duties imposed by the Tariff Schedules of the United States." But because they are called "assessments" means nothing, for they cannot be collected unless they consider such assessments as "customs duties imposed by the Tariff Schedules of the United States."

If this section could be taken out, if there could be eliminated the fact that the only means by which they could be collected is by the Internal Revenue Code, or, on the part of importers, by the Tariff Schedules established by this Nation, then they might well have an argument, but then they would have to get over the definition of the word "assessment" as defined by Webster:

A valuation of property for the purpose of taxation; such valuation and an adjudging of the sum to be levied on property as if by taxation.

I think the real question here is not whether the Senate is about to give something away, but whether the Senate is, for the first time, about to assume something that the Constitution says it cannot do. I think it is entirely clear.

I think we can talk about side issues. I think we can talk about the problems in the mines, about which we are all aware. Obviously, if something must be done along these lines, then we should do it properly. But I think it is rather strange that we would write a section into the bill on which no hearings were held, on which no one had an opportunity to appear before the committee, discussing an assessment on every ton of coal, starting at a penny and running up to 4 cents a ton, and yet find it, for the first time, in a page of this bill on the floor of the Senate.

I may add that there is no distinction here in the value of a ton of coal. A "ton of coal" would go all the way from sludge to the finest coal mined or brought into this country. But in the bill the coal is going to carry the same assessment. There is going to be no real attempt to assess its value, and the bill places a cost on it, but it is imposed on everybody.

The Senator from West Virginia, in his remarks, stated that this was a means by which we could cope with the situation of black lung. But we are imposing on every ton of coal, whether it comes out of a strip mine, a drift mine, slope mine, or a deep vein, an assessment of from 1 to 4 cents a ton, even though it might have nothing to do with the problem to be solved.

They mine coal in Arizona, and it is of such a poor quality that it is mixed with water and a sludge is made out of it. They get very little out of it, and yet the penalty by way of assessment that they must pay is the same as if it were on the finest ton of coal mined in this country or imported into this country.

So I can only say that, to me, on its merits, this is a tax. I do not see how we can, frankly, fool around into calling something an assessment and believing we can win an argument on the basis of its being an assessment, merely by changing a word from what it really is.

Again, I call attention to the fact that there is absolutely no means by which these funds can be properly collected except by the Secretary of the Treasury, as authorized by title I of the Revenue Code of 1954, or by the Secretary of the Treasury on importers of coal through duties imposed by the Tariff Schedules of the United States.

No Senator can say that, under these circumstances, this proposal does not fall within the category of being a flat-out taxation of from 1 to 4 cents a ton on coal in the United States, whether it is mined or not, regardless of its source and regardless of the value of the ton of coal once it has been mined.

Mr. EAGLETON. Mr. President, I speak in opposition to the point of order raised by the Senator from Vermont (Mr. PROUTY) to section 502 of S. 2197, a bill designed to improve the health and safety conditions of persons working in the coal mining industry of the United States.

I am deeply concerned about the point of order and the possible consequences it could have on the prerogatives of the Senate if it were sustained. I hope that all Senators will consider the matter carefully and will weigh its importance before they vote. I feel certain that if they do, they will conclude, as do I, that the point of order should not be sustained.

Article I, section 7, clause 1 of the U.S. Constitution provides:

All bills for raising revenue shall originate in the House of Representatives.

The clause has been construed as being confined to bills to levy taxes in the strict sense of the word and has not been understood to extend to bills for other purposes which incidentally create revenue. I cite as being relevant on this point the case of *United States* v. *Norton*, 91 U.S. 566, a decision handed down in 1876. Thus, Senate bills or Senate amendments which contain clauses incidentally raising revenue have been held not violative of this constitutional section. There is no exclusive definition of the doctrine of "incidentally creating revenue." Each situation must be examined on its own. Aspects of the doctrine have been considered by the Supreme Court as well as by Congress.

In the case of *Twin City National Bank* v. *Nebeker*, 167 U.S. 202, an 1897 decision, Congress provided for a national currency secured by a pledge of bonds of the United States, and, in the furtherance of that object, and also to meet the expenses attending the execution of the act, imposed a tax on the notes in circulation of banking associations organized under earlier statutes, the act was held to be not a revenue bill within the meaning of article I, section 7, clause 1.

The Senate had inserted the amendment to the act which provided for the payment by each banking association organized under the act of a duty upon the average amount of its notes in circulation, upon the average amount of its deposits, and upon the average amount of its capital stock beyond the amount invested in U.S. bonds, the proceeds of which were to be used to meet expenses incurred in carrying out the purpose of the act.

The Supreme Court held that—

It is sufficient . . . to say that an act of Congress providing a national currency secured by a pledge of bonds of the United States, and which, in the furtherance of that object, and also to meet the expenses attending the execution of the Act, imposed a tax on the notes in circulation of the banking associations organized under the statute, is clearly not a revenue bill which the Constitution declares must originate in the House of Representatives . . . The main purpose that Congress had in view was to that end it was deemed wise to impose the tax in question. The tax was a means of effectually accomplishing the great object of giving to the people a currency that would rest, primarily, upon the honor of the United States, and be available in every part of the country. There was no purpose by the act or by any of its provisions to raise revenue to be applied in meeting the expenses or obligations of the government, (167 U.S. 202–203).

In *Millard* v. *Roberts*, 202 U.S. 429 (1906), it was held that an act of Congress originating in the Senate, which appropriated money to be paid to railway companies to carry out a scheme of public improvement in the District of Columbia and which required the companies to eliminate grade crossings and erect a union station, the appropriations to be levied and assessed on property in the district other than that of the United States, was not in violation of article 1, section 7, clause I. The taxes imposed were deemed "but means to the purposes provided by the Act"—202 U.S. 437.

The payment of certain sums to the companies was deemed to be for a gov-

ernment, that is public benefit use, rather than a private use.

Finally, in a debate in the Senate resulting in a decision holding a Senate bill which proposed a gasoline tax in the District of Columbia to be a revenue producing measure to be originated in the House, Senator McKellar, in deeming the bill to be a revenue raising measure stated:

This bill provides for a tax which would be paid into the Treasury of the United States. It would be for general purposes. It would go into the Treasury of the United States just exactly as do the moneys which arise from tariff taxes or internal revenue taxes or any other taxes. The taxes raised by this bill would be mingled with and become a part of all the revenues of this Government. This is as completely a revenue bill to be set aside: they are to be intermingeld with other funds of the government. They would be a part of the General Revenue of the Government and it is impossible, it seems to me, that any theory could be urged against a measure of this kind originating in the House of Representatives, as is required by the plain terms of the Constitution.

Mr. President, I now turn again to the constitutional provision which gives rise to the point of order. It states:

All bills for raising revenues shall originate in the House of Representatives.

Mr. President, if the Senator from Vermont is correct in his view that a section of S. 2917 is a bill "for raising revenue" within the meaning of the Constitution then certainly the point of order should be sustained. If, however, the Senator is wrong, and I believe he is, then the Senate has no right to yield its jurisdiction through this point of order. No department of the Government has any right to surrender any portion of the power or responsibility conferred on it by the Constitution.

Certainly, from a constitutional standpoint, as I have stated, S. 2917 is not a "bill for raising revenue" for the support of the Government.

This then brings us to the issue: What is a revenue bill within the meaning of the Constitution?

The definition is, I believe, well settled:

Revenue laws: Laws made for the direct and avowed purpose of creating and securing revenue or public funds for the service of the Government.

Mr. President, I read this definition from Mr. Justice Story. The Supreme Court, in the case of *United States* v. *Norton*, (91 U.S. 568) had the occasion to consider the word "revenue" in a Post Office money order case where the Court had to decide on this question in deciding the case. The Court said, and I quote:

In no just view, we think, can the statute in question be deemed a revenue law.

The lexical definition of the term "revenue" is very comprehensive. It is thus given by Webster: "The income of a nation, derived from its taxes, duties, or other sources, for the payment of the national expenses."

The phrase "other sources" would include the proceeds of the public lands, those arising from the sale of public securities, the receipts of the patent office in excess of its expenditures, and those of the Post-Office Department, when there should be such excess, as there was for a time in the early history of the government. Indeed the phrase would apply in all cases of such excess. In some of them the result might fluctuate, there being excess at one time and deficiency at another.

It is a matter of common knowledge that the appellative "revenue laws" is never applied to the statutes involved in these classes of cases.

The Constitution of the United States, article I, section 7, provides that "all bills for raising revenue shall originate in the House of Representatives."

The construction of this limitation is practically well settled by the uniform action of Congress. According to that construction it "has been confined to bills to levy taxes in the strict sense of the words and has not been understood to extend to bills for other purposes which incidentally create revenue. (Story on the Constitution, Sec. 880)." "Bills for raising revenue" when enacted into laws become revenue laws. Congress was a constitutional body sitting under the Constitution. It was, of course, familiar with the phrase "bills for raising revenue" as used in that instrument and the construction which had been given it.

"The precise question before us"—

That is, as to what was meant by a "revenue bill" under this clause of the Constitution—

came under the consideration of Mr. Justice Story, in the United States v. Mayo (1 Gall., 396). He held that the phrase "revenue laws," as used in the act of 1804, meant such laws "as are made for the direct and avowed purpose of creating revenue or public funds for the service of the government." The same doctrine was reaffirmed by that eminent judge in United States v. Cushman.

Mr. President, there is also at least one other case directly on this point—*Oran C. Michels* v. *Thomas L. James* 13 Blatchford's Circuit Court reports 207—where the court said:

Certain legislative measures are unmistakably bills for raising revenue. These impose taxes upon the people, either directly or indirectly, or lay duties, imposts, or excises for the use of the government, and give to the persons from whom the money is exacted no equivalent in return, unless in the enjoyment, in common with the rest of the citizens, of the benefit of good government.

That is a well thought out distinction and definition.

It is this feature which characterizes bills for raising revenue. They draw money from the citizen: They give no direct equivalent in return. In respect to such bills it was reasonable that the immediate representatives of the taxpayers should alone have the power to originate them. Their immediate responsibility to their constituents and their jealous regard for the pecuniary interests of the people, it was supposed, would render them especially watchful in the protection of those whom they represented. But the reason fails in respect to bills of a different class. A bill regulating postal rates for postal service provides an equivalent for the money which the citizen may choose voluntarily to pay. He gets the fixed service for the fixed rate, or he lets it alone, as he pleases and as his own interests dictate. Revenue, beyond its cost, may or may not be derived from the service and the pay received for it, but it is only a very strained construction which would regard a bill establishing rates of postage as a bill for raising revenue, within the meaning of the constitution. This broad distinction existing in fact between the two kinds of bills, it is obviously a just construction to confine the terms of the constitution to the case which they plainly designate. To strain those terms beyond their primary and obvious meaning, and thus to introduce a precedent for that sort of construction, would work a great public mischief. Mr. Justice Story, in his commentaries on the Constitution (sec. 880), puts the same construction upon the language in question, and gives his reasons for the views he sustains, which are able and convincing. In Tucker's Blackstone only, so far as authorities have been referred to, is found the opinion that a bill for establishing the post-office operates as a revenue law. But this opinion, although put forth at an early day, has never obtained any general approval: But both legislative practice and general consent have concurred in the other view.

Now applying the principles I have just enunciated to title V of the bill, I confess that I fail to see how this section in any way is prohibited by article I, section 7, clause I of the Constitution of the United States. S. 2917 is not a revenue raising bill. Title V is merely an incidental part of that bill.

The primary and only purpose of S. 2917 is to protect the coal miners from terrible tragedies that befell the 78 miners at Farmington who are still entombed in a mine racked with explosions, and to protect the thousands of miners whose lungs are ravaged by the coal dust they must breath while working.

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

Mr. EAGLETON. I yield.

Mr. PROUTY. I am not going to raise a point of order against the Senator, but he is going a bit far afield when he is discussing title V as a whole, or other sections of the bill. I wonder whether in any cases he has cited—I am not a lawyer, so it is difficult for me to follow them—he has been able to establish when a revenue bill originated in the Senate?

Mr. EAGLETON. In answer to the Senator from Vermont—the way he phrases his question, of course, will affect the answer that will be given thereto— if a bill is on its face a revenue bill as such, of course, under the previously cited constitutional provision, it must originate in the House.

The point that Justice Story tried to make in his cases, which are Supreme Court cases and are binding on this body—the point that he made in amplification of those cases in his commentaries on the law—is that one must examine the bill in its entirety in order to find out whether its main thrust is revenue producing or, contrariwise, whether it is a bill that treats of a general subject matter, with the matter of a relatively minor item of revenue being incidental thereto.

That is why, in my opinion, in order for the Senate to make a proper decision on the point of order as raised by the Senator from Vermont, the Senate cannot confine its attention merely to the small section of this bill which is involved in the Senator from Vermont's point of order. In order to determine whether this is a revenue bill and hence one that must originate in the House, the Senators have to examine the entire contents of the bill in order to determine its possible thrust, direction, and so forth. If a revenue matter be but a minor or incidental part of a bill which has as its overall basic concept the protection of the health and safety of coal miners, then, under the Story doctrine, it is perfectly proper that such a bill originate

in the Senate and have included within it a matter such as title V.

Mr. PROUTY. I should like to point out that the Constitution does not refer to a revenue bill, but that all bills for raising revenue shall originate in the House.

Let me give the Senator the Black's Law Dictionary definition of "revenue":

As applied to the income of a government, a broad and general term, including all public moneys which the state collects and receives, from whatever source and in whatever manner.

It defines "revenue law" as follows:

Any law which provides for the assessment and collection of a tax to defray the expenses of the government. Such legislation is commonly referred to under the general term "revenue measures," and those measures include all the laws by which the government provides means for meeting its expenditures.

It seems to me that that is all-inclusive, Mr. President. It seems to me that this is a revenue-raising measure; and if the Senate fails to sustain the point of order, it seems to me that we do great violence to the constitutional provisions relating to revenue-raising methods.

Mr. EAGLETON. In response to the distinguished Senator from Vermont, I have no quarrel—although I cannot give it back to him verbatim—with the definition he has just cited from Black's Law Dictionary, which is a most valuable legal document, both for law students and practicing lawyers.

The essence of the definition from Black's is that revenue bills or revenue measures are those which are enacted by Congress to defray the cost of government. If a bill has as its purpose to defray the cost of government, it is per se a revenue bill and, under the constitutional provision, must originate in the House.

The pending bill, S. 2917, is not a bill to defray the cost of government. This is the Coal Mine Health and Safety Act of 1969. This is a bill that has as one provision, contained within a whole body of provisions, many of which are detailed and complex, an item which would assist in research and related matters thereto, which is an industry benefit assessment. Hence, I think this bill comes quite adequately within the definition that the Senator from Vermont has given from Black's Law Dictionary and is not a bill in which we are prohibited from proceeding on an original basis in the Senate.

Mr. PROUTY. May I point out that the point of order is directed only against section 502 of the bill. It is not directed against the entire substance of the bill.

Mr. EAGLETON. I take it, of course, that the Senator from Vermont is eminently correct. His point of order is not to strike the entire bill but the one provision thereof. I concur in that.

However, the precedent he attempts to have set would apply to any and all other bills originating in the Senate dealing with environment, dealing with pollution, dealing with the whole range of matters that comes before Congress. If they have one section that has something to do with an assessment or something to do with the creation of a fund for research or development, his precedent, if he has his way, would prohibit all such provisions in all bills coming before the Senate. It would broaden immensely the very definition which he quoted from Black's dictionary—that is, that revenue bills are those designed to defray the cost of government.

The provision that is being challenged by the Senator from Vermont's point of order is not a provision defraying the cost of government; and the Coal Mine Health and Safety Act of 1969, in and of itself, is not a revenue bill.

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

Mr. EAGLETON. I am pleased to yield to the Senator from Kentucky.

Mr. COOPER. This is an interesting question and an important one. Because there are no precedents which are on all fours, I would agree that perhaps the Senator from Delaware (Mr. WILLIAMS) is correct, that in the past this type of approach has not been used.

The Senator said that it is not intended to defray the cost of government nor for general revenue. How would he describe this fund?

Mr. EAGLETON. This fund, in response to the Senator from Kentucky, is a fund, as I read it, that would be designed primarily to go forward with research and further delving into how the life of a coal miner could be made better in terms of protecting his health and safety while working in those mines. It is not a tax per se that is imposed upon income. It is not an income tax, nor is it a sales tax. It is a measure which would raise money from coal producers for research.

Mr. COOPER. It is for research.

The Senator knows that revenue is raised for general purposes and then it is appropriated for research. Is that correct?

Mr. EAGLETON. The Senator is correct. As the Senator from Kentucky well knows, we have spent many, many weeks on the floor of the Senate in the past few months debating some of these provisions in the military bill with respect to research and the like.

Mr. COOPER. I know, for example, we authorize funds for research for many diseases in bills which are reported by the Committee on Labor and Public Welfare. Large sums of money are authorized and later appropriated for research in specific causes. For example, to the National Institutes of Health. In that last decade appropriations have been authorized for the National Institutes of Health, drawing from the general revenues, for research in the prevention and causes of heart disease, cancer, and other dread killers. We have appropriated money to the Bureau of Mines for research.

A tax could be levied properly by the House and Congress could then appropriate from the revenues such sums as it thought fit and appropriate, for the purposes in this bill. Is that correct?

Mr. EAGLETON. The Senator from Kentucky is correct in that point, in that many bills emanating from almost every committee of Congress frequently have contained within them provisions which authorize research programs in this, that, or another area. As previously mentioned in response to the preceding question, the Armed Services have provisions for research in their bill. Various educational bills that come out of the same committee as the coal mine bill have research provisions. I dare say that research comes out of many bills in the Senate.

If I comprehend the words of the Senator from Kentucky, the point where we may be at variance with one another is that this bill, insofar as the point of order as raised by the Senator from Vermont, is not, when examined in its total consequences, a revenue raising bill; and second, the one provision being challenged is of and itself not a revenue bill designed to defray the costs of government, that being the definition cited by the Senator from Vermont.

Mr. COOPER. I think we are all agreed on the worthy purpose of this section. However, I would point out that section 8, article I, of the Constitution provides:

The Congress shall have Power to lay and collect Taxes, Duties, Imposts, and Excises, to pay the debts and provide for the common defense and general welfare of the United States.

And by section 7, the right to originate these taxes is retained to the House.

There was a time when "general welfare" was construed very narrowly. But for several decades, "general welfare" has come to include almost everything that Congress says contributes to the welfare of the people.

Congress has recognized this obligation particularly in the field of health by appropriating vast sums to determine the causes, prevention, and treatment of some of the dread killers in this country. Attention to black lung has been given by the subcommittee headed by the Senator from New Jersey. Black lung should receive funds for research. I hope that in this Congress measures will be passed providing proper compenstation to victims of black lung. Black lung is a disease just as other killers for which we have provided research funds, and for which we have appropriated money out of general revenues. I believe an assessment can be properly levied under sections 7 and 8 of article I of the Constitution.

I have not made a determination on this issue, but it seems to me that it is not correct to avoid the constitutional requirements by giving the tax a name such as an assessment.

Take for example, the highway trust fund. The taxes for road construction are levied first by the Ways and Means Committee of the House, and then the Committee on Finance in the Senate. This money goes to a trust fund for specific purposes, and authorizations can be made in the Senate.

There are other cases where special funds are established from general revenues.

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

Mr. EAGLETON. I am pleased to yield to the Senator from Kentucky.

Mr. COOK. Mr. President, in the Senator's remarks he talked about inci-

dental revenues, and that this was a strong point in his argument.

I would like to know, for the purposes of the record, under section 502, how much incidental revenue is the Senator talking about at 1 cent a ton through 1970, 2 cents a ton through 1971, 3 cents a ton through 1973, and up to 4 cents? How much incidental revenue is the Senator talking about?

Mr. EAGLETON. First year $5 million, second year $10 million, and on up in annual increments to the maximum of $20 million at 4 cents a ton.

Mr. COOK. I might suggest to Members of the Senate that I do not think this is incidental revenue.

The Senator made reference to the case of *Millard* v. *Roberts*, 202 U.S. 429.

Mr. EAGLETON. Yes; a landmark case.

Mr. COOK. I wish to suggest to the Senator that the headnote states exactly what the Senator said. The headnote states:

> Revenue bills, within the meaning of the constitutional provision that they must originate in the House of Representatives and not in the Senate are those that levy taxes in the strict sense of the word and are not bills for other purposes which may incidentally create revenue.

That is the only thing the case says. This case states it is within the power of Congress to authorize the District of Columbia to pay to the railroads the sum of $750,000 to remove their rights-of-way to see to it they have markers at their crossings. It has nothing to do with what the Senator suggested. As a matter of fact, the only paragraph on page 434 is:

> The act of February 28, 1903, from the recitals in its enacting clause and the fact that it has received the approval of the President and has been regularly enrolled among the statutes of the United States, must be presumed to have been passed by Congress in strict accord with the letter and spirit of the Constitution, and resort cannot be had to the journals of the two houses to overthrow this presumption.

That is the only remark it makes with regard to the authority of the Senate to initiate. As a matter of fact the tax initiated here was initiated by the District of Columbia and the authority was given to the District to initiate a tax. The Senate had initiated no tax at all.

Mr. EAGLETON. I thank the Senator from Kentucky, and I wish to respond to his question. First, I wish to respond to his query about my use of the word "incidental."

I did say in my remarks that title V is an incidental part of that bill. In terms of sophisticated semantics "incidental" does not mean that it has a connotation of meager in terms of dollar amounts. "Incidental," as I used it here means it is a part of the bill but is not the central object of the bill.

I do not care if the fund were $10 million, $15 million, $20 million; if the fund were $500 million the first year, then a billion dollars, and then $2 billion after 4 years, it would still be incidental to the bill and incidental to the overall thrust of the bill which is a health and safety act as far as the coal miners are concerned.

I am very much pleased that the Senator from Kentucky took occasion to delve in a little further into the landmark case, one of the classics on this point; namely, Millard against Roberts, which as previously cited is 202, U.S. Reports, page 429, wherein I pointed out that one of the headnotes of this case supported my contention, as indeed it does, because I read it, and it precisely supports my contention. Then the Senator from Kentucky went off and discussed another part of the case that was not covered by the headnote. So now I should like, in clarification of the record, and to be on the very point that it covered by this headnote, to read from Millard against Roberts, from that portion of the case that is in point and is germane to the point of order as raised by the Senator from Vermont.

I read from page 436, the second full paragraph, and shall read thereafter:

> The first contention of appellant is that the acts of Congress are revenue measures, and therefore should have originated in the House of Representatives and not in the Senate.

This is right on the point.

> And to sustain the contention appellant submits an elaborate argument. In answer to the contention the case of Twin City Bank versus Nebeker, 167 U.S. 196, need only be cited.

Parenthetically, Mr. President, let me add that that was in my opening remarks, too. It is an even earlier landmark case. Perhaps we can get into that.

Mr. COOK. We will.

Mr. EAGLETON. Mr. President, I continue to read:

> It was observed there that it was a part of wisdom not to attempt to cover by a general statement what bills shall be said to be, "bills for raising revenue" within the meaning of those words in the Constitution, but it was said, quoting Mr. Justice Story—

I deviate from the quotation to comment that it appears in this discussion because he, above all others, one of the most learned members of the U.S. Supreme Court, is the authority in terms of the interpretation of this particular constitutional provision. To return to the quotation, from Justice Story:

> The practical construction of the Constitution and the history of the origin of the constitutional provision in question proves that revenue bills are those that levy taxes in the strict sense of the word, and are not bills for other purposes, which may incidentally create revenue.

That is from Justice Story and again clarified one story on the Constitution, section 880, which is the section I have repeatedly cited.

Now going on with the Millard against Roberts case:

> And the Act of Congress which was there passed on illustrates the meaning of the language used. The Act involved was one providing a national currency, and imposed a tax upon the average amount of the notes of a national banking association in circulation. The provision was assailed for unconstitutionality because it originated in the Senate. The provision was sustained, this court saying:
>
> "The tax was a means for effectually accomplishing the great object of giving to the people a currency that would rest, primarily, upon the honor of the United States and be available in every part of the country.
>
> There was no purpose, by the act or by any of its provisions, to raise revenue to be applied in meeting the expenses or obligations of the government.

Mr. President, here is an important sentence. It is the last one I shall quote. This is back to the Millard against Roberts case opinion, on top of page 437:

> This language is applicable to the acts of Congress in the case involved. Whatever taxes are imposed are but a means to the purposes provided by the act.

Let me repeat that because it is, I think, dispositive of the question raised by the Senator from Vermont in his point of order:

> Whatever taxes are imposed are but a means to the purposes provided by the act.

Mr. COOK. Mr. President, will the Senator from Missouri yield?

Mr. EAGLETON. I yield.

Mr. COOK. Let us go back to the Twin City Bank against Nebeker case, which was quoted at length.

Mr. EAGLETON. I have it with me. It is one of the best cases on this.

Mr. COOK. Let me read a section from the Constitution again, article I, section 7:

> All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

I repeat, "but the Senate may propose or concur."

Now let us read the language of the Twin City Bank against Nebeker case, because it is very important.

Mr. EAGLETON. May I ask the Senator from Kentucky, does he have the same volume I have, 167 U.S. Reports?

Mr. COOK. Yes. Page 198.

Mr. EAGLETON. Page 198. I thank the Senator.

Mr. COOK. Let me quote from the opinion:

> The Journals of the House of Representatives and the Senate of the United States for the 1st session of the 38th Congress were put in evidence by plaintiff. The bank claims that these Journals show that the National Bank Act originated as a bill in the House of Representatives, that when it passed the House, it contained no provision for a tax upon the National banks or upon any corporation or upon any individual or upon any property, nor any provision whatever for raising revenue, and that all provisions appear to authorize the Treasurer of the United States to collect a tax on the circulating notes of the national bank originated in the Senate by way of amendment to the House bill.

I repeat again, article I, section 7 of the Constitution:

> All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

So that the amendment to the bill that provided for the tax came from the Senate but it was an amendment on a bill that came from the House in strict compliance with section 7 of the Constitution as is set out in the Twin City Bank case.

Mr. EAGLETON. Once again, in response to the Senator from Kentucky, who is learned in the law and for whom I have the highest respect both personally and professionally, he has cited from and made reference to just one

part of the Twin City Bank case and one part of that opinion.

This case was not—and I emphasize the word "not"—decided on the very narrow ground which was enunciated by the Senator from Kentucky—to wit, as he put it, which is factually correct, that the bill in question in the Twin City Bank case originated in the House and an amendment was tacked on in the Senate. Factually he is correct. But the opinion of the Supreme Court in this case—the Supreme Court of the United States—in 1896, was not posited on the narrow ground which was enunciated by the Senator from Kentucky.

Mr. President, once again to clarify the record, I want to read from a portion of this case which explains and spells out the ground upon which the U.S. Supreme Court did make its decision.

I invite the attention of the Senator from Kentucky to page 202 of the opinion. I commence reading at the top of the full paragraph on that page.

The contention in this case is that the section of the Act of June 3, 1864—

That is the act in question in that case.

Providing for a national currency secured by a pledge of United States bonds and for the circulation and redemption thereof, so far as it imposed a tax upon the average amount of the notes of a national banking association in circulation, was a revenue bill within the clause of the Constitution declaring that, "All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as in other bills," Article 1, section 7; that it appeared from the official journals of the two Houses of Congress that while the Act of 1864 originated in the House of Representatives, the provision imposing this tax was not in the bill as it passed that body, but originated in the Senate by amendment, and, being accepted by the House, became a part of the statute; that such tax was, therefore, unconstitutional and void; and that, consequently, the statute did not justify the action of the defendant.

The case is not one that requires either an extended examination of precedents, or a full discussion as to the meaning of the words in the Constitution, "bills for raising revenue." What bills belong to that class is a question of such magnitude and importance that it is the part of wisdom not to attempt, by any general statement, to cover every possible phase of the subject. It is sufficient in the present case to say that an act of Congress providing a national currency secured by a pledge of bonds of the United States, and which, in the furtherance of that object, and also to meet the expenses attending the execution of the act, imposed a tax on the notes in circulation of the banking associations organized under the statute, is clearly not a revenue bill which the Constitution declares must originate in the House of Representatives.

I emphasize that—

Is clearly not a revenue bill which the Constitution declares must originate in the House of Representatives.

And here is this name again:

Mr. Justice Story has well said that the practical construction of the Constitution and the history and the origin of the constitutional provision in question proves that revenue bills are those that levy taxes in the strict sense of the word—

This is a direct quotation from the Twin City Bank case; I will repeat it—

Mr. Justice Story has well said that the practical construction of the Constitution and the history of the origin of the constitutional provision in question proves that revenue bills are those that levy taxes in the strictest sense of the word, and are not bills for other purposes which may incidentally create revenue.

That is the guts of the case before us.

Let me just finish this paragraph, a very interesting paragraph:

The main purpose that Congress had in view was to provide a national currency based upon United States bonds, and to that end it was deemed wise to impose the tax in question. The tax was a means for effectually accomplishing the great object of giving to the people a currency that would rest, primarily, upon the honor of the United States, and be available in every part of the country. There was no purpose by the act or by any of its provisions to raise revenue to be applied in meeting the expenses or obligations of the Government.

And I could not have found language, if I had been on the Supreme Court back in 1896 myself, that could be more directly applicable to the instant matter as raised by the Senator from Vermont than that which I have just cited from the Twin City Bank case. It shows that even though a bill may deal with money, may treat of money, and, in fact, may even raise money from some source or another, if it is such that that provision is merely incidental to the overall thrust of the bill, then that provision can be part of an act which does originate in the U.S. Senate.

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

Mr. EAGLETON. I yield.

Mr. ALLEN. I would like to ask the distinguished junior Senator from Missouri, who has been quoting approvingly from a Supreme Court decision of 1896, if he agrees with the logic and reasoning of all the cases decided by the Supreme Court of the United States in that year, 1896.

Mr. EAGLETON. In response to my distinguished colleague from Alabama, I would say the opinions of the Supreme Court handed down in any given year are sometimes separate but unequal, and I wish to certainly separate this learned opinion, on this relatively obscure section of the U.S. Constitution, from any other opinions that may have been handed down, including Plessy against Ferguson.

Mr. COOK. Mr. Presdent, will the Senator yield?

Mr. EAGLETON. I yield.

Mr. COOK. One of the important quotations the Senator read from the Twin City Bank case was the fact that the Supreme Court of the United States actually called it a tax. As a matter of fact, in the last paragraph on that page the decision reads:

The tax was a means for effectually accomplishing the object of giving to the people a currency.

The other important quotation from that case is:

There was no purpose by the Act or by any of its provisions to raise revenue to be applied in meeting the expenses or obligations of the Government.

I think that is important because we here, as the Government, are establishing something. We are establishing the coal mine health and safety research trust fund. We are, in fact, establishing it as a government. The interest that was imposed upon the bonds would come within section 7 of article I, because section 7 states that the Senate may propose amendments.

But let us get to the very important case that goes to the guts of it, 202 U.S., *Millard* v. *Roberts:*

There was no purpose by the Act or any of its provisions to raise revenue to be applied in meeting the expenses or obligations of the Government.

If the Senator will refer to section 502, on page 121 of the bill, we are creating the coal mine health and safety research trust fund. No one else is creating it. The coal industry is not creating it. We are creating it. If we create by this act, and as we create it for the purpose of the creature that this Government will create, the coal mine health and safety research trust fund, we are imposing an assessment of 1 cent, 2 cents, 3 cents, 4 cents, would the Senator please, by the farthest stretch of his imagination, explain to me how we can get by the provision of the Twin City Bank case when it said:

There was no purpose by the Act or any of its provisions to raise revenue to be applied in meeting the expenses or obligations of the Government.

Will the Senator tell me, under the terms of this act, if the Government or a part of the Government is not the coal mine health and safety research trust fund, and if the only way this money can be collected is, first of all, through the Secretary of the Interior, who is authorized to enter into an agreement with the Secretary of the Treasury, and the Secretary of the Treasury shall collect these funds by reason of subtitle D of the Internal Revenue Code of 1954 and, on the importers, by the Tariff Schedules of the United States? Are we collecting these for someone other than a Government-created coal mine health and safety research trust fund?

Because, if we are collecting it for another purpose, then tell me, if the Government is not going into this business, who is going into the business? And if the money is not being collected for a governmental purpose, and to defray costs of government, then why are we creating this fund? If the Government is not assuming to collect, from some source, a sum of money to help sustain it and help pay the cost of a governmentally-created coal mine health and safety research trust fund, will the Senator from Missouri please explain to me what section 502 really means, and what it really does?

Mr. EAGLETON. In response to the question of the Senator from Kentucky——

Mr. COOK. Before the Senator answers, let me add one other thing. Under section 501, this money also goes to the Surgeon General of the United States, not to an individual, not to some group picked or selected to perform this function. This section establishes a coal mine health and safety research trust fund in the Treasury. It appropriates to the trust fund amounts equivalent to 100 percent of the assessment received in the Treasury under section 502. It also would

make such amounts as are provided by appropriation acts—appropriation acts of this body—available to the Secretary and Surgeon General, to carry out the research required by sections 201(b), 401, and 402.

If that is the case, is not this money we are collecting for the purposes of government?

Mr. EAGLETON. In response to the Senator from Kentucky, who has quite eloquently and convincingly postulated a whole series of questions, it will be a bit difficult for me to address myself precisely to each question he has addressed to me, but I will try to make a general critique or commentary on what I think was the point he was trying to make.

I think his point is relevant to the decision that the Senate is being called upon to make. There is a vast difference and, indeed, a singular difference between a revenue bill and a measure such as that before us, in that a revenue bill is designed to raise money generally for the public interest, to be distributed by the Government. That is in accordance with the definition from Black's Law Dictionary cited by the Senator from Vermont.

Placing that on the one hand as being the hallmark of a revenue bill, and then getting to the immediate question, which concerns an assessment which is to be used for the benefit of a particular industry, the coal mine industry, we then get to the precise point that was ruled on in the case of Millard against Roberts.

In that case, it was labeled an assessment, and it was held by the U.S. Supreme Court to be a matter which could in fact originate in the U.S. Senate.

Let me read just one portion of the case of Millard against Roberts, because it is on this very point. I read at page 435, the first full paragraph on that page:

The principal allegations of the bill—

This referred to the bill that was involved in the Millard against Roberts case. Refreshing the memory of the Senator from Kentucky, that was a bill relating to the railway and terminal facilities in the District of Columbia, back in 1905.

The U.S. Supreme Court, Mr. Justice McKenna writing the opinion, said:

The principal allegations of the bill are that the railroad defendants are private corporations and all interested in the railway and terminal facilities of the District of Columbia; that the District of Columbia owns no stock in any of the companies nor is otherwise interested in any of them save as useful private enterprises, and yet it is required by said acts, "without any lawful consideration therefor," to pay the Baltimore and Potomac Railroad Company the sum of $750,000, and a like sum to the Baltimore and Ohio Railroad Company—

I emphasize this—

"to be levied and assessed upon the taxable property and privileges in the said District other than the property of the United States and the District of Columbia," and for the exclusive use of said corporations respectively, "which is a private use, and not a governmental use;" that the public moneys of the District of Columbia are raised chiefly by taxation on the lands therein, and that the complainant is obliged to pay and does pay direct taxes on land owned by him therein. And the bill also alleges that the acts of Congress are "acts which provide for raising revenue and are repugnant to article I, section 7, clause 1, of the Constitution of the United States, and are, therefore, null and void *ab initio*, and to their entire extent, because they and each and every one of them originated in the Senate and not in the House of Representatives."

I have read from this decision at some length because the assessment that was being made back in 1905—64 years ago—is precisely of the same type; the same assessment that is being made in section 5 of the instant bill.

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

Mr. EAGLETON. I yield.

Mr. COOK. The assessment is nowhere nearly the same. I should like to get the Senator back to September 1969, and not way back at the turn of the century. I shall read to him from subsection (b) of section 205, so we can see how governmentally regulated this bill is, and how important it is to the governmental purpose:

There is hereby appropriated to the trust fund, out of any money in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of the assessments received in the Treasury under the provisions of section 502 of this Act. The amounts appropriated pursuant to this subsection shall be transferred at least monthly from the general fund—

Not from this fund, but from the general fund—

Of the Treasury to the trust fund on the basis of estimates by the Secretary of the Treasury of the amounts received in the Treasury under the provisions of section 502 of this Act. Proper adjustments at the end of each fiscal year shall be made in the amounts subsequently transferred to the extent prior estimates in each year were in excess of or less than the amounts required to be transferred.

This means that monthly, a certain amount will be paid into the trust fund out of the general fund revenues of the United States—not out of the trust fund, but out of the general fund—and that an accounting will be made at the end of the year.

I also read to the Senator subsection (c):

(c) It shall be the duty of the Secretary of the Treasury to hold the trust fund, and (after consultation with the Secretary of the Interior) to report to the Congress not later than the 1st day of March of each year on the financial condition and the results of the operations of the trust fund during the preceding fiscal year and on its expected condition and operations during each fiscal year thereafter. Such report shall be printed as a House document of the session of the Congress to which the report is made. It shall be the duty of the Secretary of the Treasury to invest such portion of the trust fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (A) on original issue at par, or (B) by purchase of oustanding obligations at the market price.

Now, is this not an integral part of the Government? Not only is this to be a trust fund, but, if the funds are slow coming in from the producers, it shall be averaged out, and the money shall be paid from the general fund of the Treasury to the department each month or two, three, or four, and an audit shall be made at the end of the year to find out whether they have paid too much or too little.

Is the Senator from Missouri still contending that this is not an absolute purpose of the Federal Government, and the raising of this money is not absolutely raising of funds for a governmental purpose?

Mr. EAGLETON. The Senator from Kentucky, I think, is putting a question that is unrelated—at least not directly related—to the precise question which the Senate will be called upon to decide on this point of order.

It has never been my position that there is no governmental nexus between section 501, and the trust fund thereby created. It goes without saying that if it is not put into the law, if it is not made a part of a bill, there will be no trust fund, because I hasten to add I know full well that industry by itself will not create it, and unless it is forced upon them by law, it will not be there. So the Senator is correct to this point.

Mr. COOK. Will the Senator yield?

Mr. EAGLETON. Let me finish my statement; then I shall be happy to yield.

There is a governmental nexus between the trust fund being created and the statute; yes. There is going to be a trust fund created by the benefit of and under the color of law.

That does not change one iota the basic question to be decided by the Senate and the basic question that was decided by Millard against Roberts and the Twin City Bank case, despite the fact that one is an 1896 case and one is a 1905 case.

We are now living in the era of strict construction. And all of us treasure these rather musty old cases as much as if they were written yesterday, because they have not been overruled. They have not been cast aside. They carry with them the imprimatur of longevity, one of the bulwarks of the judicial system. And the fact that this case was not handed down in the Warren era, when some of the greatest cases of our time were handed down, in no way detracts from the Millard against Roberts case.

I know that the Senator from Kentucky did not wish to cast aspersion on the principle of stare decisis. However, be that as it may, the point to be decided is the substance of a general revenue raising bill for a general public purpose.

Here we have a measure as a part of the overall bill which has as an incidental purpose, the creation of a trust fund.

I cite the Senator from Kentucky a more recent example, since he wishes to get away from the Millard against Roberts case. If, indeed, I were in his position, I would wish to have it ignored, also. However, it is there. It is in print.

I give the Senator a more recent example. It is a 1958 act of the 85th Congress. It was Senate bill 2617.

That bill provided for raising from $2 to $3 the duck-hunting tax stamp required to be purchased under the Migratory Bird Hunting Stamp Act.

The proceeds from the stamp tax were to go to the support of the wildlife refuges.

The bill originated in the Senate and

then went to the House, where it passed and became Public Law 85–585. Here is a bill that raised the stamp tax from $2 to $3. It was earmarked for a certain purpose—to support wildlife refuges.

There is an analogous situation to section 5 of the instant act, where a trust fund is being created to help individuals help themselves by advancing research for the benefit of those who labor in the coal mines.

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

Mr. EAGLETON. I yield.

Mr. COOK. Mr. President, I have no idea whether a point of order was raised on the Senate bill to which the Senator refers. However, if this is the course the Senator is suggesting, I point out that I have been wanting ever since I have been in the Senate to raise social security benefits for everyone in the country. I feel that we should introduce a bill in the Senate tomorrow to raise the social security tax. I feel that we would have no problem under the theory of the Senator with respect to section 502. There are two specific groups or classifications of people. We really ought to get on with it and not wait for the House to act.

I have no idea whether a point of order was raised in the duck hunting situation. However, I doubt seriously that raising the tax by $1 would raise $20 million a year.

I might suggest to the Senator that it was done for the purpose of executing an act that was already in existence.

The Senator here is proposing something new and as a Member of the U.S. Senate proposes to create a new function in the Coal Mine Health and Safety Act.

It is even provided that if the section is passed the general revenues can be used in lieu of the trust funds until such time as an audit is made.

It seems to me that we either have these funds coming in or we do not.

Suppose that under the act the Senator came to a conclusion in 1 month that we were going to receive so much money and that each month the Treasury of the United States paid out of the general funds a certain amount of money. And suppose at the end of the year there were not sufficient funds with which to pay that amount. Under the act, it would not just be a trust fund, but it would in effect be the general fund and a trust fund. If this is not raising revenue for a governmental purpose, then section 7 of the Constitution appears to be meaningless.

Mr. EAGLETON. Mr. President, I thank the Senator from Kentucky for his continued interest in the subject matter. I do not know whether his more recent comments have shed any new light on the question.

First, he raises the question of whether the Senate could originate legislation increasing benefits under the social security system.

I think it would be very interesting if the Senate were to try to do so. I am not sure with what favor such an attempt would be received by the House of Representatives. I am not here today to say that it would be fatally unconstitutional if the U.S. Senate were to attempt to do so. However, even if that were deemed to be beyond the pale of constitutionality, it is a very good thing to talk in terms of the social security tax which admittedly is levied on a specific segment of our society, employees and employers, for the benefit of employees, covering the whole of commerce of the United States, the 50 States, workers in every way, shape, and form, and at the same time to analogize it to an assessment made on the coal mine operators, the purpose of which assessment is to assist the operators themselves in improving their own research on the environment in which coal workers labor.

With respect to the bill I mentioned before, S. 2617, that raised this duck hunting tax from $2 to $3, the Senator is correct that a point of order was not raised at that time.

I gather in reading the Journal that it became quite obvious to the 100 Members of the Senate that a point of order would not lie.

Finally, with respect to the amount of money raised by that bill, since the Senator alluded to the possibility that it was a mere pittance and hence because of its innocuous nature might be overlooked, I point out that the amount of money raised by that increase in tax from $2 to $3 was $9 million, which is almost twice as much as the amount to be raised by this assessment for its first year of operation.

Mr. COOK. Mr. President, will the Senator from Vermont permit me to depart from the rule of germaneness for 2 minutes?

Mr. PROUTY. I ask unanimous consent that the Senator may do so.

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

Mr. EAGLETON. Mr. President, I reserve the right to object, but I will not object.

Mr. COOK. Mr. President, the Senator from Missouri will realize that there is on the calendar a bill from the Senate Committee on Agriculture and Forestry to provide that the potato growers of this Nation may meet together and impose on themselves an assessment for the operation of their industry.

I think that is the very thing that we are discussing. It is not a revenue-raising measure as far as the Senate is concerned. It is an objective measure that is within the purview of the Senate. It provides that they may have the option in association to impose on themselves a levy for their own industry, for their own business.

I think that this is altogether different, because they have a right in that act either to join that association or not to join it. They have a right to be a part of it and then have a right to ask to be removed from it.

They have a right to impose on themselves by their own election a sum of money up to a certain amount.

By the obligation and the option in the pending bill, we would be saying this to the entire industry—which of course is at a smaller level but is just as integral as the entire group included in the social security group, only much smaller. It is an integral group that comes within a classification, as do those under social security.

But there is no option here. The coal industry cannot get together and decide whether it will or will not, which I think easily would put it within the prerogative of the Senate. The coal industry does not have an option to decide what its rate will be. The coal operators do not have—in any way, shape, or form—any control over this fund. It is entirely a governmental fund. And to this extent I think we see the difference between revenue raising for a governmental purpose and revenue raising for the purpose of some function that is not governmental.

That is the distinction I should like to make to the Senator from Missouri. I believe it is a sound one. I am sure he will contest it, but I throw it out for what it is, because I think there is the distinction—the distinction that the Senate can allow a revenue-raising measure to be imposed when those who want to raise it can raise it or not, as they see fit, and who may have in some way control over it.

I might suggest to the Senator from Missouri that he stands here ready to impose assessment after assessment after assessment on another industry and another industry and another industry, and perhaps some day on the people of the United States, and not call it a tax. But I think that by any other name it is the same, and it cannot be otherwise.

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

Mr. EAGLETON. I shall yield in due course, but I should like to present my response to the junior Senator from Kentucky, which I believe may be both surprising and refreshing in its brevity.

I am pleased that the junior Senator from Kentucky brought to my attention the bill pending on the calendar called the Potato Research and Promotion Act. I have been glancing through the committee report on that bill.

The junior Senator from Kentucky pointed out that this is a bill originating in the Senate. It is a bill which contains, I quote from the report, "an assessment of not more than 1 cent per hundred pounds of potatoes produced commercially in the 48 contiguous States."

So the Senator points out that we have on the calendar a Senate bill with an assessment on potato producers.

Mr. COOK. The Senator will read that that assessment is imposed only if the growers themselves vote to impose it.

Mr. EAGLETON. And then the Senator points out that there are variations between the potato bill and the instant coal mine safety bill by which this assessment is assessed, funded, and computed. But he raises the point that this is on the calendar, and then he says that the potato bill is within the legitimate purview of a bill that may originate in the Senate.

On page 5 of this report the Agriculture Committee defines the purpose of the bill. I want to read the purpose of the potato bill as spelled out by the Agriculture Committee, and then I am going to read from page 2 of the report of the Senate Labor Committee, in terms of the purpose of the coal mine safety bill. I am doing it because the Senator will find that the purposes, as spelled out by the two respective committees that set up these two assessment funds, are almost identical.

I quote first from the potato bill:

The purpose of the bill is to enable potato growers to finance a nationally coordinated research and promotion program to improve their competitive position and expand their markets for potatoes.

That is the purpose of the potato bill.

Mr. COOK. If they wish to do so.

Mr. EAGLETON. The purpose of the pending bill is to provide a more extensive and accelerated research program in the field of coal mine health and safety.

The purposes of the two bills are analogous and identical, and the funds are both assessment funds, both originating in the Senate.

Mr. COOK. Would the Senator agree to allow an amendment to go on the bill which would give the coal industry the same authority, to vote itself that assessment or not vote itself that assessment, as is provided in the potato bill?

Mr. EAGLETON. It seems to me that it would be sustainable on a point of order.

Mr. COOK. Would the Senator be agreeable to supporting such an amendment?

Mr. EAGLETON. If the Senator will let me finish my speech on the point of order, he will be surprised to learn that when we get to the merits of the case, I may well not support the present trust fund in the pending coal bill. I am waiting to get to that part of my speech.

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

Mr. EAGLETON. I yield.

Mr. COOPER. I have had little opportunity to read all the cases on this point. I have looked at a list of cases provided as annotations to the Constitution, and I find very few in print. But they all have certain characteristics.

The Senator has quoted from the currency case.

Mr. EAGLETON. The Senator is correct.

Mr. COOPER. He has also spoken of the case in which a license was levied in the so-called duck act.

Mr. EAGLETON. Yes.

Mr. COOPER. That became a famous case a few years ago, when we were considering the Bricker amendment. We are very familiar with the case.

In the cases to which the Senator from Missouri referred, the Court made it clear that in those cases a license could be levied for the purpose of execution of the act itself, providing funds to execute the act.

The junior Senator from Kentucky is correct when he says that the potato case is different because it authorizes the potato growers to decide whether or not they will levy a license upon themselves.

I have two cases here which are quoted, and I found these quoted in the annotations to this section of the Constitution. One is *Flint* v. *Stone & Tracy, Co.*, 220 U.S. 107–143, 1911, later than the 1896 case quoted by the Senator. Another case is *Rainey* v. *United States*, 232 U.S. 310 (1914).

In both cases, the Court said specifically that the Senate had the authority to levy a tax because it had done so by an amendment to a general revenue bill which had originated in the House.

It has been a long time since I practiced law or was a judge—and I can see the Senator from New York rising behind me—but I believe that every case quoted and the ones I have quoted can be distinguished.

First, some cases held that the Senate can levy a license if it is for the execution of costs of operation. Second, in the potato case, a practice is followed as with other agricultural products, to let the farmers decide whether or not they will fix fees upon themselves. The other cases—there may be others I have not come across—make it clear that no constitutional question was involved because the Senate levied a tax by amendment to a general revenue bill.

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

Mr. EAGLETON. First, I should like to respond briefly to the senior Senator from Kentucky; then I intend to yield to the Senator from West Virginia; and then I will yield to the Senator from Vermont.

The Senator points out a case which, quite frankly, I have not read, a 1911 case, the Stone case. But he points out in his comments that each of these cases is somewhat distinguishable from the other. Indeed, the Senator is correct. If there were a case in a printed volume on all fours, this colloquy would not be indulged in. But one argues from the benefit of earlier cases by way of analogy insofar as trying to employ them as current precedent.

I think the Senator raises an important point. He mentions that the case he cites—and I have not read it—is a 1911 case. It is 5 or 6 years, or even more recently.

Mr. COOPER. It is 1914.

Mr. EAGLETON. It is more recent in point of time than the 1905 case we cited or the 1896 case we cited. State constitutions, by the way, have similar provisions, analogous to this Federal provision. There are two reasons why more current cases are not in the bound volumes, either from the U.S. Supreme Court or from other jurisdictions. One, it is rather firmly established in constitutional law that the Story commentary is the law of the land, that an assessment provision, a revenue provision, which is merely incidental to a broader purpose of a bill, can be originated in the Senate; and, second, it is likewise firmly established constitutional law—one of the leading cases is a Missouri case which interprets the Missouri constitution which, if not identical, is very similar to the Federal Constitution—that State and Federal appellate courts will not intervene in the legislative function if a bill which is clearly constitutional under other constitutional provisions is adopted in identical form by both sides of the general assembly—here the House and the Senate—even though some question might be raised as to which should have been the preferable house of origin; that is, once a law goes on the books and is signed by the Governor—in this case the President—courts are not to upset such a statute on the grounds of which house should have been the house of origin.

I think it is important to point out why there are not more recent cases than cited in this decision, all of them more than a half century old. The answer is that the law is settled just as the Story commentary is the law of the land. No one challenges it. Should this coal mine bill become law I dare say the Supreme Court, no matter who is then a member of that Court, will readopt the Story principle and not challenge whether it should have been enacted in the Senate.

I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, the able Senator from Missouri addresses himself in splendid argument on the point of order raised by the able Senator from Vermont. The Senator has mentioned S. 1181, the potato bill. The bill, by its very title, is to enable potato growers to finance nationally coordinated research and promotion. We have been talking about research in connection with mine health and safety legislation.

I wish to ask the Senator who has just been speaking if it is not true that the assessment, which will run 20 cents a ton, would not be a very large sum of money. Does he know that figure?

I do not know whether the able Senator from Florida (Mr. HOLLAND) who is now standing, knows the figure or not. The Senator's Committee on Agriculture and Forestry reported the potato bill on August 18. I am not sure whether he can speak with accuracy as to the amount of money but I do know that on page 14 of the reported bill there is a criminal penalty providing for criminal prosecution.

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

Mr. EAGLETON. I shall yield first to the Senator from Florida to get the correct figure in the potato bill.

Mr. HOLLAND. Mr. President and my distinguished friend, I cannot give the exact amount because I do not know. But I can tell Senators how the marketing agreements are set up. This is the law, and it is strictly in accordance with the Marketing Agreement Act.

It provides for payment, either by producers direct, or in this case it says of a certain sum per unit to a commission for the purpose of carrying out the provisions of the act.

The money is never Federal money and never goes to the Federal Treasury. It does not require an appropriation of Congress either to get it into the Federal Treasury or to appropriate it out. It is not for the carrying out of a Federal program by Federal officials as is the case in this bill, but instead, it is for the carrying out of a procedure for the improvement and service of the industry affected—in this case, for the promotion of more information about health values of potatoes.

The two things are not similar at all. The procedure in the bill before the Senate requires the payment of the funds to the Secretary of Interior and by him into the general treasury of the United States. It requires an appropriation out of the general treasury by Congress for use of the Surgeon General and the Secretary for the carrying out of a very important public program, not managed by a committee or commission but, instead, managed by the Federal Gov-

ernment. There is all the difference in the world in the program outlined in S. 1181, to which the Senator from Virginia and the Senator from Missouri addressed themselves.

As far as the Senator from Florida is concerned, he is concerned with this marketing agreement and the order. The order cannot be issued unless two-thirds or more growers subscribe to the agreement. The Senator from Florida knows something about that situation because he drafted some of the orders, and they have to do with an industry effort administered through a commission or board for the benefit of the industry. There is not available the excise tax laws as made available in this case or the tariff laws as made available in this case. There is available a criminal proceeding in the event there is a mishandling of the money, which is as if I owed the distinguished Senator from West Virginia some money that had come into my hands to go to him and instead I embezzled it. Then, of course, a criminal procedure would lie.

There is nothing in the potato promotion bill at all like the pending coal mine measure. I regret to say that because I had hoped to support the efforts of many in the coal industry to get a sounder and better law. In this instance I could not agree that the assessment is anything other than a tax because it is so clearly made such by the fact it is assessed by the Federal Government, paid to the Federal Government, it goes into the General Treasury, and has to be appropriated from the General Treasury, not back to the industry, but to the Surgeon General and the Secretary of Interior to carry on important programs in the field of health.

I would not be able to vote against this point of order because it seems so clear to me that in this case regardless of what it is called, this is a tax levy. It is levied to carry out an important, and I believe it would be important, public program. I regret that that is the situation but taking these provisions out of the bill no doubt the bill could be passed and then financed otherwise through legislation originating on the other side. But when there is incorporated a provision which is really a levy, and it is really Federal money, to carry out a program, I cannot see any other answer than that the point of order is well taken. I regret to so state.

Mr. EAGLETON. Mr. President, if I may respond to the Senator from Florida, and the Senator from Mississippi says he would like to have the floor, but I will be glad to yield to the Senator from Vermont thereafter.

Mr. PROUTY. I made the point of order.

Mr. EAGLETON. May I respond to the Senator from Florida? First of all, I want to thank him for his complete and thorough explanation of what is involved in the Potato Research and Promotion Act, especially insofar as the assessment is concerned. The Senator did not give a precise figure, but it is in the millions of dollars, I presume. It will involve more than $1 million.

Mr. HOLLAND. The Senator from North Dakota (Mr. YOUNG) is the author of the bill.

Mr. EAGLETON. If I may ask the Senator a question.

Mr. HOLLAND. I am sorry I do not know what the precise amount is, but that has nothing to do with the case. In the Florida citrus industry, we have rather large sums made available in connection with our marketing agreement and order and its enforcement, but it does not have anything to do with the question of the way we handle taxes or enforcement under the Florida Citrus Commission but in connection only with the control of the movement of fruit. The Marketing Agreement covers that. The amount is sizable.

I cannot give the figure here. But it is a large industry and has large interests in the matter of proper distribution of the crops. But I do not think the amount of the industry fund would have anything to do with the conclusion that a person would reach as to whether this is a tax or not.

Mr. EAGLETON. I fully concur with that last answer. I think the amount involved has absolutely no bearing on the legitimacy of the method by which we are attempting to raise the fund. I merely asked that question and, indeed, it was also asked by the Senator from West Virginia, because in the earlier exchange between myself and the junior Senator from Kentucky it was he who pointed out the sizable nature of the fund—$5 million in the first year, $10 million in the second year. If ever the amount, is funded, it would have some bearing on what we were attempting to do and whether it was constitutionally satisfactory or not. I fully concur with the Senator from Florida on that part of his answer.

Mr. HOLLAND. I might say that while I have agreed with some of the positions taken by my distinguished friends from Kentucky—I heard both their speeches—this was one of the points made by the junior Senator from Kentucky with which I could not concur because I do not think that the size of the fund is determinative on the question that is before the Senate.

Mr. COOK. If the Senator will yield, I brought this question up because we had been discussing the term "incidental funds." I really wanted to place in the RECORD the amount that this revenue would actually produce.

Along the lines discussed with the Senator from Florida, I should like to ask him in regard to the act that we have discussed, the Potato Act, that is voluntary is it not, Senator?

Mr. HOLLAND. Certainly. It is voluntary. It has to be entered into by, as I said a while ago, two-thirds, either by number or volume of producers.

Mr. COOK. They impose an assessment on that much.

Mr. HOLLAND. They do. In that agreement, in terms of the agreement, they have to be passed upon and approved by the Secretary of Agriculture. But the carrying out of this program is in the hands of the commission or the committee, I have forgotten which it is.

Mr. COOK. Committee.

Mr. HOLLAND. Sometimes one, sometimes the other. That is set up, and that committee or that commission is representative of persons from the industry affected who are named by the——

Mr. COOK. Producers.

Mr. HOLLAND. The Secretary of Agriculture, but their duties are duties which they perform in connection with the carrying out of the effort of the industry which is embraced in the marketing agreement.

Mr. COOK. They are named by the Secretary of Agriculture from the list submitted by the producers, are they not?

Mr. HOLLAND. That is true in Florida. It may be true in connection with the Potato Act which will require that provision. I think all we have in Florida is in connection with the citrus and tomato industries both of which I am reasonably familiar with. We have others I am not so familiar with. It requires that the Secretary make his appointments from a list submitted by the industry affected.

Mr. COOK. It also provides, does it not, Senator, that a producer who joins a group can withdraw by giving notice after 90 days, and that he can withdraw and receive a return on his funds?

Mr. HOLLAND. Under the potato measure, that is true. Also under the cotton measure, with which I am reasonably familiar—but that is a nationwide measure. Insofar as the citrus measure in Florida is concerned, that is not true. A grower cannot demand his funds back. As I say, there are many differences between agreements, but in essence what they require is the payment of funds out of the pockets of those who produce or handle the product in order to benefit the producers.

Mr. COOK. May I ask the Senator, is it not true that the main difference in this act calling for a fund for the potato growers and this one, is that the one for the potato growers is voluntary and the obligation to pay is whether he does or does not want to belong to the association and he can withdraw at any time. The present one before us is absolutely mandatory. If passed by this body, it will become an obligation to operate a fund which will be totally and exclusively an operation of the Federal Government.

Mr. HOLLAND. That is true. The program set up is the program set up by the Federal Government under the terms of this act. I am told by my assistant that the potato measure is estimated to produce $2¾ million a year. It is a sizable program. We do not know whether it will ever go into effect because before it does, it has to be approved in writing by two-thirds of the producers in volume or in number.

Mr. COOK. I thank the Senator from Florida.

Mr. EAGLETON. Mr. President, I thank both the Senator from Florida and the junior Senator from Kentucky. They have, and properly so, pointed out the distinct differences between the assessment provision found in the Potato Research and Promotion Act and the assessment provision in S. 2917.

I have never contended that these two assessment provisions were to all intents and purposes, and in language, identical, one to the other. I said that they were

similar, one to the other. The similarity is purely and simply this: They are both assessment funds raised by Federal law. Neither one can exist without Congress' creating them, whether one be voluntary or the other involuntary. They both have the benefit of Federal law as their creator. These are both Federal assessment funds created by Federal law, each one of which is earmarked for a specific research function in a special industry—in the potato industry on the one hand, and in the coal mine industry on the other, to that extent, they are similar, albeit not identical. To that extent, I think, because they are similar, because they are both incidental to the respective acts in which they occur—in one there are the potato and tomato industries, and in the other there is the coal mine safety problem—they come under Justice Story's definition so often cited heretofore.

Mr. PROUTY. Mr. President, will the Senator from Missouri yield?

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

Mr. PROUTY. Mr. President, I thank the Senator from Missouri for yielding to me.

In the past, research for safety in the mines has been carried on by the Bureau of Mines and money has been appropriated for that purpose, is that not correct?

Mr. EAGLETON. That is correct.

Mr. PROUTY. Would not the Senator agree that past expenses for coal mine safety have been a function of Government?

Mr. EAGLETON. That is correct. Under present law.

Mr. PROUTY. Funds which have been appropriated.

Mr. EAGLETON. Monies collected out of Federal general revenue go to operate the entire Department of the Interior of which the Bureau of Mines is a subdivision.

Mr. PROUTY. Now, under subsection B 501, we are appropriating 100 percent of the assessments received in the Treasury. How do we commingle those funds and determine this half of the general revenue and the other half or not?

Mr. EAGLETON. In candid response to the Senator from Vermont, I am not sufficiently sophisticated in Federal bookkeeping and what the Treasurer of the United States or the Secretary of the Treasury does with respect to various bank accounts that are kept by the Federal Government.

All I can say is that the funds in question here, which are challenged by the Senator's point of order, are incidental to the entire thrust of the bill.

Mr. PROUTY. I cannot follow the Senator's reasoning, because it seems to me that if half the funds proposed by the section come from general Federal Treasury funds and the other half come from so-called assessments provided for in section 501, I do not know where the Senator would draw the line. Which half comes from the general Federal revenues and which half does not?

Mr. EAGLETON. I think now I understand the Senator's point. In the proposed bill some Federal money would be appropriated out of general revenue, that being used by Secretary Hickel and the Bureau of Mines, and then general money in the area of research to improve the standards of coal mine safety. That is identical to what has been the case here before—general Federal moneys to be used for research—as I understand it. On a new and novel procedure, we have a proposal in addition to what the Government has been doing in this area, the money to come out of its general Federal revenue money. This provision, in title V, would call upon industry, out of coal mine production, to pay for what research is to be done by and for the benefit of industry. So these are two separate handles on the research concept.

Mr. PROUTY. I cannot agree with the Senator. Both are used for the general function to be performed; one-half comes from the general revenues, which the Senator admits; the other half comes from assessments, which the Senator feels do not represent general revenues. I feel, in all logic, it cannot be conceived as anything other than general revenues.

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

Mr. EAGLETON. I yield.

Mr. JAVITS. I would like to discuss this matter for the first time. I just wanted to get a little idea from the Senator as to the amount of time he expects to take.

Mr. EAGLETON. I have about 3 minutes more to complete my statement. Then I shall be glad to yield the floor to the Senator from New York or any other Senator.

Mr. JAVITS. I shall not interrupt the Senator.

Mr. EAGLETON. Mr. President, referring to where I was a few minutes ago, let me repeat a paragraph.

Now applying the principles I have just enunciated to title V of the bill, I confess that I fail to see how this section in any way is prohibited by article I, section 7, clause 1 of the Constitution of the United States. S. 2917 is not a revenue-raising bill. Title V is merely an incidental part of that bill.

The primary and only purpose of S. 2917 is to protect the coal miners from the terrible tragedies that befell the 78 miners at Farmington who are still entombed in a mine racked with explosions, and to protect the thousands of miners whose lungs are ravaged by the coal dust they must breathe while working.

The purpose of S. 2917 is also to insure that both the industry and the Government do, in fact, give first priority to the health and safety of the miner: to insure an end to the annual carnage in our Nation's coal mines; and to insure that new generations of coal miners are not ravaged by black lung.

Mr. President, in conclusion, may I say that what I have said here on the point of order in no way binds me as to how I may vote on the substance or merits of the so-called "industry benefit assessment." I concede that on the merits, this is an issue which should be debated and about which I have some personal misgivings. However, on the procedural point now before us, I am convinced that the point of order of the Senator from Vermont is not well taken.

UNANIMOUS-CONSENT AGREEMENT

Mr. KENNEDY. Mr. President, I ask the attention of the distinguished minority leader and also the attention of the distinguished Senator from Vermont and the distinguished Senator from New Jersey.

Mr. President, I ask unanimous consent that at 2 o'clock tomorrow, the unfinished business be laid before the Senate; that immediately after the Chair lays the unfinished business before the Senate, the Chair ascertain the presence of a quorum; that immediately upon the ascertainment of a quorum the time on the point of order be limited to 40 minutes, the time to be equally divided and controlled by the Senator from Vermont (Mr. PROUTY) and the Senator from New Jersey (Mr. WILLIAMS).

Mr. SCOTT. I have no objection, but I think the Senator from Vermont wishes to make a statement.

Mr. PROUTY. Mr. President, reserving the right to object, I would like to have a live quorum.

Mr. KENNEDY. Mr. President, I modify the unanimous-consent request to include the presence of a live quorum.

Mr. JAVITS. Mr. President, reserving the right to object, I wish to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Should a motion to table the point of order be made, will the unanimous-consent request accommodate the making of that motion, even after the 40 minutes have expired?

The PRESIDING OFFICER. The motion would be in order only after the expiration of the time specified.

Mr. JAVITS. That is what I asked; but could the motion, nonetheless, be made, though there would be no further time? Will the unanimous-consent request provide that a Senator desiring to do so may move to table, notwithstanding the expiration of the time for debate?

Mr. President, perhaps we can solve it this way: I understand the Parliamentarian has just arrived.

Could we ask the Senator from Massachusetts to make the unanimous-consent request read that at the time set for expiration of the debate, a vote shall occur on a motion, or if none be made on the point of order itself? I think that is all we need.

The PRESIDING OFFICER. Does the Senator from Massachusetts concur?

Mr. KENNEDY. I ask that the unanimous-consent request reflect the change requested by the Senator from New York.

The PRESIDING OFFICER. The unanimous-consent request made by the Senator from Massachusetts is modified in accordance with the language proposed by the Senator from New York.

Is there objection?

Mr. COOPER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. COOPER. I might withdraw my objection, but I should like to speak for a moment on it.

This is an important question. We have been debating this matter for about 4 hours, or at least 3½ hours. Few Senators have been present on the floor, I assume, because this is one of those jurisdictional questions which does not attract the interest of many Senators. But it involves a constitutional question. I

think there should be sufficient time, so that the question could be properly considered.

We are dealing in a very sensitive area when we consider questions of black lung and other respiratory diseases. Of course, I can say for myself, and I am sure all Senators would agree, that we are willing to anything we properly can to help provide funds for research into this awful malady. Beyond that, as far as I am concerned, I am willing to vote for a plan which would properly provide funds for their compensation.

We are dealing with a very emotional question, involving men who have been working in the mines all these years, and have been damaged by dust pouring out from the face of the coal. Of course we want to do something for them. But it is very doubtful that we can accomplish it this way, and we all know it.

Suppose this provision goes to conference. I have no doubt that the House of Representatives will strike it, because they wish to preserve their rights. What do we accomplish? Those who vote against the point of order will have the satisfaction of saying, "Well, we tried to get some money to fight this awful disease, but we were not successful."

Why not do it correctly? Why not take this section out, and put in a section authorizing $10 million for next year, $15 million for the following year, and $20 million for the year after. I have no doubt that Congress will appropriate it. Then we will have done something to help these people. But here we are arguing at length over this question, with very few judicial precedents, while we know that if the point of order is voted down, the provision will be stricken in conference.

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

Mr. COOPER. I yield.

Mr. JAVITS. I must say I thoroughly disagree with the Senator about the point he is making. We might just as well argue the merits. The fact is, you are not going to get money continuously out of the Treasury; but when you have a profit in a business involved, you have to begin to be business people. The Treasury will not take it and will not stand it.

Instead of $10 million, you get $25 million this way, or $50 million, or $100 million, whatever you need.

I think what we are doing is shrinking from the only way. The assessment per ton is not large. They are paying 40 cents a ton for the welfare fund. But if we are going to strip ourselves of this power, we are going to remain in the past, and never get into the present or the future.

I hope the Senate will take this seriously. I agree with the Senator when he says this matter is important, if he wants to debate it all day tomorrow, I will be glad to do so, because I am with him. This action will set a precedent for airplane manufacturers and many other lines of business. If we are not going to be able to do this, this Government cannot stand the gaff and modernize itself. If this point of order is going to be decided adversely anyway, we had better be on notice and know what we are doing. The Senate can debate it all day tomorrow, as far as I am concerned, but I cannot sit here and listen to a Senator make this argument, which defeats the very thing he wants to accomplish. If he gets $10 million a year by the method he proposes, he will be lucky.

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

Mr. COOPER. No, I wish to respond first to the Senator from New York.

I disagree completely with the Senator, though we are usually in agreement on many matters.

We want to help these people whose lives have been ruined by this awful malady. But the Senator's argument is not responsive to my point. In the first place, I do not want to debate the matter all day long. I want a reasonable time to discuss it.

Second, the Senator gets away from the real question we are debating here, which is whether we have the authority to do it.

We have appropriated millions of dollars, and every year for a period of years additional millions, to the National Institutes of Health for research on cancer, heart diseases, and all kinds of diseases. We have overridden the Bureau of the Budget, and we have overridden the committees on the floor of the Senate. The Senator from New Hampshire is nodding his head; he knows what I am talking about. We have provided all the money we thought they would need. I say we should also provide for these people.

But why go through the motion of pretending we are the House of Representatives, and levy a tax upon one industry? I believe that the House should levy such a tax on this industry. Forty percent of the coal production in this country today is produced by about 10 or 12 of the biggest corporations in the United States. They are able to pay it, and I am for them paying it, if it is levied properly, and that is by a tax bill originating in the House of Representatives. But I am not going to be a party to standing here on the floor of the Senate, and voting for some measure which I believe is a pretense, and which will only enable me to satisfy myself by saying, "Well, I tried to do something to help our miners," when I know I did not help them.

Several Senators addressed the Chair.

Mr. COOPER. I yield to my colleague from Kentucky.

Mr. COOK. I thank the Senator. I wish to associate myself with the remarks of the senior Senator from my State, and add this: In the first place, the Senator from New York said it would produce $25 million, $30 million, or $100 million. We have been debating this for 4 hours, and the highest figure we got from anybody, after figuring it all out, was that even at 4 cents, it would produce only $10 million a year.

If it is going to cost more than that, where is the money going to come from?

Second, we face the situation of having to vote on it on an emotional basis. I will be for a measure that comes over from the House of Represenatives to cure black lung disease. I am for appropriating all the money necessary to cover those not now covered, who should be covered.

But what are we doing imposing a flat rate on all kinds of coal, it makes no difference whether it comes out of a strip mine, where there is no black lung; it makes no difference whether it comes out of Arizona, where the coal is almost water, and there is no incidence of black lung. We are saying coal has something to do with this disease, and therefore its victims are going to reap a benefit from every segment of the industry, purely because it involves coal. That means imposing it on every importer. It means imposing it on every ton of coal which comes into the United States.

I can only say, if we are going to do this, the way to do it is to liberalize the legislation; and if you say the only way to get something done is by means other than by the law, then I might very well agree with you.

But I cannot agree with the theory. I could not under any circumstances agree with the theory. I should like to associate myself with the remarks of my colleague from Kentucky (Mr. COOPER). We can sit here and talk about the emotion of this problem. The Senator admits being a member of the committee. No hearings were held on this section that were open to the public. No one had a chance to come in and show the delineation of the industry. No one had a chance to come in and tell what it would or would not produce.

We sit here now and say we have to do something because it is necessary to solve a problem. Yes, we have to solve a problem, but let us do it right, so that we will get it right, and not find ourselves doing anything beyond being on the RECORD strongly in favor of something that we have not been able to accomplish.

Mr. JAVITS. Mr. President, will the Senator yield, as the Senator referred directly to me and talked to me?

Mr. COOPER. Mr. President, I yield first to the distinguished senior Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. HOLLAND. Mr. President, I suggest to those who are deeply interested in the bill—and I think that most of the Senators are interested in the bill and want to have it passed, although perhaps not in this exact language, but I am not as familiar with the context as I would like to be—this could be easily done by simply striking the offensive portions of the bill and putting in an authorization and attaching the same provisions to the first small tax measure that comes from the House. We have a perfect right to add on amendments. It seems to me that that might be the simplest way in which to do it.

May I state to my friend, the Senator from New York, who is on his feet at the moment, that there has been little talk about that portion of the tax that is imposed on importers who import coal from offshore, and pay at the same rates as those producing elsewhere. We know that the bill provides that the same laws should be available as are available for the enforcement of tariff law.

How it is possible to view that kind of collection of revenue as anything other than a revenue measure which could be imposed only by the United States and not by industry, I do not see, and par-

ticularly when the bill, as prepared, makes the direct statement that the collection of those amounts should be protected by exactly the same machinery used in collecting all other tariff or import revenue.

Mr. JAVITS. Mr. President, the erection of straw men in argument is almost as ancient as is nepotism in politics. And that is all I have heard here so far this afternoon. I have not argued for the amendment at all. As a matter of fact, it will interest the Senator from Kentucky to know that I voted against the measure in committee. So, I am not using an emotional argument. I do not purport to. And I should not use it at all. It does not belong here.

The question concerns the power of the Senate. I was arguing the power of the Senate. I think it is particularly important that the power of the Senate should not in this particular point of order be designated so that it cannot be used again.

This is a matter of first impression. The Senate has never before sustained a point of order to one of those provisions. If it does it now and yields this very great constitutional power to the House of Representatives, we will paralyze ourselves from ever again levying an assessment.

The agricultural field is a sacred cow. However, if we analyze the potato proposition that has been debated here, we find that the Secretary has the power to collect, and so forth. The power of the United States is being used to aid in the collection of that assessment.

I agree that there is a much looser requirement on the payer of the assessment. Nonetheless the question of principle involved here is the use of the power of the United States to collect anything which is converted to particular industry purposes—in that case potatoes, in this case coal.

I will guarantee that if we sustain the point of order, we will have agricultural bills thrown back at us by the House of Representatives challenging exactly that point which we will have then conceded.

I do not say that the Senator is right or wrong at this particular point. I think that has to be proven.

I make my argument on the question of constitutional power. All I say is that we should not do this. That is the only thing I have tried to argue. If I said more, I apologize.

I felt that I was arguing only the importance of the particular point on which we will have to vote.

Mr. COOK. Mr. President, obviously I did not want in any way to criticize the remarks of the Senator from New York.

I doubt seriously that any of the agricultural acts would be contested by the House. I think that we made it clear in our discussion that, for instance, with respect to the Potato Act it was purely a voluntary association. They have the right to assess themselves up to a certain amount. They have the right to get out at any time they want to. They even have the right to get their money back that they have paid into it. They have the right to come to the Secretary of Agriculture, who would administer the fund. This is purely a voluntary organization.

As a matter of fact, to begin with, it takes the agreement of two-thirds of all the producers in the United States before this association even comes into existence. They impose on themselves by their own vote their own assessment.

In my opinion, the pending matter is absolutely mandatory. There is no way that anyone can get out of it once this is instituted. It would be administered by the U.S. Government.

There is even provision in the act that if insufficient funds are collected from month to month, the amounts may be paid out of the general funds in lieu of the trust fund.

None of this applies here. As a matter of fact, any funds going to the Surgeon General of the United States under the act must be appropriated by this very body. So, there is a tremendous distinction. I would like to make that distinction. I think it is real and extremely important in this argument.

Mr. JAVITS. Mr. President, I am grateful for the Senator's intercession. However, I do not agree with him.

The Secretary of Agriculture under the potato bill is given the authority to prepare a budget, to fix the assessment rate, and to exercise other powers contained in the law.

It seems to me that on the question of principle, it cannot be a private plan, privately administered, because if we analyze the power, the authority of Cabinet officers and the United States is implemented. There is a question of power involved.

The bill provides that a Cabinet officer of the Federal Government shall collect what we could argue is tantamount to revenue. Surely, they could get it back. Some could get a rebate on income taxes and other matters.

The fact that the machinery of the Federal Government is used for collection constitutes a matter of principle. It is part of the basic point.

It is a critically important point for the Senate. We find that with respect to many agricultural fields, a very important discussion is already going on with relation to the whole field. With respect to the use of an assessment of some kind, every time a broad plan is worked out involving this kind of mutualization of responsibility, we have to go back to the House of Representatives and treat it as a new matter.

The matter goes to the House Ways and Means Committee, and notwithstanding the fact that the whole House and Senate can work its will, we would be tying a millstone around our necks. We would have to continue to go through the appropriations and authorization route.

We have, therefore, a question of power. The power involved here is very important insofar as modernizing the Federal Government is concerned.

I voted against the particular assessment in this bill. I would have preferred a voluntary plan of some kind. I thought this was adding something rather heavy and weighty to the bill. However, I could not vote for the point of order.

It is very likely that I shall be the first to vote for some important modifications of this assessment plan.

I may, perhaps, vote to strike the matter. I do not think that is the point. The point is that the Senate would be for the first time giving up a power which it has refused to give up before. That is the power to use means which are incidental to the main purpose, even if they technically may provide for the raising of revenue.

The revenue has been clearly earmarked for a given purpose; and I should like to point out how tightly this revenue is earmarked for the given purpose.

Mr. KENNEDY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. JAVITS. I yield.

UNANIMOUS-CONSENT AGREEMENT

Mr. KENNEDY. Mr. President, on behalf of the distinguished Senator from Pennsylvania and myself, I ask unanimous consent that, at 2 o'clock p.m. tomorrow, the unfinished business be laid before the Senate; that immediately after the Chair lays the unfinished business before the Senate, the Chair ascertain the presence of a quorum; that immediately upon the ascertainment of a live quorum, the time on the pending point of order be limited to 90 minutes; that the time be equally divided and controlled by the Senator from Vermont (Mr. PROUTY) and the Senator from New Jersey (Mr. WILLIAMS).

Mr. JAVITS. And that at the conclusion thereof, a vote shall occur on any motion appropriately made or on the point of order itself.

The PRESIDING OFFICER. The understanding of the Chair is that, as the unanimous-consent request of the Senator from Massachusetts is worded, it merely provides a limitation of time, and that the usual parliamentry procedures which would be available, including motions to table, would then be available at the expiration of the time.

Mr. JAVITS. I thank the Chair.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Massachusetts?

Mr. HOLLAND. Mr. President, I object, unless there is something in the unanimous-consent request that requires a vote at that time on this measure. Under the unanimous-consent request as drawn, I could take the floor, if I were disposed to—and I shall not be—and talk 3 hours on something else, before we ever got to a vote. The proposed agreement does not provide for a vote at the end of that time, and that is what I think should be provided.

I am willing to have the matter worded as the Senator from New York suggested, but I think we should provide that Senators should be here expecting to vote, and that we will vote on this point of order or some motion addressed thereto. I object.

The PRESIDING OFFICER. The Chair advises the Senator from Florida that under the agreement as proposed by the Senator from Massachusetts, there would be no further debate. The usual motions would be available, but there would be no further debate.

Mr. HOLLAND. There is no provision for a vote, Mr. President, unless I heard inaccurately what the distinguished Senator from Massachusetts suggested. I ask

that the clerk read the proposed unanimous-consent agreement.

Mr. KENNEDY. If there is any question about that inclusion in it, it would certainly be my intention to modify the unanimous-consent request to reflect that.

Mr. HOLLAND. I ask that the clerk read the proposed unanimous-consent agreement.

The PRESIDING OFFICER. The clerk will read the proposed unanimous-consent agreement.

The assistant legislative clerk read as follows:

That at 2 o'colck p.m. tomorrow, the unfinished business be laid before the Senate; that immediately after the Chair lays the unfinished business before the Senate, the Chair ascertain the presence of a quorum; that immediately upon the ascertainment of a live quorum, the time on the pending point of order be limited to 90 minutes; that the time be equally divided and controlled by the Senator from Vermont (Mr. PROUTY) and the Senator from New Jersey (Mr. WILLIAMS).

Mr. HOLLAND. Mr. President, I renew my objection, because that does not require a vote at the termination of that time. It simply provides that the argument on the pending point of order would be concluded.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. Do I correctly understand that if there were not an objection to the unanimous-consent request, the time having expired under the unanimous-consent request, the Chair would then put the question before the Senate at that time, if there were no other motions in order?

The PRESIDING OFFICER. The Chair advises the Senator from Massachusetts that it is the understanding of the Chair that there could be no further debate, that the Senate would move immediately to the vote, either on the substantive question or on such motion which may intervene, but it would in any event be without further debate.

Mr. ALLOTT. Mr. President, reserving the right to object—I understand there is already an objection—I should like to propound a parliamentary inquiry or two.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. ALLOTT. One of the motions that can properly be made at that time, as the Presiding Officer has stated, is a motion to lay on the table. Am I correct?

The PRESIDING OFFICER. The Senator is correct. That would be in order under the proposed unanimous-consent agreement.

Mr. ALLOTT. And that would not be debatable.

The PRESIDING OFFICER. The Senator is correct.

Mr. ALLOTT. Another motion which could properly be made at that time would be to rerefer it to the committee. Am I correct? And that motion is debatable.

The PRESIDING OFFICER. Will the Senator state again the nature of the request that would be referred to committee?

Mr. ALLOTTT. To refer the entire bill to the committee.

The PRESIDING OFFICER. The point of order would take precedence over a motion to rerefer it to the committee.

Mr. ALLOTT. May I inquire what other motions could be made, other than a motion to lay on the table?

The PRESIDING OFFICER. The Chair advises the Senator that, of course, a motion to recess or adjourn would be in order.

Mr. ALLOTT. As I understand the replies to the inquiries, then, since a motion to recess, a motion to adjourn, and a motion to lay on the table are not debatable, no debatable motion could be made at the termination of the agreed discussion.

The PRESIDING OFFICER. Under the unanimous-consent request as proposed, nothing else could be debatable, because all time would have expired.

Mr. HOLLAND. I shall continue to object, unless something is put in the unanimous-consent request permitting the Senate to vote either on the point of order or on some motion directed thereto when this period of debate is up. It is very evident that many people have different ideas about what could be done at the end of that time.

I think the Senate is tired of this debate. I think the Senate is entitled to vote. I am ready to vote right now. I am sure most Senators are. I object.

Mr. JAVITS. I yield, Mr. President.

Mr. KENNEDY. Mr. President, I ask unanimous consent that, at 2 o'clock p.m. tomorrow, the unfinished business be laid before the Senate; that immediately after the Chair lays the unfinished business before the Senate, the Chair ascertain the presence of a quorum; that immediately upon the ascertainment of a live quorum, the time on the pending point of order be limited to 90 minutes, the time to be equally divided and controlled by the Senator from Vermont and the Senator from New Jersey (Mr. WILLIAMS); and that upon the expiration of all time, a vote occur on the point of order or any appropriate motion.

Mr. HOLLAND. I thank the Senator. I have no objection.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none, and it is so ordered.

The unanimous-consent request, subsequently reduced to writing, is as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That at 2 o'clock p.m. on Tuesday, September 30, 1969, the Chair shall lay before the Senate S. 2917, a bill to improve health and safety conditions of persons working in the coal mine industry of the United States, immediately after which the Chair shall ascertain the presence of a quorum.

Ordered further, That immediately thereafter further debate on the point of order against section 502 of the bill shall be limited to 90 minutes to be equally divided and controlled by the Senator from Vermont (Mr. PROUTY) and the Senator from New Jersey (Mr. WILLIAMS), immediately after which the Senate shall proceed to vote on the point of order or any appropriate motion.

Mr. JAVITS. Mr. President, to refer now to the major issue, the cases seem to be very clear that where the assessment or some payment is required which is to be administered within the governmental structure and it is incidental to the major purpose of the measure itself, as it is in this case, the Senate has the power to initiate it. That seems to be the whole purport of the cases.

So the real issue is, is this incidental or is it a revenue-raising measure? That is really what the cases have held. It is very clear that both in amount—the amount which is involved has been variously argued but, as a matter of fact, it is $20 million—and as to its being tied directly into an ancillary purpose to the bill itself, these are incidental revenues which result and therefore are fully within the power of the Senate, in accordance with these precedents.

I invite the attention of the Senate to section 501(d), which says that the amounts in the trust fund shall be available as provided by the appropriation acts, and that is dealt with in the preceding section, that every part of the trust fund—to wit, 100 percent—is to be appropriated only, I emphasize the word "only," to enable the Secretary and the Surgeon General to carry out sections 201(b), 401, and 402.

Section 201(b) is found at page 25:

The purpose of this Title is to provide for the immediate application of mandatory safety standards developed on the basis of experience and advances in technology and to prevent newly created hazards resulting from new technology in coal mining. The Secretary shall immediately initiate studies, investigations, and research to further upgrade such standards and to develop and promulgate new and improved standards promptly that will provide increased protection to the miners, . . .

That is a very specific purpose, completely incident to the legislative framework of the bill.

Then we turn to sections 401 and 402, at page 104 of the bill. Those are general research sections under the head "administration—research." Those sections deal with the general responsibility of the Secretary and the Surgeon General to conduct studies, research, experiments, and demonstration, and so forth. Also, in section 402, training and education is specified as follows:

The Secretary shall expand programs for the education and training of coal mine operators, agents thereof, and miners. . . .

I cannot conceive of a purpose more incidental to the general legislative purpose of this bill, which is coal mine safety. There is involved how to prevent accidents, occupational diseases, education and training of operators, agents, and miners in respect to safety practices and the effort, which is in section 201(c), to upgrade the standards and to develop and promulgate new and improved standards incident to coal mine safety.

Therefore, at every point lawfully and legally it seems that we are entirely correct in the argument that the Senate has the power. I am not arguing it should or should not exercise the power. We can argue that in due course. But the Senate has the power to deal with this kind of assessment and include it in the bill where the general framework is contributed to and the general purpose to raise the money is as an incidental purpose.

One thing worries me about this mat-

ter and the reason it has been stirred up, and I am grateful to my colleague from Kentucky for stirring it up. It would be a grave mistake and a disservice to the Senate if we allowed our judgment on the merits of this assessment to dictate our judgment on the point of order. That is the one point I would like to leave in the record tonight. This is critically important. There is a 50–50 chance I will be with Members who seek to strike it out. I think it would be a grave error to concede the constitutional point on this point of order, but that is what we would be doing if we sustained the point of order, and it would be the first time because the Senate has not heretofore sustained this kind of point of order. That is my understanding from the research I have done and everything I have gathered.

The power is critically important because it will extend to many other things and not just to coal mine safety. It may be in a general health and safety bill. It permeates various agricultural bills. It applies to transportation, for example, highway safety. We are talking about airports, we are talking about safety and the safety of the airways of the country which may very well involve some kind of assessment on the user and the Senate should not lend itself to the fractionalization of authority and power which this would represent and deprive it of this opportunity in the other fields.

We know what would happen in the other body. I served 8 years in the other body. One part of it would go to the Ways and Means Committee. It has totally different standards, and I am not being derogatory. This matter saves the United States a great deal of money. I predict we will be reducing the amounts which can be made available for highly desirable public projects.

We are handicapping our ability to control the budget in a serious way and to do effective things if we concede this point of order. I believe the cases do not require it. It would be a grave mistake, and I hope the Senate will not hobble itself the way this point of order would make the Senate hobble itself.

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

Mr. JAVITS. I yield.

Mr. COOPER. Mr. President, as always, the Senator is persuasive. He is a very fine lawyer. However, I must come back to the issue that the point of order is raised upon a constitutional question. Each of us has to make a decision. We have to make a decision based on our views, what is constitutional, and also our comity with the other body.

As I said before, I agree wholly with everything the Senator said about the purposes of the amendment. I stand with him 100 percent. I hope this money will be made available from general revenues.

As far as I am concerned it can be properly provided by a tax on the industry. I support that also. That is what it should be and that is not the issue on which we have to vote. What do we really believe is our constitutional power and what is the power of the House? We cannot avoid this issue. If we do attempt to avoid it we would be voting with our emotions.

The Senator said a while ago the cases have held that if the levy or tax is incidental to the purpose of the bill the tax is a proper one. I have not made a thorough study. I would be very happy if the Senator would discuss the cases tomorrow which uphold his point of view. I might say that if there are cases which he could show that support this authority I will consider changing my opinion and voting against the point of order.

Mr. JAVITS. Mr. President, I invite the attention of the Senator to the case of *Twin City Bank* v. *Nebeker*, 167 U.S. 196.

Mr. President, I ask unanimous consent that the entire text of the opinion of the court may be printed in the RECORD.

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

TWIN CITY BANK *v.* NEBEKER

ERROR TO THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA

[No. 202. Argued and submitted April 21, 1897.—Decided May 10, 1897.]

Section 41 of the National Banking Act imposing certain taxes upon the average amount of the notes in circulation of a banking association, now found in the Revised Statutes, is not a revenue bill within the meaning of the clause of the Constitution declaring that "all bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other bills."

Whether in determining such a question the courts may refer to the journals of the two Houses of Congress for the purpose of ascertaining whether the act originated in the one House or the other is not decided.

The case is stated in the opinion.

Mr. John J. Crawford for plaintiff in error.

Mr. Solicitor General filed a brief for defendant in error, but the court refused to hear further argument.

OPINION OF THE COURT

Mr. Justice Harlan delivered the opinion of the court.

This was an action by the plaintiff in error to recover from the defendant in error the sum of seventy-three dollars and eight cents alleged to have been paid by the former under protest to the latter, who was at the time Treasurer of the United States, in order to procure the release of certain bonds, the property of the bank, which bonds, the declaration alleged, were illegally and wrongfully withheld from the plaintiff by the defendant.

The plaintiff went into liquidation in the manner provided by law on the 23d of June, 1891, and on the 25th of August, 1891, deposited in the Treasury of the United States lawful money to redeem its outstanding notes, as required by section 5222 of the Revised Statutes of the United States. After making such deposit, the bank demanded the bonds which had been deposited by it to secure its circulating notes, and of which defendant had possession as Treasurer of the United States. The defendant refused to deliver them, unless the bank would make a return of the average amount of its notes in circulation for the period from January 1, 1891, to the date when the deposit of money was made, viz., the 25th of August, 1891, and pay a tax thereon. The bank then made a return of the average amount of its notes in circulation for the period from January 1 to June 30, 1891, and paid to the defendant $56.25, protesting that he had no authority to demand the tax, and delivered to him a protest in writing setting forth that in making the return and in paying the tax it did not admit the validity of the tax or defendant's authority to exact or collect it, but made the return and payment solely for the purpose of procuring the possession of the United States bonds belonging to it, which defendant had refused to release until such return and payment were made, and further protesting that it was not liable to the tax or any part of it. The bank's agent then made another demand upon defendant for the bonds; but he refused to deliver them until a return should be made of the average amount of its notes in circulation for the period from July 1 to August 25, 1891, and a tax paid thereon. Its agent then delivered such return to defendant and paid him $16.83, at the same time delivering a written protest in the same form as the one above mentioned. These transactions were with the defendant himself, and the money was paid to him in person.

The journals of the House of Representatives and Senate of the United States for the first session of the 38th Congress were put in evidence by plaintiff. The bank claims that these journals show that the National Bank Act originated as a bill in the House of Representatives; that when it passed the House it contained no provision for a tax upon the national banks, or upon any corporation, or upon any individual, or upon any property, nor any provisions whatever for raising revenue; and that all the provisions that appear to authorize the Treasurer of the United States to collect any tax on the circulating notes of national banks originated in the Senate by way of amendment to the House bill.

A witness on behalf of the defendant testified, against the objection of plaintiff, that the money paid by it to him was covered into the Treasury, and applied to the payment of the semi-annual duty or tax due from the bank. But it did not appear whether this was done before or after the present action was brought.

At the close of the evidence counsel for the bank moved the court to direct the jury to return a verdict in its favor, which motion the court overruled, and counsel for the bank excepted. On motion of the defendant the court instructed the jury to return a verdict for him. To that ruling of the court counsel for plaintiff excepted.

Such is the case which the bank insists is made by the record.

The taxing provisions contained in the National Bank Act are found in its forty-first section. That section is as follows:

"The plates and special dies to be procured by the Comptroller of the Currency for the printing of such circulating notes shall remain under his control and direction, and the expenses necessarily incurred in executing the provisions of this act respecting the procuring of such notes, and all other expenses of the bureau, shall be paid out of the proceeds of the taxes or duties now or hereafter to be assessed on the circulation, and collected from associations organized under this act. And in lieu of all existing taxes, every association shall pay to the Treasurer of the United States, in the months of January and July, a duty of one half of one per centum each half year from and after the first day of January, eighteen hundred and sixty-four, upon the average amount of its notes in circulation, and a duty of one quarter of one per centum each half year upon the average amount of its deposits, and a duty of one quarter of one per centum each half year, as aforesaid, on the average amount of its capital stock beyond the amount invested in United States bonds; and in case of default in the payment thereof by any association, the duties aforesaid may be collected in the manner provided for the collection of United States duties of other corporations, or the Treasurer may reserve the amount of said duties out of the interest, as it may become due, on the bonds deposited with him by such defaulting association. And it shall be the duty of each association, within ten days from the first days of January and July of each year, to make a return, under the oath of its president or cashier, to the Treas-

urer of the United States, in such form as he may prescribe, of the average amount of its notes in circulation, and of the average amount of its deposits, and of the average amount of its capital stock, beyond the amount invested in United States bonds, for the six months next preceding said first days of January and July as aforesaid, and in default of such return, and for each default thereof, each defaulting association shall forfeit and pay to the United States the sum of two hundred dollars, to be collected either out of the interest as it may become due such association on the bonds deposited with the Treasurer, or, at his option, in the manner in which penalties are to be collected of other corporations under the laws of the United States; and in case of such default the amount of the duties to be paid to such association shall be assessed upon the amount of notes delivered to such association by the Comptroller of the Currency, and upon the highest amount of its deposits and capital stock, to be ascertained in such other manner as the Treasurer may deem best: *Provided*, That nothing in this act shall be construed to prevent all the shares in any of the said associations, held by any person or body corporate, from being included in the valuation of the personal property of such person or corporation in the assessment of taxes imposed by or under state authority at the place where such bank is located, and not elsewhere, but not at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of such State: *Provided, further*, That the tax so imposed under the laws of any State upon the shares of any of the associations authorized by this act shall not exceed the rate imposed upon the shares in any of the banks organized under authority of the State where such association is located: *Provided, also*, That nothing in this act shall exempt the real estate of associations from either State, county or municipal taxes to the same extent, according to its value, as other real estate is taxed." 13 Stat. 99, 111, c. 106.

The provision relating to taxation which, it is alleged, was inserted by way of amendment in the Senate, appears as section 5214 of the Revised Statutes. Other provisions of the act of 1864 are reproduced in sections 5217 and 5218 of the Revised Statutes.

By section 5222 of the Revised Statutes it is provided: "Within six months from the date of the vote to go into liquidation, the association shall deposit with the Treasurer of the United States lawful money of the United States sufficient to redeem all its outstanding circulation. The Treasurer shall execute duplicate receipts for money thus deposited, and deliver one to the association and the other to the Comptroller of the Currency, stating the amount received by him, and the purpose for which it has been received; and the money shall be paid into the Treasury of the United States and placed to the credit of such association upon redemption account."

In *Field* v. *Clark*, 143 U.S. 649, 672,—in which the constitutionality of the act of Congress of October 1, 1890, 26 Stat. 567, c. 1244, was questioned upon the ground that a certain provision which was in it upon its final passage was omitted when the bill was signed by the Speaker of the House of Representatives and the President of the Senate,—this court said: "The signing by the Speaker of the House of Representatives and by the President of the Senate, in open session, of an enrolled bill, is an official attestation by the two houses of such bill as one that has passed Congress. It is a declaration by the two houses, through their presiding officers, to the President, that a bill thus attested, has received, in due form, the sanction of the legislative branch of the Government, and that it is delivered to him in obedience to the constitutional requirement that all bills which pass Congress shall be presented to him. And when a bill, thus attested, receives his approval and is deposited in the public archives, its authentication as a bill that has passed Congress should be deemed complete and unimpeachable. As the President has no authority to approve a bill not passed by Congress, an enrolled act in the custody of the Secretary of State and having the official attestations of the Speaker of the House of Representatives, of the President of the Senate and of the President of the United States, carries on its face a solemn assurance by the legislative and executive departments of the Government, charged, respectively, with the duty of enacting and executing the laws, that it was passed by Congress. The respect due to coequal and independent departments requires the judicial department to act upon that assurance and to accept, as having passed Congress, all bills authenticated in the manner stated, leaving the courts to determine, when the question properly arises, whether the act, so authenticated, is in conformity with the Constitution."

Referring to the above case, it was said in *Harwood* v. *Wentworth*, 162 U.S. 547, 560, that if the principle announced in *Field* v. *Clark* involves any danger to the public, it was competent for Congress to meet it by declaring under what circumstances, or by what kind of evidence, an enrolled act of Congress or of a territorial Legislature, authenticated as required by law, and in the hands of the officer or department to whose custody it was committed by statute, may be shown not to be in the form in which it was when passed by Congress or by the territorial Legislature.

The contention in this case is that the section of the act of June 3, 1864, providing a national currency secured by a pledge of United States bonds, and for the circulation and redemption thereof, so far as it imposed a tax upon the average amount of the notes of a national banking association in circulation, was a revenue bill within the clause of the Constitution declaring that "all bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other bills," Art. I, § 7; that it appeared from the official journals of the two Houses of Congress that while the act of 1864 originated in the House of Representatives, the provision imposing this tax was not in the bill as it passed that body, but originated in the Senate by amendment, and, being accepted by the House, became a part of the statute; that such tax was, therefore, unconstitutional and void; and that, consequently, the statute did not justify the action of the defendant.

The case is not one that requires either an extended examination of precedents, or a full discussion as to the meaning of the words in the Constitution, "bills for raising revenue." What bills belong to that class is a question of such magnitude and importance that it is the part of wisdom not to attempt, by any general statement, to cover every possible phase of the subject. It is sufficient in the present case to say that an act of Congress providing a national currency secured by a pledge of bonds of the United States, and which, in the furtherance of that object, and also to meet the expenses attending the execution of the act, imposed a tax on the notes in circulation of the banking associations organized under the statute, is clearly not a revenue bill which the Constitution declares must originate in the House of Representatives. Mr. Justice Story has well said that the practical construction of the Constitution and the history of the origin of the constitutional provision in question proves that revenue bills are those that levy taxes in the strict sense of the word, and are not bills for other purposes which may incidentally create revenue. 1 Story on Const. § 880. The main purpose that Congress had in view was to provide a national currency based upon United States bonds, and to that end it was deemed wise to impose the tax in question. The tax was a means for effectually accomplishing the great object of giving to the people a currency that would rest, primarily, upon the honor of the United States, and be available in every part of the country. There was no purpose by the act or by any of its provisions to raise revenue to be applied in meeting the expenses or obligations of the Government.

This interpretation of the statute renders it unnecessary to consider whether, for the decision of the question before us, the journals of the two Houses of Congress can be referred to for the purpose of determining whether an act, duly attested by the official signatures of the President of the Senate, the Speaker of the House of Representatives and the President, and which is of record in the State Department as an act passed by Congress, originated is the one body or the other.

Judgment affirmed.

Mr. Justice White concurs in the result.

Mr. JAVITS. Mr. President, I might read one statement in the opinion which states:

Mr. Justice Story has well said that the practical construction of the Constitution and the history of the origin of the constitutional provision in question proves that revenue bills are those that levy taxes in the strict sense of the word, and are not bills for other purposes which may incidentally create revenue. The main purpose that Congress had in view was to provide a national currency based upon United States bonds, and to that end it was deemed wise to impose the tax in question.

That is exactly the situation here. We have a health and safety bill. We have imposed an assessment. To that end, it is completely incidental to the fundamental purpose of the bill which we have an undisputed constitutional right and authority to initiate.

I might say that just as the Senator from Kentucky, my beloved—and he knows I use that word in his case most advisedly—colleague, feels strongly about the constitutional point and he must obey his conscience, I might say that I do, too.

I am not arguing with the Senate for a minute that any Senator wants to do other than obey his conscience, but I point out that the Senate should not be diverted by favor or opposition to the assessment provisions themselves, because a point of order makes infinitely deeper precedent than that. This case, unlike general legislation, is a case in which pecedent will count decisively because this is a question of the authority of the Senate. It is not what we put in a bill. We can vote yea today and nay tomorrow. But this is an assessment by the Senate of its constitutional power and its specific interpretation of it.

I therefore appeal to all Senators to understand very clearly the deep implications of a vote to sustain the point of order, which has not been done before, as I understand it from the research.

Mr. WILLIAMS of New Jersey. Mr. President, in reply to the distinguished Senator from Kentucky, this is a constitutional question before the Senate on the point of order. Under the rules of debate, the first 3 hours have to be germane. In other words, they have to deal not with the merits of the assess-

ments for health and safety studies, but with the constitutional question.

For 3 hours, intense discussion was centered on constitutional findings and not on a personal Senator's predilection for or against this particular part of the bill.

The Senator from New York has included in the RECORD one of the fundamental cases. I believe only one of them, because there is one other fundamental case central to the whole afternoon's argument, which I would ask unanimous consent to have printed in the RECORD. That is *Millard* v. *Roberts*, 202 U.S. 429. That is, again, a Supreme Court decision and is on the point to which the Senator from New York addressed himself, the finding that an assessment—I say of this nature—is not general revenue in the constitutional sense.

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

MILLARD *v.* ROBERTS

APPEAL FROM THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA

[No. 234. Argued April 18, 1906.—Decided May 21, 1906.]

Revenue bills, within the meaning of the constitutional provision that they must originate in the House of Representatives and not in the Senate are those that levy taxes in the strict sense of the word and are not bills for other purposes which may incidentally create revenue.

An act of Congress appropriating money to be paid to railway companies to carry out a scheme of public improvements in the District of Columbia, and which also requires those companies to eliminate grade crossings and erect a union station, and recognizes and provides for the surrender of existing rights, is an act appropriating money for governmental purposes and not for the private use exclusively of those companies.

The acts of Congress of February 12, 1901, 31 Stat. 767, 774, and of February 28, 1903, 32 Stat. 909, for eliminating grade crossings of railways and erection of a union station in the District of Columbia and providing for part of the cost thereof by appropriations to be levied and assessed on property in the District other than that of the United States are not unconstitutional either because as bills for raising revenue they should have originated in the House of Representatives and not in the Senate, or because they appropriate moneys to be paid to the railway companies for their exclusive use; and assuming but not deciding that he can raise the question by suit, a taxpayer of the District is not oppressed or deprived of his property without due process of law by reason of the taxes imposed under said statutes.

The facts are stated in the opinion.

Mr. Josiah Millard, pro se, appellant:

Taxes on land or the profits issuing from lands are taxes in the strict sense of the word: they are direct taxes within the meaning of the constitutional provision respecting the apportionment of representatives and direct taxes, and, therefore, also necessarily within the meaning of the provision that all bills for raising revenue shall originate in the House of Representatives. *Pollock* v. *Farmers' Loan and Trust Co.*, 157 U.S. 429; *S.C.*, 158 U.S. 601; Story on Constitution, § 880 and note; *Bank* v. *Nebeker*, 3 App. D.C. 190, 198–201; *S.C.*, 167 U.S. 196, 203; Cooley on Taxation, 3d ed., 95, 96 and notes; *License Tax Cases*, 5 Wall. 462; *Binns* v. *United States*, 182 U.S. 292; *Downs* v. *Bidwell*, 194 U.S. 489, 496.

The chief characteristic of an act which lays a tax for any purpose whatever, is, that it is intended to raise revenue by taxation; and no other purpose, pretended or real, can deprive it of the nature of a bill for raising revenue. Bills which lay taxes on lands or incomes for any purpose whatever are "bills for raising revenue within the purview of the Constitution." Story Const. § 880 and note; *Income Tax Cases*, 157 U.S. 429; Cong. Record, February 16, 1905 (Payne's citations).

It does not matter that this legislation relates to the District of Columbia, even if it related exclusively to it; for notwithstanding any rule of either House, the Power of Congress in this District is restricted and qualified by all the general limitations, express or implied, which are imposed on its authority by the Constitution. *Curry* v. *District of Columbia*, 14 D.C. App. 429, 438–445; *Callan* v. *Wilson*, 127 U.S. 127 *Thompson* v. *Utah*, 170 U.S. 343, 346; *United States* v. *More*, 3 Cranch, 160, note; *Loan Association* v. *Topeka*, 20 Wall. 655; *Loughborough* v. *Blake*, 5 Wheat. 317, 325; *Wilkes County* v. *Coler*, 180 U.S. 506, 513–525; *Cohens* v. *Virginia*, 6 Wheat. 264, 446.

If a tax is imposed upon one of the political subdivisions of a country, as in the present case, the purpose must not only be a public purpose as regards the people of that subdivision, but it must also be local. *People* v. *Town of Salem*, 20 Michigan, 452, 474; *Cohens* v. *Virginia*, 6 Wheat. 264, 446; *Loughborough* v. *Blake*, 5 Wheat. 317, 325.

The people of the District of Columbia cannot be taxed to pay "the debts of the United States," in whole or in part, whether equitable or legal, unless the taxes on them for that purpose be, if indirect, uniform throughout the United States, and be, if direct, apportioned among the States and Territories in proportion to population; and hence the case of *United States* v. *Realty Co.*, 163 U.S. 440, 444, the *Sugar Bounty* case, is no precedent here, even if these taxes were designed to pay a debt, and not provide *uno flatu* a bounty for a private corporation and a stately edifice for the adornment of the capital of the nation, as such. The cases above cited sustain this contention.

The right of taxation can only be used in aid of a public object, an object which is within the purpose for which governments are established, and cannot, therefore, be exercised in aid of enterprises strictly private, even though, in a remote or collateral way, the local public may be benefited thereby. *Loan Association* v. *Topeka*, 20 Wall. 655, 664; *Cole* v. *LaGrange*, 112 U.S. 1, 6; *Miles Planting Co.* v. *Carlisle*, 5 D.C. App. 138; *Hanson* v. *Vernon*, 27 Iowa, 28; *Whiting* v. *Sheboygan, Fond du Lac R. R. Co.*, 25 Wisconsin, 167; *Sweet* v. *Hulbert*, 51 Barb. N.Y.) 312; *Lowell* v. *Boston*, 111 Maaaschusetts, 454; *Central Branch U.P.R.R. Co.* v. *Smith*, 23 Kansas, 533.

It is admitted by the Court of Appeals that all three of the acts in question originated in the Senate; and the same fact also appears affirmatively by reference to the Congressional Record.

A literal compliance with the mandatory provisions of the Constitution, whether affirmative or negative, is a condition precedent to the validity of any law laying taxes on the property of the people, and attempts to evade those provisions constitute violations of them. *Wilkes County* v. *Coler*, 180 U.S. 506, 521, 522; *Baltimore* v. *Gill*, 31 Maryland, 375, 387, 388; *Rodman* v. *Munson*, 13 Barb. (N.Y.) 63; *People* v. *Nicoll*, 3 Selden, 9, 139.

All remedial laws, such as the constitutional provisions respecting taxation and due process of law, must be so construed as to repel the mischief and advance the remedy, by searching out and nullifying evasions as well as violations of them. *Atty. General* v. *Meyricke*, 2 Vesey, Sr. 44; *Atty. General* v. *Day*, 1 Vesey, Sr. 218; *Atty. General* v. *Davies*, 9 Vesey, Jr. 535, 541; *Marbury* v. *Madison*, 1 Cranch, 137, 175, 176; *Ex parte Garland*, 4 Wall. 333; *Cummings* v. *Missouri*, 4 Wall. 237; *Baltimore* v. *Gill*, 31 Maryland, 375; *Cooke County* v. *Industrial School for Girls*, 125 Illinois, 540, 564, 565; *Farmer* v. *St. Paul*, 67 N. W. Rep. 990; *Washingtonian Home* v. *Chicago*, 157 Illinois, 414, 428; *Central Transportation Co.* v. *Pullman's Palace Car Co.*, 139 U.S. 24, 40 *et seq.*; *Loan Association* v. *Topeka*, 20 Wall. 655; *Ward* v. *Joplin*, 186 U.S. 142, 152; *Brownsville* v. *League*, 129 U.S. 493; *Bank of San Francisco* v. *Dodge, Assessor*, 197 U.S. 70.

No conclusive presumption can arise to defeat the operation of the mandatory and remedial provisions of the Constitution respecting taxation and due process of law, which are self-executing. *Wilkes County* v. *Coler*, 180 U.S. 506, 521, 522; *Post* v. *Supervisors*, 105 U.S. 657, 667; *Town of South Ottawa* v. *Perkins*, 94 U.S. 260.

The Solicitor General for the Treasurer of the United States; *Mr. Wayne Mac Veagh, Mr. Frederick D. McKenney* and *Mr. John S. Flannery* for Philadelphia, Baltimore & Washington R.R. Co.; *Mr. George E. Hamilton* and *Mr. Michael J. Colbert* for Baltimore & Ohio R.R. Co. and Washington Terminal Co.; *Mr. Edward H. Thomas* for the Commissioners of the District of Columbia, appellees, submitted:

The act of February 28, 1903, and the two acts approved February 12, 1901, do not appropriate public moneys or levy taxes upon the taxpayers of the District of Columbia for private purposes. The project was in response to a general desire of the public, to abolish dangerous grade crossings and to remove the railroad tracks from the mall. The acts were based on an ample consideration, irrespective of the general power of Congress in the premises.

We submit that Congress, in the acts themselves, having declared that the appropriations were made upon a valuable consideration and for a public purpose, the matter is not open to review in the courts. Cooley's Principles of Constitutional Law, 57, 58; Cooley on Taxation, 2d ed., 111.

This court has repeatedly held that, although railroad corporations are private corporations as distinguished from those created for municipal and governmental purposes, their uses are public. *N.Y. & N.E.R.R. Co.* v. *Bristol*, 151 U.S. 556, 571.

The power of States, counties and municipalities to aid in the construction of railroads, upon the ground that railroads are *quasi* public institutions created and existing for the benefit of the public at large, is well established. *Olcott* v. *Supervisors*, 16 Wall. 698; *Curtis* v. *County of Butler*, 24 How. 447, 449; *Rogers* v. *Burlington*, 3 Wall. 665; *St. Joseph* v. *Rogers*, 16 Wall. 663; *Gillman* v. *Sheboygan*, 2 Black, 515; *Larned* v. *Burlington*, 4 Wall. 276; *Railroad Co.* v. *County of Otoe*, 16 Wall. 673; *Township of Pine Grove* v. *Talbott*, 19 Wall. 676; *United States* v. *Railroad Co.*, 17 Wall. 330; *Loan Assn.* v. *Topeka*, 20 Wall. 661; *Otoe Co.* v. *Baldwin*, 111 U.S. 15.

The United States possesses complete jurisdiction, both of a political and municipal nature, over the District of Columbia. When Congress, acting as the municipal legislature of said District, in the exercise of the police power, enacts legislation for the benefit of the health and safety of the community and makes an appropriation and levies an assessment to carry said legislation into effect, the propriety of its action is not open to review by the courts. *Wight* v. *Davidson*, 181 U.S. 371, 381; *Wilson* v. *Lambert*, 168 U.S. 611; *N.Y. & N. E. R. R. Co.* v. *Bristol*, 151 U.S. 556. See also *Wabash R. R. Co.* v. *Defiance*, 167 U.S. 88, 98; *Chicago &c. R. R.* v. *Nebraska*, 170 U.S. 57, 74.

But even if the appropriations made by the acts of 1901 and 1903 could be regarded as donations they would still be legal and the acts providing therefor constitutional and valid.

From the beginning of this Government, Congress has made donations for the benefit of public service corporations, in the nature of land grants, subsidies and bounties, and such donations have been invariably sus-

tained. *Allen* v. *Smith*, 173 U.S. 402; *United States* v. *Realty Co.*, 163 U.S. 440.

Said acts of 1901 and 1903 are not revenue or tax measures in the sense contemplated by the Constitution.

The provisions of section 7, article I of the Constitution, which requires that "all bills for raising revenue shall originate in the House of Representatives," cannot apply to any of the acts involved in this case, even if we should admit for the purposes of the argument that said acts did originate in the Senate instead of in the House of Representatives.

By "bills" is meant "money bills." Story's Constitution, § 874. In practice it is applied to bills to levy taxes in the strict sense of the word. 2 Elliott's Debates, 283, 284; Story's Consttiution, § 880.

Twin City Bank v. *Nebeker*, 167 U.S. 196, is decisive on the question.

The act of February 28, 1903, from the recitals in its enacting clause and the fact that it has received the approval of the President and has been regularly enrolled among the statutes of the United States, must be presumed to have been passed by Congress in strict accord with the letter and spirit of the Constitution, and resort cannot be had to the journals of the two houses to overthrow this presumption. *Field* v. *Clark*, 143 U.S. 649, 680; *Harwood* v. *Wentworth*, 162 U.S. 547, 562; *Twin City Bank* v. *Nebeker*, *supra*.

Mr. Justice McKenna delivered the opinion of the court.

This is a bill in equity to enjoin Ellis H. Robers, as Treasurer of the United States, from paying to any person any moneys of the District of Columbia, under certain acts of Congress[1] (31 Stat. 767, 774; 32 Stat. 909), and to enjoin the other defendants from carrying into effect said acts of Congress, and that said acts "be declared null and void for want of constitutional authority." Defendants interposed demurrers to the bill, which were sustained by the Supreme Court, and a decree entered dismissing the bill. The Court of Appeals affirmed the decree.

The principal allegations of the bill are that the railroad defendants are private corporations and all interested in the railway and terminal facilities of the District of Columbia; that the District of Columbia owns no stock in any of the companies nor is otherwise interested in any of them save as useful private enterprises and yet it is required by said acts, "without any lawful consideration therefor," to pay the Baltimore and Potomac Railroad Company the sum of $750,000, and a like sum to the Baltimore and Ohio Railroad Company, "to be levied and assessed upon the taxable property and privileges in the said District other than the property of the United States and the District of Columbia," and for the exclusive use of said corporations respectively, "which is a private use, and not a governmental use;" that the public moneys of the District of Columbia are raised chiefly by taxation on the lands therein, and that the complainant is obliged to pay and does pay direct taxes on land owned by him therein. And the bill also alleges that the acts of Congress are "acts which provide for raising revenue and are repugnant to article I, section 7, clause 1, of the Constitution of the United States, and are, therefore, null and void *ab initio*, and to their entire extent, because they and each and every one of them originated in the Senate and not in the House of Representatives." Certain volumes of the Congressional Record are referred to and made part of the bill.

In other allegations of the bill are expressed the limitations upon the power of the United States and the District of Columbia as to taxation; that the acts of Congress complained of are repugnant to the Constitution of the United States; that public funds are appropriated for private use, and that exorbitant taxes will be required to meet the legitimate expenses of the District of Columbia, and appellant will thereby be oppressed and deprived of his property without due process of law.

The first contention of appellant is that the acts of Congress are revenue measures, and therefore should have originated in the House of Representatives and not in the Senate, and to sustain the contention appellant submits an elaborate argument. In answer to the contention the case of *Twin City Bank* v. *Nebeker*, 167 U.S. 196, need only be cited. It was observed there that it was a part of wisdom not to attempt to cover by a general statement what bills shall be said to be "bills for raising revenue" within the meaning of those words in the Constitution, but it was said, quoting Mr. Justice Story, "that the practical construction of the Constitution and the history of the origin of the constitutional provision in question proves that revenue bills are those that levy taxes in the strict sense of the word, and are not bills for other purposes, which may incidentally create revenue." 1 Story on Constitution, § 880. And the act of Congress which was there passed on illustrates the meaning of the language used. The act involved was one providing a national currency, and imposed a tax upon the average amount of the notes of a national banking association in circulation. The provision was assailed for unconstitutionality because it originated in the Senate. The provision was sustained, this court saying:

"The tax was a means for effectually accomplishing the great object of giving to the people a currency that would rest, primarily, upon the honor of the United States and be available in every part of the country. There was no purpose, by the act or by any of its provisions, to raise revenue to be applied in meeting the expenses or obligations of the Government."

This language is applicable to the acts of Congress in the case at bar. Whatever taxes are imposed are but means to the purposes provided by the act.

The legality of those purposes is attacked in the other contentions of appellant. All of the contentions rest upon the correctness of the allegation that the moneys provided to be paid to the railroad companies are for the exclusive use of the companies, "which is a private use and not a governmental use."

The titles of the acts are the best brief summary of their purposes, and those purposes are obviously of public benefit. We do not think that it is necessary to enter into a discussion of the cases which establish this. The scheme of improvement provided by the acts required a removal of the railroads from their situations, large expenditures of money by the companies, and the surrender of substantial rights. These rights are recognized and their surrender expressed to be part of the consideration of the sums of money paid to the companies. Indeed there is an element of contract not only in the changes made but in the manner and upon the scale which they are required to be made. As remarked by Mr. Justice Morris, speaking for the Court of Appeals:

"The case is practically that of a contract between the United States and the District of Columbia on the one side and the railroad companies on the other, whereby the railroad companies agree to surrender certain rights, rights of property as well as other rights, and to construct a work of great magnitude, greater perhaps than their own needs require, but which Congress deems to be demanded for the best interest of the national capital and by the public at large; and for this surrender of right and this work of magnitude commensurate with the public demand, Congress agrees to pay a certain sum, partly out of the funds of the United States and partly out of the funds of the District of Columbia. It is a simple case of bargaining and sale, like any other purchase."

We have assumed that appellant, as a taxpayer of the District of Columbia, can raise the questions we have considered, but we do not wish to be understood as so deciding.

Decree affirmed.

Mr. Justice Harlan concurs in the result only.

[1] An act entitled "An act to provide for eliminating certain grade crossings of railroads in the District of Columbia, to require and authorize the construction of new terminals and tracks for the Baltimore and Ohio Railroad Company in the city of Washington, and for other purposes," approved February 12, 1901; an act entitled "An act to provide for eliminating certain grade crossings on the line of the Baltimore and Potomac Railroad Company, in the city of Washington, D.C., and requiring said company to depress and elevate its tracks, and to enable it to relocate parts of its railroad therein, and for other purposes," approved February 12, 1901; an act entitled "An act to provide for a union railroad station in the District of Columbia and for other purposes," approved February 28, 1903.

Mr. WILLIAMS of New Jersey. Mr. President, one further point and I shall be through for now.

The Senator from Kentucky expressed himself on the situation that would present itself in the House of Representatives. Well, the situation is just this with regard to this assessment, or one like it, that the House of Representatives has reported from its Labor Committee a coal mine safety and health measure. It does have a provision for assessment for study of better standards for safety and health in the coal mines. Now they evidently have made their finding there that it is not required of the Ways and Means Committee measure.

If the House of Representatives is the only body that deals with an assessment for the study of health and safety, and we do not, then, if we strike it out in conference on the point of order, we are limited to the House version, or a lesser degree thereof.

As a practical matter, of course, I would think we would not want to do that. If we keep this in and vote down the point of order, the Senate can work its will on title V. Senators can move to improve it as they might think it should be improved and have it in the shape they would have it when we go over in conference to the House of Representatives.

This is just another way of tying our hands on the bill.

I certainly agree with the Senator from New York that this is the kind of precedent that would ring down through the years to haunt the Members of this body on other measures, be it agriculture, be it aviation, be it recreation—whatever it is. It would be a very, very sad and haunting memory.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 216

Mr. RANDOLPH. Mr. President, Senators will recall that in keeping with other Senators, I have presented for their consideration, the two amendments that deal with the subject of compensation for disabled miners.

I submit an amendment which I intend to offer for myself and my colleagues Mr. BYRD, Mr. SCOTT, Mr. SCHWEIKER, and Mr. COOK, and ask unanimous consent that the amendment be printed in the RECORD and lie on the desk.

The PRESIDING OFFICER. Without objection, the amendment will be printed and lie on the desk as requested.

The text of the amendment is as follows:

On page 25, between lines 7 and 8 insert the following:

"PART C—INTERIM HEALTH BENEFITS FOR DISABLED MINERS

"PURPOSE

"SEC. 106. Based on a recent study conducted by the United States Public Health Service, Congress finds and declares that there are a significant number of inactive coal miners living today who are totally disabled and unable to be gainfully employed due to the development of complicated pneumoconiosis while working in one or more of the Nation's coal mines; that there also are a number of surviving widows and children of coal miners whose death was attributable to this disease; that few States have laws providing any benefits for disability from this disease to active or inactive coal miners; and that, in order to give more States time to enact laws to provide such benefits, it is, therefore, the purpose of sections 107 through 109 of this part to provide, on a temporary and limited basis, interim emergency health disability benefits to any coal miner who is totally disabled and unable to be gainfully employed on the date of enactment of this Act due to complicated pneumoconiosis which arises out of, or in the course of, his employment in one or more of the Nation's coal mines; to provide such benefits to the widows and children of any miner who, at the time of his death, was totally disabled and unable to be gainfully employed due to complicated pneumoconiosis arising out of, or in the course of, such employment; and to develop further and detailed information and data on the extent to which past, present, and future coal miners are or will be totally disabled by complicated pneumoconiosis developed from working in coal mines and thereby prevented from earning wages, and on the extent to which assistance to such miners and their dependents, consistent with existing conventional methods of providing benefits to workers in other fields is needed, and the most effective method for assuring such assistance.

"INTERIM BENEFIT STANDARDS; STATE AGREEMENTS; GRANTS

"SEC. 107. (a) In furtherance of the purpose of this part, the Secretary of Health, Education, and Welfare (hereinafter referred to in this part as "the Secretary") shall develop and promulgate interim disability benefit standards governing the determination of persons eligible to receive health disability benefits under this part and the methods and procedures to be used in disbursing such benefits to such persons. Such standards shall take into consideration the length of employment in coal mines considered sufficient to establish a claim for such benefits; reasonable and equitable means, methods, and procedures for filing and establishing proof of disability consistent with the purpose of this part; and such other matters as the Secretary deems appropriate to effectuate this purpose as soon as possible after enactment of this Act. Such standards shall be effective upon publication in the Federal Register unless the Secretary prescribes a later date which date shall not be more than one hundred and eighty days after the enactment of this Act. The provisions of section 553 of title 5 of the United States Code shall apply to the promulgation of such standards.

"(b) After publication of such standards, the Secretary shall enter into agreements with any State pursuant to which the State shall receive and adjudicate, in accordance with the standards promulgated under this section, claims for emergency health disability benefits from any eligible person who is a resident of such State. Such agreements shall, in addition to such conditions as the Secretary deems appropriate, include adequate assurances that the State shall provide such fiscal control and fund accounting procedures as may be appropriate to assure proper disbursement and accounting of grants made to the State under this part; and that the State will make such reports to the Secretary, in such form and containing such information, as the Secretary may from time to time require.

"(c) Beginning after the effective date of any agreement entered into with a State under this section and ending on June 30, 1972, the Secretary, subject to the provisions of this part, shall make grants to such State from moneys in the Treasury appropriated for this purpose. Such grants shall be available to the State to pay such benefits to eligible persons as provided in section 108 of this title. No benefit payments shall be made under this part to an eligible person if the State, after the enactment of this Act, reduces the benefits for disability caused by complicated pneumoconiosis payable to such person under such State's laws or regulations.

"(d) There are hereby authorized to be appropriated such sums as may be necessary to enable the Secretary to make grants referred to in this part.

"BENEFIT PAYMENTS

"SEC. 108. (a) Interim emergency health disability benefits shall be paid, in accordance with the provisions of this section, from grants to the States under section 107 of this title to persons determined by the State pursuant to the interim disability benefits standards established under section 107 of this title to be eligible to receive such benefits. Such benefits shall be paid to such eligible persons as soon as possible after a claim is filed therefor and eligibility determined. Such benefits shall terminate when such person is no longer eligible, or on June 30, 1972, whichever is first, unless the State extends such benefits under any State program for this purpose.

"(b) The amount of the benefits payable to an eligible person under this section by a State shall be determined as follows:

"(1) In the case of total disability, such eligible person shall be paid benefits during the period of such disability at a rate equal to 50 per centum of the minimum monthly payment to which an employee in grade GS–2 with one or more dependents, who is totally disabled, is entitled under the provisions of sections 8105 and 8110 of title 5, United States Code;

"(2) In the case of death of the disabled miner resulting from such disease, such eligible widow shall be paid benefits at the rate the deceased would receive such benefits if he were totally disabled until the widow dies or remarries;

"(3) In the case of an eligible person entitled to benefits under clause (1) or (2) of this subsection who has one or more dependents, such benefits shall be increased at the rate of 50 per centum of the benefits to which such person is entitled under clause (1) or (2) of this subsection, if such person has one dependent, 75 per centum if such person has two dependents, and 100 per centum if such person has three dependents; except that such increased benefits for a child, brother, sister, or grandchild, shall cease if such dependent dies or marries or becomes eighteen years of age, or if over age eighteen and incapable of self-support becomes capable of self-support.

"(c) Any benefit payment made to an eligible person under this section shall be reduced by an amount equal to any payment made to such person under any other provision of law for a disability directly caused by complicated pneumoconiosis arising out of, or in the course of, employment in coal mines.

"STUDY

"SEC. 109. The Secretary shall immediately undertake a study to determine the extent to which coal miners are or will be totally disabled due to complicated pneumoconiosis developed during the course of employment in the Nation's coal mines; the extent to which the States provide benefits to active and inactive coal miners and their dependents for such disability; the adequacy of such benefits, the need for, and the desirability of, providing any Federal assistance for such disability; the need for, and desirability of, extending the provisions of sections 106 through 108 of this part for persons eligible for benefits under this part; and such other facts which would be helpful to the Congress in reviewing this part following completion of this study, as the Secretary deems appropriate. In carrying out this study, the Secretary shall consult with, and, to the greatest extent possible, obtain information and comments from, the Secretary of the Interior, the Secretary of Labor, and other interested Federal agencies, the States' operators, representatives of the miners, insurance representatives, and other interested persons. The Secretary shall submit a report on such study, together with such recommendations, including appropriate legislative recommendations, as he deems appropriate, to the Congress not later than October 1, 1970. The Secretary shall also submit to the Congress an annual report, beginning January 30, 1971, of the actions taken under this part.

"SEC. 110. This part shall take effect upon the date of the enactment of this Act.".

On page 8, amend lines 1 and 2 to read as follows:

"TITLE I—MANDATORY HEALTH STANDARDS FOR COAL MINES AND EMERGENCY HEALTH DISABILITY BENEFITS FOR COAL MINERS"

On page 122, line 24, immediately after "title I", insert the following: "(other than Part C thereof)".

ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 5 o'clock and 29 minutes p.m.) the Senate adjourned until tomorrow, Tuesday, September 30, 1969, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate September 29, 1969:

DIPLOMATIC AND FOREIGN SERVICE

Thomas Patrick Melady, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Burundi.

John F. Root, of Pennsylvania, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ivory Coast.