fore the House Public Works Committee. The AAA's opposition is based on two points. The first is that bigger trucks will constitute a hazard on the highways because their bulk diminishes the visibility of other drivers and their length makes passing more risky.

The second point the AAA stresses is that the increased weight of tractor-trailers and tractor-two trailers will punish pavements and bridges and increase not only the costs of upkeep but also the construction of new roads built to withstand the heavier loads.

Highway costs warrant concern, but the argument Congress should find most persuasive is the likelihood of greater danger on the nation's already unsafe roads. A 70-foot truck, more than eight feet wide and weighing as much as 15 tons, is an intimidating object. To allow such snorting behemoths on the public roads is not in the public interest.

SENATE—*Wednesday, December 3, 1969*

The Senate met at 10 o'clock a.m. and was called to order by the President pro tempore.

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

O Thou, who didst make all ages a preparation for Thy kingdom, in this season of high expectation prepare us for the advent of Him by whom all are to be judged. Give us strength and wisdom for our appointed tasks that we fail not. Forgive us even when we are unforgiving. Be patient with us even though we may be impatient with one another. Wilt Thou never leave us nor forsake us however far we wander, but follow us unto the journey's end. Then when the shadows lengthen, and the fever of life is over, and the busy world is hushed, grant that we may arrive with Thee in fullness of life to hear it said, "Well done, good and faithful servant."

In the name of the Lord of life. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, December 2, 1969, be dispensed with.

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

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

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

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

Mr. MANSFIELD. And that morning business, under the agreement, terminate not later than 10:30 a.m.

The PRESIDENT pro tempore. That already has been established by unanimous consent.

COMMITTEE MEETINGS DURING SENATE SESSION

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

Mr. GRIFFIN. Mr. President, by request of another Senator, in light of the business before the Senate today and the importance of it, I am constrained to object.

The PRESIDENT pro tempore. Objection is heard.

Mr. MANSFIELD. Mr. President, I understand the position in which the acting Republican leader finds himself in this matter. I have been in that position many times, also. But just as he is duty bound to record the objections of another Senator, I am duty bound to make some unanimous-consent requests, which I will do at this time, but in toto.

I ask unanimous consent that the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary, the Subcommittee on Constitutional Rights of the same committee, and the Committee on Labor and Public Welfare be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Is there objection?

Mr. GRIFFIN. Mr. President, reluctantly, but at the request of another Senator, who feels very strongly about the business before the Senate and that Senators ought to be in the Chamber, I must object.

The PRESIDENT pro tempore. Objection is heard.

Is there routine morning business?

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

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

The bill clerk proceeded to call the roll.

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

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

DEATH OF ROSE McKEE

Mr. MANSFIELD. Mr. President, I just happened to look at the news ticker and was shocked and saddened to read that an old friend, Rose McKee, who first came to Washington in 1944 as a correspondent for the old International Press Service, has passed away. Rose McKee was one of the finest persons I have ever known, and I remember her well with fondness and respect from my service in the House.

I recall that when the old International News Service went out of existence and merged with the UPI, Rose McKee joined the Government. Before that, however, she was assigned to cover the Capitol. In performing her tasks, she spent a great deal of time on the House side. And it was only with the demise of the International News Service that she became attached to the Small Business Administration and later to the Economic Development Administration. In 1964, President Johnson made her one of the first 50 women he appointed to substantial Federal jobs. At that time he named her Director of Public Information for the Small Business Administration. Later she switched to the Economic Development Administration.

She was a fine woman and a good friend. We will miss her. At this time I wish to express to her three surviving sisters the deep regret and sadness of Mrs. Mansfield and myself on the passing of this fine woman.

The PRESIDENT pro tempore. I hope the Senator from Montana will permit the Chair to associate himself with all that he has said. It was my privilege to know Miss Rose McKee, a longtime correspondent on the Hill. I met her when she came here. No one had a finer concept of the ethics of that profession than Rose McKee.

Mr. MANSFIELD. I agree wholeheartedly.

TAHOE REGIONAL PLANNING COMPACT

Mr. BIBLE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 118.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 118) to grant the consent of the Congress to the Tahoe regional planning compact, to authorize the Secretary of the Interior and others to cooperate with the planning agency thereby created, and for other purposes, which was, on page 23, strike out lines 15 and 16, and insert:

SEC. 6. The right is hereby reserved by the Congress or any of its standing committees to require the disclosure and furnishing of such information and data by or concerning the Tahoe Regional Planning Agency as is deemed appropriate by the Congress or such committee.

SEC. 7. The right to alter, amend or repeal this Act is expressly reserved.

Mr. BIBLE. Mr. President, the House amendment is a standard amendment which they have been insisting on placing in the compact. The amendment simply would require that the compact commission makes its books and reports available upon request of any of the Senate committees or House committees involved. It seems to me that this is a valid amendment and that it causes no undue hardship on the compact commission members.

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

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Nevada.

The motion was agreed to.

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

Mr. BIBLE. I yield.

Mr. DOLE. May I ask the Senator from Nevada whether this matter has been cleared with the minority?

Mr. BIBLE. Yes. The bill was introduced by the two Senators from California and the two Senators from Nevada. This is simply a reporting provision added by the House.

Mr. DOLE. I thank the Senator.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Is there further morning business?

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

CURRENT STATUS OF SMALL BUSINESS

Mr. BIBLE. Mr. President, today some businessmen call it an "economic crunch" and others refer to it as a "business-cycle squeeze." Whatever the name, the fact remains that one of the principal victims of this Government's monetary, fiscal, and labor market policies is the small businessman. Throughout this past year, he has been caught in a giant pincers between rising capital and labor costs on the one hand, and increasing consumer resistance to overinflated prices for goods and services, on the other. And all of this has been occurring against a background of sharply reduced assistance from the Federal Government.

The money managers of "big business" know how to hedge in the games we play with our fiscal and monetary policies. But the small businessman, although deeply concerned with the outcome of these games, must sit on the sidelines because the table stakes are just too high.

THE CURRENT SITUATION—1969 SURVEY

Let there be no doubt: Warning signals for small business are flying across this country. These signals are evidenced by record high interest rates in the commercial money markets of this country and by recent economic reports of private small business organizations on related financial trends.

According to the New York Times of last Thursday—

> The relentless drive toward higher rates [is continuing] with even greater force . . . pushing yields on most types of fixed income securities to record highs.[1]

Two tables bear this out. The Washington Post cities leading bankers and economists to show that bank lending is getting even tighter, with fewer borrowers qualifying for the prime rate.[2]

In other fields, a survey of the National Federation of Independent Business for the first 9 months of this year of more than 80,000 small businessmen in our 50 States produced the following results which are summarized below. I believe an examination of the indicators will bear out what many economic authorities and Members of Congress have been warning about for many months:

First. Business loans: Small businessmen, on the average, report paying all-time-high interest rates upward from 6 percent to insurance companies, to 9.3 percent to finance companies. In individual cases, interest costs may rise to 11 or 12 percent, or higher.

Second. Labor costs: Over three-fourths of small business firms report increased labor costs over 1968. Many blame the minimum wage law, not only for increasing labor costs, but also for pricing young workers, especially teenagers, out of the labor market. The corner grocery, drugstore, gas station, or restaurant has always been the first employer of young workers, up to now. They now claim that the present minimum wage prevents these small employers from hiring teenagers.

Certainly, I want no misunderstanding about my position in this. I believe strongly in the benefits of the minimum wage law to our labor force and to our economy. But I also believe that provisions of the Federal minimum wage law permitting casual, summertime and learner-type employment for teenagers should be more realistically administered to help youngsters get this work and at the same time help out these small businessmen.

On that point, I ask unanimous consent that an article on this general subject, published in the New York Times of November 18, 1969, be included in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. BIBLE. Mr. President, my next point is:

Third. Volume of business: About one-half of small firms report higher sales than last year, but 70 percent report higher selling prices, and 88 percent report higher costs for goods purchased for resale. At the same time, a substantial rise in receivables was recorded, along with a substantial slowdown in collections over the year.

Fourth. Investment: Almost one-half—46 percent—of small businesses were unable to increase their capital investment during 1969. This statistic, if correct, may well be the most damaging one of all, since the lifeblood of our economy depends on the health and continued growth of over 5 million small business firms. We will want to watch this trend closely.

ADVERSE GOVERNMENT ACTION

As I have tried to point out in statements over the past months, there has been a tide of Government action which is having the effect of making these problems worse instead of better.[3] These actions included, first, the decision to deny the Small Business Administration $170 million, or 58.5 percent of the loan authority granted for fiscal year 1969; second, the decision to set the loan levels of the Small Business Administration for fiscal year 1970 at the reduced "nonaction" level; and third, the decision to take away from small business generally existing relief provisions in the tax law by completely repealing the 7-percent investment tax credit and the multiple surtax area, without any adjustments for the hard pressed small businessman.

I have introduced amendments to the tax reform bill designed to preserve these legitimate small business provisions,[4] and I hope they will be favorably considered by the Senate during our tax bill debate.

I shall detail their specific provisions and small business' need for them when they come on formally later in the week. One amendment would retain the 7-percent investment tax credit at $25,000 of investment, or I may reduce it to $20,000, with a cutoff eligibility at $1 million of taxable income. A second amendment would establish the number of corporate surtax exemptions at five instead of one, as the bill now before the Senate calls for.

CONCLUSION

Mr. President, in the coming months, the Small Business Committee will continue to give the highest priority to the problems of the small business community as it seeks to weather the storm of the economic forces of big business and big government. We are concerned that the statistics I have discussed today are not forerunners of even more difficult times for the small businessman. We hope they will alert all of us in government to the hazards for small business, so that some positive action can be taken. We will be doing all we can in this regard and hope that the Nixon administration will also give a fair shake to the small businessman by its fiscal, monetary, budget, and other policies.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from the New York Times of November 20, 1969, and an article from the Washington Post of November 20, 1969.

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

(See exhibits 2 and 3.)

EXHIBIT 1

[From the New York Times, Nov. 18, 1969]

SHULTZ OPPOSES A YOUTH WAGE RATE

(By Paul Delaney)

WASHINGTON, November 17.—Labor Secretary George P. Shultz has expressed his opposition to a proposal for a special youth minimum wage below $1.60 an hour.

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[1] "Rates Set Marks in Credit Market," by John H. Allan, The *New York Times*, Nov. 20, 1969, page B9:4.

[2] "Bankers Concede Rates Rising," by Phillip Greer, The *Washington Post*, Nov. 20, 1969, page K9:4.

[3] "Small Business Caught in Triple Credit Squeeze—Administration Should Release $170 Million in SBA Loan Authority Now," Daily Congressional Record, June 25, 1969, 17274–17277.

[4] Most recently, amendments 259 and 260 to the Tax Reform bill in behalf of small business, daily CONGRESSIONAL RECORD, Oct. 30, 1969, p. 32316–32317.

In a letter to George Meany, president of the American Federation of Labor and Congress of Industrial Organizations, the Secretary said he did not intend to offer such a plan. The letter was dated last Friday and was released by Mr. Meany today.

DUAL WAGE SYSTEM

The proposal was announced 10 days ago by Maurice H. Stans, the Secretary of Commerce. At that time, Mr. Stans reported that the proposal was being considered by the Nixon Administration and the Mr. Shultz was studying it.

Mr. Stans endorsed the idea. He said it would be a good way to curb the high unemployment rate among youths, which usually triples the jobless rate of adults. He said the dual wage system, with a lower minimum of about $1.25 an hour for youths, would entice employers to hire more youngsters.

The Commerce Secretary said that Mr. Shultz was to have completed his study and presented his report to the Cabinet by the end of next month.

"I have made no policy decision to recommend a youth wage at all, and I would oppose any youth figure below the existing statutory minimum of $1.60 an hour for all persons in covered industries," Mr. Shultz wrote.

The Secretary assured Mr. Meany that there was no study under way regarding the consideration of a minimum wage for youths.

"The only study going on around here relative to your question about a possible youth wage is one to determine to what extent, if at all, the minimum wage is responsible for the high rates of unemployment among youths," Mr. Shultz said.

Mr. Stans could not be reached for comment today.

Mr. Stans suggested on Nov. 6 that the minimum wage for persons under 21 be "about $1.20 or $1.25 an hour."

"I think that would be an effective means of reducing unemployment and bringing them [youths] into the work force," Mr. Stans said at the time.

The proposal was criticized by many labor leaders, including Mr. Meany.

EXHIBIT 2

[From the New York Times, Nov. 20, 1969]

RATES SET MARKS IN CREDIT MARKET: UTILITY ISSUE IS PRICED TO YIELD 8.81%—9% LEVEL TOPPED IN DEBENTURES

(By John H. Allan)

The relentless drive toward higher interest rates continued in even greater force yesterday, pushing yields on most types of fixed-income securities to record highs.

This retreat in prices, which dealers described as orderly, produced these historic financial figures.

The Pacific Gas and Electric Company sold an Aa-rated bond issue that was priced to yield 8.81 per cent.

The Liberty Loan Company raised $15-million by selling debentures, which not only were given a 9½ per cent interest rate but also carried warants to buy stock in the company.

The Federal Intermediate Credit Banks put an 8.75 per cent interest rate on $458.2-million of nine-month debentures to be sold today. A month ago, the rate was 7.95 per cent.

Dallas accepted an interest cost of 5.89 per cent to sell $24-million of its bonds, rated a high-quality issue. E. Lynn Crossley, city auditor, described the rate as the highest in the 40 years he has been in municipal government.

A BID REJECTED

At the same time, Dallas rejected a bid for $24-million of revenue bonds to finance additions to its new civic center. The one bid submitted would have meant a cost of 7.185 per cent.

Instead, the city gave a Wall Street syndicate the option until Monday afternoon to purchase the securities on terms that would result in a 7.08 per cent interest cost.

Puerto Rico sold $50-million of bonds at a cost of almost 6.61 per cent, highest on record for the commonwealth and well above the 5.12 per cent cost incurred in January in its preceding bond sale.

United States Government bonds continued to decline, and some long-term issues lost as much as 20-32. This pushed them down to record lows, with some issues trading at less than 66 cents on the dollar.

Treasury bills also continued to rise in rate, lifting the yield on securities maturing next June and July close to 8 per cent.

VOLUME IS KEY FACTOR

There were no new economic or political developments to cause the continuation of the downward slide of fixed-income securities prices yesterday, dealers said. The drop in prices and the rise in yields resulted chiefly from the huge volume of new issues being sold as the Federal Reserve continues its 11-month-old program of tightening credit conditions.

After the credit markets closed, the Dow-Jones News Service carried a report that some Administration officials have begun to conclude that inflation could intensify next year instead of subsiding.

"Boy, that's just what we need," said one bond dealer in a bitter tone.

In the record-setting Pacific Gas and Electric bond sale, a three-manager syndicate led by Halsey, Stuart & Co., Inc., made a bid that resulted in a borrowing cost for the company of 8.94 per cent. In its preceding bond sale, in April, the utility incurred a 7.58 per cent cost.

The bonds were given a 9 per cent interest rate and were offered to investors at a price of 102 per cent of their face value to produce their record 8.81 per cent yield to maturity in 2001. The bonds are rated Aa by Moody's, and they may not be refunded for at least five years even if interest rates should fall markedly.

The 8.81 per cent yield was 21 basis points (hundredths of a percentage point) higher than the return on a $20-million Iowa Electric Light & Power Company bond issue marketed last Thursday in the preceding Aa-rated utility bond sale.

The Liberty Loan financing attracted attention among bond dealers for its high interest rate in combination with warrants. A group led by the Chicago Corporation offered the 10-year debentures and warrants in a package consisting of a $1,000 debenture and warrants to buy 10 shares of stock.

The warrants give holders the right to purchase stock at $19.50 a share, or 14.7 per cent above yesterday's New York Stock Exchange close, until November, 1974, and at $22 a share, or a premium of 29.4 per cent, after that.

The Federal Intermediate Credit Banks' 8.75 per cent debenture offering, dated Dec. 1 and due Sept. 1, 1970, is being sold to help retire $494.5-million of maturing 6.70 per cent securities.

On Oct. 2, the Federal National Mortgage Association sold $400-million of 16-month debentures also priced to yield 8.75 per cent. Today's credit bank financing equaled that record.

In the tax-exempt securities market, Puerto Rico awarded its $50-million bond issue to a syndicate of underwriting firms formed through a merger of one led by the First National City Bank and one headed by the Chase Manhattan Bank.

The syndicate bid 95 for the bonds with a 6 per cent interest rate—the lowest permissible price and the highest permissible rate. It then reoffered the bonds publicly at prices to give investors a yield of 5.50 per cent on those maturing in 1970 up to a return on 6.60 per cent in 1990.

MONEY—WEDNESDAY, NOV. 19, 1969

FEDERAL FUNDS

[Rate in percent]

Open	High	Low	Close
8	8	1½	2½

Discount Rate (N.Y.)	6
Effective June 9, 1969	
Prime Rate	8½
Effective June 9, 1969	
Dealers loan rate (Government)	8-9¼
3 months Treasury Bills (asked)	6.93
Finance Paper:	
30-59 days	7¾
60-119 days	8
120-270 days	7¾
Effective Nov. 14, 1969	
Dealers Commercial Paper:	
30-270 days	8⅝-9⅛
Effective Nov. 18, 1969	
Acceptances	
1-30 days	8⅜-8⅛
31-138 days	8½-8¼
Effective Nov. 18, 1969	
Certificates of Deposit:	
(Secondary market)	
3 months	8½
6 months	8¾
Arbitrage	
United Kingdom Treasury Bills:	
90 days (hedged in New York)	6.92
Canadian Treasury Bills:	
90 days (hedged in New York)	7.80
Canadian Finance Paper:	
90 days (hedged in New York)	8.74

LONDON MONEY MARKET

Demand loans	6⅜-7⅞
60 days	8¾-9
90 days	8¾-9
Eurodollars	9¾-9⅛
1 month	9 11/16-9 13/16
3 months	10 15/16-10 13/16
6 months	10 13/16-10 11/16

GOLD

Yesterday	Previous	1969 High	1969 Low
$36.65	$37.55	$43.82½	$36.65
SILVER			
188d	190¼d	205½d	156½d
Gold (N.Y.) H & H base price			
$36.85	$37.80	$44.05	$36.85
Gold (N.Y.) Engl. selling price			
$37.10	$37.95	$44.25	$37.10

EXHIBIT 3

[From the Washington Post, Nov. 20, 1969]

ECONOMISTS DOUBT PRIME RATE BOOST NOW: BANKERS CONCEDE RATES RISING

(By Philip Greer)

NEW YORK, November 19.—Economists here doubt that banks are preparing for another increase in the prime lending rate, but the bankers concede that loan rates have been going up anyway.

The higher rates have resulted from tighter lending policies. In a word, the prime rate is holding at 8½ per cent, but fewer borrowers qualify for prime treatment.

"They have to be balanced customers, with a historical relationship," says George Scott, chairman of the credit policy committee at First National City Bank of New York.

Both the bankers and the economists agree that if not for the political problems involved current credit conditions would be right for an increase in the prime rate—the interest banks charge their biggest and best customers, almost always large corporations.

Among the pressures are a continued high level of loan demands—loans outstanding at the major New York banks totaled $41 billion on Nov. 5, the same as on Sept. 17 and $3 billion higher than last March—and climbing commercial paper rates.

Commercial paper is a method of lending between corporations. When those rates climb above the prime, companies tend to abandon that market and demand builds up at the banks. Commercial paper rates are currently slightly higher than 8½ per cent. Bankers acceptances—another form of short-term paper—were increased twice just this week.

The current strong demand for loans is attributed to normal seasonal patterns. According to Henry Kaufman, economist at Salomon Bros. and Hutzler, the seasonal demand should last another four or five weeks. After that, borrowers usually reduce their loans. "The end of January or the beginning of February would be the best time for banks to re-evaluate the situation," Kaufman says.

In the meanwhile, the bankers, extremely sensitive to the criticism a boost would generate, are likely to hold the prime rate at its current level.

The continuing tightness in the money market is being blamed squarely on the Federal Reserve Board. Leif Olsen, vice president and economist at First National City, says credit conditions have been "needlessly aggravated" by the Fed's move to put a Regulation Q ceiling on the issuance of commercial paper by bank holding companies. (Regulation Q limits the rate of interest banks are permitted to pay.)

Olsen explains that applying the ceiling bank holding companies—most large banks have formed parent holding companies in a step to diversification—has dried up another source of funds for the banks and created more pressure on interest rates.

William Butler, vice president and economist at Chase Manhattan Bank, says he thinks the rate pressure is a short-term problem and that bankers will hold out against it, through the use of highly selective loan policies.

Salomon Bros.' Kaufman says fear of political criticism will keep banks from increasing their rates while the seasonal demands continue strong.

By early next year, Kaufman adds, corporations will be headed for "a profit squeeze of a kind we haven't seen in this decade," which will lead to a fall-off in capital spending plans and a letup in loan demand. But Kaufman agrees that, at the moment, the worry about political reaction is the only thing standing in the way of a rate hike.

PRIVILEGE OF THE FLOOR

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Chair instruct the Sergeant at Arms that all staff personnel are to be seated in the gallery throughout the deliberations today, and that they are not to be permitted on the floor of the Senate or in the lobby, except for the staff personnel connected with any committee handling the bill or personnel connected with a Senator who is discussing an amendment which he has pending.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears no objection, and it is so ordered.

The Sergeant at Arms is so instructed.

VIETNAM

Mr. DOLE. Mr. President, I wish to commend the other body for the action taken yesterday on House Resolution 613. The vote itself, of 333 to 55, would indicate that Republicans and Democrats alike support President Nixon's present efforts in Vietnam.

Having served in the other body for 8 years, I recognize that its Members are closer to the people and represent, more often than not, the views of the people. They reflect them better, perhaps, than we in this body, although many times the news media pay more attention to what is said in this body.

The action taken yesterday was of great significance and indicated that the resolution offered by the gentleman from Texas (Mr. WRIGHT) a member of the other party, had broad support both from Republicans and Democrats. Perhaps more significantly it indicated that House Members, who are close to those who elect them, by an overwhelming vote of 6 to 1 support President Nixon in his efforts to bring about meaningful peace in Vietnam.

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON REAPPORTIONMENT OF AN APPROPRIATION

A letter from the Director, Bureau of the Budget, Executive Office of the President, reporting pursuant to law, that the appropriation to the Department of the Interior for "Management and Protection," National Park Service, for the fiscal year 1970, had been reapportioned on a basis which indicates the necessity for a supplemental estimate of appropriation; to the Committee on Appropriations.

PROPOSED LEGISLATION AUTHORIZING THE DISPOSAL OF REFRACTORY GRADE CHROMITE FROM THE NATIONAL AND SUPPLEMENTAL STOCKPILES

A letter from the Administrator, General Services Administration, transmitting a draft of proposed legislation to authorize the disposal of refractory grade chromite from the national stockpile and the supplemental stockpile (with accompanying papers); to the Committee on Armed Services.

REPORT OF ACTUAL RECEIPTS FOR MEDICAL STOCKPILE OF CIVIL DEFENSE EMERGENCY SUPPLIES AND EQUIPMENT

A letter from the Secretary of Health, Education, and Welfare, reporting, pursuant to law, actual procurement receipts for medical stockpile of civil defense emergency supplies and equipment purposes, for the quarter ended September 30, 1969; to the Committee on Armed Services.

PROPOSED LEGISLATION TRANSFERRING FUNCTIONS OF THE HOLDING COMPANY ACT TO THE FEDERAL POWER COMMISSION

A letter from the Commissioner, Securities and Exchange Commission, transmitting a draft of proposed legislation to provide for the transfer to the Federal Power Commission of all functions and administrative authority now vested in the Securites and Exchange Commission under the Public Utility Holding Company Act of 1935 (with accompanying papers); to the Committee on Banking and Commerce.

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on improvements needed in negotiating prices of noncompetitive contracts over $100,000 on the basis of contractors' catalog or market prices, Department of Defense, dated December 3, 1969 (with an accompanying report); to the Committee on Government Operations.

TEMPORARY ADMISSION INTO THE UNITED STATES OF CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders entered granting temporary admission into the United States of certain aliens (with accompanying papers); to the Committee on the Judiciary.

THIRD PREFERENCE AND SIXTH PREFERENCE CLASSIFICATION FOR CERTAIN ALIENS

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

ENROLLED JOINT RESOLUTION SIGNED

The PRESIDENT pro tempore announced that on today, December 3, 1969, he signed the enrolled joint resolution (S.J. Res. 143) extending the duration of copyright protection in certain cases, which had previously been signed by the Speaker of the House of Representatives.

REPORTS OF A COMMITTEE

The following reports of a committee were submitted:

By Mr. RUSSELL, from the Committee on Appropriations, without amendment:

H.J. Res. 1017. Joint resolution making further continuing appropriations for the fiscal year 1970, and for other purposes (Rept. No. 91–562).

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

H.R. 14751. An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1970, and for other purposes (Rept. No. 91–563).

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

H.R. 14916. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1970, and for other purposes (Rept. No. 91–564).

BILLS INTRODUCED

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

By Mr. BIBLE (for himself and Mr. CANNON):

S. 3196. A bill to declare that certain Federally owned lands in the State of Nevada are held by the United States in trust for Reno-Sparks Indian Colony, and for other purposes; to the Committee on Interior and Insular Affairs.

(The remarks of Mr. BIBLE when he in-

troduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. JAVITS (for himself and Mr. GOODELL):

S. 3197. A bill to authorize the Thousand Islands Bridge Authority to construct, maintain, and operate an additional toll bridge across the St. Lawrence River at or near Cape Vincent, N.Y.; to the Committee on Public Works.

(The remarks of Mr. JAVITS when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. HART:

S. 3198. A bill for the relief of Aubria Veronica Anthony; to the Committee on the Judiciary.

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

S. 3199. A bill to provide for a coordinated national boating safety program; to the Committee on Commerce.

(The remarks of Mr. MAGNUSON when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. METCALF (for himself and Mr. MANSFIELD):

S. 3200. A bill to modify the project for Libby Dam, Kootenai River, Mont.; to the Committee on Public Works.

By Mr. MAGNUSON (for himself, Mr. BAKER, Mr. GRIFFIN, Mr. PROUTY, and Mr. SCOTT) (by request):

S. 3201. A bill to amend the Federal Trade Commission Act to provide increased protection for consumers, and for other purposes; to the Committee on Commerce.

(The remarks of Mr. MAGNUSON when he introduced the bill appear later in the RECORD under the appropriate heading.)

S. 3196—INTRODUCTION OF A BILL TO DECLARE CERTAIN FEDERALLY OWNED LANDS IN THE STATE OF NEVADA HELD BY THE UNITED STATES IN TRUST FOR RENO-SPARKS INDIAN COLONY

Mr. BIBLE. Mr. President, on behalf of my colleague from Nevada (Mr. CANNON) and myself, I introduce, for appropriate reference, a bill to declare that certain federally owned lands in the State of Nevada are held by the United States in trust for Reno-Sparks Indian Colony, and for other purposes.

Mr. President, over 50 years ago, the Government purchased, for the benefit of the Nevada Indians, a parcel of land between the cities of Reno and Sparks for an Indian colony. The records show that title to the land is vested in the United States of America. While there is no question that the colony had an equitable interest in the lands, the interests are imperfect at the present time. In order to correct these imperfections, I have been requested to introduce legislation to change the present title holdings to the United States in trust for the Reno-Sparks Indian Colony.

In addition, the American Baptist Home Mission is desirous of correcting and establishing their property boundaries which, according to the records, are in conflict with the colony property. This matter could be resolved if this bill is enacted and the Indians, with the approval of the Secretary of the Interior, are permitted to exchange deeds with the church.

I ask unanimous consent that a copy of a resolution of the Reno-Sparks Indian Council on this matter be made a part of my remarks.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the resolution will be printed in the RECORD.

The bill (S. 3196) to declare that certain federally owned lands in the State of Nevada are held by the United States in trust for Reno-Sparks Indian Colony, and for other purposes, introduced by Mr. BIBLE, for himself and Mr. CANNON, was received, read twice by its title and referred to the Committee on Interior and Insular Affairs.

The resolution presented by Mr. BIBLE is as follows:

RESOLUTION OF THE RENO-SPARKS INDIAN COUNCIL

Whereas, by Resolution 68–RS–6 of October 8, 1968, the Reno-Sparks Indian Council endorsed legislation that would declare that all right, title and interest of the United States in certain Federally owned lands in the State of Nevada are held by the United States in trust for the Reno-Sparks Indian Colony, and

Whereas, these lands were never placed in Federal trust as are most Indian Reservations, and

Whereas, it is felt that development and safeguarding of lands known as the Reno-Sparks Indian Colony could be more effectively carried out under a trust status,

Now, therefore, be it resolved that Resolution 68–RS–6 of October 8, 1968, be modified by authorizing and directing the Chairman of the Reno-Sparks Indian Colony to present a Bill to the Nevada delegation for their introduction of legislation that would declare that certain federally owned lands are held by the United States of America in trust for the Reno-Sparks Indian Colony. Copy of a proposd Bill is attached.

Be it further resolved that the Congress of the United States is hereby requested to take whatever steps are necessary to place the lands of the Reno-Sparks Indian Colony in the name of the United States of America in trust for the Reno-Sparks Indian Colony.

CERTIFICATION

I, the undersigned, Secretary of the Reno-Sparks Indian Colony, hereby certify that the Reno-Sparks Indian Council is composed of six members of whom 5 constituting a quorum were present at a duly called meeting which was convened and held on Nov. 11, 1969, and that the foregoing resolution was duly adopted by a vote of 5 for and 0 against, pursuant to authority contained in the Constitution and Bylaws of the Reno-Sparks Indian Colony approved January 15, 1936.

MRS. EFFIE DRESSLER,
Secretary, Reno-Sparks Indian Council.

INTRODUCTION OF S. 3197—A BILL TO AUTHORIZE THE THOUSAND ISLANDS BRIDGE AUTHORITY TO CONSTRUCT, MAINTAIN, AND OPERATE AN ADDITIONAL BRIDGE BETWEEN THE UNITED STATES AND CANADA

Mr. JAVITS. Mr. President, I introduce, for myself and Senator GOODELL, at the request of the Thousand Islands Bridge Authority, proposed legislation authorizing the construction, maintenance, and operation of an additional bridge between the United States and Canada. A like measure is being introduced in the House today by my colleague from New York, Representative MCEWEN.

In 1966, the New York State Legislature authorized the Thousand Islands Bridge Authority to construct, maintain, repair, and operate an additional bridge crossing the St. Lawrence River into Canada "after the necessary consents and approvals of the Federal authorities and the Canadian authorities have been obtained"—New York State Public Authorities Law, section 578, as added by the laws of New York State, 1966, chapter 209. This legislation introduced today would offer the required consent and approval of the U.S. Government. Reserving the rights to the Federal Government to alter, amend, or repeal this act, the bill would authorize the Thousand Islands Bridge Authority to construct, maintain, and operate an additional toll bridge from or near Cape Vincent in the county of Jefferson, N.Y., to some convenient point on Wolfe Island, and then across the Canadian channel of the St. Lawrence River to a point at or near Kingston, in the Province of Ontario, Canada; to collect the appropriate tolls: and to enter into contracts and other agreements with the appropriate governmental authorities in Canada. The bill also would require the bridge authority to commence construction of the bridge within 3 years and to complete it within 8 years from the enactment of this law. This new bridge, as was the existing Thousand Islands Bridge, is expected to be funded by negotiable bonds and will cost between $35 million and $40 million. It is anticipated that neither Federal nor State funds will be required.

The Thousand Islands Bridge Authority has been in existence since 1933, and since 1938, under the direction of the bridge authority, the existing bridge has carried vehicular traffic far in excess of original projections. For example, in 1960 there were approximately 746,000 vehicular crossings; in 1966, the number of crossings rose to approximately 858,000; in the Expo year 1967, the number was approximately 1,221,000; and the 1969 estimate is 1,237,000—all this traffic, while the expectation was that no more than 400,000 vehicles would cross per year, even during peak years.

The New York State Legislature has extended the corporate life of the Thousand Islands Bridge Authority and has broadened its authority to not only govern the Thousand Islands Bridge at Alexandria Bay, N.Y., but to construct this new bridge, acquire the Watertown Airport, and to allow the issuance of negotiable bonds to finance the new bridge. With such authority, the Thousand Islands Bridge Authority will be in a most favorable position to help coordinate transportation activities of the region, thereby providing the benefits of expanded commerce to that region and to the two countries involved.

The importance of this bridge is very great. It will provide an important stimulus to both industrial growth and recreational development in the area, enhance the residential, recreational, and farming uses of Wolfe Island, and divert sufficient commuter and commercial traffic from the present Thousand Islands Bridge, thereby helping to relieve congestion and more effectively deal with anticipated traffic needs. This bridge will make the Toronto and Kingston area of Canada more directly accessible to cen-

tral and southeastern New York, Pennsylvania, and New Jersey.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of my remarks, and I urge the Senate to give prompt consideration to this measure.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 3197) to authorize the Thousand Islands Bridge Authority to construct, maintain, and operate an additional toll bridge across the St. Lawrence River at or near Cape Vincent, N.Y., introduced by Mr. JAVITS, for himself and Mr. GOODELL, was received, read twice by its title, referred to the Committee on Public Works, and ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to facilitate the increased volume of international commerce, improve postal service, and strengthen the friendly relations between the United States of America and the Government of Canada and other purposes, the Thousand Islands Bridge Authority, its successors and assigns, the successor to the New York Development Association, Inc., which was authorized to construct, maintain and operate toll bridges between the mainland of United States across the Saint Lawrence River to the mainland of Canada, pursuant to an Act entitled "An Act authorizing the New York Development Association, Inc., its successors and assigns, to construct, maintain, and operate a bridge across the Saint Lawrence River near Alexandria Bay, New York" approved March 4, 1929, be and is hereby authorized to construct, maintain, and operate an additional toll bridge and approaches thereto, across the easterly channel of the Saint Lawrence River, at or near Cape Vincent in the County of Jefferson, New York to some convenient point on Wolfe Island and also a bridge and approaches thereto, from the westerly side of Wolfe Island across the westerly or Canadian channel of the Saint Lawrence River to a point at or near Kingston, in the Province of Ontario, Canada, and to collect tolls for the use thereof, so far as the United States has jurisdiction over the waters of the Saint Lawrence River, in accordance with the provisions of the Act entitled "An Act to regulate the construction of bridges across navigable waters", approved March 23, 1906, and subject to the approval of the proper authorities in Canada.

SEC. 2. The Thousand Islands Bridge Authority, its successor and assigns, is hereby authorized to enter into contracts and other agreements, with the appropriate governmental authorities in Canada, necessary or incidental to the construction, maintenance and operation of its facilities.

SEC. 3. Notwithstanding the provisions of section 6 of the Act of March 23, 1906 (33 U.S.C. 496), this Act shall be null and void unless the Thousand Islands Bridge Authority, its successors or assigns shall commence construction of the bridge referred to in the first section of this Act within three years and shall complete the construction of said additional bridge within eight years from the date of enactment of this Act.

SEC. 4. The Thousand Islands Bridge Authority, its successors and assigns, is hereby authorized to fix and charge tolls for transit over such bridge and in accordance with any laws of the State of New York or the United States applicable thereto, and the rates of tolls so fixed shall be the legal rates until changed by the Secretary of Transportation under the authority contained in the Act of March 23, 1906.

SEC. 5 The enactment of this Act shall not be construed as repealing or amending the provisions of an Act entitled "An Act Authorizing the New York Development Association, Inc., its successors and assigns, to construct, maintain, and operate a bridge across the Saint Lawrence River near Alexandria Bay, New York" approved March 4, 1929.

SEC. 6. The bonds or notes issued by the Thousand Islands Bridge Authority to finance the facilities authorized pursuant to this Act shall be deemed to be obligations issued by a political subdivision of the State of New York.

SEC. 7. The right to alter, amend, or repeal this Act is hereby expressly reserved.

S. 3199—INTRODUCTION OF FEDERAL BOAT SAFETY ACT OF 1969

Mr. MAGNUSON. Mr. President, by request of the Secretary of Transportation, I introduce for appropriate reference, for myself and the Senator from New Hampshire (Mr. COTTON), a bill to provide for a coordinated national boating safety program. I ask unanimous consent that the letter from the Acting Secretary of Transportation to the President of the Senate transmitting the bill and the accompanying section-by-section analysis be printed in the RECORD.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the letter and analysis will be printed in the RECORD.

The bill (S. 3199) to provide for a coordinated national boating safety program, introduced by Mr. MAGNUSON (for himself and Mr. COTTON), by request, was received, read twice by its title, and referred to the Committee on Commerce.

The letter and section-by-section analysis, presented by Mr. MAGNUSON, are as follows:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., November 20, 1969.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft of a proposed bill, "To provide for a coordinated national boating safety program."

The proposed bill would authorize the Secretary of Transportation to establish safety standards applicable to boats and associated equipment and to regulate the use of safety equipment on board boats, to approve more comprehensive state boating safety programs and to make grants-in-aid to encourage state participation and to assist in program development and implementation. The bill also incorporates the substance of the Federal Boating Act of 1958, which would be repealed, and much of the substance of the Motorboat Act of 1940, which would no longer be applicable to boats as defined and covered under this act.

This bill is an outgrowth of a proposal introduced in the 90th Congress and developed as part of a comprehensive program undertaken by the Department to improve boating safety. There is a need for legislation directed at boat construction safety standards, and a need for state programs which provide greater state involvement in boating safety efforts. At the same time, piecemeal changes in the Federal statutes relating to boats and boating safety are undesirable and tend to be unnecessarily confusing to the boating public. Accordingly, it was determined to incorporate the existing statutes into a single comprehensive piece of legislation. That approach also provided the opportunity to make certain changes which the Coast Guard, through many years of experience in administering and enforcing those statutes, considered advisable. The views and suggestions of innumerable witnesses who testified at various hearings held by the House Merchant Marine and Fisheries Committee on last year's bill were carefully considered, evaluated, and in many cases incorporated. Also, the views and advice of the states and boating industries were sought during development of the draft bill.

Paralleling the increase in family incomes and in the amount of leisure time, millions of Americans have turned to boating as a major form of sport and recreation. Currently there are more than eight million small boats in use in the United States and their number increases at the rate of 4,000 a week. This sharp and continuing rise in the level of small boat activity has brought with it an increase in boating accidents and deaths.

Despite significant activity by the Coast Guard and the preventive efforts of state and local governments, small boat safety calls for greater efforts to reduce the risk of accident, injury, and death in recreational boating. Where equipment could help prevent accidents and save lives, Federal authority has not been sufficient to induce or compel industry and the boating public to provide for its installation and use. Moreover, while most small boat accidents appear to be attributable to operator fault, there has not been an education and training program sufficient to meet the needs of eight million small boat owners. The special problem of small boat safety demands new programs and policies that are truly sufficient, in scale and type, to meet the challenge.

The proposed bill would authorize increased regulatory action to be taken when necessary and would permit the Secretary to offer some financial incentive to more effective state action. The recommended appropriation authorization of $5,000,000 a year for five fiscal years beginning with 1972 for a grant-in-aid program is sufficient to help some states improve existing programs and to encourage others to make a start.

It would be appreciated if you would lay this proposal before the Senate. A similar proposal has been submitted to the Speaker of the House of Representatives.

The Bureau of the Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this proposed legislation to the Congress.

Sincerely,

JAMES M. BEGGS,
Acting Secretary.

SECTION-BY-SECTION ANALYSIS OF A BILL

(To provide for a coordinated national boating safety program)

Section 1 contains the title of the Act.

Section 2 states policy and purpose. The statement incorporates Federal policy previously enunciated in the Federal Boating Act of 1958 and reflects the additional conclusion that greater boating safety effort, both at the Federal and state level, is in the public interest. The extent of Federal involvement continues to be found in the need for uniformity of law and regulation for a transient boating public as well as in the existing Federal capability. The statement also emphasizes the need for continued state involvement, and for close cooperation between the Federal government and the states.

Section 3 contains a definition of terms necessary to more complete understanding of the Act.

(1) The definition of "boat" encompasses all recreational craft of less than 65 feet, boats of the same size used in the boat livery or charter business, and boats of that size or under carrying 6 or fewer passengers. The definition is not in terms of power because certain parts of the Act, notably those concerning boat safety standards, are intended to pertain to unpowered as well as powered vessels.

(2) The definition of "vessel" is the usual definition which is contained in the existing Federal Boating Act of 1958 (46 U.S.C. 527). The definition is construed to include submersible vessels and surface effect vehicles, such as hover-craft, operating over the water.

(3) An "undocumented vessel" is one which not only does not have but is not required to have a valid marine document as a vessel of the United States.

(4) The word "use" means operate, navigate, or employ. As the word pertains to boats and vessels it is broad enough to include situations where an occupied vessel is anchored or moored as well as underway.

(5) The definition of "passenger" is intended to be as consistent as the substance of this Act permits with the definition of passenger contained in the Small Passenger Carrying Vessels Act, 46 U.S.C. 390.

(6) "Owner" is defined as it was in the Federal Boating Act of 1958, 46 U.S.C. 527.

(7) "Manufacturer" is defined as a person engaged in manufacture, construction or assembly of boats or associated equipment or of boat or equipment kits, or persons who import those items. Though the thrust of this definition is at persons engaged in the boat or associated equipment manufacturing or importing business it would pertain to a person manufacturing or building a single boat because of the rules of construction contained in section 1 of title I of the U.S. Code. Also, the definition would include dealers who engage in assembly of boats or equipment, or installation of equipment in boats, after receipt from a manufacturer but before delivery to a consumer.

(8) "Associated equipment" is defined as any independent system, part or component originally incorporated into a boat when manufactured or subsequently sold for replacement, repair, or improvement. It also includes any accessory or equipment for, or which becomes a part of or is attached to a boat, and marine safety articles used by persons on board a boat.

(9) "Secretary" is defined as the Secretary of the department in which the Coast Guard is operating, and in current peace time government organization means the Secretary of Transportation.

(10) This item clarifies that the word "State" includes Puerto Rico, the Virgin Islands, Guam and the District of Columbia, as well as state of the United States.

Section 4 defines jurisdictional applicability.

(a) The applicability of the act generally is to vessels within the Federal maritime jurisdiction. That jurisdiction includes the navigable waters of the United States, certain other waters which are in the exclusive jurisdiction of the United States, and also pertains to vessels of United States nationality while operating on the high seas beyond the territorial seas.

(b) This subsection utilizes interstate commerce as the constitutional basis to extend the applicability of those sections of the Act pertaining generally to boat safety standards to certain boats in addition to those used on waters subject generally to Federal jurisdiction.

(c) This subsection exempts foreign vessels temporarily using waters subject to U.S. jurisdiction, public vessels, state and municipal vessels, and ships' life-boats from the general applicability of the Act. Specific sections of the Act do pertain to certain of these categories and that fact is indicated in the body of the sections which pertain.

Section 5(a) establishes the authority for promulgation of boat and equipment safety standards. It requires that each standard be reasonable, meet the need for boating safety, and be stated, at least as much as is possible, in terms of performance rather than in terms of precise technical requirements. This section also creates the authority for the requiring of safety equipment on boats. It replaces the statutory requirements presently contained in the Motorboat Act of 1940, 46 U.S.C. 526b. et seq. By permitting the Secretary to require the use of certain equipment through regulation a much greater flexibility is permitted than presently exists in the statutory law. This section also creates the discretionary authority to prohibit the installation, carrying, or using of equipment which does not conform with promulgated safety standards, presumably where the use of such equipment would operate in derogation of boating safety.

Subsection 5(b) requires that there shall be a minimum time of 6 months between the date of issuance of a boat safety standard and the time that it is effective unless the Secretary finds a critical hazard as a basis for an earlier effective date. In most cases actual notice to the public will, of course, precede formal issuance and to that extent the time available to anticipate change is increased. Item (2) directs that a regulation or safety standard shall not compel substantial alteration of a boat or item of associated equipment which is then in existence or the construction or manufacture of which is commenced before the date of that regulation or standard. The term "substantial alteration" includes, in addition to physical alteration, those changes which would result in unreasonable expense. Notwithstanding the proscription against substantial alteration the Secretary may make safety standards and regulations applicable to existing boats and equipment to an extent which is not unreasonable and in order to correct a significant safety hazard.

Section 6 requires certain actions by the Secretary in the development of safety standards which are consistent with requirements imposed by 5 U.S.C. 551 et seq.

Section 7 permits the Secretary to require or permit display of various seals and labels which could certify compliance with applicable standards. The seals or labels involved could be issued by the government, Federal or local, or could be those of private organizations.

Section 8 will permit the delegation and contracting of assistance from within or without the government in carrying out the examination, inspection, and testing requirements connected with the promulgation of safety standards.

Section 9 permits the Secretary to exempt boats or classes of boats from particular provisions of the act or from various regulations or standards, and otherwise to issue exemptions under the Act.

Section 10 precludes the establishment or enforcement of state boat safety standards and equipment requirements which are not identical to Federal standards promulgated under Section 5 of the Act. Section 9 can be utilized to exempt states from the preemption herein in situations where a state, with the Secretary's concurrence, desires to impose a particular requirement to cover a unique situation. The section does not preempt state law or regulation directed at safe boat operation or use. The reason for such a preemption is to insure that manufacturers building for the entire domestic trade will not find themselves in the unfortunate position of having to comply with varying boat safety standards in different places.

Section 11 creates a joint regulatory authority in the Secretary and in the Secretary of the Treasury for definition of circumstances under which non-conforming boats may be imported. Some authority is necessary in the Secretary of the Treasury because of his customs and other interest. The section requires that an imported boat will ultimately conform before its use in United States waters.

Section 12 defines prohibited acts. It precludes the manufacture or construction of boats and equipment which do not comply with promulgated safety standards. Though technically it would require the backyard boat builder to comply, primary emphasis is on manufacturers, dealers, and importers. Additionally, this section precludes the use of labels and plates which in effect falsely certify compliance with standards. Practically, the label or seal would relate to compliance at the time of manufacture. Subsection (d) prohibits negligent use and derives from an existing provision in the Motorboat Act of 1940, 46 U.S.C. 5261. The ambiguous alternative "reckless or negligent" of the existing law has been altered because at least two courts have failed to treat the phrase as disjunctive and have equated it to "gross negligence". The section also continues the requirement of the existing Motorboat Act that boats carrying passengers for hire must be under the charge of a licensed operator. The circumstances under which a license will be issued, suspended, or revoked, and other particulars of licensing administration will be left to the regulatory authority of the Secretary. Also, section 12 prohibits the use of any vessel or boat in violation of a provision of the Act or other regulation issued thereunder.

Section 13 authorizes a Coast Guard boarding officer, when discovering an especially hazardous condition upon the water because of a violation of the Act or regulations or standards issued thereunder, to require that the boat use be terminated until the hazardous condition has been corrected. The hazardous condition could be caused by a defect in the boat itself or a defect or deficiency in required associated equipment.

Section 14 deals generally with the Secretary's authority to require manufacturers to provide such information as may be necessary to ascertain that boats are being manufactured in accordance with promulgated standards. Subsection (b) of this section affords the manufacturer the protection of the Federal criminal code to preclude public disclosure of trade secret or similar information which is provided to the Secretary in confidence.

Section 15 requires boat manufacturers who become aware of safety defects in boats previously sold or distributed to take action to notify the purchasers, or the dealers through whom the boats were sold, and the Secretary of the defects and how they can be corrected.

Section 16(a) derives from and tracks the existing provision in the Motorboat Act relating to rendering assistance in collisions. The duty is imposed on the operator of any vessel whch is involved in collision, accident or other casualty. *Subsection 16(b)* is intended to clarify that one who assists at the scene of a casualty may only be liable in civil damages for injury or damage alleged to result from his negligent assistance rather than some lesser or different standard of care.

Section 17 and following sections, through section 23, pertain to the numbering of vessels, and include with some modification all of the substantive content of the existing Federal Boating Act of 1958. Section 17 defines the vessels to which the numbering provisions pertain. Several changes in the ex-

isting law have been made. First, numbering requirements have been extended to vessels with propulsion machinery of less than 10 horsepower. Second, the language "equipped with propulsion machinery of any type" replaces the previous statutory language "propelled by machinery" to obviate the issue so frequently raised concerning whether a boat not being operated at the moment by machinery comes within the purview of the statutes. Use of the word "vessel" throughout the following section is because of the specific and particular definition of the word "boat" contained in the general definition section of the bill.

Section 18 directs the Secretary to establish a standard numbering system and provides that the Secretary shall issue numbers for vessels in states where a state system is not in existence.

The section also provides that a state may submit to the Secretary a numbering system for vessels and if the system is in accord with the system established by the Secretary and the other provisions of this act relating to numbering and casualty reporting, the Secretary shall approve it. When the Secretary has approved a state numbering system, the state is the "issuing authority" within the meaning of this Act.

Subsection 18(b) provides that an existing state numbering system may continue in effect after enactment of this bill for a period not to exceed two years. The burden of change imposed upon a state is relatively slight inasmuch as this bill does not significantly change the existing law except with regard to the requirement for numbering of vessels under 10 horsepower.

Subsection 18(c) provides that when a boat is numbered in the state of principal use, the Federal requirement is satisfied and the number's validity continues though used temporarily in any other state.

Subsection 18(d) continues the requirement for a 90 day grace period when a numbered boat is moved to a new state of principal use.

Subsection 18(e) requires that at the inception of a state system a state must continue to recognize a Federal number previously issued in that State for a period of at least one year or until the Federal certificate's normal expiration.

Subsection 18(f) continues the authority of the Secretary which now exists under law, 46 U.S.C. 527a(h), to withdraw his approval for a state system which does not continue to satisfy the Federal requirement.

Section 19 permits the Secretary and the states, when they are issuing authorities, to exempt vessels from the numbering requirements.

Section 20 requires that a certificate of number be carried on board a vessel. A change is made in the existing law in that small vessels used in a boat livery business under some circumstances need not have the certificate on board. This is an attempt to correct a situation which has been long complained of by boat livery operators, that it is impractical for them to keep the certificate of number in rental boats. The section permits the issuing authority to direct how boats which do not have the certificate of number on board are to be identified while in use and otherwise to regulate procedures which may be considered appropriate under the circumstances.

Subsection 20(b) continues the existing requirements of the 1958 Act, 46 U.S.C. 5276, to notify the authorities upon sale, transfer, destruction or abandonment of a boat.

Section 21 continues the requirement that the number be displayed on each side of the bow of the vessel. The last sentence which precludes the display of any other number on the bow of the vessel is not interpreted as prohibiting the current use by some states of small numbered decals in the vicinity of the permanent number to indicate current validity.

Section 22 contains the authority now in Federal Boating Act of 1958, 46 U.S.C. 527a(c)(11), for states to require "safety certificates".

Section 23 creates a general regulatory authority, both for the Secretary and the states when they are issuing authorities, necessary to implement the sections of the bill dealing with numbering and casualty reporting. It also prohibits the imposition of terms and conditions for numbering which are not defined in the Act or in the implementing regulations of the Secretary.

Section 24 provides that the issuing authority shall honor reasonable requests from boat or equipment manufacturers for boat numbering and registration information which is available and retrievable from state records. The requesting manufacturer must satisfy the issuing authority that the information he seeks is for, or relates to, a boating safety purpose; and he will be obligated to pay to the issuing authority the cost of retrieving and furnishing the information by the latter.

Section 25 states the Federal purpose and intention of encouraging greater state participation in boating safety by permitting Federal financial assistance to State programs which have been accepted by the Secretary.

Section 26 defines the requirements for state programs in order for a state to qualify for Federal financial assistance. It requires: first, a state numbering system; second, that a state, in effect, enact the Model State Boat Act; third, some reasonable enforcement activity by a state; fourth, that the state authority or agency which will administer the program be designated; and fifth, it provides that the state shall make such reports as the Federal government shall require. Subsection (b) is included to suggest that what the Federal government requires in order to establish eligibility for Federal financial assistance is not necessarily the ultimate answer to boating safety.

Section 27 defines the manner in which Federal funds will be allocated among the eligible states. The section provides that for the first two fiscal years after enactment of the bill fund allocation will be based in the number of boats which have been numbered under existing boat numbering systems. Though some state systems now require the numbering of all motorboats the allocation has been keyed only to the existing Federal requirement that boats of more than 10 horsepower be numbered so that the allocation for each state will derive from a common base. In subsequent years the money will be allocated in proportion to the amount of state funds which are expended for boating safety as compared to the total expenditure of all states which elect to participate in the program. The presumed advantage of such an approach is that state expenditures will and should logically bear some relationship to the many and diverse factors which affect boating safety; for example, the number of boats, the type of boats, the type of boating activity, the nature and interests of the boating public, the water areas of a state, the climate and weather of the locale. This section additionally permits the allocation of not to exceed 5 percent of funds appropriated in any given year to national public service organizations which can make contributions through the expenditure of these funds for boating safety.

Section 28 defines certain allocation limitations. In fiscal year 1972 the Federal grant money allocated to a given state may not represent more than 75 percent of the total cost of that state's program for that year. A state must expend for boating safety at least one dollar of state money for every three dollars provided by the Federal government. In the following four fiscal years the state share must proportionately increase each year to sustain a level Federal contribution. The Federal share may not exceed 66⅔ percent in 1973, 50 percent in 1974, 40 percent in 1975 and 33⅓ percent in 1976. In any case, not more than 5 percent of funds available in a given year may be allocated to any state. Money allocated to a state in any fiscal year would be available to the state over a period of three years following that allocation. If a state has not at least obligated the money in that period, the Secretary may retrieve it and utilize it with other allocation money in subsequent years. The section also provides that any unallocated funds in a given fiscal year may be carried by the Secretary for the allocation of subsequent years.

Section 29 authorizes the Secretary to prescribe regulations which will define precisely the items which a state may include in its computation of state funds expended or obligated. Some of the types of expenditures to which the Secretary's regulations must be directed are enumerated in a general way in this section. Finally, the Secretary is granted the authority to resolve any possible disputes which arise regarding the computations.

Section 30 authorizes the appropriation for grants during five fiscal years, 1972 through 1976, of $5,000,000 each year.

Section 31 details the procedural aspects for allowing money to the states. The section permits the Secretary to terminate Federal funds to a state when the state boating safety program no longer complies with the requirements of the act.

Section 32 authorizes the Secretary in carrying out his responsibility under this act to consult with the Federal, State, and local governments, public and private agencies, private industry, and other persons having an interest in boating safety. Also, the Secretary is authorized to advise and assist states and others interested in boating safety in planning, development and execution of boating safety programs. The section encourages the cooperative law enforcement agreements in which the Coast Guard has already been engaged. Finally, this section authorizes the Coast Guard to make available upon request from a state the Coast Guard Auxiliary to assist the state in promotion of boating safety on internal waters of the state.

Section 33 provides for the establishment of a National Boating Safety Advisory Council which would be available to assist the Secretary on matters affecting boating safety. As indicated by section 6 the Secretary would be required to consult with the Boating Safety Advisory Council before any boat or equipment safety standards under section 5 are promulgated.

Section 34 provides a criminal penalty of $10,000 or 5 years imprisonment, or both, for willful violations of the subsection of the act dealing with manufacture in accordance with safety standards. Additionally, it provides a criminal penalty of $1,000 or imprisonment of 1 year, or both, for all other willful violations of the act or the regulations issued thereunder. In this latter situation the maximum penalty was established so as to be wholly within the jurisdiction of Federal magistrates as defined in the recent act on that subject, Public Law 90–578.

Section 35 deals with civil penalties. It provides in addition to any criminal penalties a civil penalty of $1,000 for each violation to a maximum of $50,000 for violations of the provisions relating to manufacture in accordance with standards. This section also provides a civil penalty in addition to any criminal penalty, of not more than $500 for other violations of the act or regulations

issued thereunder. In cases involving the use or operation of a vessel, other than those vessels enumerated in section 4(c), the vessel is liable for the penalty. The Secretary is given complete latitude in the use of civil penalties because he is authorized to remit, mitigate, or compromise any civil penalty. Finally, this section provides that civil penalties which have been assessed in an amount not more than $200 may be referred to a Federal magistrate for collection. The recent Federal Magistrates Act suggests some participation by Federal magistrates in procedures related to civil actions when so authorized by the judges of the local Federal district court. An attempt has been made here to extend, or at least permit, that participation to the exercise of a civil penalty collection jurisdiction.

Section 36 authorizes injunctive proceedings to restrain the sale or importation of boats or equipment which do not comply with Federal boat safety standards.

Section 37 contains the authority for the Secretary to prescribe a standard vessel casualty reporting system for the boats and vessels subject to this act. This section derives from the 1958 Federal Boating Act, 46 U.S.C. 5261(c). The section requires that state vessel numbering systems and boat safety programs shall include provisions for the reporting of casualties and which are consonant with the overall reporting system prescribed by the Secretary. The section parallels existing law in requiring the Secretary to collect, analyze, and publish statistics, information and reports relating to boating casualties.

Section 38 is the authorization for appropriation of Federal funds for the administration of the act.

Section 39 contains the miscellaneous provisions pertaining to the technical implementation of the act. Section 7 of the Motorboat Act of 1940 is repealed in its entirety inasmuch as the complete substance of that section is effectively replaced by subsection 12(e) of this act. The Federal Boating Act of 1958, except section 6 which pertains to amendment of the 1940 Motorboat Act, is repealed. Inasmuch as the Federal Boating Act of 1958 is repealed, the Act of August 30, 1961, 75 Stat. 408, which amends that act is also repealed. Also, the Act of March 28, 1960, 74 Stat. 10, which amends section 6 of the Federal Boating Act of 1958, which in turn amends the Motorboat Act of 1940, is repealed; and the substance of that 1960 amendment is contained in subsection (b) of this section. That subsection continues the substantive provisions which were contained in the 1960 amendment but with changes to make the major portions of the 1940 Motorboat Act inapplicable to boats as defined in and subject to this act.

S. 3201—INTRODUCTION OF CONSUMER PROTECTION ACT OF 1969

Mr. MAGNUSON. Mr. President, on behalf of myself and Senators BAKER, GRIFFIN, PROUTY, and SCOTT, I introduce, by request, a bill to amend the Federal Trade Commission Act to provide increased protection for consumers, and for other purposes. I ask unanimous consent that the text of the bill, the letter of transmittal, and the accompanying explanatory statement be printed in the RECORD.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill, letter, and statement will be printed in the RECORD.

The bill (S. 3201) to amend the Federal Trade Commission Act to provide increased protection for consumers, and for other purposes, introduced by Mr. MAGNUSON (for himself and other Senators), by request, was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

S. 3201

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Consumer Protection Act of 1969".

TITLE I—DECEPTIVE SALES AFFECTING COMMERCE

SEC. 101. Section 5 of the Federal Trade Commission Act, as amended (38 Stat. 719; 15 U.S.C. 45) is amended by changing the words "in commerce" wherever they appear to "affecting commerce".

SEC. 102. Subsection (a) of section 13 of the Federal Trade Commission Act (52 Stat. 115; 15 U.S.C. 53(a)) is amended to read as follows:

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

"(1) that any person is engaged in, or is about to engage in, the dissemination or the causing of the dissemination of any advertisement in violation of section 12, or any act or practice which is unfair or deceptive to a consumer and is prohibited by section 5, and

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

the Commission by any of its attorneys designated by it for such purpose may bring suit in a district court of the United States to enjoin the dissemination or the causing of the dissemination of such advertisement or any such act or practice. Upon proper showing of need, a temporary restraining order or preliminary injunction may be granted without bond, *Provided, however,* that if a complaint under section 5 is not filed within 60 days of the issuance of the restraining order or preliminary injunction, the order or injunction shall be dissolved and of no further force and effect.

TITLE II—ENFORCEMENT OF CONSUMER INTERESTS—UNFAIR OR DECEPTIVE ACTS OR PRACTICES

SEC. 201. As used in this title—

(a) "unfair or deceptive practice" means any of the following acts or practices—

(1) offering goods or services intending not to sell them as offered;

(2) advertising goods or services intending not to supply reasonably expectable public demand, unless the advertisement discloses a limitation;

(3) stating that services, replacements or repairs are needed with knowledge that they are not;

(4) representing that the consumer is legally obligated to pay for, safeguard, or return unsolicited goods knowing that the consumer is not;

(5) representing that the consumer will obtain any rights, privileges, or remedies knowing that the consumer will not;

(6) representing that goods are new knowing that they are not;

(7) representing that goods are of a particular standard, grade, quality, style, or model knowing they are not;

(8) making statements of fact concerning (i) the reason for, existence of, or amounts of price reductions, or (ii) savings in comparison to prices of competitors or one's own price, knowing that such statements are false;

(9) representing that goods or services are those of another, knowing they are not;

(10) failing to return or refund a deposit or advance payment for goods not delivered or services not rendered, when no default or further obligation of the person making such deposit or advance payment exists;

(11) knowingly representing that goods or services have sponsorship, approval, origin, characteristics of safety or performance, ingredients, uses, benefits, or quantities that they do not have, or that a person has a sponsorship, approval, status, affiliation, or connection that he does not have; *provided, however,* that an affirmation by the supplier merely of the value of the goods or services or a statement of his opinion of the goods or services, or similar statements, which do not take unfair advantage of the level of knowledge, ability, experience or capacity of the consumer shall not be deemed an unfair or deceptive act or practice within the meaning of this paragraph."

(b) "knowing", "knowingly", and "knowledge" refer to actual knowledge, knowledge presumed where objective circumstances indicate that the supplier acted with knowledge, or knowledge presumed where circumstances indicate that the supplier acted in disregard of reasonable safeguards or care in ascertaining the truth of representations made;

(c) "consumer" means any natural person who is offered or supplied goods or services for personal, family or household purposes;

(d) "supplier" means any person who makes goods or services available to consumers, either directly or indirectly;

(e) "goods" includes real property, but does not include securities or interests in securities;

(f) "services" includes insurance services and similar provision of intangibles, but not the providing of credit.

DECEPTIVE ACTS AND PRACTICES UNLAWFUL

SEC. 202. It shall be unlawful for any supplier to commit any unfair or deceptive act or practice as defined in section 201 of this title.

RESTRAINING VIOLATIONS

SEC. 203. The district courts of the United States have jurisdiction to restrain violations of this title upon application by the Attorney General. The court may at any time grant such injunctive relief as it deems appropriate. Whenever it appears to the court that the ends of justice require that other persons should be parties in the action, the court may cause them to be summoned whether or not they reside in the district in which the court is held, and to that end process may be served in any district.

SUITS BY CONSUMERS ADVERSELY AFFECTED

SEC. 204. When a supplier, (i) in any action brought by the Attorney General under section 203 of this title, has been enjoined from committing any act or practice, whether after final adjudication or by consent decree, or (ii) in any proceeding brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act with respect to acts or practices alleged to be unfair or deceptive within the meaning of section 201 of this title, has been ordered to cease and desist from that act or practice, and the order shall have become final within the meaning of section 5, either after adjudication or by consent decree, any consumer claiming to have been adversely affected by the act or practice giving rise to such injunction may bring suit against said supplier, and may recover actual damages, and the costs of suit, including reasonable attorneys' fees, and, when appropriate, restitution, reformation, rescission, and other equitable relief.

Irrespective of whether an attorney's fee is assessed against a defendant, the court may inquire into the reasonableness of the fee agreed upon between the consumer and his counsel, and revise that fee as the circumstances warrant.

JUDGMENT IN FAVOR OF THE UNITED STATES AS EVIDENCE

SEC. 205. A final judgment or decree rendered in any proceeding brought by the United States under section 203 of this Title to the effect that a defendant has engaged in an unfair or deceptive practice within the meaning of this Title shall be *prima facie* evidence against that defendant in any action or proceeding brought by any other person against the defendant under section 204 of this Title, as to all matters respecting which said judgment or decree would be an estoppel as between the defendant and the United States: *Provided, however,* That this section shall not apply to consent judgments or decrees entered before any testimony has been taken.

VENUE

SEC. 206. An action under this Title may be brought in any district in which the claim arose or in which the defendant resides, is found, has an agent, is licensed to do business, or is doing business.

LIMITATION OF ACTIONS

SEC. 207. Any proceeding under section 204 of this Title shall be brought within one year after the termination of the proceeding under section 203 of this Title or the proceeding under section 5 of the Federal Trade Commission Act on which it is predicated.

CIVIL INVESTIGATIVE DEMANDS

SEC. 208. (a) Whenever the Attorney General has reason to believe that any person under investigation may be in possession, custody or control of any documentary material, or may have knowledge of any fact, relevant to an unfair or deceptive act or practice within the meaning of this Title, he may, prior to the institution of a proceeding under section 203, issue in writing, and cause to be served upon such person, a civil investigative demand, requiring such person to produce the documentary material for examination or to answer in writing written interrogatories pertaining to such knowledge.

(b) Each such demand shall—

(1) state the nature of the conduct alleged to constitute the unfair or deceptive act or practice which is under investigation;

(2) describe the class or classes of documentary material to be produced thereunder with such definiteness and certainty as to permit such material to be fairly identified;

(3) propound with definiteness and certainty the written interrogatories to be answered; and

(4) identify the custodian to whom such material shall be furnished, or the person to whom such answers shall be made.

(c) No demand shall—

(1) contain any requirement which would be held unreasonable if contained in a subpoena duces tecum issued by a court of the United States in a proceeding brought under section 203 of this Title or if propounded in an interrogatory directed to a defendant in any such proceedings; or

(2) require the production of any documentary evidence, or the disclosure of any information, which would be privileged from disclosure if demanded by a subpoena duces tecum issued by a court of the United States, or by an interrogatory propounded, in any proceeding under section 203 of this Title.

(d) Demand may be served at any place within the territorial jurisdiction of any court of the United States.

(e) The provisions of section 4 and 5 of the Antitrust Civil Process Act (76 Stat. 549, 551; 15 U.S.C. 1313, 1314) apply to custodians of material produced pursuant to any demand and to judicial proceedings for the enforcement of any such demand made pursuant to this section.

REPORT BY THE ATTORNEY GENERAL

SEC. 209. As part of his responsibility to protect consumers against unfair or deceptive acts or practices, the Attorney General shall annually report to the President and the Congress on the effectiveness of this Title.

OTHER LAWS NOT AFFECTED

SEC. 210. This title shall not annul, alter or affect in any manner the meaning, scope, or applicability of any federal or state law, including but not limited to laws concerning the provision of goods and services to consumers, or limit in any way the availability of rights or remedies under such law.

The letter and statement, presented by Mr. MAGNUSON, are as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., November 20, 1969.

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

DEAR MR. VICE PRESIDENT: There is enclosed for your consideration and appropriate reference a legislative proposal entitled the "Consumer Protection Act of 1969."

This proposed legislation carries out in part the October 30 Consumer Message of the President. As more fully described in the accompanying explanatory statement, the proposed Act consists of two titles designed to improve the legal machinery of consumer protection and relief.

Title I is captioned "Deceptive Sales Affecting Commerce". Section 101 implements the President's recommendation that section 5 of the Federal Trade Commission Act be amended "so as to permit the FTC to take action concerning consumer abuses which 'affect' interstate commerce, as well as those which are technically 'in' interstate commerce". Such an amendment would enable the FTC to take steps to eliminate unfair and deceptive practices having a national impact but which are essentially local in character. Section 102 would enable the FTC to obtain a preliminary injunction immediately to halt unlawful practices adversely affecting the consumer, to avoid irreparable harm taking place while administrative and judicial proceedings run their course. The President stated that such an amendment would remove "one of the most important obstacles to the present effectiveness of the FTC".

Title II is captioned "Enforcement of Consumer Interests" and carries out the President's recommendation "to give private citizens the right to bring action in a Federal court to recover damages upon the successful termination of a government suit under the new consumer protection law". It also grants consumers a right of action upon successful conclusion of a Federal Trade Commission proceeding. This title prescribes types of conduct declared to be unlawful and would for the first time clearly define the rights of consumers and the respective obligations of suppliers.

The President's message constitutes a far-reaching commitment to the interests of consumers. All Americans will benefit by enactment of the implementing legislation.

The Bureau of the Budget has advised that the submission of this proposal is in accord with the program of the President.

Sincerely,

———, ———,
Attorney General.

EXPLANATORY STATEMENT TO ACCOMPANY THE PROPOSED CONSUMER PROTECTION ACT OF 1969

TITLE I

SEC. 101. The change of the words "in commerce" to "affecting commerce" in this section removes a limitation on the jurisdiction of the Federal Trade Commission over certain acts and practices which have adverse commercial consequences and which cannot be reached under section 5 as it now reads.

SEC. 102. Carries out one of the recommendations appearing in the President's message and the recently released report of the American Bar Association, by providing that the Federal Trade Commission may obtain a preliminary injunction to halt, at the outset, certain unlawful acts or practices adversely affecting consumers. The district courts, by suspending these activities pending the conclusion of administrative or judicial proceedings, could avoid situations in which the final administrative or judicial action may be mooted by the passage of time during the progress of the proceedings.

TITLE II

SEC. 201. Lists types of unfair and deceptive acts and practices which are prohibited. The commission of any such acts or practices would subject a person to suits by the Attorney General and by offended consumers. This list of practices is similar to those recommended in the Federal Trade Commission's proposals for state legislation dealing with unfair and deceptive practices. The section gives suppliers of goods and services clear notice of the acts and practices which are unlawful.

SEC. 202. Declares unlawful the acts or practices enumerated in section 201.

SEC. 203. Confers jurisdiction on the United States district courts to entertain actions brought by the Attorney General to restrain violations of the various proscribed acts or practices. The courts are empowered to grant the type of equitable relief best suited to effect the termination of the particular act or practice in each instance. The courts are further empowered to assure that all persons responsible for an alleged violation may be brought before them and be subject to their jurisdiction.

SEC. 204. Following successful termination of litigation instituted by the Attorney General or proceedings before the Federal Trade Commission, consumers would be enabled to bring suit for private recovery. The section authorizes all forms of relief appropriate to the circumstances, including reformation restitution, and rescission and the court may award costs, including reasonable attorneys fees. In such litigation the courts may also inquire into the reasonableness of attorneys' fees agreed to by consumer plaintiffs and revise such fees if found to be excessive. In federal courts, consumers may sue as a class when a group has been damaged by the same act or practice. This opportunity to participate in a class action should be of considerable benefit to consumers. The costs and other burdens of litigation are often too much for individual consumers to bear; but if consumers can sue as a group, the burdens of litigation will not weigh too heavily on any one member of the group.

SEC. 205. Borrowed in substance from existing antitrust laws, this section provides that after the government has obtained a judgment or decree under section 203, in private litigation consumers need not prove that the unfair or deceptive act or practice was in fact committed by the same defendent. This *prima facie* case does not come about, however, if the defendant entered into a consent judgment or decree before the taking of any testimony in the government suit.

SEC. 206. This section is designed to afford consumers the widest possible choice of courts in which to bring their suits. A suit may be brought in any district in which the unlawful act is alleged to have occurred, or in which a defendant resides, is found, has an agent, is licensed to do business, or is doing business.

SEC. 207. Provides that private consumer actions must be instituted within one year of the entry of a final judgment in a suit instituted by the Attorney General.

SEC. 208. This section gives the Attorney General an investigative tool similar to that provided in the Antitrust Civil Process Act. He may demand certain information and documentary evidence from persons under investigation for possible violations of this Title. This demand authority has proved to be a very useful enforcement tool in the antitrust field.

SEC. 209. Requires the Attorney General to report annually to the President and Congress on the effectiveness of the legislation.

SEC. 210. Constitutes a Congressional direction that this legislation is not intended to affect in any way other federal or state consumer laws, rights, or remedies.

ADDITIONAL COSPONSORS OF A JOINT RESOLUTION

SENATE JOINT RESOLUTION 156

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that at its next printing, the names of the Senator from Rhode Island (Mr. PELL), the Senator from Michigan (Mr. HART), the Senator from Ohio (Mr. YOUNG), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Idaho (Mr. CHURCH), and the Senator from West Virginia (Mr. RANDOLPH) be added as cosponsors to Senate Joint Resolution 156, to establish an interagency commission to make necessary plans for the United Nations Conference on the Human Environment scheduled for 1972.

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

TAX REFORM ACT OF 1969—AMENDMENTS

AMENDMENT NO. 341

Mr. RIBICOFF submitted an amendment, intended to be proposed by him, to the bill (H.R. 13270) to reform the income tax laws, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 342

Mr. COTTON submitted an amendment, intended to be proposed by him, to House bill 13270, supra, which was ordered to lie on the table and to be printed.

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

AMENDMENT NO. 343

Mr. CURTIS proposed an amendment to House bill 13270, supra, which was ordered to be printed.

(The remarks of Mr. CURTIS when he proposed the amendment appear later in the RECORD under the appropriate heading.)

AMENDMENT NO. 344

Mr. MILLER submitted an amendment, intended to be proposed by him, to House bill 13270, supra, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 345

Mr. PROUTY submitted an amendment, intended to be proposed by him, to House bill 13270, supra, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 346

Mr. PACKWOOD submitted amendments, intended to be proposed by him, to House bill 13270, supra, which were ordered to lie on the table and to be printed.

AMENDMENT NO. 347

Mr. METCALF submitted amendments, intended to be proposed by him, to House bill 13270, supra, which were ordered to lie on the table and to be printed.

AMENDMENTS NOS. 348 AND 349

Mr. McCARTHY submitted two amendments, intended to be proposed by him, to House bill 13270, supra, which were ordered to lie on the table and to be printed.

AMENDMENT NO. 350

Mr. FANNIN (for himself and Mr. MURPHY) submitted an amendment, intended to be proposed by them, jointly, to House bill 13270, supra, which was ordered to lie on the table and to be printed.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 332

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that at its next printing the names of the Senator from North Dakota (Mr. BURDICK), the Senator from New Jersey (Mr. HARRISON WILLIAMS, JR.), the Senator from New Mexico (Mr. MONTOYA), the senior Senator from Nevada (Mr. BIBLE), and the junior Senator from Nevada (Mr. CANNON) be added as cosponsors to amendment 332 of H.R. 13270, an amendment to authorize the use of tax exempt foundation funds for voter education and voter registration programs.

AMENDMENT NO. 313

Mr. RIBICOFF. Mr. President, on behalf of the Senator from Colorado (Mr. DOMINICK), the Senator from Indiana (Mr. HARTKE), and the Senator from New York (Mr. GOODELL), I ask unanimous consent that the names of the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Arizona (Mr. GOLDWATER) be added as cosponsors of amendment 313, which is an amendment to the pending tax reform bill (H.R. 13270).

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

NOTICE OF HEARINGS ON LEGISLATION TO IMPROVE CONDITIONS AND TREATMENT OF JUVENILE AND YOUNG ADULT OFFENDERS

Mr. DODD. Mr. President, earlier this year I chaired 3 weeks of public hearings on conditions in institutions where we confine criminal and juvenile offenders.

We found that throughout the Nation the jails, the detention homes, the penitentiaries and the other so-called correctional institutions were defective almost beyond description. We uncovered brutality, violence, and homosexual attacks among the prisoners.

We uncovered brutality and violence perpetrated by guards against inmates, young and old.

Beyond these overt acts of abuse we also saw other forms of brutality, long months of isolation coupled with attitudes of desperate misery and hopeless resignation on the part of the men and boys in these institutions.

It became clear that the institutions need help.

Many need to be torn down.

Some need renovation and redesigning.

Some have to be relocated.

And all of them need better treatment and rehabilitation programs, better educational programs and more vocational training. Most of all they need post institutional employment opportunities for released inmates.

To help achieve these objectives I have introduced a bill, S. 2905, which would make $1 billion available to States and localities for the improvement of all phases of detention, correction, and treatment in our penal institutions.

The bill has been referred to the Juvenile Delinquency Subcommittee.

I plan to hold legislative hearings regarding this and several other measures in the near future.

Preliminary to the hearings I submitted a copy of the bill to the Governors of all the 50 States for their evaluation and comment.

All of them have not responded at this time. However, those who have, in most cases expressed enthusiastic support for the legislation.

In that connection I ask unanimous consent to have printed in the RECORD at this point several letters from State Governors commenting on the crying need in the States for the kind of aid proposed in S. 2905, the Correctional Facilities Improvement Assistance Act.

The letters included were sent to the Honorable THOMAS J. DODD from the following State Governors:

The Honorable Edgar D. Whitcomb, Governor, State of Indiana.

The Honorable John Dempsey, Governor, State of Connecticut.

The Honorable Daniel J. Evans, Governor, State of Washington.

The Honorable John A. Burns, Governor, State of Hawaii.

The Honorable John J. McKeithen, Governor, State of Louisiana.

The Honorable Kenneth M. Curtis, Governor, State of Maine.

The Honorable Arch A. Moore, Jr., Governor, State of West Virginia.

The Honorable Walter Peterson, Governor, State of New Hampshire.

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

STATE OF INDIANA,
DEPARTMENT OF CORRECTION,
Indianapolis, November 4, 1969.

Hon. THOMAS J. DODD,
Chairman, Subcommittee to Investigate Juvenile Delinquency, U.S. Senate, Washington, D.C.

DEAR SENATOR DODD: This is in reply to your letter of October 28, 1969, addressed to the Honorable Edgar D. Whitcomb, Governor of Indiana. The Governor referred your letter to the Department of Correction for reply.

We in Indiana are very much aware of the deficiencies within our correctional system.

We know full well that our large, overcrowded institutions are not doing the job we want done. For this, we need to find alternatives to large institutions. We need to provide smaller regional detention centers with intensive training and treatment programs. We need more work release centers and other small treatment units.

I have read bill S. 2905 with great interest. If such a bill were passed, it would greatly assist us in establishing more effective programs through the construction of smaller units that would be more conducive to rehabilitation.

We in Indiana certainly support this bill. It is something greatly needed for the upgrading of the correctional services throughout our country.

Sincerely yours,

ROBERT P. HEYNE,
Commissioner.

STATE OF CONNECTICUT,
EXECUTIVE CHAMBERS,
Hartford, November 5, 1969.

Hon. THOMAS J. DODD,
Senate Office Building,
Washington, D.C.

DEAR TOM: I have reviewed the enclosed legislation S. 2905, the "Correctional Facilities Improvement Assistance Act" which you have introduced in the Congress, with interest.

As you know, I have long fostered the effort in Connecticut to improve our correctional system and this was advanced significantly by creation in 1967 of the Department of Correction legislation.

Since that time we have organized the Department, and efforts are now underway to bring to Connecticut the most modern correctional system possible.

However, it is evident that the corrections field is in need of a great deal of additional financing. Unlike some other systems which are dealing with the human behavior problems of our communities, corrections has long been neglected by the federal agencies.

I heartily support your legislation in that it not only gives assistance to states for bricks and mortar, but also offers assistance to them in program and training.

Sincerely,

JOHN DEMPSEY,
Governor.

STATE OF WASHINGTON,
Olympia, November 13, 1969.

Re S. 2905.
Hon. THOMAS J. DODD,
U.S. Senate,
Committee on the Judiciary,
Washington, D.C.

DEAR SENATOR DODD: We are writing in response to your letter of October 28, 1969, in which you request comments concerning S. 2905, the "Correctional Facilities Improvement Assistance Act."

The provisions in the act appear to be carefully planned and designed to meet many presently un-met needs in the correctional field.

It is considered particularly significant that assistance is planned to the improvement of local facilities. As is well known, the vast majority of offenders are contacted in the local jurisdictions and most never get beyond that level. It is also clear that, in our overall correctional system, perhaps the most neglected area of corrections is at the local level, from the standpoints of both the physical plants and rehabilitative programs.

The opportunity is available, by strengthening rehabilitative programs at the local level, to reduce the number of developing criminal careers in the early stage of their growth.

Although, at the state level fewer individuals are involved in the correctional programs, the offenders have become persistent in their patterns, have committed more serious crimes against society, and are more difficult to rehabilitate. Therefore, the needs at the state level for improvement of outmoded facilities and for the development of modern rehabilitative porgrams is equally imperative.

It is believed that the provisions of S. 2905 would encourage innovative ideas and stimulate efforts to deal with the crime problem at the local community level. It is only at the local level that truly preventive programs can have their greatest impact.

Please be assured of our support for your bill, and we would appreciate it if you would keep us informed of its progress.

Sincerely yours,

DANIEL J. EVANS,
Governor.

STATE OF HAWAII,
EXECUTIVE CHAMBERS,
Honolulu, November 17, 1969.

Hon. THOMAS J. DODD,
Chairman, Subcommittee To Investigate Juvenile Delinquency, U.S. Senate, Washington, D.C.

DEAR SENATOR DODD: It was with a great deal of interest that I read your letter of October 28, 1969, and the accompanying data on your S. 2905, the "Correctional Facilities Improvement Assistance Act."

To indicate to you how timely your proposed legislation is insofar as the State of Hawaii is concerned, I am pleased to inform you that we are currently working diligently to revise and update our entire program of treatment of the offender, based on a recently completed study of our system by the National Council on Crime and Delinquency. In addition, we are also deeply involved in a State-wide program of close cooperation with the Law Enforcement Assistance Administration of the U.S. Department of Justice, through our State Law Enforcement and Juvenile Delinquency Planning Agency, which we are hopeful will result in obtaining Federal assistance in further updating and improving our treatment programs.

Our State of Hawaii also needs new and modern correctional facilities, including jails, conventional medium security facilities, and small, open, community-based correctional facilities for both adults and juveniles.

You may rest assured that you have our cooperation and wholehearted support in this matter.

Warmest personal regards. May the Almighty be with you and yours always.

Sincerely,

JOHN A. BURNS.

STATE OF LOUISIANA,
DEPARTMENT OF CORRECTIONS,
Baton Rouge, November 20, 1969.

Re Senate bill 2905.
Hon. THOMAS J. DODD,
U.S. Senate, Washington, D.C.

DEAR SENATOR DODD: Governor McKeithen has passed me your letter of October 18th, along with copies of Senate Bill 2905 and your remarks concerning "The Correctional Facilities Improvement Assistance Act."

Let me say first that your candid observations concerning the deplorable state of corrections—adult and juvenile—in this country represents a rare and unusual stand by a public official on an issue that has few champions. There are many, I have found in my brief time in the correctional field, who will agree that "something should be done"; but when it comes to allotting the tax dollar for acquiring decent facilities, competent personnel, or even adequate food and clothing, what little enthusiasm that may have existed is quickly lost. As a correctional administrator in a state that spends less per inmate per year than any other in the Union, save one, I am realistic enough to know that our prisons and juvenile institutions stand little, if any, chance for improvement without substantial Federal assistance.

It is reasonable and proper, I believe, to apply Federal resources to attacking the problem of remolding the behavior patterns of the criminals who crowd our penitentiaries and the delinquent youth that fill our juvenile institutions. A failure in prisoner rehabilitation in Louisiana could well threaten the peace and security of a citizen in Connecticut or California. Excellence in the correctional process in one state does not protect it from the inadequacies of another. There can be little doubt that the thrust toward increased effectiveness in corrections must be on a nationwide scale and must reflect common goals and reasonably standardized means for achieving those goals.

I am strongly in accord with the purpose and intent of Senate Bill 2905. Passage of this bill would, in my opinion, be of immeasurable benefit to every citizen for generations to come.

Sincerely yours,

LOUIS M. SOWERS,
Director, Department of Corrections.

STATE OF MAINE,
OFFICE OF THE GOVERNOR,
Augusta, Maine, November 20, 1969.

Hon. THOMAS J. DODD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DODD: I have reviewed your Senate Bill 2905 with officials of the Bureau of Corrections and we all agree that this is an extremely important bill. Not only does it provide improvement for the facilities, but it also provides funding for programs within the correctional institutions which is so desperately needed.

As Governor of the State of Maine I am delighted to see that attention is now being focused on the great needs of state correctional institutions.

Sincerely,

KENNETH M. CURTIS,
Governor.

STATE OF WEST VIRGINIA,
OFFICE OF THE GOVERNOR,
Charleston, November 24, 1969.

Senator THOMAS J. DODD,
Committee on the Judiciary,
Washington, D.C.

DEAR SENATOR DODD: I want to thank you for sending me a copy of the "Correctional Facilities Improvement Assistance Act" (S. 2905) and a copy of your excellent introductory statement delivered on the Senate Floor September 16, 1969.

I am convinced that in the field of corrections, the legislation which you have introduced is a necessary adjunct to the full implementation of the Omnibus Crime Control and Safe Streets Act of 1968. Without such Federal assistance as set forth in your Bill, States and local units of government will be seriously curtailed in their efforts to modernize existing correctional facilities as well as their cooperative endeavors to establish on a regional basis the necessary treatment and rehabilitation centers.

You are to be commended for designating the Law Enforcement Assistance Administration (LEAA) of the Department of Justice as the administering agency for the "Correctional Facilities Improvement Assistance Act." Our state planning agency for law enforcement (Governor's Committee on Crime, Delinquency and Correction) has enjoyed an excellent working relationship with LEAA.

I assure you of my cooperation and support in this matter.

Sincerely yours,

ARCH A. MOORE, Jr., *Governor.*

STATE OF NEW HAMPSHIRE, CONCORD,
November 14, 1969.

Hon. THOMAS J. DODD,
Chairman, Committee on the Judiciary,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DODD: Thank you for your letter of October 28 with the enclosed material relative to the "Correctional Facilities Improvement Assistance Act," which you introduced on September 16.

I would certainly agree that crime is a most serious social problem, and I support the objectives outlined by your bill, S. 2905, which would provide the funding necessary to introduce the overall reforms that are essential if we are to check the alarming crime rise in our nation.

The importance of obtaining funds for construction as well as for the development of treatment programs for the inmate population and the further development of training programs cannot be over emphasized, and we cannot ignore the particular need for monies to educate, train and equip correctional personnel.

I am aware that very serious consideration is being given by the Senate to S. 2875, which was introduced by Senator Hruska and which is similar in some respects to your bill; however, I favor, as I believe those involved in the correctional field do, the passage of S. 2905.

Most sincerely,

WALTER PETERSON,
Governor.

NOTICE OF HEARING

Mr. TYDINGS. Mr. President, as chairman of the Judiciary Committee's Subcommittee on Improvements in Judicial Machinery, I wish to announce a hearing for the further consideration of S. 1506, 1509, 1510, 1511, 1512, 1513, 1514, 1515, and 1516. The hearing is designed particularly to review the activities of the American Bar Association in the sensitive areas of judicial ethics and financial disclosure to which these bills are related.

The hearing will be held on December 8, 1969, at 2 p.m. in room 6226, New Senate Office Building.

Any person who wishes to testify or submit a statement for inclusion in the record should communicate as soon as possible with the Subcommittee on Improvements in Judicial Machinery, room 6306, New Senate Office Building.

ANNOUNCEMENT OF HEARINGS ON AIR SAFETY PROCEDURES

Mr. KENNEDY. Mr. President, the Senate Subcommittee on Administrative Practice and Procedure will begin hearings next week on the development and implemention of air safety rules by the Federal Aviation Administration. The first two hearings will be held on December 9 and 10 at 9:30 a.m. in room 2228 New Senate Office Building. Witnesses will include John Shaffer, Administrator of the FAA; John Reed, Chairman of the National Transportation Safety Board, and representatives of the air traffic controllers, the airline pilots, the aircraft mechanics, the scheduled airlines and general aviation.

Every aircraft in flight depends for its safety on many links of a long chain—the plane, the engines, the instruments, the pilot, the controller, the airport—and every other aircraft in the vicinity.

The FAA is charged with the heavy responsibility of assuring the integrity of every one of these links, and thus with the awesome task of protecting the millions of Americans who use the Nation's airways.

The FAA not only operates our air traffic control system, it makes and enforces the rules which set the safety standards for each of the mechanical and human components of commercial and private aviation. It must find out what these standards should be, articulate them, communicate them, apply them, and insure that they are followed. The FAA's record, until now, has been good, but by no means perfect. The rate of accidents, injuries and fatalities in air travel is probably lower than in any other form of travel. And, yet, the assymetry of risk is so great that any higher rate would be unacceptable. Each time a commercial flight takes off, scores, if not hundreds, of passengers place their lives in a precarious balance of man and machine. One flaw anywhere in a complex of systems in the air and on the ground means mass tragedy. And with the massive increases in air travel and the introduction of faster, larger, and more complicated aircraft, the risk grows rapidly as each week passes, and the burden on every pilot, on the industry, and especially on the FAA, increases accordingly.

Both the Executive and the Congress are well aware that without more men and more money the FAA cannot even hope to meet its safety responsibilities. At this very moment, the Congress is considering important legislation which will provide these resources, and under the able leadership of Senator MAGNUSON, the Aviation Subcommittee has held hearings demonstrating that such legislation is urgently needed.

But the protection of those who fly does not depend only on how many men and dollars the FAA has; it depends also on how the men and money are used by the FAA. To insure that the FAA is performing properly, the subcommittee must ask the same kind of questions it has asked of the Office of Federal Contract Compliance, the Federal Trade Commission and the Selective Service System:

Does the agency have a rational and effective system for setting its priorities and applying its resources accordingly?

What procedures are used to insure that the views and complaints of affected parties and the interests of the general public have both an input into and impact on agency rulemaking?

Are the agency's practices, policies, and standards adequately communicated to those who need to know them?

Is the rulemaking process sufficiently flexible, sensitive, and responsive to meet changing needs without unnecessary delay?

How are day-to-day rulemaking and enforcement procedures coordinated with policies of the parent department, of other executive agencies, and with the relevant regulatory agencies?

Do the immediate needs of testing and research for current purposes allow proper attention to long-term research and development to meet future needs?

Are administrative challenges being met with the most modern available technological and management techniques?

Are there administrative problems which arise from the combined responsibility for operational programs, standard setting, and enforcement?

In these general contexts our hearings will consider many specific examples where the administrative practices and procedures of the FAA have had a direct bearing on its ability to be responsive and effective in the field of air safety. For example, we are likely to consider the way in which recommendations of the National Transportation Safety Board and the pilot groups are considered within FAA, the way in which proposals for airport safety certification have been dealt with, the system of soliciting and reviewing the opinions and expertise of air traffic controllers, the timelag in the adoption of safety measures, the potential conflicts of interest between the FAA as airway controller, accident investigator and rule setter and the adequacy of FAA safety preparations for new aircraft such as the 747.

The FAA and its predecessor organizations were among the first Federal agencies to be concerned with citizen safety. Now, at a time when several new programs are just beginning and when there is a growing demand for still further Federal action to insure the health and safety of consumers and citizens, it is particularly important that we examine strengths and weaknesses in the administration of existing Federal programs. The subcommittee hopes that its hearings on the FAA will not only provide insights into the problems of air safety, but will also illuminate opportunities and challenges for Government action in the entire area of consumer protection and environmental control.

REFORM OF SCHOOL LUNCH PROGRAM

Mr. TALMADGE. Mr. President, on July 7 of this year I introduced a comprehensive bill to reform our school lunch program. My bill, S. 2548, would amend the National School Lunch Act and the Child Nutrition Act of 1966 in several important respects. The purpose of this legislation is to insure that no child who comes to school hungry must go home hungry. S. 2548 would greatly increase funding for economically deprived areas and would require greater State participation in the school lunch program. It would make several other badly needed changes in the school lunch program such as a change to insure that there is no overt identification of a child who receives a free lunch.

I have been gratified by the tremendous response that my bill has received. It has received the cosponsorship of several Senators and the support of people involved in child feeding programs across the country. When hearings were held on September 29, several witnesses testified in favor of S. 2548. I was especially happy when Representative PERKINS, who introduced H.R. 515, a bill to improve the school launch program, saw fit to endorse my bill.

Although the Committee on Agriculture and Forestry has not yet had an opportunity to hold executive sessions on the school lunch proposals, I hope that it can find time to act on my bill in the near future. We cannot afford to tolerate a situation where millions of hungry children are unable to receive proper meals in the schools of our Nation.

In a recent article in Institutions, the magazine of the service world, Mrs. Ruth Saylor has done an excellent job of spotlighting problems in child feeding throughout the Nation. Mrs. Saylor also makes generous reference to my bill designed to alleviate these problems. I ask unanimous consent that her article be printed in the RECORD.

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

HOW CAN SCHOOL LUNCH HELP 4 MILLION HUNGRY CHILDREN?

How many of America's hungry children receive a meal at school? A study of the national school lunch program shows that fewer than two million of the six million school-age American children with parents earning less than $2,000 a year and/or receiving Aid to Families with Dependent Children (AFDC) get free or reduced-price lunches.

This leaves at least four million hungry school children—to say nothing of people in other age groups who need food. Many of these people are crowded into inner-city ghettos, without recourse to the backyard garden and chicken coop some of their rural counterparts use to answer the need for food.

School food service is the natural approach to answer urban hunger problems, since the school is an arm of the government that exists in every community. Sizable strides have been made in feeding through our schools, but more can and should be done.

WHAT'S BEING DONE?

More than fifty million public school children attend classes, yet only eighteen million participate in the National School Lunch Program. The inner-city schools, most of them in slum areas, have an even lower rate of participation. The lunchtime problems of the ghetto child are just signs of the failure of education in the slums. Parents are beginning to organize and protest, demanding more adequate feeding programs, as well as more adequate schools. However, even when a school system wants to provide lunches for inner-city schools, they often have the added problem of not having lunchroom or kitchen facilities. An estimated nine million children are excluded from the National School Lunch Program because these facilities are not available. Most of these no-kitchen schools are in the slums of our cities.

SOUTHERN SCHOOLS VS. NORTHERN

In a recent study, southern schools in large cities (Mobile, Tallahassee, Charlotte, New Orleans, Norfolk, Memphis and Augusta) were better equipped to offer lunch programs than were northern city schools (Cleveland, Detroit, Springfield, Mass., Philadelphia, Minneapolis and Washington). Only one southern school, in Mobile, did not participate for lack of facilities.

Urban schools in the north are another story. Most of the schools were built as neighborhood schools, with the idea that children would live within walking distance and go home for lunch. When these schools were built, it was assumed that a non-working mother would be waiting at home with a hot, nutritious lunch.

These old schools, without kitchens and lunchrooms, now serve the poor—children whose mothers frequently work. If the mother is it at home, she often cannot provide an adequate lunch.

In the northern cities studied by the Committee on School Lunch Participation, the exclusion of urban slum schools from lunch programs due to lack of facilities can be briefly summarized as follows:

Cleveland, Ohio.—Seventy-seven of Cleveland's 136 elementary schools are excluded from all feeding programs. Sixty per cent of Cleveland's school children attend schools without lunch facilities. (Note: Cleveland's breakfast and lunch programs are aimed at bringing relief to these areas.)

Detroit, Michigan.—Only 79 of 224 elementary schools participate in the program. Of those not participating, 78 are located in slum areas.

Springfield, Massachusetts.—One-third of all elementary schools are eliminated from the program because they lack kitchen and lunchroom facilities. School regulations limit the number of elementary students allowed to participate even when there are facilities. Lack of seating accommodations provide a further limitation.

One slum school has a breakfast program which takes place in an exercise room. Children eat bag lunches brought from home in their classrooms. Another slum school has a lunch program with 130 out of 740 children participating. The program has only 25 to 40 free lunches and the cafeteria holds 48 children.

Philadelphia, Pennsylvania.—Only 44 elementary schools had lunch programs. Of 12 slum schools surveyed individually, none had lunch programs. Principals in these ghetto schools felt that a hot lunch or lunch bag program was not their responsibility.

One low-income neighborhood school set up a "latchkey" program which accommodates 50 children. (They are called "latchkey" children because they often wear latchkeys around their necks to get into the house after school, during the absence of a working mother.) These children bring sandwiches from home and are given milk and supervision in a local recreation center for $1 a week.

The principal of this slum school said that if lunches were given free, it would deny a basic right of parents.

Minneapolis, Minnesota.—Nine of 71 elementary schools participate in the school lunch program. Fifty-one per cent of the city's children have no lunch program due to lack of school facilities.

Several urban communities have made outstanding efforts to increase participation—especially in inner-city areas—in the school lunch program. Most of these programs have been planned and carried out by state or local food service people, since little planning or research is going on in the National School Lunch Program. Many state directors expressed a desire for a professional study at the national level.

Schools that are being newly brought into feeding programs generally proceed by:

Creating facilities where none existed before.

Providing meals from other federal programs, such as Title I of the Elementary and Secondary School Act.

Reorganizing arrangements for preparing and serving foods, such as the use of central kitchen, satellite programs, convenience food programs, and trucked-in hot or sack lunches.

SAN DIEGO, TEX.—SOLUTIONS

The school feeding program of San Diego, Texas, was part of the January, 1969, U.S. Senate hearings before the Select Committee on Nutrition and Human Needs, and was part of the National Nutrition Survey. San Diego's handling of school feeding problems was of special interest, because this town of about 5,000 has a 60 per cent poverty rate. That is, 60 per cent of the population has an annual income of less than $3,000. There are 771 children who qualify for free meals. No family who qualifies for and requests meals has been turned down.

B. P. Taylor, the superintendent of schools, initiated a feeding program after a 1959 survey of nutrition in San Diego proved to him that basic problems of health, nutrition, attendance, and dropouts are significantly inter-related.

San Diego had a preschool feeding program prior to Headstart, in addition to breakfast and lunch programs. Complete programs in all areas have been operating since 1966.

Taylor says that with these programs attendance has increased 15 to 20 per cent over the past three years, and the dropout rate has lowered considerably. He also says that children in the breakfast and lunch programs make better grades than students did prior to the programs' inception.

The school system found that the breakfast program was a problem at first because the children were not used to eating breakfast. Now it is more important than the lunch program, because the children consume food better at breakfast. Participating children must eat both meals.

The schools' food service operates in such a way that not even the classroom teacher knows which students get free meals.

San Diego tax funds are quite low, due to the town income level and the lack of industry. State supplements are added to the funds the school receives locally. Some money is received from Title I. Taylor says they use 40 per cent of their school money for health and nutrition programs because they feel a child can't learn if he is hungry or in ill health.

An effort is made to teach parents good nutrition and ways of preparing food inexpensively to supplement the school feeding programs. What the child sees in the programs seems to carry over into the homes, too, so that parents become more concerned about nutritional standards. Health program costs have steadily decreased, as the children's nutritional background shows a better record of eating habits.

The entire teaching staff as well as the superintendent originally presented the need for this program to the school board to initiate the extensive program. Taylor credits this school-systemwide support with the success of the feeding programs.

NEW YORK—THE CENTRAL KITCHEN

New York's central kitchen operation serves only elementary schools; 150,000 lunches per day are prepared and distributed by truck to 650 schools located throughout the five boroughs of the city. The one kitchen, in Long Island City, prepares everything.

The problems of producing, packaging and shipping such large quantities of food over such a large area are increased by the fact that this central kitchen is not able to operate under the best conditions. To have lunch ready and delivered at noon, for example, workers must start to work at 3 a.m. This means using day-old bread for sandwiches, since bakeries are not operating by 3 a.m.

Trucks used for delivery are not refrigerated, which limits types of foods which may be used. Milk may be in these non-refrigerated trucks for several hours before delivery and is not always refrigerated at the schools. Mechanical failures—in the kitchen, trucks, and heating plates used to warm soup in individual schools—are a constant source of trouble.

Some government commodities, especially meat, are not suitable for the lunch usually served—soup, a sandwich and dessert.

Under this central kitchen program, no lunches are served at reduced prices, but 75 per cent of the lunches are given free to needy children. The Department of Welfare sets the criteria for who may receive free lunches and it reimburses the Board of Education for the cost of free meals to welfare children.

Children not eligible for lunches paid for by welfare receive free lunches.

Although the program operates under equipment and facility handicaps of staggering proportions, it carries out with reasonable effectiveness its goal of feeding hungry children.

ST. LOUIS—THE "VITA" LUNCH

St. Louis started its "vita" lunch program when four schools near low income-low rent housing developments had parental demonstrations for more effective food service. At this time, 150 elementary schools had only 55 feeding stations. The lunch price was 30c, with only 4c reimbursed by the federal government, and increased food and wages costs were threatening to increase lunch prices to 35c.

In the search for a cheaper way to feed children, the Board of Education came up with the "vita" lunch idea. "Vita" lunch is a new name for a sack lunch.

Six schools with good facilities are used to prepare, refrigerate, and deliver lunches to individual elementary schools. A sandwich, a vegetable, fruit, and two cookies are served for 25c. Although nutritionally correct, it is not inexpensive compared to New York's program, which charges the same price but offers larger servings.

On the Tuesday that the program was surveyed women were filling little cups with potato salad for Thursday's lunch—two days away. Right in the food preparation area a janitor was sweeping a very dusty, dirty floor.

Complaints about the program included the fact that those in charge of it seemed overly concerned that a child who could afford to pay might somehow qualify for a free lunch. In addition, families receiving free lunches complained that their children were embarrassed in front of classmates by teachers giving them tokens to pay for lunch and letting other students pay cash.

The community is trying to expand feeding facilities, but obviously needs to work out some problems if the program is to be continued.

WASHINGTON, D.C.—THE SACK LUNCH

Of 138 elementary schools in Washington, 24 participate in the National School Lunch Program. The remaining 114 are served by a central kitchen preparing 10,000 sack lunches a day. Four schools have experimental prepackaged food programs.

Sack lunches are available free to needy children, who are qualified by the Welfare Department. Fifty-one per cent of prepared sack lunches are distributed free. All children on welfare are entitled to the lunch if their parents apply for it, which increases the likelihood of hungry children getting fed.

The food seemed adequate and well prepared to the surveyor. The only major complaint was the limited number of free lunches for children in upper grades (after elementary school) who are not included in the sack lunch program.

CLEVELAND, OHIO—BREAKFASTS

Cleveland, with none of their elementary schools having lunch programs as recently as 1967, decided to put in emergency programs. The first was a central kitchen carrying food to satellite schools. About 20 schools are now being served lunches from this facility, and more installations will follow as money is available.

A breakfast program, aimed at the inner city, serves 50,000 breakfasts a day. The breakfasts consist of juice, cereal, milk, and a breadstuff. The meal is eaten in the classroom, since there are no cafeterias, and the operation is federally funded through Title I. All breakfasts served are free, since they are served only in poverty-stricken schools. These schools do not all have lunch programs.

It is interesting to note that while 50,000 breakfasts are served daily to poverty area grade school children, less than 40,000 lunches are served to the entire 145,000-student school system.

PITTSBURGH—REDUCED PRICES FOR ALL

Pittsburgh, though limited in the scope of the present program due to schools without kitchen and cafeteria facilities, has a unique program that offers reduced prices to every participating student. The 40¢ lunch is given to students for 20¢, with the federal government reimbursing the other 20¢ to the system. No free lunches are given.

A start has been made in city feeding with a central kitchen preparing meals for some schools without facilities. Don Bussler, head of the schools' food service department, helped design hot and cold carts to transport food from the central kitchen to the schools being fed.

New programs are being suggested this fall, and it will be left in the hands of the Pittsburgh Board of Education how much the school feeding program actually expands.

MILWAUKEE—QUALITY AND QUANTITY

In Milwaukee, the emphasis is on serving as many of the schools as possible and on preparing the best quality of meal practical for the money available. Out of 154 schools, 135 have lunch programs. Food service director Tom Farley prides himself on offering food service to any school that wants it, and he manages to get the food into the school whether it has kitchen facilities or not. A good example is a small school room being operated for pregnant high school girls wanting to finish school before their babies are born. The class contains only 35 girls and is held downtown, upstairs in an old dance school. In many cities, the food service department wouldn't take the extra steps necessary to feed such a small number of students. Farley, however, managed to get the program installed, which involves transporting food from a central kitchen and getting it up the stairs to the unhandy location.

Some parochial schools in Milwaukee have instituted breakfast programs, but the public schools still haven't started this. This is a decision that will be made by the superintendent of schools and the school board, Farley says.

The National School Lunch Act states that "Federal funds apportioned to any state . . . shall be made upon the condition that each dollar thereof will be matched during the year . . . by $3 from sources within the state determined by the secretary to have been expended in connection with the school lunch program under this act."

The National School Lunch Act does not spell out, however, which "sources" shall be used to provide this $3. Many states and individual school districts count money paid by the children to provide the matching funds, thus taking no state or local responsibility for adding tax monies to the feeding programs.

An accompanying chart gives a rough idea of how much of the funding within the states comes from state and local monies and how much comes from money paid by the children for their lunches.

Following obvious inflationary trends, financing feeding programs is becoming increasingly difficult. The struggle by professional food service staffs in schools to keep lunch prices to 35c and 40c is a hard-fought and often thankless battle. School boards and communities often have the attitude that feeding children is not part of educating them, glibly overlooking the fact that hungry children aren't easily taught and that this feeding investment is the best opportunity we have to break the poverty cycle in many inner-city areas.

Even among school food service people, the trend is to look to the federal government for the money to initiate and carry out programs. One woman heading a city food service department for the public schools expressed a wish for more federal monies to expand central kitchen facilities. We asked her about local and state funding—that is, just how much money was being provided by state and city governments toward these ends. "None," she replied, with an attitude that seemed to imply that it was only right for the federal government to pay for it all, "and the question of using any local money is a very ticklish subject in this city."

In the small percentage of communities that have contributed local funds to feeding, most do so by paying the costs of utilities and perhaps salaries of some of the local administrators.

When federal and state funds, combined with what children pay, become inadequate to support a feeding program, the standard pattern has been to discontinue lunch programs in schools where the budget can't be met, and to raise prices.

FINANCING WITHIN THE STATE[1]

State	Average prices of lunch 1966–67	Contribution in percent by—			
		Children	State government	Local government	Charities
Alabama	45	100.0			
Arizona		82.0	0.3	17.7	
Arkansas	30	93.6	2.3	4.1	
California		(2)	(2)	(2)	
Colorado	32.5	(2)	(2)	(2)	
Florida[3]	37.5	94.5	.3	2.5	
Georgia	29	96.4	.4	3.2	
Illinois	33	(2)	(2)	(2)	
Iowa	31	(2)	(2)	(2)	
Kansas	30	(2)	(2)	(2)	
Louisiana	20	49.0	36.0	13.0	.2
Maine	35	85.2	1.6	11.4	1.6
Maryland		86.1	.3	13.9	
Massachusetts	25	66.5	11.0	22.5	
Michigan	45	(2)	(2)	(2)	
Minnesota	26.4	90.5	2.3	6.9	.3
Missouri	30	75.7	20.4	3.9	
Nebraska	30	97.2		2.8	
New Hampshire	31.25	89.9	.6	9.1	.4
New Jersey	45	78.0	.6	21.4	
New Mexico	35	(2)	(2)	(2)	
New York	40	52.9	20.9	26.2	
North Carolina	30	90.3	.8	8.9	
Ohio	34	79.2	.2	20.6	
Oklahoma	24.09	89.0	5.6	5.4	
Oregon	27.51	81.5	.7	17.8	
Pennsylvania	32	90.8	.3	8.9	
Rhode Island	40	(2)	(2)	(2)	
South Carolina	25	89.0	4.3	3.9	2.8
South Dakota	25	(4)	(4)	(4)	
Tennessee	30	92.0	.3	7.7	
Texas	35	96.6	.4	3.0	
Utah	30	79.1	19.9	1.0	

Footnotes at end of table.

FINANCING WITHIN THE STATE[1]—Continued

State	Average prices of lunch 1966-67	Contribution in percent by—			
		Children	State government	Local government	Charities
Vermont	30	[2]	[2]	[2]	
Virginia	30	90.0	0.4	9.6	
Washington	40	[2]	[2]	[2]	
West Virginia	30	[2]	[2]	[2]	
Wisconsin	30	76.9	.9	22.2	

[1] The source of these figures are interviews with the State school lunch directors.
[2] Incomplete figures.
[3] This year was the first that Florida had made an appropriation. At the time of the interview, however, the Governor had just vetoed it.
[4] Not given.

There are no pat answers to financing school feeding, but some steps are underway to give aid where needed. U.S. Senator Herman Talmadge of Georgia has introduced a bill to try to assure that there are no hungry children in our schools. His bill would:

Increase funding, especially for economically deprived areas, and require more state participation.

Provide funds to poorly-equipped schools for purchase of lunchroom facilities equipment.

Allow private food services to provide temporary assistance to schools where new equipment could not be installed immediately. (Currently, federal funds cannot be uesd in this way.)

Allow the lunch to "follow the child." This would give needy children food when their neighbors can afford to buy it and they cannot.

Senator Talmadge's bill comes before Congress this fall. He cites two reasons for believing it necessary for the country's good to pass the bill. (1) Food must be used as a tool of education. Hungry children can't learn. (2) He believes the bill will help break the poverty-welfare cycle.

School food service people are coming up with a wealth of both large and small ideas that will help in their expanded feeding programs. Especially in those schools without kitchen and cafeteria facilities, innovation has been necessary to do the job.

Pittsburgh, for example is using thermal foam trays that carry both hot and cold foods in the same container, keeping temperatures stable for about three hours. The trays can be stacked ten deep for transporting.

Disposables are being used both in schools without equipment and in units where dishes and utensils disappear to be later turned into weapons. (One school food service director showed how table flatware is filed into hand weapons that can be hidden in the palm and brought out for rapid use.)

Some cities are using canned entrees which need only be heated in the individual school. Akron, Ohio, is one of these, and they are currently shipping out 5,000 meals a day.

Central kitchens, with attendant transportation problems, are being used in almost every large city.

Headstart and breakfast programs are becoming fairly widespread in our major cities.

In Brookline, Massachusetts, the aged are being fed in the schools. Program director Mary Karonin reports that the elderly participants find dining at the school and contact with children the highlight of their day.

Chicago is planning "floor kitchens" for some inner-city schools, following the old pattern of food preparation that hospitals once used. The thought behind this is that it will take a minimum of equipment to prepare the small amounts of food needed for each floor.

Los Angeles has a food manufacturing plant which does meat cutting, grinding, etc., as well as entree preparation.

WHAT CAN BE DONE?

We've talked about progressive ideas in use now that schools can adapt to their own needs, but it's important to come up with faster ways of feeding more hungry people through the schools. Just as Brookline feeds its elderly in the schools, it seems logical that we must look to the schools as a means for feeding the hungry of all ages. Community school food service may be an alarming idea to those who've never considered it, but it shouldn't seem any more extreme than adult evening classes. Both are meant to advance the welfare of the residents of the community.

If labor costs seem prohibitive—and food service labor costs are becoming a problem in all areas of feeding, both commercial and noncommercial—let people make their own lunches. Cold food is just as nutritious as hot food if eaten in the right combinations. There's no reason a smorgasbord table of sandwich makings, vegetables, fruit and milk couldn't be offered, allowing the hungry to assemble their own lunches.

Today's industry leaders are aware of their responsibility to "do something" about breaking the poverty-welfare cycle. Many firms have started programs to hire and train the hard-core unemployed. The same approach could be used to encourage industry to donate food and equipment to get a community feeding program in the schools underway. Food donated by industry, supplemented by government surplus foods, used on a serve-yourself basis, would make the starting cost of such a program more reasonable in the eyes of taxpayers and government, yet would accomplish a great deal toward feeding people who are hungry.

Industry would find their food donations not only tax-deductible, but also useful in "image" development and promotion. A child who learns to make his school lunch sandwich with Mother Persley's peanut butter may buy it as an adult consumer in the future.

As food research advances, it will become possible to compress all the necessary nutrients—proteins, carbohydrates, vitamins—into a capsule. The temptation to feed the poor by giving them one of these pills each day will become a mighty siren song to the tax-weary public, who would rather not have to support any new program, no matter how worthy. Eating is, however, an emotional experience, as well as a physical one—one of the keenest pleasures in life. To the hungry, who are also usually the poor, eating is one of the few positive emotional experiences available, so for this reason it seems undesirable to use only a pill to combat hunger. Condensed nutrients may be a useful supplement, but the give and take in the sharing of a meal is one good way to encourage people to grow to improve as human beings, capable of supporting themselves and contributing to society, rather than developing pill-fed automatons.

THE ROLE OF THE NEWS MEDIA IN AMERICAN LIFE

Mr. GURNEY. Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled, "How Objective Are the News Media?" written by Jenkin Lloyd Jones, and published in the Washington Star of Saturday, November 29, 1969; and an article entitled, "Calling TV to Account Applauded," written by William F. Buckley, Jr., and published in the Washington Star of November 29, 1969. The articles, in my opinion, are worthwhile reading in the continuing dialog on the role of the news media in American life, which the Vice President has sparked.

I think the Vice President deserves a vote of thanks for opening the public discussion of this important area and for focusing public attention on the news media. Listening to the cries of anguish from the media, I am tempted to remark: "The TV network news media can dish out criticism, but they can't take it."

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

HOW OBJECTIVE ARE THE NEWS MEDIA?

(By Jenkin Lloyd Jones)

During the last Presidential campaign one of the gags much beloved by Nixon's opponents was "Spiro who?"

The gag has gone sour. Everyone knows his last name now.

Hardly had the furor cooled after the vice president's blunt attack on the Oct. 15 "Moratorium" than it boiled up again following his Nov. 13 speech at Des Moines in which he criticized the objectivity of network TV.

Dr. Frank Stanton, head of CBS, accused him of seeking to "intimidate a news medium that depends for its existence upon government licenses." And NBC's Julian Goodman said: "It is regrettable that the vice president would deny to television freedom of the press."

So the knives will be out, long and sharp, and they may be wielded a bit frantically, too, for the initial public reaction to the Des Moines speech appeared to be overwhelmingly favorable. A lot of Americans think they're being had.

It is very well that the issue is raised, for a tendency toward arrogance is an occupational disease among those of us in the media, whether printed or electronic. It is good for the nation, once in a while, to throw a spotlight on our performance.

It is impossible to tell all the news. Even if a man spent all his waking hours gobbling the printed word or absorbing uninterrupted newscasts he could get only a tiny fraction of what is called "newsworthy." One man's poison is another man's meat. The Wall Street Journal and the Daily Racing Form are both newspapers, but the comparison ends abruptly.

So news to be manageable must be edited, and editing requires the inclusion of this and the discarding of that.

You could have written the lead on Lincoln's Gettysburg Address as follows:

"Gettysburg, Pa., Nov. 19—President Lincoln today said he could not dedicate the war cemetery. He added that his power was 'poor' and his speech would undoubtedly be ignored."

That's right. That's what he said: "We cannot dedicate, we cannot consecrate . . ." "Our poor power . . ." and "The world will little note nor long remember." But that's not what the speech was about.

Moreover, there's the factor of emphasis. The Republican editor of a small Ohio paper who put the story about the brief stop of Harry Truman's campaign train on page 6 had the news all right, but the emphasis was haywire.

I don't know any honest newspaperman who would tell St. Peter that he never puffed

or played down a story or that he had never in a long career let his bias show through his copy. We have all been guilty.

But loaded written journalism is detectable by a fairly sophisticated reader. And because the party press is pretty dead and most newspaper circulations now cover a wide spectrum of reader opinion, the technique of straight fact-telling, however much it may lack in color, is better developed than at any time in journalistic history. Frank opinion is usually relegated to the editorial pages.

TV, on the other hand, is by its nature uniquely qualified to get away with fraud.

In the first place, it is photo journalism. You can take 30 candid pictures of a man, and by selecting the three best and the three worst you can give utterly conflicting impressions of him.

Similarly, by snipping out all the footage showing demonstrators hurling rocks and excrement at the police, and picking up only where a cop dashes forward and belts an apparently defensive bystander, you publish the truth, the half-truth and something but the truth.

Second, TV is essentially a dramatic medium. You can add drama to a newscast by rushing camera crews to any handy commotion, and many riots are now being staged by organizers looking for TV coverage.

There is greater audience impact in the hysterical fulminations of the revolutionary than in the calm words of the statesman. But when the net impression is that American society is on the point of dissolution, TV must answer for it.

Finally, some of the ablest practitioners in the business have become subliminal editorialists while purporting to tell the news. The job David Brinkley did on Barry Goldwater during the latter's Presidential campaign was polished. Brinkley's copy was straight. But the faint smirk, the barely lifted eyebrow, the momentary hesitation were devastating.

So Spiro Agnew was within his rights in blowing his whistle at the organized effort to torpedo Nixon's Vietnam speech as soon as he had made it.

In spite of anguished cries that the vice president has raped "freedom of the press" there are some who think that poor "freedom" has already been pretty well worked over by that tight coterie of newscasters which dreamed up "the mainstream of American thought" and which may, just possibly, be drifting out of it.

CALLING TV TO ACCOUNT APPLAUDED

(By William F. Buckley, Jr.)

Spiro T. Agnew's criticism of the television networks is the most serious act of lese majeste since the mayor of Chicago threatened to punch the king of England in the snout.

The responses ranged from panic through apoplexy. Dr. Frank Stanton of CBS has accused Agnew of making "an unprecedented attempt to intimidate a news medium"—which suggests that fairness could only be effected by intimidation, which come to think of it maybe is so, over at CBS. Leonard Goldenson of ABC reports that "the performance of ABC news has always been, and will continue to be, fair and objective," in sickness and in health, till death do us part.

Thomas Hoving, in behalf of the National Citizens' Committee for Broadcasting, whatever that is, sounded like, well, Agnew on the subject of demonstrators. "Agnew's disgraceful attack against network television news officially leads us as a nation into an ugly era of the most fearsome suppression and intimidation . . . the beginning of the end for us as a nation . . . (his) terrible and fraudulent evaluation . . . (is) the most shocking use ever of political power," which suggests that Hoving's readings in history are not as extensive as his readings in art.

Now, as a matter of fact, Agnew wrote a very good speech. It was, moreover, a balanced speech. He praised much of what the networks have done as extravagantly as if he were nominating them for president. But he said that the networks are also given to much bias. Specifically, he homed in on the elaborate rebuttal—that in effect was what it was—given to Nixon's Vietnam speech of Nov. 3.

How, for instance, do you cope with the following analogy used by Agnew: "When President Kennedy rallied the nation in the Cuban missile crisis, his address to the people was not chewed over by a round table of critics who disparaged the course of action he'd asked America to follow."

That's true. In plain fact, on the night of Oct. 22, 1962, the networks didn't chew up every word of Kennedy's speech into its constituent atoms. And again "When Winston Churchill rallied public opinion to stay the course against Hitler's Germany, he didn't have to contend with a gaggle of commentators raising doubts about whether he was reading public opinion right, or whether Britain had the stamina to see the war through."

So then what? It may be too late to revive Hoving, but in fact Agnew said: "I want to make myself perfectly clear. I'm not asking for government censorship or any other kind of censorship." So much for that particular smear. "I am asking," he said, "whether a form of censorship already exists when the news that 40 million Americans receive each night is determined by a handful of men" who (and they'll never get over this charge, aimed at the Medici of cosmopolitan New York) "bask in their own provincialism, their own parochialism."

Is there in fact a discernible and regular bias in network news and commentary? How do we know? How do we find out? It happens that a very little foundation in New York City, the Historical Research Foundation, has made a few grants to investigators who, after consulting with specialists in the evaluation of polls and public opinion, have been very hard at work analyzing the bias in the coverage of the presidential campaign of 1968.

I am not aware that Agnew knows of this project. But it is far and away the most thorough and the most nearly scientific of any that has ever been attempted. The results will not be released until the research is complete. But already one thing is stunningly clear. It is that the news and the commentary were overwhelmingly favorable, by any criterion, to the Democratic candidate.

What Agnew has said is: This is the factual situation. What are we going to do about it? Not eat CBS, and force its roasted flesh on Mr. Hoving for breakfast. But force CBS, by the pressure of public opinion, and NBC, and ABC, to take a look at their own situation, and ask themselves, what can the public legitimately demand from an oligopoly? A good question. A good speech.

SENATOR TYDINGS RECEIVES AWARD FOR DISTINGUISHED CONTRIBUTIONS TO CRIMINAL JUSTICE

Mr. HART. Mr. President, the American Association of Criminology has paid a high tribute to the able senior Senator from Maryland (Mr. TYDINGS), when it awarded to him the August Vollmer Award for distinguished contributions to criminal justice.

This award has been presented annually for 34 years. Some of the earlier recipients have been Commissioner Howard Leary of the New York City Police Department, Myrl Alexander of the Federal Bureau of Prisons, and my good friend, the Honorable George Edwards of the U.S. Court of Appeals for the Sixth Circuit. Judge Edwards was honored for his work both as a jurist and as police commissioner of Detroit.

Senator TYDINGS received the award on October 31, 1969. The society specifically commended his work to improve the operation of the courts, to secure passage of the Safe Streets Act of 1968 and to combat crime in the Nation's Capital. Senator TYDINGS is the first U.S. Senator ever to receive the award, which normally goes to those in the law enforcement fields. The award was further recognition of the veracity of the New York Times statement that JOSEPH TYDINGS is "the Senate's foremost student of the crime problem."

A letter in the form of an announcement of the award was sent to Senator TYDINGS by the president of the American Society of Criminology, Dr. Bruno Cormier. That letter sets forth Senator TYDINGS' achievements which merited the Vollmer Award. Mr. President, I ask unanimous consent that the letter from Dr. Cormier be printed at this point in the RECORD. And for all of us in the Senate I speak our pride and satisfaction in this deserved recognition of our friend from Maryland, JOE TYDINGS.

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

AMERICAN SOCIETY OF CRIMINOLOGY

(August Vollmer Award presented by Prof. G. O. W. Mueller, chairman, Awards Committee, past president of the society, at the annual meeting of the society, Columbus, Ohio, October 31–November 2, 1969)

The Executive Committee of the American Society of Criminology takes pleasure in presenting to the Honourable *Joseph D. Tydings,* Member of the United States Senate, the 1969 August Vollmer Award for Distinguished Service to Criminal Justice Administration and Corrections, in recognition of the outstanding contributions he has made in this area both before and during his term of office in the United States Senate.

The recipient has become the Senate's most knowledgeable and progressive student of crime problems in the United States and has introduced a new and positive spirit in Washington into the fight against crime. In his search for intelligent solutions, through research and study, he has succeeded in enlisting many of America's research scholars in the field of Criminal Justice.

The Society wishes to single out his outstanding contributions as Chairman of the U.S. Senate Subcommittee on Improvements in Judicial Machinery, particularly in dealing with such difficult issues as reform of the Commissioner System, preventive detention and sentence review, and, most recently, his work in the areas of the narcotics problem and juvenile delinquency. These have demonstrated a strong commitment to effective and humanitarian reform of our system of criminal justice.

The Society extends best wishes for continued success in his work.

BRUNO M. CORMIER, M.D.,
President.

CRIME AND PORNOGRAPHY

Mr. McCLELLAN. Mr. President, Mr. Jay Robert Nash, the editor of Chicago-Land magazine, recently forwarded to me, at the suggestion of Elmer Jacobsen of the Northwest Indiana Crime Com-

mission, a copy of the October 1969 edition of his magazine. I invite the attention of the Senate to two articles appearing in that magazine.

The first deals with what the magazine terms "Our Tijuana." It outlines in some detail the crime situation in East Chicago and the extent to which the syndicate has, according to the magazine, corrupted another American community.

The second deals with the pornography situation in the city of Chicago itself, and it sets out for us in stark terms the dimensions of that problem in one city. Too many times too many of us tend to think here that the issue is between the artist and the censor. "Obscenity in Our Streets" places this misconception in context.

I ask unanimous consent that the text of these two articles be printed in the RECORD.

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

WELCOME TO EAST CHICAGO, OUR TIJUANA

(By Kevin Mosley)

It's twenty minutes from Chicago. Its streets are filled with helmeted workers from the smoke-coughing Inland Steel plant; merchant seamen with unspent pay, college students with unspent youth, and phalanxes of sundowners from Chicago wandering the dirty paper-littered streets in quest of diversion from their routine days.

Their money becomes a letter of transit for quick transportation behind the painted windows of store front cantinas which line the streets of East Chicago, Indiana. Their money allows them a midnight vacation of gambling in unlicensed taverns, cockfights, stag movies, marijuana, and women.

East Chicago is part of an area nestling against Chicago that pays federal gambling taxes second only to Las Vegas, Nevada, the U.S. gambling center. But East Chicago is unlike Las Vegas as Tijuana is unlike Mexico City. The plush gambling resorts are replaced by green painted store front vice dens. A man is always stationed outside each of these border town spas, inspecting the patrons much like a customs inspector.

Much of the action in East Chicago is strung along the 3300–3400 blocks of Michigan Avenue. The unlicensed taverns bloated with the smell of tacos and the sounds of Maraichi bands, are cavities in a town where honest law enforcement has no bite.

One bartender was a woman about forty. She spoke English with a Spanish accent. Two minutes after she served some new customers she asked them if they wanted to shoot some dice. A leather cup was placed on the bar. It contained six dice. Several minutes later the woman shoved 11 dollars down her blouse.

The customers finished their beer. A drunk wandered near, demanding that he buy them a drink. A steel worker wearing his hard hat approached the drunk. He had quickly responded to an order of the woman bartender.

"Don't bother the men," he hissed at the old man. "They don't want to talk to you. They came here for a good time."

And that is the rule in East Chicago. The customer is here to spend his money. Unlike the old days in Calumet City and Cicero, in East Chicago the customer is treated politely. He is not hustled to buy drinks. Drunk tourists are tolerated and seldom rolled.

Elmer L. Jacobsen, Operating Director of the Northwest Indiana Crime Commission, has spent years trying to remove syndicate influence from local government.

Jacobsen said, "A prime example of the sinister link between illicit operations and public officialdom is East Chicago's Prado Club. This club is situated on Broadway in the former VFW building. An upper floor serves as a storage place for pinball machines owned by Frank Rizzo, chief distributor of these gaming devices. The club serves liquor without benefit of license and holds periodic 'galas.'

"At one of these, attended by over 400, our investigators found four uniformed East Chicago police collecting $7 admissions at the door. Inside, liquor cost extra—$20 a bottle.

"Club Prado's obvious immunity from official molestation apparently is owing to the fact that its sponsor is Dr. Plinino Romero, the East Chicago's $18,000-a-year school physician and deputy coroner and 'good friend' of Mayor John Nicosia.

"As a result of our disclosures, the club operator and his bartender drew Criminal court fines of $100 and $400, respectively. But the Club Prado still operates."

Jacobsen added, "The Commission is bound to conclude that the greatest restriction on police officers trying to do their duty in attacking vice and gambling operations is in East Chicago whose mayor, John B. Nicosia, has blandly and repeatedly disavowed any such activity."

Much of the job of the local police is seeing that no trouble breaks out. The syndicate has a good thing in East Chicago and they want to keep it that way.

These criminal investors, whose LaSalle Street is the back alley of gambling and prostitution, spend large fortunes to insure a smooth operation. The mafia wants no publicity from killings and beatings.

Maraichi bands are popular. In one tavern the band played to several hundred patrons. The tavern has a license to sell only wine and beer. A women approached a table and asked what was wanted. A minute later she placed a shot of whiskey and a bottle of beer before each man. A policeman walked past the men. He entered the tavern to use the washroom.

The maraichi band had entered the country illegally from Mexico. The tavern owner had arranged it. Each member of the band was paying him $250 a month for room and board. Each musician slept in a small room. The bathroom was down the hall. After a year the men will be allowed to work elsewhere and keep some of their salaries.

A heavy-set woman about 50 sat at a nearby table with a young man. The woman was dressed in a white mini skirt which revealed the dark veins of her legs. Her automobile, a '69 Buick Rivera with Illinois license plates was parked in the back.

The young man, dressed a la Harry Belafonte, laughed with his friends in the washroom.

"I can get $100 from this pig," the young man laughed as he washed his hands.

A sign above the mercenary couple read "Support Justice—Don't Buy California Grapes."

Several doors down the street was an American Legion Post. The bar is open to members only. Customers here paid a dollar to enter. An East Chicago policeman in full uniform stopped each customer. He searched each patron for a knife or gun.

The large hall contained about 300 persons, all Negro. About 90 per cent appeared underage. Thunderous blues music blasted from a record player as the teenagers danced and jammed the bar, guarded by another uniformed policeman. A large line was waiting for admittance. They had arrived in out-of-town taxis. No one was asked if they were a member.

Another American Legion Post was spending a quiet night. The bar was filled with men talking. A short, fat man approached a *Chicago Land* reporter and asked, "Do you want a girl? We got some nice ones. They all look like starlets. You can have anything you want. Black or White or Spanish."

"How much?"

"Thirty-five dollars plus five dollars for the room. If you want a girl for all night it cost a hundred."

"Let's see a girl," the fat pimp was asked. He waved a short stubby finger encased in a large gold ring, "The girls are at the hotel about six blocks from here.

"If you guys want a girl take cab number four. The driver is my friend. Tell 'em that Denny sent you.

Another man sitting at the bar said he was born in Puerto Rico. "You know, boys—I really dig the cockfights. If you want to go, it will cost $3.50. The fights used to be held down the street but the crowd got so big they moved it to a warehouse outside of town."

"How about bets?"

"You can bet anything you want. Some of the bets are over $500. The fights last from morning until night."

An unlicensed tavern which operates almost around the clock is located in the basement of a medical center. The medical center was dark. A bright light was burning in the hallway. A steel door with a glass peep hole was opened by a man wearing a white turtle neck sweater. Dapper, you might say.

"What do you want? I don't know you guys."

The doorman was shown a phony AMVET membership card. "That's good, come on down."

The bar was located behind two empty rooms. A small felt-covered dice table was in the corner next to a pinball machine.

The bartender looked like a Rush Street resident. As he mixed drinks he casually watched the upstairs entrance by closed circuit television.

The dice game was being played by four men. The minimum bet was $25 a roll. A woman quietly sipped a drink and watched the gamblers. She was in her early twenties. Her long black hair fell over large rhinestone earrings. Later she left with a cab driver.

A *ChicagoLand* reporter made several passes with the dice and lost $75 dollars. A minute later he was asked to make a bolita bet. Bolita is a Spanish number game. The winning number is drawn about midnight at a local fraternal organization.

However, the drawing is secret. The winning number is handpicked by a syndicate boss. Here, behind closed doors thousands of dollars are counted while armed men watch the doors.

A large gambling room is located a block from the medical center tavern. The door was open. A Spanish woman was mixing drinks behind a make-shift bar. The beer was in cans. The liquor was poured from bottles resting on the floor.

The room was 30 by 50 feet large. The wall was painted a dull, boarding house green. A large naked light bulb dangled over a massive card table. About forty men watched the game. The table housed seven players. The men were playing for $1,000 a card.

Two men wearing sunglasses stood in the corner, their hands inside their coats. No one caused trouble. A man began to laugh as the dealer counted out ten one hundred dollar bills.

A Spanish man about 30 years old left the table and took a nearby seat. A fat man in a undershirt sat next to him. The young man started counting his money. It appeared to total about $30,000.

The young man known as "Peoples" is the syndicate's dealer in this game. "Peoples" is a professional gambler. When authorities staged several crack downs last year, "Peoples" was seized.

Informed persons said that "Peoples" was not charged because he made a deal with the police—information for liberty. Later, underworld persons reported that a contract had been issued to kill "Peoples."

"Peoples" left town for several months; when he returned, he started dealing again.

Authorities are not sure why "Peoples" is back dealing . . . but they do know that he is a professional gambler.

Gambling in East Chicago runs from small gin games to thousand-dollar barbutte games, a Greek dice game. There are two extremes in this unlicensed Las Vegas. Both are along Michigan Avenue. The gin games are played in a large hall and the tables are covered with white cloths. The game is dealt by a Spanish man wearing sunglasses. A fat Spanish woman served the players tacos and beer. The den had no liquor license, but patrons wandered in off the street anyway.

But the barbutte game is different. A small room 10 to 12 feet housed the high-speed high-priced game. A man who wanted to play was told he needed at least $500. A man who joined the game said that $50,000 a night exchanges hands. The game is run by the syndicate. Anyone without money or who is unknown is quickly asked to leave. A man dressed in a suit stands near the table. He also wears a pair of dark glasses. His hands rest on a fiberglass suitcase. Occasionally the suitcase is opened. It is filled with $100 bills.

The man with the suitcase is closely guarded. Bodyguards are stationed outside the store front hours before the game is finished, eyeing each passing car. If they become suspicious the man with the suitcase remains inside. He stays inside until the suspect passes.

The man hurries to a car and is driven to Illinois. His car is followed by two more bodyguards.

Item: The multimillion-dollar gambling empire is run by Chicago gangster Fiore (Fifi) Buccieri. Buccieri's men have been seen making collections and then returning to Cicero.

Item: The syndicate spent over $250,000 electing officials who would cooperate with the gambling bosses. A man seeking the backing of the syndicate for the East Chicago Democratic primary spent thousands of dollars buying syndicate raffle tickets. La Cosa Nostra backed his opponent.

Item: A member of the Lake county grand jury, an East Chicago resident, operated a gambling parlor not far from city hall. He allowed the lease to expire when told the gambling operation was embarrassing to the mayor.

Item: Syndicate boss Frankie LaPorte of Chicago Heights furnishes all the race results to East Chicago. Each book that takes the wire service pays $250 a week. This money is collected every Monday.

Item: The LaPorte wire service is located in the vicinity of the strip joints at Calumet City, Illinois. This wire room receives the results directly from the track. The results are carried by a person into Indiana.

Item: The carrier of the results enters a hotel in Hammond, Indiana. The results are telephoned to East Chicago, Indiana. This action takes place every day after 1 p.m. except Sunday.

Item: East Chicago Police Lt. Eugene Grabski was demoted to patrolman after he attempted to shake down a local resident. Grabski forced the resident to purchase several tickets to a state-wide raffle sponsored by the Fraternal Order of Police. The man won a new Cadillac and was told by Grabski that the car was to be sold and half the money would be taken by him, Grabski. Only the intervention of the authorities *outside* of East Chicago prevented the extortion.

Item: Bookies in the area pay the syndicate $150 a week for protection. This money is used to pay off police and politicians. These same bookies keep two sets of books. One is to show the federal government. The other book reveals the true gambling earnings.

(Paradoxically, a gambler's operation will not receive interference from federal authorities if he has the proper federal gambling stamp and pays taxes on his earnings, even though his activities are illegal under state laws.)

Item: The going rate to become an East Chicago policeman is $1,000. One policeman, who had a criminal record, plus a brother doing time for murder, had to pay more.

Item: A local businessman was forced to pay $350 to have his wiring approved. A licensed electrician completed the work but the businessman was told the electrician was not on the approved list.

Item: A bingo game operated by the Chicago syndicate every Tuesday night is cheating the local gamblers. The local gamblers are only netting $600 but the Chicago gamblers are collecting $8,000 each time for themselves.

Many of the residents of East Chicago are tired of their town being constantly exposed. Also they are afraid for their children. One man, a steel worker in the Inland Steel plant, is working another job. He wants to return to Puerto Rico.

He said, "I came here to get a better life for my family. But this is no good. I do not want my sons learning how to gamble. They must be taught to work. But everyone here is wanting the big money, the easy life."

And the easy life is getting things, from pornography to liquor, the easy way.

For instance, local stores sell pornography to the tourist and never ask the age of its patron. An East Chicago drugstore was packed with young people gaping at the latest in hardcore obscenity books.

The *Chicagoland* reporter asked the proprietor if he had an exceptionally dirty book. The man said, "No. I wish I did. I had one, though, but it hasn't been in stock for years. That was the filthiest book ever printed. They sold like hotcakes. I even had the good pages marked on the cash register, like page 79."

That's East Chicago—where everything important ends in the cash register.

OBSCENITY IN OUR STREETS OR OUT DAMNED SMUT!

(By Edwin Black)

There is obscenity and there is pornography. They are both classified as smut, a collective derived from the black, soot-like disease that strangles plant-life. The difference between obscenity and hard-core pornography is a legal distinction, while in the minds of most Chicagoans either form of smut is an intolerable, morals-bending, degrading form of infection that, like its botanical counterpart, initiates a slow, spreading decay upon the host.

The forces of elimination, the city vice-squad, the state's attorney, the Federal Bureau of Investigation, alert community groups, all bemoan themselves helpless, though, because of interpretations by the State Supreme Court and the United States Supreme Court which not only obscure the path to justice but inadvertently provide a protective shell for smut peddlers to hide within. In the words of Manuel L. Port, Chicago Corporate Counsel crusading against obscenity and pornography, "Our laws are adequate. They protect the artist, even the fringe between artistry and offensive obscenity. But they do indicate what smut *is* and how to deal with it. Our agencies are efficient and can get the job done. There's only one problem, and that's the interpretation of the courts. How can we do anything to protect the community from people who wish to degrade it, when the Supreme Court blocks the very avenue to that protection with phrases like 'redeeming social value,' etc. According to them this stuff is art!"

Under the law pornography offers vivid fornication or suggestion of sexual deviation. Simply looking at an example would be enough to decide whether or not it was pornographic. But obscenity is more difficult to pinpoint. According to the famous Roth decision and other decisions, the controversial matter is subject to evaluation in the light of "current community standards."

These standards are interpreted by the court. It is granted that there will be elements of offensiveness as well as redeeming social value in a controversial item. The U.S. Supreme Court has ruled that the two cannot be weighed, and even a minuscule attempt at "redeeming social value" is enough to outbalance a mountain of offense in the material and will be enough to make the material legal and "artistic."

Well, now what are we talking about? A foldout Miss October with a cleverly-draped bedsheet exposing a photo-embellished breast? The words City Hall used in describing such material were these: "It's nothing. Believe me, it's absolutely nothing to get upset about. You can see as much at a fashion show." Are we talking about 50 monthlies that feature loose-looking women with suggestive expressions on their faces, baring their bosoms and proning their scantily covered bottoms toward eager cameras?

Maybe the obscenity we're referring to is the stuff that's really gross? Maybe it's the nickel in the machine and a two-minute flick showing two nightgowned lesbians playing pool side by side, eventually to disrobe? That's not it, though. That's what the boys in the vice-squad tenderly call "girlie," and reserve for an era of old-fashioned uproars like *Playboy* and Ingmar Bergman. So I guess now is the time to put away your copy of *Chicago-Land* and pick up a soothing edition of *Better Homes and Gardens*, because from here on in we're going to talk about smut in Chicago, the real extent of it, the true nature of it, and the actual materials the public unknowingly allows to flourish next to its supermarkets and beauty salons.

Pornography normally originates in Sweden. Most offerings show various positions of fornication between a man and woman, usually accommodating one or more extra partners who perform perversions to the fornicating couple. These productions are normally in black and white, and while they exist in a great supply in photographic form, are more common in a 8mm or 16mm "stag" film. The film costs only a few dollars to produce, yet sells for anywhere from $20 to $65. For this reason the Mafia has a controlling interest in stag films, overseeing most of the international and domestic smuggling, as well as the distribution locally and even the actual sale.

Such pornography, or any material openly displaying fornication or sexual deviation, is outlawed, and can only be purchased under-the-counter, at least in Chicago. Other cities report pornography sales to be rampant; but Chicago's vice-squad, along with the Interstate Transportation of Obscene Materials Section of the FBI, have genuinely put a stopper on local pornography traffic. The only way to purchase it nowadays is "on the run," in the words of FBI officials in Chicago. The seller knows every sale is risky, and takes great precautions in his transactions. This material the U.S. Supreme Court terms illegal.

But the smut presently stocked on open magazine racks in a number of Chicago-area bookstores and arcades is recognized as "art" and permitted to be sold. The covers of these picture magazines herald titles such as *Pussycat, Wild Lovers, Venus*, etc. Underneath the title is a naked woman, usually a very young one, but not necessarily well-proportioned, whose legs are spread apart widely, exposing the vaginal and anal areas of the body. That's the cover. There are no strategic bath towels or hiding poses. Just a point-blank picture of a young woman's naked and spread body, with certain parts of it artificially stretched to create a grotesque contortion of the actual appearance. This

is sold openly. The law requires the purchaser to be at least 18 years of age. The seller requires the purchaser to have enough money in his pocket to cover the price of the material.

This material, claim the storeowners, is strictly off-limits to minors, despite the legal minimum age of eighteen. The magazines are always labelled *Adults Only* or *Sale to Minors Strictly Forbidden*. Yet minors can and do obtain copies of this obscenity directly from the store, which means that these publications easily find their way to high schools where eighteen-year-old purchasers as well as their younger friends are free to peruse them.

The contents of the publication usually have about twenty pages of similarly outstretched females. The expressions on the faces, in the words of a representative of Central Sales, a leading distributor, "give the viewer that idea that any minute now he's in for the type of thing he dreams about." Three or four of the shots are normally color, the rest being sepias or black-and-white prints. Nearly all of the photos have the same scant background visible, a fraction of wall paneling or other scene-identifying feature. With slight, very slight variation, the pictures are identical in form and composition. Looking through several different magazines the reader can easily see that a few dozen girls dominate this type of obscene posing, referred to by vice-squad detectives as "spread-legs."

This "art," according to FBI sources, originates in New York City and is being transported throughout the country by automobile. The girls are nearly always prostitutes, unless there is a case of blackmail against a woman who is forced to pose. The photographers are experienced cameramen, especially when it comes to color photography, which generally requires expert knowledge. The photographer is either in debt for gambling or in a similar situation with the Mob. His payments are long overdue and he is forced to participate in the photographing. Other photographers are coerced through blackmail. They are often corporation cameramen and, in those instances, corporation equipment is used without the knowledge of the company.

This type of "art" was introduced to Chicago—that is, on the open market—by a man named Charles Kimmel, about ten to twelve years ago. At that time, according to Chicago police, he started with obscene literature, selling pocketbooks with immoral themes and containing foul language. According to vice-squad Sgt. John Coughlin (known as Coffee), "It only started with paperbacks. Then he began selling magazines with 'girlie' or suggestive poses. But now, this is the absolute limit. Openly selling pictures of vaginal exposure."

Kimmel has been arrested a dozen times since 1965 but has never spent a day in jail. In 1965 he received a five-year sentence that was reversed by the United States Supreme Court. On June 20 of this year Kimmel, along with several others, received a conviction for selling obscene material, but that conviction is currently under appeal.

It is estimated that Kimmel's store clears over $3,000 weekly. The profit he makes can be judged easily from the fact that he resides very comfortably at elite, plush 535 N. Michigan.

The other leading smut dealers are the Geraci Brothers, John and Vincent, accounting for three stores between them, all located on the North Side. Vincent Geraci, who says his decision to open a bookstore was as "arbitrary as opening a grocery, tavern, or barber shop," approximates that 100 steady customers patronize his North Broadway location alone. These people stop regularly each week. The rest are just fringe customers that come into the store curious about the goods.

There are about six other dealers, each operating his own store. They offer a variety of about 200 different magazines, published by only three or four outfits, plus a countless selection of book titles. False names like Tom Howard or Samuel Jones byline the literature. The pages offer vulgarities, sexual deviations, and gross descriptions of homosexuality and fornication. Off to the side there is usually a coin-operated viewing booth that projects a short smutty 8mm film for 25c.

Most of the stores dealing in smut typically brandish a sign reading No Minors—You Must Be 21. Typically centurioned at the checkout counter is an old man, plucked from retirement, who "enforces" the no-minor policy. And *very* typically, the clerks rarely check I.D.'s.

On eleven occasions, a minor in cooperation with *ChicagoLand* gained viewing access unchallenged to the 25c film booths operated in the Funland Arcade and the other South State Street arcades. The films called "art movies," last about three minutes and show a naked woman gyrating on a bed. In some cases the woman has a sparse cloth loosely covering the genital area. A large sign clearly visible to all announces the no-minor policy.

At one point *ChicagoLand's* minor had just exited from the smut film when he was approached by a man identifying himself as the owner, Leonard Lennet. He asked the minor if he enjoyed going to the circus. When the young man responded yes, the man gave him two 65c tickets to the Gigantic Children's Circus and Carnival Sponsored by First Ward Regular Democratic Organization, John D'Arco, Committeeman. The man said he was a good Democrat and a friend of D'Arco's and wanted to make sure the Coliseum was filled when the children's affair was to take place. The tickets were reserved tickets, 310E and 312E.

"You mean they're free?" said the youth.

"Absolutely," smiled the man; he then proceeded to distribute a handful of tickets to other minors hanging about the arcade.

Another minor working with ChicagoLand reported men in the same arcade offered to place a bet for him within. Further investigation revealed "a peculiar heavy-duty door" off to one corner behind the smut film booths. The information was turned over to the city Gambling Squad, who secured a warrant based on the information, and conducted a raid of Funland at 11:45 on Sept. 4. Arrested and charged with being a "keeper of bets" was Leo Rocklin, who gave his address as 1730 W. Devon. According to raiding officers, "Based on ChicagoLand's information and our own surveillance, got a warrant and raided Funland. We found betting records in the arrested man's shirt pockets and also in a nearby waste paper basket. The betting we found was mostly on different athletic events, especially baseball. A thorough search did not reveal any other evidence or large-scale operation, probably because the ChicagoLand investigation and our surveillance scared them away.

In seven other instances a minor, working with *ChicagoLand*, was able to enter the Van Buren Bookstore, run by Charles Kimmel, and purchase magazines that featured closeups of female genitalia.

The magazine *Stud*, which shows completely nude males in various poses, was purchased by a seventeen-year-old-girl. The same store sold a similar magazine to another *ChicagoLand* plant, this one a young man of nineteen.

Sales like these are frequent, with the exception of one store, run by Vincent Geraci. That store's obscene section is carefully blocked off. A non-refundable deposit of $1 is charged to each entering patron. The dollar is charged each time entry is requested and can be used toward purchases. All I.D.'s are checked by a young man stationed at the entrance. Owner Vincent Geraci claims, "At least if a maker gets by us we know he's at least eighteen. The law allows us to sell this stuff to minors eighteen and over, but I know plenty of kids under eighteen that can pass for older. So out of good taste, and to make sure we don't get pinched for selling to under-aged kids, we admit only people of twenty-one years and over."

But, according to authorities, the one that does get by, and the stores don't really care, is the mental aberrant, the pathological rapist, and the fringe neurotic, upon whom such material can have a significant, dangerous effect. It so happens that these types make up the bulk of obscenity's audience, according to vice-squad Sgt. John Coughlin. Arguing against this, Geraci asserts, "We're not influencing anyone. But the time a guy is twenty-one he's already accrued all his shoddy morals. We don't sell these guys anything they don't see all the time and aren't used to.

"If these people are seeing it all the time and are so used to it, why the hell are they gawking at obscene photos in a magazine?" contradicts Manuel Port, City Corporate Counsel. "I'll tell you who's gawking at these photos. It's often times married men tired of the same old woman, or whose wives don't even act like women anymore. You never see a bum or a hobo in these places. The magazines cost from $3.50 to $6 for a dozen pages. Who do you think can afford that money? *It's businessmen.* (*ChicagoLand* followed three typical lunch-time customers from purchases at Kimmel's Van Buren Bookstore. One, a distinguished-looking vice-president, ended up behind a desk in a prominent Loop bank. The second turned out to be a broker for a major brokerage. The third took a seat in the offices of the Chicago Bureau of Streets and Sanitation.) It's the perverted people. They get thrills looking at little naked girls and tempting women in magazines. No, they don't look at this filth and dart out and rape someone. But it stays in their minds, and then they'll see a fully-clothed woman walking alone at night and find the irresistible temptation too much."

"That's not true," disputes Geraci. "This stuff reduces the rape rate. It provides a release that these men need. I admit they're perverts, but they need this type of stuff."

"Ask any psychologist," returns Port. "The men that need to stare at a distorted vagina for a release are perverts that are never satisfied or relieved, not even when they commit a rape. They're just steam pressurecookers, getting hotter and hotter, and this trash is a major cause."

This is how it stands legally, Pornography is illegal. Just what constitutes pornography or obscenity is difficult to say. Revised State Statute 11–20, revised in 1961 to meet U.S. Supreme Court rulings, defines obscenity as any audio or visual material which appeals to the prurient, in the main. That means the entire swing of the book or magazine must be proved vile according to contemporary standards. *Any* redeeming social value is enough to offset its offensiveness to society, e.g., *The Pearl . . . Marquis de Sade,* etc., books which describe in vulgar terms and literary exactitude a gamut of sexual deviations and perversions; in the case of *de Sade,* the author (from whose name we derive sadism) was an *institutionalized* lunatic.

Who decides what's obscene? It's not the police. The ones cooperating with *ChicagoLand* were disappointed in the current *Playboy,* yet found great repulsion in the obscenity they had to handle. But they merely buy the matter and submit it to the state's attorney or city corporate counsel for possible action. The attorney can only bring it before the justice. It is the court that makes the decision whether it is in accordance with "current community standards." To insure fairness, a variety of judges act in rotation. But the actual warrant will

not be issued unless the judge finds the matter obscene. This places the determination of community standards and what is obscene solely in the individual judge.

But this is only half the story. In order to convict the seller, it must be proved that scienter, or knowledge of the exact nature of the sold materials, did exist. Most store owners argue they never read their magazines, that they don't have time, and couldn't even if they wanted to with as many as 75 new titles monthly.

What's more, the same procedure must be initiated for each objectionable publication sold. Therefore, if a man is selling a storeful of obscene magazines, each one must be proven obscene in order to have an effect on him. And the arrest does not constitute a close-down of the premises. A clerk's presence is all that is required to keep the store open until the proprietor returns from posting bail. Then it's business as usual: same obscenity, same owner, same store, same everything. Sales cannot be stopped until a conviction is made and all appeals settled. This can take years. And even if the conviction is finally upheld, the seller is generally fined around $150, and it merely starts all over again.

ChicagoLand discovered attorney Howard Savage is curiously the counsel of record for almost all of the offenders. After a thorough investigation, it was discovered that Howard Savage's retainer is paid by the various smut distributors and manufacturers, most of them located out-of-state. The same benefactors also share in the costs of defense. This curious arrangement could not be explained by Mr. Savage because he was "not available," not even for the appointment he made with *ChicagoLand*'s reporter.

All the experts agree, smut in pornographic or obscene form is a dangerous, noisome disease of our society. It ferments the minds of psychotics. It degrades the human body as grotesque. It robs the individual of the physical integrity that comes with privacy. It is not art, as its dealers claim. Howard Craywinkle, photographer for the Art Institute, 43-years-old, office adorned with *Playboy* pin-ups, described the obscene photos shown him as "The most plainly dirty, unsubtle, indignant trash I have ever come across anywhere in the world."

The material, in fact, is so repulsive, female reporters are not allowed in the courtroom of judges hearing obscenity cases. The file cabinets in City Hall, where such material is stored, is kept locked, with only two keys: one in the constant possession of Manuel L. Port, and the other hidden somewhere in the office in case of a loss.

And all of the experts maintain these bookstores flourish only out of public ignorance. Mention obscenity to the average citizen and he conjures a pin-up, or racy deck of playing cards. "The average person can't even wildly imagine that such repugnant trash is being openly sold, and to him there's no difference between one form of smut and another," insists Sgt. "Coffee."

"Sure," says Port. "There's a fringe of pseudo-intellects, immoral, confirmed bachelors, hustlers, or high sophisticates, and plain perverts that will actually condone this type of scum. But ask a family man. Show it to any average citizen, working man, man with common sense and values, and see if he isn't totally shocked with the knowledge that this stuff sells openly."

Sources at the FBI claim the only way for a community to restore its "current community standards" is to write to judges that preside in such cases and to the Supreme Court justices that make the rulings. In Chicago, a citizen can write to the Corporation Counsel, Port, and he can convey the letters to the appropriate jurists. Unless this is done, say the experts, the obscenity currently being accepted will bend the morals of the community more and more by symbolizing what is "contemporary."

But better yet, if you want to see what is feeding the minds of perhaps potential rapists, and what your children can apparently easily obtain through their eighteen-year-old friends, visit one of the stores. Adults are allowed inside, assuming they can prove their age. The owners are your neighbors. The stores are in your neighborhoods. Visit the bookstore . . . and then write a letter.

THE ALLEGED KILLING OF CIVILIANS AT MY LAI

Mr. GURNEY. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from an article concerning the alleged massacre at My Lai, published in the New York Times on Tuesday, November 25, 1969.

On November 24, 1969, the Columbia Broadcasting System broadcast an interview with Paul Meadlo concerning that incident. The following excerpt from the Times story raises some serious questions concerning the bona fides of the interview:

An employee of the Dispatch News Service, a free lance Washington agency, indicated that CBS had paid a sum of "in five figures" for the interview yesterday. The news service said it had made Mr. Meadlo available for the interview.

Mr. President, if this interview with Mr. Meadlo was in fact purchased by CBS, the validity of the interview becomes immediately subject to question. Whether Mr. Meadlo's statements are true or false, exaggerated or accurate, will be learned at a later date, presumably at the conclusion of Lieutenant Calley's court-martial.

In the meantime, I think it would be well if the American people knew more of the circumstances surrounding this interview with Mr. Meadlo on the My Lai massacre. I think it would be very helpful if CBS, having broadcast this sensational interview which might very well be prejudicial to the lieutenant about to stand court-martial, were to disclose all the facts about the interview and state for the record whether or not it was purchased. If it was in fact purchased, Mr. President, I think the public should know the exact amount of money that changed hands and the facts of the bargaining for this sensational newscast.

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

[From the New York Times, Nov. 25, 1969]

VETERAN SAYS HIS UNIT KILLED VILLAGERS

Lieutenant Calley and Sergeant Mitchell have been charged by the Army with assault with intent to commit murder in connection with the case, and Lieutenant Calley was ordered yesterday to stand general court-martial.

Mr. Meadlo reported that on the day after the alleged massacre, he stepped on a land mine and subsequently lost a foot.

"I feel cheated," he said in an interview with Mike Wallace, a news correspondent, "because the V.A. [Veterans Administration] cut my disability like they did, and they say that my stump is well-healed, well-padded, without tenderness.

"Well, it's well-healed, but it's a long way from being well-padded. And without tenderness? It hurts all the time. I got to work eight hours a day up on my foot, and at the end of the day, I can't hardly stand on it. But I gotta work because I gotta make a living. And the V.A. don't give me enough money to live on as it is."

Mr. Meadlo, who said he had a wife and two children—a boy 2½ and a girl 1½—said he had been in the first wave to reach the village by helicopter.

"WE HUDDLED THEM UP"

He said that after one villager—"an old man"—had been shot, about 40 to 45 people were gathered in the center of the village. There were men, women, children and babies, he said. He continued:

"And we huddled them up. We made them squat down, and Lieutenant Calley came over and said 'You know what to do with them, don't you.' And I said yes. So I took it for granted that he just wanted us to watch them. And he left, and came back about 10 or 15 minutes later, and said, 'How come you ain't killed them yet.' And I told him that 'I didn't think you wanted us to kill them, that you just wanted us to guard them.' He said, no I want them dead. So—."

Mr. Wallace said, "He told this to all of you, or to you particularly?"

Mr. Meadlo replied: "Well, I was facing him. So, but the other three, four guys heard it and so he stepped back about 10, 15 feet, and he started shooting. I poured about four clips into the group."

SIXTY-SEVEN SHOTS ESTIMATED

Mr. Meadlo said that he was firing an M–16 rifle, and under questioning he estimated that he had fired 67 shots.

"Well," he said, "I fired them on automatic, so you can't—you just spray the area on them and so you can't know how many you killed 'cause they were going fast. So I might have killed 10 or 15 of them."

After the initial shooting, Mr. Meadlo said, other individuals—about seven or eight—were gathered into a hut and a hand grenade was tossed among them.

Mr. Meadlo estimated that 370 persons were killed in the village during the day. He said that the company commander, Capt. Ernest Medina, was "right there" but did not put a stop to the shootings.

Vietnamese civilians have told American reporters that 567 residents of the village were killed. One American who said he was an eyewitness has put the number at 100. The South Vietnamese Government has declared that no massacre was committed in Songmy by American troops on March 16, 1968.

Mr. Meadlo said that more than 70 villagers were taken to the edge of a ditch, pushed over, and shot with automatic fire, then single shots, "so that we could save our ammo."

Mr. Wallace asked, "How do you shoot babies?"

"I don't know," Mr. Meadlo replied. "It's just one of them things."

Describing the shootings at one point, he said:

"And the mothers was hugging their children, and—but they kept right on firing. Well, we kept right on firing. They was waving their arms and begging."

Asked how he felt during the shooting, he said, "I just seemed like it was the natural thing to do at the time. I don't know. It just—I was getting relieved from what I'd seen earlier over there."

Asked to elaborate, he said, "My buddies getting killed or wounded or—we weren't getting no satisfaction from it, so what it really was, it was mostly revenge."

Mr. Meadlo said that now he dreams about the village.

"I see the women and children in my sleep," he said. "Some nights, I can't even sleep. I just lay there thinking about it."

In another interview, with Seymour M. Hersh of the Dispatch News Service, Mr. Meadlo said that his company had been in the field for 40 days without relief before the incident in the village and had suffered casualties from mines.

In the interview Mr. Meadlo, a factory worker, was described as the son of an Indiana coal mine worker who married his high-school sweetheart and began to raise a family before he was drafted. He said that he had been in Vietnam for four months at the time of the alleged massacre.

The report said: "As Meadlo was waiting to be evacuated [after he was wounded], other men in the company reported, he told Calley that this [injury] was his (Meadlo's) punishment for what he had done the day before, and warned, according to onlookers, that Calley would have his day of judgment, too. Asked about this, Meadlo said he could not remember."

Mr. Meadlo was described as the son of Mrs. Myrtle Meadlo of New Goshen, Ind., who was quoted as saying:

"I sent them a good boy and they made him a murderer."

Mr. Meadlo also said, in confirmation of figures in Mr. Hersh's article, that he had personally killed 35 to 40 persons.

Asked how many persons he had killed in the first group of villagers rounded up, he said, "I'd say about 15."

The second group rounded up, Mr. Meadlo said, was "much larger—70 to 75 people in the group." He added: "I must have killed about a third of this."

An employe of Dispatch News Service, a free-lance Washington agency, indicated that C.B.S. had paid a sum "in five figures" for the interview yesterday. The news service said it had made Mr. Meadlo available for the interview.

A spokesman for Mr. Hersh, when asked later whether Mr. Meadlo had been paid for granting the interview, said, "The kid is getting absolutely zero."

Mr. Meadlo declined to amplify on his televised remarks last night in a meeting with a reporter at the Plaza Hotel arranged by Mr. Hersh. Contending he knew nothing about any financial arrangements Mr. Hersh may have made for the publication and broadcast of his story, Mr. Meadlo added:

"I've already told my story. I feel I should be getting something out of it."

THE FRANCHISOR-FRANCHISEE RELATIONSHIP

Mr. HART. Mr. President, the Subcommittee on Antitrust and Monopoly has been in the process of studying the franchisor-franchisee relationship for the last few years. One area which has been of particular concern to both the franchisor and franchisee is the determination of what constitutes a fair and equitable contract from the viewpoint of both parties and at the same time offers the necessary protection to the legitimate interest of the public at large.

Mr. Jerrold G. Van Cise, an eminent authority in the field of antitrust and trade regulation delivered a paper on this subject last spring at the fifth annual International Management Conference on Franchising at Boston College. It has since been reprinted in the Antitrust Bulletin. I believe that this paper is of extreme importance and timeliness. I ask unanimous consent that it be printed in the RECORD.

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

A FRANCHISE CONTRACT

(By Jerrold G. Van Cise)

Ignorance of the law—at least in franchising—no longer is bliss. Franchisors who enter into unlawful agreements may be chained to injunctions; [1] their conduct may cost them treble damages; [2] and such violations may curb them with new regulations.[3] In franchising, therefore, standard equipment currently must include a lawful contract.

Knowledge of the law, however, need not increase sorrow—despite Ecclesiastes. This is because three principles are available to guide the pen of the draftsman in preparing a suitable franchise agreement. The first principle is that the contract should be *frank*. Complete disclosure of a proposed relationship between franchisor and franchisee is desirable in order to ensure that neither party may reasonably charge that thereby he was deceived by the other.[4] Second, its provisions should be *fair*. This franchise relationship should be so equitable that no party may convincingly claim that thereunder he was dominated by the other.[5] Finally, its contents should be *enforceable*. If either the franchisor or the franchisee should be tempted to breach the covenants thus openly and equitably entered into, he should not be in the position of a pot entitled to call the other an equally black kettle.[6] In short, if the franchise agreement is drafted so that the parties know what they are doing when they agree, like what they are doing when they perform, and fear what they may suffer if they sin, the resulting contractual relationship should be relatively non-litigious.

The legal tailor must of course cut his contractual cloth to conform to the contours of his client. For example, he may prepare a short document to clothe the distribution of standard appliances to establish dealers—but any such "mini" contract would be far too short to cover an arrangement for serving distinctive foods in new service outlets. Moreover, he should attempt to design covenants which will look well on his client. Thus, provisions appropriate for hot dogs may not be suitable for live dogs. Nevertheless, his agreement should sufficiently adhere to the suggested three principles that neither party will hesitate to appear in public wearing the finished garment.

Possible contractual provisions embodying these principles are discussed below. Counsel for the individual franchisor or franchisee can best determine which, if any, of these provisions might be considered for inclusion or exclusion in his client's future agreements. The objective here has been solely to propose and not to dispose of illustrative issues relevant to the preparation of such new franchise contracts.

GENERAL PROVISIONS

(1) *Description of parties:* A franchisor is accustomed to require an applicant for a franchise to disclose many facts in order to enable the former intelligently to exercise his right to select those with whom he wishes to deal.[7] A franchisee, in his turn, should have an equal right to obtain access to equivalent information with respect to the franchisor. Accordingly, a frank, fair and enforceable franchise contract might provide for mutual access by both parties to facts reasonably related to the business qualifications of the proposed signatories.

The franchise contract, for example, might not only describe briefly the parties but affirm that each had disclosed to the other, in writing, information as to his financial resources, previous experience, if any, in the franchised business and other relevant facts, and that each relies solely upon these written representations and no others in executing the agreement. Preferably, the franchisor should deal directly with the contemplated franchisee, and not through a subfranchisor having a less personal interest in protecting the franchised name, when these disclosures are given and received. If these steps are taken, neither party thereafter may reasonably claim that he was misled with respect to the qualifications of the other to discharge the contractual obligations undertaken by him.

(2) *Nature of franchise:* The franchise which is to be granted to this franchisee is in essence a license authorizing him to engage in business in a manner associated with and identified by a trade name. This name is owned by the franchisor and will remain so owned upon any termination of this license. It follows that a contract conforming to our three principles should explain the ownership of the franchised name and describe exactly what it covers. Any subsequent restraint in this license might then be phrased in a manner to indicate how its restriction is reasonably ancillary to the lawful main purpose [8] of protecting the good will represented by this trade name.

The franchise agreement therefore might affirm the ownership by the franchisor of the trade name, state that the franchisee acknowledges this ownership, describe the form and substance of the business identified by this name, and refer to some of the unique features upon which the parties rely to justify their contractual restraints.

(3) *Territory of franchise:* The franchise agreement at some point customarily identifies the area within which the franchisee is licensed to do business. In addition, it often specifies a particular address in this area from which the franchisee may solicit customers. Therefore it is essential that each party know exactly what and where this area and/or location are. To date, the courts have approved the grant of such limited, as distinguished from unlimited, territorial licenses.[9]

The franchise agreement might not only identify the licensed area and/or location, but—possibly by cross-reference to the relevant papers—describe the criteria used in determining the market potential of the franchise and represent that this criteria is known to and is satisfactory to both parties. If the franchisor wishes to lean over backwards, the document could also make provision for some equitable adjustment or even a possible removal of the franchisee to a new location within the franchised territory in the event that the criteria used should subsequently prove to be erroneous or become outmoded.

(4) *Protection from competition:* The franchisee will probably desire to know the extent to which he will obtain exclusive rights in this franchised territory, and in this event the franchisor should tell him. An applicant should not be permitted to assume that he will be protected from competition if this will not be the case.

The franchisor may lawfully provide in the franchise contract, if he so elects, that in the franchised territory he will solely license the franchisee. He may also promise that neither he nor anyone associated with him will open up a company outlet there. The franchisor may not, however, undertake that any other franchisee located in any other market will not transship into the licensed territory.[10]

(5) *Representations by franchisor:* Following the execution of such a contract, some franchisees have asserted that erroneous representations by the franchisor had been made with respect to the assistance which the franchisee was to receive and the profits which he was to earn. Moreover, such assertions on occasion have been found to be justified.[11] If proven, any such franchisees would have actionable claims for deception

Footnotes at end of article.

and failure of consideration against their franchisor.

The franchise agreement therefore might reduce to writing any representations which had been made to the franchisee in order to induce his execution of this document, and contain an acknowledgment from the franchisee that no others had been made either orally or in writing. In addition, supplementary instructions might be issued to the franchisor's personnel requiring them to limit their promises to what they have been authorized in writing to make.

(6) *Representations by franchisee:* Likewise, at times, franchisees have claimed that they had been high-pressured into signing their franchise contracts before they had had adequate time in which to study their terms, check on the representations made or obtain professional advice on the foregoing. They have also asserted on varying grounds that they did not knowingly and willingly enter into their contractual obligations. If substantiated, any such conduct could invite proceedings from the Federal Trade Commission.[12]

The franchise agreement accordingly might contain a blank to be filled in by the franchisee specifying the period during which he has had in his possession a copy of this document. In addition, it might provide for a representation by the franchisee that he has had adequate time in which to review all aspects of the proposed contractual arrangements, and a statement that he is freely signing after having submitted the document to his counsel and having received his advice. As further insurance—against a possible claim that even this acknowledgment was obtained by unethical means—an option might be given which permits the franchisee within a reasonable time thereafter to change his mind and to receive back an equitable portion of any monies deposited by him. In short, the franchise contract might be so drafted as to evidence on its face that any future charges of fraud made by the franchisee are instead acts of fraud committed by this franchisee.

START-UP PROVISIONS

(7) *Deposit of fee:* We now leave the general and turn to the more specific contractual provisions, starting with any fee which may be required before the franchise grant is to take effect. Franchisors vary in whether or not they insist upon the payment of any such initial fee by a franchisee upon the execution of the franchise contract. Some waive any such requirement; others seek an amount to cover some or all of their costs in launching the franchise in business; and still others charge what they consider to be the market value of the franchise grant. Needless to say, federal and state laws with respect to fraud, taxes and securities [13] must be consulted when these decisions are made.

A frank contract might list all start-up charges; a fair contract might disclose the justification for each; and an enforceable contract might avoid vague commitments giving rise to disputes over the adequacy of the consideration received for any such payment. A generous agreement might provide that any such fee is to be considered as a mere deposit to be returned in part or in whole in the event that, for some reason, the franchisee never commences to engage in business under the franchisor's name.

(8) *Land and building:* Many franchisors undertake, in part consideration for this franchise fee, not only to make available a distinctive design of building which is uniform to all of its franchisees, but also to secure a desirable business location, to lease it from its owner, and to sublease it to the franchisee. They may also offer to finance the construction of the building which is to be used by the franchisee. If these services are contemplated, the extent of any such undertakings should be spelled out; the charges for any land and building thus obtained should be itemized; and any acceptance of these arrangements should of course be optional. The leasing of land and buildings may not safely be tied to the acceptance by the franchisee of his franchise license from the franchisor.[14]

A franchisor therefore might expressly state in his contract that a franchisee has the option either to obtain his own land and building (conforming to the standards, blueprints and specifications of the franchisor), or to lease such land and building from the franchisor. He might also take care to limit any charges for any leased property to the prevailing rates in the community plus a reasonable return for his real estate services. In this manner, both the language of the contract and the confirming facts of the market place will establish that the lease of property and the license of the trade name are independently entered into and thus are independently enforceable.

(9) *Equipment and facilities:* Many franchisors likewise discover that they must locate equipment and facilities appropriate for use by their franchisees in their business operations and must undertake to finance their supply to their franchisees. This ancillary line of business activity also is proper, provided again, that the franchisee understands what is offered, has the opportunity to check upon the reasonableness of each charge, and may reject any or all items insofar as they are available in comparable form and substance elsewhere. Except where they represent unique and indispensable items only available from the franchisor, any requirement that equipment and facilities be purchased solely from the franchisor is hazardous.[15]

The franchisor here also might spell out out in his contract that the franchisee has the option either of making his own arrangements for the purchase of equipment and facilities meeting the specifications of the franchisor or of obtaining them from the franchisor. The prices charged by the franchisor for these items—once again—might be based on competitive price levels plus a reasonable return for special services provided by the franchisor. As in the case of the previous provision relating to real property, a transaction of sale and a license of rights should in form and in fact be offered and accepted on their individual merits in the absence of special facts making them to a degree interdependent.

(10) *Training of applicant:* Whether or not franchisors furnish land, building and facilities, they must of course undertake to make sure that their franchisees are qualified to deal with the public in a manner conforming to the standards represented by their franchised names. At times, a franchisee may be sufficiently informed of his duties by written communications from his franchisor. Normally, however, he should receive some more or less intensive training in the unique demands of his franchised business from his franchisor.[16] It is essential, accordingly, that the franchise agreement disclose in adequate detail the nature, duration and additional cost, if any, to the applicant of the training that will be required of an applicant for a franchise before he will be entitled to engage in business under the franchised name.

Amplifying a prior suggestion, a franchise contract might provide that a franchisee who changes his mind about becoming a franchisee during his training period may cancel his contract and receive back some or all of any deposit which he has previously made, upon condition that no use of any information thus far received by him will either be used by him or be disclosed to another. A provision of this nautre will foreclose any subsequent charge by some franchisee that he has been misled into surrendering his life savings for and devoting his remaining lifetime to a franchise business unknown to and untried by him.

(11) *Transmission of standards:* Once the franchisor has arranged for the supply of land, building, facilities and training, he must communicate to his franchisee the standards which should be maintained by the latter when doing business under the franchised trade name. These standards normally are incorporated in manuals and other written communications, which convey to the franchisee the specifications, procedures and other trade secrets of the franchisor. The establishment and enforcement of these standards are not only permissible, but are essential, in trademark licensing, in order to safeguard the public which patronizes the franchised business in reliance upon its identification with the franchised trade name.[17]

These standards of the franchisor preferably should be objective in nature, capable either of written definition or of scientific determination where this is feasible. Their nature should conform to the description of these franchise controls contained in the franchise contract, so that the franchisee was aware of their restrictive features before he undertook to be bound by them. Provision might be made for reasonable changes in these standards by the franchisor in the light of subsequent experience and new developments. Any authorization of capricious changes from time to time at the whim of the licensor, however, should be avoided. For any attempt to use the device of alleged standards to maintain arbitrary controls over independent businessmen would cause suspicious franchisees and skeptical courts to consider them to be mere camouflaged procedures intended to impose collateral trade restraints upon the licensees.

(12) *Opening for business:* Eventually the franchisee is prepared to open for business. On this occasion, as an additional service offered in part consideration for the payment of any franchise fee, the franchisor as midwife customarily provides promotions, advisory personnel and other assistance in order to ensure the successful birth of this new entrant. These services are reasonably ancillary to the grant of the franchise and should raise no legal problem.

The franchise contract, however, might detail the specific forms of help which are to be provided. Too often franchisees believe that promised forms of assistance have not been given during these critical opening days, and thereupon rely upon this alleged default to justify their subsequent inadequate performance and even for their refusals to meet royalty obligations. A franchisor should, of course, take most seriously his obligations to assist a franchisee at the time he enters into the world of franchising. At no other time will his new franchised offspring need more solicitous and sustaining support.

OPERATING PROVISIONS

(13) *Assistance in purchasing:* Once the franchisor has assisted a franchisee to open for business, the former in most cases makes available to the latter a continuing purchasing service. This service may be limited to the mere listing of suppliers which can meet the franchise specifications or may also extend to the offer of goods and services for sale to the franchisee. The supply of this additional merchandising service is subject to the same principles as are applicable to the furnishing of land and facilities, namely that it may be provided so long as the franchisee is not coerced into using franchisor-designated sources when competitive merchandise of comparable form and quality is available.[18]

The franchisor, it follows, might state in his franchise contract the nature of the purchasing service which he will provide to his franchisee, *i.e.*, specifications, lists of qualified suppliers and/or qualified mer-

Footnotes at end of article.

chandise. He may further bind his franchisee to purchase from him such of the distinctive franchise goods as cannot be secured from others, and to refrain from obtaining any substitute commodities from others which do not meet his objective specification standards.[19] These specifications, of course, should seek only to ensure the uniform and distinctive nature of the franchised goods and services, and thus should not consist of numerous, irrelevant differences whose objective is solely to discourage the use of competing sources of supply. If the franchisor wishes to win friends in government and influence courts in litigation, he might also assure the franchisee that otherwise he is free to select his sources of supply. Once again, it would be helpful if both the franchisor's contract provisions and his competitive pricing could demonstrate that his franchisees are not captive markets foreclosed to competition.

(14) *Guidance in bookkeeping:* The franchisor will probably also desire to aid the franchisee to keep his operating costs down to a minimum. He may therefore make available to the franchisee certain business forms, systems of cost control, procedures of record keeping, and even computer services. In addition, he may specify how receipts and expenditures are to be recorded, when bank deposits are to be made, and to what extent monies may be drawn down by the franchisee.

Whatever service of this nature is to be given, however, might be so identified in the franchise contrast that the franchisee will be sufficiently put on notice with respect to the benefits he is to receive and the controls he is to accept before he is bound by its contractual terms.

(15) *Management and promotions*: The franchisor may likewise wish to furnish to the franchisee merchandising support of the nature which a chain gives to its store managers. For this reason he might plan to provide field services, refresher courses, communications of marketing developments, disclosures of new advances, and periodic inspections. These subjects might therefore be covered in his franchise contract.

Whether or not the franchise contract promises to supply one or more of these forms of merchandising assistance, however, it might at least bind the franchisor to offer to the franchisee a coordinated program of local sales promotions, public relations projects and national advertising. Thus it might contain a covenant that the franchisor will devote for this purpose a specified percentage of the royalty payments which are received by him. Preferably, the agreement might provide that the franchisor will receive a sufficiently large royalty to be able to underwrite all of this advertising activity; because an arrangement that the franchisor is to supply promotions which are to be paid for by the franchisee could conceivably provoke a claim—however absurd—that the franchisor is using his grant of a franchise to tie up the purchase from him by his franchisee of an important competitive service.[20]

(16) *Recommendations on sales:* The franchisor, finally, will be most anxious to assist the franchisee in deciding what goods or services should be offered, in what markets, and at what prices. Accordingly, the franchisor might direct his franchisee to offer for sale only the unique products and services identified by the licensed trade name,[21] provided, as previously stressed, that the latter may obtain reasonably equivalent supplies where available from any sources meeting the franchisor's specifications.[22] He might also bind the franchisee to engage in business at least in defined markets [23]—if the franchisee remains free to sell elsewhere without being penalized.[24] Finally, he might even suggest resale prices [25] so long as he does not require any observance by the franchisee of these suggested prices [26] (unless they are fair traded). A franchisor whose captive outlets compete with franchised outlets should take particular care not to check on whether these recommendations with respect to prices are being observed.[27]

The franchise contract, it follows, might provide that the franchisee is licensed to do business solely at the franchised premises and solely in designated goods and services. It might further provide that the franchisee undertakes to use his best efforts to promote the sale of these franchised goods and services "primarily" to designated customers and/or in defined markets. If it should add that advice on prices may be given to the franchisee, it might go on to state that such advice of course is entirely optional. Any compulsory regimentation of resale prices not only could result in an unenforceable contract and treble damage liability—but fines and jail for the franchisor. Such a price for the privilege of price-fixing would seem to be unduly high.

(17) *Performance by franchisee:* Thus far, the discussion has related principally to the obligations of the franchisor. It is now in order to turn to the duties of the franchisee. In return for his receipt of the franchise grant and these franchisor's services, the franchisee may be required to exploit effectively this grant and these services. Thus, while he must be free to purchase from qualified sources other than his franchisor, he can be obligated separately to identify products coming from his franchisor and aggressively to display and sell the latter.[28] Again, as observed above, although he is free to advertise and sell anywhere, he can be required to devote his best sales efforts primarily in the markets for which he is responsible.[29]

The franchise contract might therefore make clear exactly what will be required from the franchisee in the way of merchandising efforts. Among such subjects, which might properly be covered, are the hours during which the franchised premises are to be open, the size of the sales force which is to be employed, the signs that are to be erected, and the displays of merchandise that are to be made. Supplemental provisions to ensure the protection of the "sales image" of the franchised name might include the unique features to be preserved, the quality controls to be maintained, the laws to be observed, the standards of cleanliness and service to be met and the good will of customers to be achieved. Some franchisors go further and impose sales quotas negotiated with and accepted as reasonable by the franchisee before the signing of the franchise agreement. The sum of these requirements, as well as their individual provisions, however, should not exceed what is reasonably ancillary to the success of the franchise relationship.

(18) *Reports and royalties:* As further consideration for the franchise grant and the franchisor's services, the franchisee may of course also be required to report and to pay royalties computed on the basis of his earnings. The franchise contract would be misleading, however, if it did not clearly identify both the rate of royalty to be paid and any other supplemental charges which are to be made. Criticism might be avoided, moreover, if it could be demonstrated that the continuing royalties which are charged bear a reasonable relationship to the value of the continuing benefits which are conferred.[30]

The franchise contract therefore might take pains to specify, in the manner discussed above, the various benefits for which the royalty is charged to the franchisee. The reasonableness of this royalty, when compared with the rights granted and the services provided, might be reviewed with and acknowledged in writing to be acceptable by the franchisee. Thereupon appropriate recording, reporting and payment procedures might be established. Subsequently, the franchisor would be well advised so generously to provide his promised services to the franchisee that the latter will hesitate to jeopardize their receipt through any failure on the latter's part to make the royalty payments when they are due.

(19) *Insurance and taxes:* The franchisee should, of course, assume the responsibility for keeping in force general liability and product liability insurance of a defined coverage, for paying all taxes, and for keeping the franchised premises in good order, condition and repair.

Needless to say, these obligations also should clearly be spelled out in the franchise agreement and thereby be knowingly accepted by the franchisee when he signs.

(20) *Confidentiality of disclosures:* The franchisee should also agree to keep confidential all information, procedures, specifications, manuals and other communications in the nature of trade secrets which are received by him in writing from the franchisor. Writings containing mechanical details such as the hours of doing business had best be segregated, however, and not included in this category.

The franchise contract might therefore declare that any such information represents confidential disclosures which remain the property of the franchisor and, insofar as practical, shall be returned to the latter upon the termination of the agreement. In addition, the franchisee might covenant not to disclose such information to third parties—and to assume the burden of proving that he is not using it should he engage in a comparable form of business—during the period of the franchise agreement and for a reasonable time thereafter.

TERMINATION PROVISIONS

(21) *Renewal of terms:* There remains for consideration what might happen if the franchise relationship should come to an end. The provisions on this subject might distinguish between two types of franchisors. Thus, on the one hand, where a franchisor creates and continues to retain solely for himself a business of producing and selling a finished product, and merely authorizes distributors to resell this product in the form in which it is received, it seems reasonable for him to grant to these distributors for short periods of time franchises to resell his commodity, and to give no automatic right on the part of these franchisees to demand successive renewals of their franchise grants. This is because the law does not permit the franchisor to tie up these franchisees [31] and it seems only equitable for him to be permitted to withhold any comparable right by the franchisee to tie up the franchisor. The most that such a franchisor might be required to do would be to promise that, in the event their franchises are not renewed, these franchisees will have an option to turn back to him their inventory of the franchised merchandise, at their cost including freight and taxes. If buildings and facilities were specially designed to handle the franchised product, the franchisor might also underwrite the cost of the franchisee in converting them to other uses.

But, on the other hand, a franchisor who licenses his trade name and know-how to a franchisee, in order to enable the latter not merely to add a new label to one of his lines of products but to create an entirely new local business, might be well advised to franchise such a new entrant for a substantiation period of time. In addition—if the franchisor does not wish to be subject to charges of unjust enrichment—he might accord to any such franchisee, who is not in default of his franchise obligations, a right to receive successive renewals of his license. In the latter case the local franchised business may have been built up as much through

Footnotes at end of article.

the efforts of the local franchisee as due to the contributions of the franchisor, and each should be entitled to continue to benefit from the fruits of his work. Possibly, however, an undertaking to discuss changes in the relative rights and obligations of the parties at the time of renewal might also be included, provided that each party is free to agree or disagree to any such proposed change.

(22) *Transfer of rights:* Whether or not a franchise contract is renewed, the franchisor traditionally reserves the privilege to assign his rights and obligations thereunder to a third party of his choosing, but he does not always permit any such transfer by the franchisee. The latter restriction is currently under attack in some quarters on various grounds, such as that it lacks mutuality and possibly constitutes a restraint upon alienation.[32]

The franchise contract, accordingly, might provide that a franchisee may transfer his rights and duties to any individual (or a corporation controlled by an individual) who meets defined standards and will assume the transferor's obligations; but that some specified prior notice must be given by the franchisee to the franchisor of any such transfer, whether in whole or in part. Any such privilege of transfer might also apply in the event of death. In view of the fact that the performance of a franchisee is so dependent upon the personal ability and integrity of the individual involved, moreover, the franchisor might reserve the right either to veto the franchisee's transfer to anyone not meeting the agreed standards or to purchase back the franchise at the price being offered by the proposed transferee. The franchisor might further promise that his consent to any such transfer would not unreasonably be withheld.

(23) *Terminations for cause:* A franchise relationship may, of course, come to an end even if a renewal or a transfer of the franchise grant is permitted. Thus, a substantial breach by a party of his contractual obligations—not corrected after he is placed on notice of his default—will justify cancellation of the franchise agreement by the other party. Accordingly, what constitutes such a breach might be spelled out in the franchise contracts. For example, failure on the part of the franchisor to provide the promised services, and on the part of the franchisee to pay the agreed royalties, would be such a proper cause.

In view of the Washington spotlight upon alleged arbitrary terminations of franchise grants, a franchisor might prepare for his possible appearance on Capitol Hill by explaining what he means when he states that the lack of adequate promotion of the franchised business in his area of primary responsibility by the franchisee may constitute good cause for termination. If such a provision should be incorporated, the draftsman might identify objective and unobjectionable yardsticks to be used in measuring the performance of the franchisee, *e.g.*, a significant decline in his relative position in his market when his sales volume is compared with the sales volume of competitors and other franchisees over a period of years, failure to carry adequate inventories, financial instability, poor service, and bad relations with consumers. The francisor may not, however, unreasonably reserve the right to claim that a franchisee's failure to measure up to the average sales volume of all franchisees constitutes good cause for cancellation, because in that event he will be claiming a right at any time arbitrarily to cancel out up to half of his franchisees whose individual sales volume also would be less than the average for all franchisees. Incidentally, even if the franchisor has good cause to cancel out a franchisee, he might lose his right to do so should he seek to exercise it pursuant to some unlawful plan, *e.g.*, to control resale prices.[33]

(24) *Terminations without cause*: Even without a substantial breach by a party of his obligations, it may be desirable to permit either party at any time to cancel the franchise agreement upon the payment of an appropriate price. Businessmen who are unhappy with each other had best not be forced to fight each other on the same franchise bed. The terms of any such divorce of the franchised parties, needless to say, including what would constitute a fair price, must depend upon the facts of the particular franchise relationship.

A possible provision on this subject in a franchise agreement might be that the franchisor may, by appropriate advance note, cancel the franchise rights of a franchisee, without cause, provided that he pays to the latter the cost of the franchisee's inventory including freight and taxes plus the fair value of the franchisee's business measured by the present worth of the probable future income of the latter. In his turn, the franchisee might be permitted to surrender his franchise prior to the expiration of his franchise agreement, but only in the event that he either obtains a substitute franchisee acceptable to the franchisor or goes out of business and covenants not to reenter a comparable business in the franchised area during a reasonable period of time.

(25) *Obligations on termination:* The preceding discussion has identified certain obligations which might be acceptable to the parties, upon the expiration of the franchise, with or without cause. Other duties might also be imposed in such an event.

For example, to the extent possible, each party might undertake to return to the other any property belonging to the latter which has not been purchased by the former as part of the termination settlement. In particular, confidential manuals, promotional material and signs using the franchised name should be turned back. Again, along the lines of a previous suggestion, the franchisee might either covenant not to enter into a competing business in the franchised area for a short period of time, or agree to assume the burden of demonstrating that he is not using any franchised know-how should he engage in any such business during this period of time. Above all, the franchisee should discontinue his use of the franchised name.

(26) *Resolution of disputes:* In the event of any disputes arising between the parties, in connection with any of the above matters, each might undertake, upon the request of the other, to attempt to agree upon the appointment of a mutually acceptable mediator who could try to bring the parties together. In this role any such mediator might be empowered to make non-binding recommendations for resolving the controversy.

Any such disputes which are incapable of resolution by such mediation however might, at the option of either party, be submitted to binding arbitration. Thus it might be provided that any claim by either party should be settled solely and exclusively by arbitration in accordance with the then prevailing rules of the American Arbitration Association.

(27) *Relationship of parties:* The franchise contract should of course state that each party is an independent contractor and thus is neither an agent nor a legal representative of the other. No one should hold himself out to the public as being any such agent or representative.

Preferably—although this is not usually the custom—the franchisee might be required to feature his name in signs, readily seen by the public, which identify him as a franchisee licensed to use the franchiser's name. Such precautions—if supplemented by holding the contractual controls to a minimum—might help to defeat attempts by public or private persons to make the franchisor liable for any actionable shortcomings on the part of the franchisee.

(28) *Miscellaneous other provisions:* Other points which might be covered in the franchise contract are the places at which notices should be given, the law which should govern, the separability of the provisions and the right of the franchisor unilaterally to waive any of the restraints imposed by him upon the franchisee. There might also be a statment that all terms which are binding between the parties have been incorporated in writing in the franchise agreement.

CONCLUSION

One word of caution in closing. The franchise contract should, as stated at the outset, be frank, fair and enforceable. The draftsman of this document should not be so open-minded in protecting the franchisee, however, that his brains fall out in failing to safeguard the franchisor. Thus he should not fear to empower the franchisor to "coerce" and "dominate" the franchisee if any such restraint is reasonably necessary to prevent the latter from using the licensed name to destroy the franchisor or to defraud the public. But any excessive controls, which are not thus reasonably ancillary to the lawful main purpose of franchising, should be avoided. Our three guiding principles might be supplemented with a fourth: "Too much of anything is bad, except whiskey."

FOOTNOTES

[1] J. G. Van Cise, "Franchising and the Supreme Court" in *Franchising Today, 1967–1968* (Vaughn & Slater eds., 1968), p. 133.

[2] *Albrecht* v. *Herald Co.*, 390 U. S. 145 (1968); *Perma Life Mufflers, Inc.* v. *International Parts Corp.*, 392 U. S. 134 (1968).

[3] See, *e.g.*, Senate Bill S. 2321, 90th Cong., 1st Sess. (Aug. 21, 1967).

[4] See, *e.g.*, "Report on Findings of the Special Committee on Unfair and Deceptive Practices in Franchising," to be published in May in "Franchising Today, 1968–1969" (Vaughn & Slater eds.) (hereinafter "Report of Special Committee").

[5] *FTC* v. *Texaco, Inc.*, 393 U. S. 223 (1968).

[6] *Perma Life Mufflers, Inc.* v. *International Parts Corp., supra*, note 2.

[7] *United States* v. *Colgate & Co.*, 250 U. S. 300 (1919).

[8] *United States* v. *Addyston Pipe & Steel Co.*, 85 Fed. 271 (6th Cir. 1898), *aff'd*, 175 U.S. 211 (1899).

[9] *U.S. v. Arnold, Schwinn & Co.*, CCH 1968 Trade Cases ¶72,480 (D. Ill. 1968).

[10] *United States* v. *Arnold, Schwinn & Co.*, 388 U.S. 365 (1967); *United States* v. *Sealy, Inc.*, 388 U.S. 350 (1967).

[11] Report of Special Committee, *supra*, note 4.

[12] § 5 of the Federal Trade Commission Act, 15 U.S.C. § 45.

[13] See, *e.g.*, 49 *Op. Att'y Gen.* (Cal.) 124 (1967) (holding that two types of franchises are "securities" under California law and that a third type is not); see, also, M. Coleman, "A Franchise Agreement; Not a 'Security' Under The Securities Act of 1933," 22 ABA *Business Lawyer* 493 (Jan. 1967).

[14] *Northern Pacific Ry. Co.* v. *United States*, 356 U.S. 1 (1958).

[15] *Atlantic Refining Co.* v. *FTC*, 381 U.S. 357 (1965).

[16] *Arthur Murray, Inc.* v. *Horst*, 110 F. Supp. 678 (D. Mass. 1953).

[17] *Dawn Donut Co.* v. *Hart's Food Stores, Inc.*, 267 F. 2d 358 (2d Cir. 1959).

[18] *FTC* v. *Brown Shoe Co.*, 384 U.S. 316 (1966); *Albrech* v. *Herald Co., supra*, note 2; *FTC* v. *Texaco, Inc., supra*, note 5.

[19] *Susser* v. *Carvel Corp.*, 332 F. 2d 505 (2d Cir. 1964), *cert. dismissed as improvidently granted*, 381 U.S. 125 (1965); *Carvel Corp.*, FTC Dkt. 8574, CCH Trade Reg. Rep., 1965–1967 Transfer Binder ¶17,298 (1965).

[20] Cf. *United States* v. *Loew's, Inc.*, 371 U.S. 38 (1962).
[21] *Susser* v. *Carvel Corp.* and *Carvel Corp.*, both *supra*, note 19.
[22] *FTC* v. *Brown Shoe Co., supra*, note 18.
[23] *White Motor Co.* v. *United States*, 372 U.S. 253 (1963).
[24] *United States* v. *Arnold, Schwinn & Co.* and *United States* v. *Sealy, Inc.*, both *supra*, note 10.
[25] *United States* v. *Colgate & Co., supra*, note 7.
[26] *United States* v. *General Motors Corp.*, 384 U.S. 127 (1966); *Simpson* v. *Union Oil Co.*, 377 U.S. 13 (1964).
[27] *United States* v. *Container Corp. of America*, CCH 1969 Trade Cases ¶72,675 (U.S. Sup. Ct., Jan. 14, 1969).
[28] *FTC* v. *Sinclair*, 261 U.S. 463 (1923).
[29] *White Motor Co.* v. *United States, supra*, note 23.
[30] Cf. *Brulotte* v. *Thys Co.*, 379 U.S. 29 (1964).
[31] *FTC* v. *Brown Shoe Co., supra*, note 18.
[32] *United States* v. *Arnold, Schwinn & Co., supra*, note 10.
[33] *Albrecht* v. *Herald Co., supra*, note 2; *Simpson* v. *Union Oil Co.*, supra, note 26.

THE PRESIDENT'S ACTION ON CHEMICAL - BACTERIOLOGICAL WARFARE

Mr. THURMOND. The President's action last week in banning certain types of chemical-bacteriological warfare by the United States has been widely hailed. Although everyone must applaud the humanitarian spirit in which this renunciation was made, one may legitimately question whether such a renunciation will actually contribute to world security as regards chemical-biological agents.

The basic reason for preparing for such warfare is to prevent a vacuum which would tempt a hostile nation to seek to fill. A unilateral action on our part does not necessarily guarantee that other nations will follow suit. In fact, human nature being what it is, our renunciation will doubtless encourage some nations to enter a field that they feared to enter. Smaller nations that cannot afford nuclear weapons can easily acquire a chemical-bacteriological capacity. There is no international inspection system which can detect a secret buildup of such a capacity. We do not even know whether the nations which have already renounced such activity are in fact engaged in it or not.

A second difficulty is that such a unilateral renunciation wastes a diplomatic bargaining point without gaining any reciprocal benefits. We are in the midst of disarmament talks at Geneva, yet the renunciation was made without reference to the conference.

A third difficulty is that such a public renunciation circumscribes a vulnerable point in our defenses. A potential enemy knows exactly how we stand in regard to such a capacity. He can lay plans to attack us knowing exactly what we can do in return. The chief reason why poison gas has not been used since World War I is that its use might invite retaliation. Treaties and protocols are just scraps of paper when compared to the real necessity of restraint imposed by the nature of such weapons. Renunciation may invite attack.

Finally, we never know when our research and experience with these materials may lead to significant breakthroughs. Many people have commented that bacteriological weapons are too uncertain in their effects, and pose as much danger to the user as to the intended victims. No one can predict when scientific discoveries will take place, or where. Just as nuclear weapons have been improved and made practical for tactical use, so too these weapons may change drastically in their system design. More serious yet, the enemy may make such a breakthrough, making it practical to use them against us. We are consciously ignoring real dangers.

Mr. President, all weapons of war are horrible. No one wants to see them used, least of all the military who have had intimate acquaintance with them on the battlefield. I fear that emotionalism over the use these weapons may have blinded us to the fact that unilateral renunciation may increase the chance that such weapons will be used.

Mr. President, the State, of Columbia, S.C., published an important editorial on this topic last Saturday. It is a very thoughtful piece, and I heartily endorse its argument. I quote a few sentences of the conclusion:

> The lessons of World Wars I and II, and of Korea, and of Vietnam should have brought us the realization that strength alone can cope with madmen bent on conquest. The obvious presence of such strength—coupled with an apparent willingness to use it—not only is the means of winning wars, but of preventing them.
>
> While we share President Nixon's abhorrence of germ warfare and his apprehension that it might get out of hand even when there is no war, we fear that his well-meant declaration lessens the credibility of American deterrence.

Mr. President, I as unanimous consent that the editorial entitled "Well-Meaning President Lessens U.S. Deterrence," published in The State of November 29, 1969, be printed in the RECORD.

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

WELL-MEANING PRESIDENT LESSENS U.S. DETERRENCE

President Nixon has moved onto high moral ground with his renunciation of biological and bacteriological warfare, but he has exposed another military flank in doing so.

It is one thing to condemn the use of germ warfare and to order the disposal of lethal and potentially catastrophic stockpiles of such weapons currently on hand. But it is something else again to declare to the world at large—a world in which we have as many enemies as friends—that the United States will never use such warfare, even in self-defense.

And it is even more self-sacrificing to pronounce a policy under which this country will limit its research to defensive measures alone. The trouble here is that the United States is to be believed, in sharp contrast with its Communist adversaries. Statements such as those made Tuesday by President Nixon are a welcome input into the thinking of military strategists and tacticians on the other side of the Iron and Bamboo curtains.

It is an axiom of the prize ring that a fighter does not "telegraph" his punches. It is equally important that he not telegraph his vulnerabilities. Yet that is precisely what the United States continues to do.

Back in 1962, the late President John F. Kennedy announced that the United States would never, under any circumstances, initiate a nuclear strike against another nation. He undoubtedly reflected the American frame of mind then and now, for this is a peace-loving nation. But the very declaration of such a policy gave our present and potential enemies a degree of assurance against the likelihood of American nuclear employment which they had not had before.

Now comes President Nixon with another such declaration, this one dealing with chemical, biological, and bacteriological warfare. And once more the men in Moscow and in Peking can take satisfaction in America's rejection of a military capability which—had it been retained—would have added another dimension to the United States' military readiness.

It is a sad commentary on the state of civilization that peace should depend upon a balance of terror. Yet in a world where irrational and irresponsible men maneuver for domination of the globe, fear alone will stay their utter ruthlessness. And whatever lessens their fear of consequence heightens the likelihood of their aggression.

The lessons of World War I and II, and of Korea, and of Vietnam should have brought us the realization that strength alone can cope with madmen bent on conquest. The obvious presence of such strength—coupled with an apparent willingness to *use* it—not only is the means of winning wars, but of preventing them.

While we share President Nixon's abhorrence of germ warfare and his apprehension that it might get out of hand even when there is no war, we fear that his well-meant declaration lessens the credibility of American deterrence.

THE VIETNAM MORATORIUM—ADDRESS BY SENATOR TYDINGS

Mr. MCGOVERN. Mr. President, many Senators took an active role in the Vietnam moratorium activities on October 15.

Among the finest addresses made on that occasion was one delivered by the senior Senator from Maryland (Mr. TYDINGS), who appeared at moratorium observances in Baltimore and at the University of Alabama, in Tuscaloosa. His remarks, entitled "Vietnam: The Hard Truth," deserve widespread attention. In particular we should note his reaction to the assertion that Vietnam has become a matter of pride and to President Nixon's decision not to preside over an American defeat. Senator TYDINGS said:

> But I do not consider liquidating a costly mistake which is sapping the Nation's spirit and resources presiding over a defeat. As an American, I cannot be proud of a pride which blindly would have us try to vindicate the loss of 40,000 American lives by sacrificing still thousands more lives. It is a great Nation that can cast aside pretense and admit to its mistakes.

Mr. President, I ask unanimous consent that Senator TYDINGS' speech, entitled "Vietnam: The Hard Truth," be printed in the RECORD.

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

VIETNAM: THE HARD TRUTH

(Speech by Senator JOSEPH D. TYDINGS, October 15, 1969)

More than six years ago, John F. Kennedy said of the War in Vietnam and of the Vietnamese people: "In the final analysis, it is their war. They are the ones who have to win or lose it."

Subsequent events have borne out the simple truth of that statement. Yet despite the tragic expenditure of 44.000 American

lives, a quarter-of-a-million U.S. casualties, and more than $100 billion in desperately needed resources, we have failed as a nation to accept this truth and act upon it.

We continue to pursue a discredited "no-win, no-end" policy in Vietnam which should have been discarded long ago. For despite new rhetoric, the Nixon policy is indistinguishable in reality from the misguided Johnson policy of the past; a policy which was repudiated by the American people at the polls nearly a year ago.

We continue to send thousands of American boys each year to die in defense of a military strategy that we all know to be bankrupt; a Hamburger Hill strategy of endless assaults on useless positions that has not worked and will not work.

We continue to lavish men and munitions on a corrupt military clique in Saigon too often more concerned with plunder and privileges for itself, than with social justice and peace for its people.

We continue to hear many of those who constructed the disastrous policy of the past Administration serenading the present Administration with the same siren song of "victory just around the corner;" and sadly, these "architects of failure" are being listened to again.

In short, after five years of futile fighting in Vietnam, we continue to pursue a no-win, no-end course which has clearly failed. However, neither the Johnson Administration nor—so far—the Nixon Administration has been willing to acknowledge that failure; neither has been willing to trust in the courage of the American people; to trust in their capacity to accept the hard facts of life regarding our involvement in Vietnam.

It is time the American people were given the full truth.

First, we must recognize that our continued military involvement in Vietnam does *not* serve the nation's best interests—interests which must be defined in terms of the freedom and security of the American people.

Whatever the outcome of the conflict in Vietnam, American presence in the Far East will be preserved. For that presence is built on the air and sea power that have rendered the Pacific a protective American "moat," not on our troops mired in the swamps and jungles of Vietnam.

Whatever the outcome of the struggle for power between Saigon and the Viet Cong, so-called "wars of national liberation" will continue to break out in Asia, Africa, and Latin America. And, as we have discovered the hard way, the fate of each will be determined by the popularity and perseverence of the competing indigenous forces. We cannot dictate the results of these civil wars by landing American troops. We are not omnipotent.

What will happen in Vietnam depends, now as before, on the Vietnamese themselves. Likewise, what will come to pass in Thailand, Burma, or Indonesia will in the last analysis be determined by the Thais, the Burmese and the Indonesians—not by us nor by the tumbling of imaginary national dominoes.

So now we are spilling American blood and treasure in Southeast Asia unnecessarily, with no real benefit to America's interests. This may have only been guessed at five years ago, or even three years ago. But today it is an uncontestable fact.

Furthermore, there is no sign that the present Administration has made the hard decision to extricate us from this tragic conflict. The promise to withdraw 60,000 American troops from Vietnam by the end of the year is a token gesture. For the 484,000 remaining United States troops will be left to maintain offensive military operations at current levels.

Some have cited as encouraging the growing talk of replacing American ground forces with Vietnamese while retaining American troops in supply and support roles. Make no mistake. This "P.R." version of Vietnamization of the war is no formula for U.S. extrication. Rather it is a formula for keeping a quarter-of-a-million American troops at a cost of $15 billion a year mired in Vietnam for five years, ten years, or indefinitely. It is designed to keep us in Vietnam, not to get us out.

More and more over the past two years, U.S. policy seems dictated by the Thieu-Ky government. From appearances, one would think the generals in Saigon were propping up the government in Washington rather than the other way around.

So this is the hard truth of the matter: America remains wedded to a bankrupt Vietnam policy which does not serve its interests; and the Nixon Administration has brought the nation no closer to terminating this tragic venture than it was when the Paris peace talks opened more than 500 days and 16,000 American deaths ago.

Why then does the nation not abandon its present course for a policy of definite, speedy extrication? Why do we not simply begin the rapid and orderly withdrawal of our troops?

According to the Administration, we cannot for a number of reasons. We are told we still have obligations to the government in Saigon. But what obligations remain to be fulfilled?

We have supplied Saigon with military and economic aid for more than 15 years. We have carried the brunt of the fighting for the past five years, suffering more men killed than in Korea and more wounded than in World War I. We have poured more than $100 billion into the war; $100 billion that was desperately needed to solve pressing problems here at home. And we have witnessed the resulting distortion of our national economy; a runaway inflation, a 10% surtax, a critical balance of payments problem. We have given them the lives of 44,000 valiant American men.

No, the American people have more than fulfilled their obligation to Saigon.

Nor could the rapid withdrawal of our troops be interpreted as an abandonment of our allies. The Saigon government currently has more than a million well-equipped men under arms to stand against 135,000 Viet Cong and 90,000 North Vietnamese regulars. If it cannot defend itself under these circumstances, it clearly lacks the will to fight—a will no number of American deaths can impart.

We are told we cannot set a timetable for definite withdrawal because of what the President says it will do "to other nations' confidence in our reliability." But who can believe that international confidence and respect are won by clinging blindly to a no-win, no-end policy that all recognize for the failure it is? Our place in the community of nations will be determined by our power and judgment; not by a kamikazi insistence on trying to redeem a useless and impossible war.

Finally, we are told that it is a matter of pride; that President Nixon does not want to be the first to preside over an American defeat. But I do not consider liquidating a costly mistake which is sapping the nation's spirit and resources presiding over a defeat. As an American, I cannot be proud of a pride which blindly would have us try to vindicate the loss of 40,000 American lives by sacrificing still thousands more lives. It is a great nation that can cast aside pretense and admit to its mistakes.

In short, there are no convincing reasons for not terminating our protracted involvement in this war.

However, there is one overwhelming and compelling reason why we must get out of Vietnam and begin now. We must get out of Vietnam because, as one Statesman put it, "a process of deterioration has begun in our society which cannot be arrested, much less reversed, until we do get out."

America must end its involvement in Vietnam, or Vietnam may end America's hopes for a better future.

For the crisis that has resulted in this country has been, above all, a moral crisis. It is a crisis caused by continuing an unjust and unnecessary war which is so "blatantly incompatible" with traditional American values; a crisis which is rending the moral fabric of our society and turning us into a divided and disillusioned people.

We must end the war because it is right to end it. We must end it so each of us can say, in the words of Albert Camus,

"I should like to be able to love my country and still love justice. I don't want just any greatness for it, particularly a greatness born of blood and falsehood. I want to keep it alive by keeping justice alive."

TOWARD MORE ADEQUATE SOCIAL SECURITY—VI

Mr. WILLIAMS of New Jersey. Mr. President, as Congress prepares to make major decisions on improvements to our social security system, it becomes all the more important that Americans of all ages understand the economic pressures now burdening most older Americans.

For that reason, I am submitting information about such pressures for the pages of the CONGRESSIONAL RECORD; and today I will draw from statements presented at a meeting conducted in Hudson County, N.J., recently.

There, I called upon elderly residents, county, and municipal officials and others to tell what it means to be old and to live on a limited income in one of the urban centers of New Jersey.

There could be no doubt about the most pressing concern of those who testified. They want social security benefit levels that will be of real help to them as they cope with rising medical costs, rents, or property taxes, and other costs of living. In a county where the average monthly social security benefit is $94 a month, the administration proposal for an across-the-board increase of 10 percent would not go very far. We need far more definitive action—of the kind proposed last week in S. 3100.

There can be no substitute for the grassroots testimony received at meetings such as that conducted in Hudson County. The message that came through in more than one statement was most vividly expressed by one participant who said:

> There are a lot of poor people in this Nation and county who also have lived a great number of years. And the sad truth is that many of those elderly have become poor by becoming old.

Mr. President, I ask unanimous consent to have printed in the RECORD two newspaper articles, one from the Hudson Dispatch, of Union City, dated October 14, and one from the Jersey Journal, of Jersey City, dated October 13. The stories give highlights of a memorable and productive occasion. They are worthy of study as Congress turns its attention once more to vitally needed social security adjustments.

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

[From the Hudson (N.J.) Dispatch, Oct. 14, 1969]

WILLIAMS ASSAILS NIXON BILL AS NOT CLOSING THE AGED GAP

Several hundred Hudson County senior citizens on Saturday attended Senator Harrison A. Williams "informal information session" on the economics of aging at Dr. Martin Luther King Jr. School, Jersey City.

Williams, who is chairman of the Senate Special Committee on Aging, is investigating the problems of the aging, especially the economic factors, throughout the country. Previous hearings have already been held in Washington, D.C.

In opening the session, Williams said that he wants the meeting to serve as a "clear call for action which will finally end the worsening retirement income crisis that plagues most older Americans today."

"And I want it to be a warning," Williams said, "to younger people, those now still in the labor force. They have a stake in resolving this problem because their own economic security in later years is now threatened by the same problems that face the elderly."

Williams said that he wouldn't burden the audience with statistics, but would tell them what the statistics mean.

PEOPLE POOR WHEN OLD

"They mean," he said, "that people who have maintained their independence all their lives find that they become poor when they become old. They mean that too often those elderly must make the cruel choice; food on the table or prescription drugs to ward off pain or collapse. They mean that the family home often becomes too expensive to maintain, even though apartments cannot be had at rents within the reach of people on fixed incomes.

"They also mean," Williams continued, "that hard-pressed sons and daughters of the elderly quite often try to help their parents, sometimes in secret."

Williams assailed the Nixon social security bill sent to Congress because the 10 per cent increase "will not even close the cost-of-living gap." He said that by April the cost-of-living will have risen 12 per cent over what it was when the last social security increases went into effect.

The senator also criticized the Nixon plan for failing to raise minimum benefits. He said that he and a group of congressmen are advocating a 15 per cent increase by Jan., 1970, and a 15 per cent increase in January of each of the following two years; and that, over the same three-year period, minimum benefit be raised from $55 to $103.

CALLS FOR QUICK ACTION

Conrad J. Vuocolo, director of tenant relations for Jersey City Housing Authority, said that a concentrated "plan of action must be placed into effect without delay."

In emphasizing the problems of the aging, Vuocolo said that Jersey City has a geriatrics clinic which has become nothing more than a "communications office" where medical people tell the elderly that they must see their own physicians.

Vuocolo said that recreational fields for the "entire senior citizen population of Jersey City" receives less than $2,000 a year appropriation for arts and crafts. He criticized the state's Office on Aging for having a $30,000 budget to staff two referral offices which do nothing.

Vuocolo said that instead there should be created a program of "State Aid for the Elderly" and that communities like Jersey City should get a per capita grant from the state "for the problems of the elderly."

"If we are to serve our elderly," Vuocolo said, "who have indeed helped make America the great country that it is by raising many fine families; helped to build its railroads; send their sons and loved ones to war; paid taxes for many years—federal and state agencies had better stop using their jawbone and start using their backbone."

WHELAN OPENS MEETING

Mayor Thomas J. Whelan opened the meeting by extending the city's greetings.

Dr. William Wilkinson, president of Jersey City branch, National Assn. for the Advancement of Colored People, also spoke.

Panelists were Mrs. Lillian Allen of Jersey City, Mrs. Christina Borneman of Hoboken, Clint Jaeger of Bayonne, John MacNab of Kearny, Mrs. Elizabeth Thompson of Jersey City, Mrs. India Edwards, director of Jersey City Office on Aging, and Michael Reilly, director of Hudson County Centre on Aging.

Also, Mrs. Mary Johnson, director of Jersey City Meals on Wheels, Inc.; Mrs. Virginia Statile, director of Visiting Homemaker Service of Hudson County; Walter Lezynski, Jersey City health officer, and Walter Nicholl, Kearny health officer.

[From the Jersey City (N.J.) Jersey Journal, Oct. 13, 1969]

WILLIAMS BIDS UNITED STATES AID AGED

Senator Harrison A. Williams Jr., chairman of the U.S. Special Committee on Aging, said today that the biggest problems facing the elderly in Hudson County were nutrition and transportation. He added that both needs "should be taken care of by federal funds."

Sen. Williams made these remarks after listening to testimony of 16 Hudson County residents concerning the situation of the elderly in the area at a information session on the Economics of Aging, Saturday afternoon at the Martin Luther King School in Jersey City, where between 300 and 400 senior citizens had gathered.

The testimony was given by the directors of the various city and county organizations that deal with the elderly and by some of the county's senior citizens.

The witnesses emphasized the financial concerns of the elderly, especially that of drug and medicine bills, food costs and transportation.

"Our group is vitally interested in health," said Mrs. Lillian Allen, president of the Lillian Allen Senior Citizens Club. "We have to keep ourselves out of the hospitals. To do this we suggest neighborhood health clinics where retired doctors and nurses could work part-time to keep others aware of what their state of health was.

"And we could save 90 per cent of drug costs if we could buy them under the genetic name."

Clint Jaeger of Bayonne continued along the lines of medicine costs by citing cases of an 81 year old person he knew who received $658 annually and paid $396 rent leaving the rest for medicine and food; and another 69-year-old man who received $932 annually and paid the same amount for rent.

"The remainder is far too little to live on," he said.

The problem of malnutrition was outlined by Mrs. Mary Johnson, director of Meals on Wheels in Jersey City.

"Malnutrition and loneliness go hand in hand," she said. "The elderly scrimp and save to get a week's food supply out of one meal. I knew one woman who bragged when she got 6 cups of tea from one bag.

"We found one couple that were starving to death. When we brought them food, they started tearing into it like animals. Two weeks later, when our man brought them food he found that the food from the day before was left untouched, and the husband trying to wake the woman up. She had been dead for two days. The man died a few weeks later."

She brought out the fact that most of the elderly will not buy the food stamps because they feel that is accepting charity.

"We have to work to keep these people from becoming confined," said Mrs. Johnson.

Many of the witnesses discussed the need for lower bus fares.

"We're hoping for a crosstown bus in Hoboken," said Mrs. Christina Borneman. "I'm 12 blocks away from the shopping district. So I go to Union City where everything is close together."

Conrad Vuocolo, director of Jersey City Housing Authority tenant services, proposed a program for the elderly similar to the welfare program for children.

"The city should get so much per capita," he said, "for geriatric centers, miniparks, arts and crafts materials, reduced fares and the like: It's time for New Jersey to act."

Sen. Williams spoke against President Nixon's 10 per cent increase in social security saying that for most people it could be understood as "five trips from Hoboken to Jersey City a month."

He continued: Congress' 10 per cent increase will not even close the cost-of-living gap. By next April, when the first checks would go out under the Nixon plan, the cost-of-living will be roughly 12 per cent more than it was when the last Social Security increases went into effect.

"The Nixon plan doesn't raise minimum benefits, and here is the greatest need. A single person now receiving $55 a month would receive only $61 a month under the President's proposal.

"What is true of minimum benefits is also true of the Nixon plan for automatic cost-of-living increases. Since most Social Security levels are inadequate, the Nixon plan would simply perpetuate inadequacy."

He concluded by saying he did not "want to offer * * * in the sky," but he was sure that "the time has come for a really thoroughgoing revision of social security and some parts of Medicare, too."

Mrs. India Edwards, director of the Jersey City office on aging, agreed with the Senator and remarked that it was time "dignity and aging joined forces for a better way of living."

FUNDS FOR JUVENILE DELINQUENCY PREVENTION AND CONTROL

Mr. DODD. Mr. President, on December 1, I submitted a statement to the distinguished chairman of the Subcommittee on Labor and Health, Education, and Welfare, and Related Agencies Appropriations, urging adequate funding for the Juvenile Delinquency Prevention and Control Act.

I ask unanimous consent that my 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 THOMAS J. DODD, REGARDING FISCAL YEAR 1970 APPROPRIATIONS FOR THE JUVENILE DELINQUENCY PREVENTION AND CONTROL ACT OF 1968

Mr. Chairman: I am seriously concerned with the way we are handling the Juvenile Delinquency Prevention and Control Act of 1968.

As you know I have been interested in this legislation since its inception. I introduced it in the Senate. When the bill was referred to the Labor and Public Welfare Committee I testified before the Subcommittee which considered it. And along the way, before and since its passage, I have proposed several amendments to change and improve the provisions of this Act.

Today I am particularly concerned with the funding, or rather the lack of funding, for this law.

The law was the response of Congress to a continuously increasing delinquency problem.

It proposed new avenues of action that would lead to more effective prevention of delinquency.

It proposed community based treatment institutions and other programs designed to give young people better opportunities to adjust where they live rather than in rotting jails or brutal barred institutions.

In many ways this law took an innovative trend, a new direction toward the prevention, control and treatment of delinquency.

There was a great deal of support for this new approach from correctional administrators and from others concerned with delinquent and predelinquent children throughout the nation.

These reactions were based on the realization that the conventional solutions to delinquency had not worked, had failed miserably, in fact, and that something new and different should be tried.

Even when we passed the Delinquency Act of 1968 I felt that there was too much emphasis on new programs and not enough support for the existing systems of delinquency prevention and control.

This was one reason why I proposed an amendment to the original Act to specifically get our schools involved in the effort to curb delinquency.

I felt that the schools had not done enough in this field and could do more with a little additional encouragement and support.

The amendment was passed by both houses and became part of the law. It was designed to promote educational courses in schools that would teach children how to keep from getting involved with crime, delinquency and drug use.

I had great hopes for this amendment as I had for the other provisions of the bill.

But, I must say today that so far I have heard of few benefits achieved from this legislation. On the other hand, I have heard a great many complaints regarding why little can be done to make it approach the hoped for objectives.

In a nut shell we are starving if not altogether strangling this law for lack of funds.

As passed, the law provided 25,000,000 dollars for the fiscal year 1969.

The amount actually appropriated was only 5,000,000 dollars.

The amount provided in the law for fiscal year 1970 is 50,000,000 dollars.

The actual sum requested by the Department of Health, Education and Welfare is only 15,000,000 dollars.

I further understand that the House of Representatives has cut back even this meager sum to only 5,000,000 dollars.

Now, Mr. President I understand the economic situation and the effort by the Administration and the Congress to minimize spending.

But, I also know that allowing only one tenth of the funds authorized to be appropriated does not just reduce the programs by nine tenths.

This kind of "saving" can kill the planned programs entirely.

In fact this type of surgery on a budget can lead to complete wasting of even the fraction of the monies that *are* appropriated.

For these reasons I cannot support or justify these devices for saving or economizing.

And I particularly cannot accept such an approach when we deal with the welfare and well being of children.

I believe the Department of Health, Education and Welfare has erred in asking only 15,000,000 dollars instead of the full amount of 50,000,000 dollars authorized under the Act.

I think the Department should either get serious about implementing this legislation or get out of the delinquency control field.

I think the other body has erred in slashing the request of 15,000,000 dollars down to 5,000,000.

This sum is ridiculous when we realize that this means that the Federal Government is spending $2.00 apiece on the prevention, treatment and rehabilitation of the known delinquents in this nation.

The sum is even more ridiculous when we know that the Justice Department has received an appropriation of close to one quarter of a billion dollars under the Omnibus Crime Control and Safe Streets Bill.

I, for one, believe that prevention of delinquency and crime among our youth where most of our crime problem starts is certainly as important as aiding law enforcement agencies to apprehend accomplished criminals.

If we did not need a Delinquency Prevention Act we should have rejected and defeated this legislation outright.

If we cannot give the problem of youth crime the priority it deserves, then let us repeal the law.

But we should not and must not tell the American public and the young people that we have a law to prevent delinquency when we are in fact taking away with one hand what we ourselves have given with the other.

It is a false society and a false economy that would save money on the vital efforts to educate, to develop and to rehabilitate that nation's youth.

I fear that we have all too often slipped into this type of nearsighted economizing.

And, we continue to sink deeper.

Mr. President, youth crime has gone up 10% in the last year for which we have complete statistics. Arrests of young people for serious crimes have gone up 78% since 1960. And we can anticipate that perhaps 40% of our juvenile population will have an arrest record in the next decade.

Among other aspects of delinquency, drug abuse alone has become a problem of formidable proportions.

Surveys show that as many as 50% of high school students in some areas are marihuana users.

And we know that there is an even more general process of alienation that increasingly separates young people from the older generation and the general society.

These are all reasons that will require *more* not less expenditures for delinquency prevention.

They are reasons that will force us to reassess the list of priorities according to which we spend our money.

Today, I charge that we are short changing our youth and ourselves if we allow any reduction of funds for the Juvenile Delinquency Prevention and Control Act.

If we do not pay for programs to prevent youth crime, we will be forced to pay for more police to catch more offenders.

We will pay for more training schools and adult penitentiaries. And we will pay for life long careers in crime that could have been prevented had we spent some money elsewhere.

To escape greater costs at a later time I want to impress upon my colleagues the need to give adequate funding for the Juvenile Delinquency Act.

I certainly hope that both the Senate and the House will allow *at least* the funds for this Act requested by the Department of Health, Education and Welfare.

PRESIDENT NIXON'S NOVEMBER 3 ADDRESS

Mr. McGOVERN. Mr. President, a few weeks ago Prof. George McT. Kahin of Cornell University, who is among this country's most knowledgeable scholars on Asian affairs, delivered a point-by-point assessment of the administration's approach to Vietnam as postulated in President Nixon's November 3 speech.

Administration spokesmen have expressed some incredulity over the fact that most critics of this country's venture into Vietnamese affairs have not expressed satisfaction with the reversal of course which has been made; from the Johnson policy of escalation to the Nixon policy of Vietnamization. In response it must first be noted, of course, that the turn was begun prior to Mr. Nixon's election and even before his nomination. The restrictions in the bombing announced in March of last year, and the total halt in October, clearly marked abandonment of the discredited policy which had been followed before.

But of more significance than this is the real meaning of the policy which President Nixon has announced. It is not, as suggested in the November 3 address, a plan for peace. It is, instead, a plan for the indefinite presence of American troops in Vietnam.

President Nixon has stated that the rate of our withdrawal will depend upon the rate at which Saigon's forces are able to take over the burden of fighting from our troops. In response, Professor Kahin pointed out that—

> If we really intend to shift responsibility from American to Saigon forces, we are certain to discover what our own army officers have known for a long time, that modern military equipment is no substitute for the will to fight and a Vietnamese regime worth fighting for. With the desertion rate of Saigon's military forces still running between 20 and 25 percent per year it is senseless to assume that somehow miraculously the attitude of its reluctant soldiers is going to change.

Professor Kahin has also raised helpful insights into the basis for predictions that a "blood bath" would follow our withdrawal from Vietnam, noting the President's recollection that following their takeover in the north 15 years ago the Communists murdered more than 50,000 people and thousands more died in slave labor camps. Says Professor Kahin:

> This is an unconscionable misrepresentation likely to deter Americans from moving towards a compromise settlement. If President Nixon had taken the trouble to look at the records of the International Control Commission he would know that during the entire three year period following the armistice, they indicate allegations of only 55 incidents of political reprisal. . . . During the same period the International Control Commission cited allegations involving a total of 1,404 incidents of political reprisal in the South involving murder, arrest, confiscation of property and in some cases massacres of several families or whole villages.

Moreover, he notes that the violence that did occur in the north more than 2 years after the Geneva armistice did not involve reprisals against Vietnamese who had previously supported the French against the Vietminh.

He also said:

> It had nothing to do with the civil war that had ended two years before. This violence in the North, in which the historian Joseph Buttinger estimates that 10–15 thousand were killed, was the consequence of a clumsy and unrealistic attempt to impose a Chinese communist model of agrarian reorganization . . . As a consequence, these agrarian policies were discredited and dropped and Hanoi's minister of agriculture sacked.

Certainly none of us can condone or excuse these activities on either side. But if they are to be used as reasons for con-

tinuing the loss of American lives in Vietnam then we had best understand how and why they occurred. A rational analysis simply does not support the President's predictions.

Mr. President, these points are of critical importance in connection with our efforts to understand the outlook in Vietnam. Therefore, I ask unanimous consent that Professor Kahin's statement be printed in the RECORD.

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

A COMMENTARY ON THE PRESIDENT'S NOVEMBER 3 ADDRESS

(By George McT. Kahin)

On November 3 the President undertook to tell us in which direction he would move in Vietnam. This was a speech addressed primarily to securing public support in this country and not to a solution in Vietnam. He began by telling us that one of the reasons for the deep division in this nation about Vietnam is that many Americans have lost confidence in what their government has told them about our policy. They cannot and should not, he said, be asked to support a policy involving war and peace unless they know the truth about that policy. If this was his major concern, his speech was clearly a failure, for it served to increase rather than decrease the misunderstanding. Indeed, he has embraced the same historical myths that served to rationalize his predecessor's policies and has in fact added a number of his own.

Let us then turn to his speech: beginning with what he describes as the fundamental issue: why and how did the U.S. become involved in Vietnam in the first place? He immediately answers his question with the statement: "Fifteen years ago North Vietnam, with the logistical support of Communist China and the Soviet Union, launched a campaign to impose a Communist government on South Vietnam by instigating and supporting a revolution." Fifteen years ago Ho Chi Minh's government was in fact in the process of withdrawing its troops from the south in accordance with Geneva and not instigating a revolution there. Ho Chi Minh's government confidently expected to win the elections two years later promised under Geneva and had no reason to intervene. What it did not expect was that as soon as it had withdrawn its troops, we would, contrary to the Geneva agreements, begin direct intervention in the southern half of the Vietnamese nation.

In fact, fifteen years ago in 1954, American intervention was not new. We had already been intervening heavily by four years of unstinting support to the French. Then, after failing in this effort and acquiescing in a Geneva settlement which we did not sign but promised not to overturn, we prepared to intervene more directly by building up a separate state in the South. Even so, Hanoi did not in fact begin to intervene in the South until some five years later when heavy repression by this American supported southern regime drove thousands of Vietnamese—noncommunist as well as procommunist—into rebellion.

A precipitate withdrawal now by the United States, President Nixon continues, would inevitably allow the communists to repeat the massacres which he charges followed their takeover in the North fifteen years ago—when, he alleges, they "murdered more than 50,000 people and hundreds of thousands more died in slave labor camps." This is an unconscionable misrepresentation likely to deter Americans from moving towards a compromise settlement. If President Nixon had taken the trouble to look at the records of the International Control Commission he would know that during the entire three year period following the armistice, they indicate allegations of only 55 incidents of political reprisal—whether murder, arrest, or confiscation of property—made by the French and Diem against Ho Chi Minh's regime. During the same period, the International Control Commission cited allegations involving a total of 1,404 incidents of political reprisal in the South involving murder, arrest, confiscation of property and in some cases massacres of several families or whole villages.

The significant violence that did occur in the North more than two years after the Geneva armistice did not involve reprisals against Vietnamese who had previously supported the French against the Vietminh. It had nothing to do with the civil war that had ended two years before. This violence in the North in which the historian Joseph Buttinger estimates that 10–15 thousand were killed, was the consequence of a clumsy and unrealistic attempt to impose a Chinese communist model of agrarian reorganization. Peasant resentment against the government's program in at least one province ended in a rebellion that troops were required to suppress. As a consequence, these agrarian policies were discredited and dropped and Hanoi's minister of agriculture sacked.

President Nixon then turns to reports of atrocities during the Tet offensive at Hue. During the terribly intense fighting at Hue there certainly were atrocities—perpetrated by both sides—though the number quoted by the President is much higher than any previous estimate. (One also wonders why in his text the President nearly doubled the figure for Catholic refugees from the North with which previous administrations were content.) It is disturbing to see him equate the situation of battlefield reprisals against civilians that existed at Hue with a post-armistice situation which would obtain after a settlement between us and our adversaries.

In heat-of-battle conditions both sides have in the past, and probably will in the future, carry out reprisals against those who have been identified as working for the enemy, particularly if they occupy positions in intelligence, the police, or are believed to be informers. So long as the battle in question is simply one episode in a series which is destined to go on, both sides are likely to take punitive measures that will ensure that in the next round of battle they will not be disadvantaged by the work of such enemy civilians. This kind of reprisal will probably continue in conjunction with the fighting *until* an armistice is achieved, and must be distinguished from the central question as to prospects of political reprisal *after* such an armistice, which is what we will be concerned with in working for a negotiated settlement.

Now what of the President's view of the present? This is, I am afraid, as unbalanced and inaccurate as his view of the past. It is an amazing example of double-think to find that nowhere, not once in his speech, does he make mention of the major adversary which both we and Saigon face in Vietnam, the National Liberation Front. By reading his speech one would assume that there are only three parties to the conflict: ourselves, Saigon and Hanoi. He is so rigorous in his insistence upon avoiding any reference to the NLF that in reading from his *own* letter of July 15 to Ho Chi Minh he even excises his own mention of the NLF and its 10 points. Why? I certainly don't understand the President's reasoning, but the consequence is to lay before the American public a picture of a situation in Vietnam which is grotesquely artificial.

Thus, as with President Johnson in 1965, there is presented for Americans a simplistic diagram of a battle between two states, North and South Vietnam. He avoids the central fact that the problem confronting us is a revolution in the South wherein Saigon has a local adversary which commands wide popular support and is militarily capable of defeating Saigon's armies on its own if American and North Vietnamese troops were withdrawn. Hanoi at least knows that it cannot negotiate over the NLF's head, and as we know from the past, no amount of American bombing could induce it to do so. If our President is serious about negotiations, it is unrealistic to bypass the NLF and pretend it does not exist.

The President then asks who is at fault for the lack of progress in negotiations, answering categorically that it is *not* the President of the United States and *not* the South Vietnamese government. The obstacle, he says, is "the other side's absolute refusal to show the least willingness to join us in seeking a just peace."

Let me first observe that it is difficult to read the exchange of letters between President Nixon and Ho Chi Minh and conclude with Nixon that Ho "flatly rejected" his initiative. Ho's letter constitutes no such rejection, and in emphasizing the NLF's 10 point program, which Nixon in his own letter had stated the U.S. was prepared to discuss, Ho was referring to matters which it is very much to our interest to discuss if we are serious and realistic about reaching a negotiated settlement.

If the enemy *has* refused to show the least willingness to join us in seeking a just peace, it is incomprehensible why the President later on in his speech in referring to what he describes as "significant developments which have occurred since this administration took office" points out that enemy infiltration during the last three months is less than 20% of what it was over the similar period last year," and that American casualties "have declined during the last two months to the lowest point in three years." If the President acknowledges this, but is unwilling to interpret these actions as showing "the least willingness" of the enemy "to join us in seeking a just peace", an enemy decision to step up military activity following the President's speech would not seem illogical. This is particularly serious in view of his statement that one of the factors which will govern the rate of withdrawal of American forces will be "the level of enemy activity."

Let me turn to another condition which the President says will determine our schedule of troop withdrawal—namely, the rate of Vietnamization—the rate at which Saigon's forces take over the burden of fighting from our troops. If we *really* intend to shift responsibility from American to Saigon forces, we are certain to discover what our own army officers have known for a long time, that modern military equipment is no substitute for the will to fight and a Vietnamese regime worth fighting for. With the desertion rate of Saigon's military forces still running between 20 and 25% per year it is senseless to assume that somehow miraculously the attitude of its reluctant soldiers is going to change. And here I am in full agreement with Senator McGovern that to turn "the war over to the South Vietnamese army *only* if we are certain that it is able to carry the load . . . is the same as proposing that we stay in Vietnam indefinitely."

And that, I am afraid, is apparently what this Administration proposes to do,—assuming somehow that it can manage to have it both ways—withdrawing enough American troops to placate public opinion in this country, but leaving enough behind (presumably some 200,000) to provide the necessary shield to protect at least Saigon and its immediate hinterland until our Presidential campaign of 1972.

Thereby, the Administration apparently hopes to follow what it believes is a middle course which will cut the ground from be-

neath both the opponents of the war and from the Wallacites and potential Wallacites who would be quick to accuse it of surrendering Asian territory to communist control if the NLF came to power. A President who first sat in the White House in 1952 with an administration that had used the loss of China issue as a means to win the election, can be presumably expected to remain sensitive to such an attack from the right.

But in the position he has now taken, President Nixon has really lost the power of initiative. By tying himself so closely to Saigon and so uncritically embracing General Thieu's position, he has robbed himself of almost all possibility of finding any common ground with our enemy—and without some common ground you simply cannot have a negotiated settlement. He has in fact made himself and the lives of Americans a prisoner of decision made in Saigon and Hanoi. In addition to being conditional upon the growing strength and self-sufficiency of Saigon's army, our willingness to withdraw is made dependent upon the utopian expectation that the NLF and Hanoi will meekly resign themselves to a major reduction in military activity—a reduction sufficient not only to keep American casualties low but also sufficient to sustain the myth that the Saigon military forces are increasingly effective, and that Nixon's policy of Vietnamization is really working. In effect, then, we will not withdraw, until our enemy cooperates with us to save our face by maintaining the credibility of Saigon's military forces and permitting the Thieu government to remain in power.

There is *nothing*, then, in the President's speech which eases the way for negotiations at Paris. His plan is not addressed to the NFL or Hanoi, but to the American public, and it centers about the major objective of strengthening and sustaining General Trieu's government. He has altered President Johnson's tactics, but he has embraced both his premises and his objectives. To buy himself a little time in managing the American public, he has been as guilty as his predecessor in denying it the truth.

The greatest part of the tragedy, I think, is that in order to head off the pressure of anti-war sentiment he has resorted to seizing the national flag and waiving it defiantly at those who oppose him. He has taken the tragic decision to shift the debate from consideration of the actual factual conditions that govern the present and future in Vietnam to a justification in terms of patriotism and what he alleges is our national honor. Once he tells Americans that their national honor is dependent upon maintaining a position which excludes the compromise ultimately necessary to end the fighting—then movement towards peace cannot be made without appearing to repudiate the very patriotism which he has called upon to justify his bankrupt policy. Once a President resorts to flag-waiving in order to silence reasoned argument he reduces his own ability to move back to the course of reason.

POLLUTION OF THE ENVIRONMENT

Mr. PELL. Mr. President, as a nation, we are becoming increasingly aware of both the extent and the dangers of increasing pollution of our environment.

It was only a short time ago that our concern over pollution was limited to some very apparent problems—primarily the pollution of rivers and lakes to the extent that they became obnoxious to humans.

The extent of the environmental pollution problem has increased dramatically in recent years, as the sheer quantity of pollutants has increased, and as we belatedly have begun to learn and understand the far-reaching effects of the contamination of our waters, the land itself, and the air.

Now we are learning that even the ocean, once thought to have a limitless capacity to absorb the wastes and refuse of civilization, can also be polluted.

The Wall Street Journal recently published an excellent report on the alarming extent of oil pollution of ocean waters. The article indicates that this pollution is the result not primarily of the large oil spills that attract public attention, but of innumerable smaller spills, both accidental and intentional.

The article also indicates the extreme difficulty encountered by the Coast Guard in its efforts to control these damaging spills in our coastal waters.

Mr. President, in the coming years, ever-increasing quantities of petroleum will be transported in giant tankers, and an increasing percentage of world oil production will be drawn from offshore wells beneath the ocean. The danger of pollution from these activities is clearly a problem that requires attention.

I ask unanimous consent that the article from the Wall Street Journal of November 26 be printed in the RECORD.

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

TROUBLED WATERS: POLLUTION OF THE SEAS, BEACHES BY OIL POSES MAJOR GLOBAL PROBLEM—MARINE LIFE AND RECREATION SUFFER; FOULING IS CAUSED BY TANKERS, WELLS, PLANTS—INDUSTRY PRESSES RESEARCH

(By Glynn Mapes)

Not long ago oceanographers aboard the research vessel Chain were collecting surface samples from a lonely expanse of the Atlantic south of Bermuda known as the Sargasso Sea. They had planned to study marine life inhabiting the great quantities of drifting seaweed found in the area.

Instead, the scientists made a disturbing discovery. Their nets quickly became fouled with oil and tar—thick sticky globs up to three inches in diameter. Day after day along a 630-mile stretch they cleaned the nets with solvent only to see them gum up again a few hours later. Finally, they abandoned the project in disgust because they were picking up three times as much oil as seaweed.

It wasn't an isolated incident. "Just in the past few years we're finding we can't sail anywhere in the Atlantic—even a thousand miles from land—without finding oil," says Howard Sanders, senior scientist at the Woods Hole Oceanographic Institution, which operates the Chain.

THREAT TO MARINE LIFE

As the vessel's unhappy voyage suggests, world-wide oil pollution—even diluted by the ocean's vastness—is nearing crisis proportions. Beach-goers in such widely scattered spots as the New Jersey shore, Bermuda, the Riviera and the Red Sea complain of gooey black lumps of jellied oil that frequently wash up on shore. Floating oil spills, almost always of unknown origin each year kill many thousands of seabirds in North Atlantic and Mediterranean waters, according to surveys by conservationists. Indeed, scientists believe the growing quantity of oil dumped into the sea is threatening marine life of all sorts—and perhaps man as well. The oil industry itself is exhibiting mounting concern.

Where's all the oil coming from?

Ships that routinely discharge oil wastes at sea are the biggest offenders, pollution control experts agree. Tankers, for example, wash out their cargo tanks with salt water after each load. Not infrequently, the washings—along with a heavy residue of oil—are dumped into the ocean. Moreover, passenger liners and freighters often fill their empty fuel tanks with water for ballasting purposes. This highly contaminated mixture is always pumped overboard before the ships enter port to refuel. And vessels of all types normally discharge oily bilge sludges over the side.

Other major sources of unwanted oil include spills from manufacturing plants, refineries and oil terminals. In Boston Harbor alone, a spill of several tons of oil can be expected every three weeks, according to officials of the Massachusetts Division of Natural Resources. Seepage from offshore drilling rigs and spills from wrecks of oil barges and tankers also add to pollution levels.

A DAY-TO-DAY PROBLEM

In recent years, a few widely publicized disasters—like the grounding of the supertanker Torrey Canyon off Britain and the blowout of a well in the Santa Barbara Channel—have focused public attention on oil spills. Yet, damaging as these occasional catastrophes can be, they're only one part of a far larger problem, the experts say.

"It's the day-to-day stuff that's killing us—the chronic oil pollution that nobody reads about in the headlines," says Lieutenant Commander Paul Sova, a Coast Guard law enforcement officer in New York. Adds a biologist for the U.S. Fish and Wildlife Service: "A great deal of oil is washing ashore all along our coasts. What's its cumulative effect on our environment? That's what we ought to start worrying about."

Statistics on oil pollution are scarce. The Coast Guard lists 714 major oil spills in U.S. coastal waters last year, up from 371 in 1966. No one counts spills on a world-wide basis:

Things are expected to get worse. On one hand, world-wide offshore petroleum production is expanding at a rate of 10% a year—and presumably the inevitable minor spills and seepages will grow correspondingly. So far, major blowouts have been rare. But a Presidential panel set up after the Santa Barbara disaster recently warned that by 1980 the U.S. can expect a major pollution incident from offshore wells every year.

SUPERTANKERS PROLIFERATE

Ocean shipments of oil are also climbing rapidly. Capacity of the world's tanker fleet has doubled since 1960 and is continuing to grow. Many of the new vessels are supertankers. These behemoths, with capacities of 100,000 tons or more, will be hauling half of all marine shipments of oil by 1975, it's estimated. (The biggest supertanker afloat today carries 312,000 tons; by comparison, the Torrey Canyon's capacity was 117,000 tons.)

What's more, the imminent tapping of the vast North Slope oil fields in Alaska is adding greatly to pollution fears, especially among conservationists. Tankers will likely be hauling oil through treacherous icebound waters. Even small spills during transport or drilling operations would be especially damaging to the fragile Arctic environment, since oil tends to persist far longer in cold waters than in warm.

Talk of growing oil pollution is most unsettling to Kenneth Battles, co-owner of the Sea Crest Hotel, a resort in Falmouth, Mass., on Cape Cod. He has already had his fill of the stuff.

Sticky black globs of oil washed up on the Sea Crest's beach three separate times in August alone, Mr. Battles says. Disgruntled guests had to clean their feet with kerosene—and some cut their visits short. "We're sure the oil came from ships heading into Boston, but there's no way we can prove it," he says.

Topping off Falmouth's summer, a barge ran aground on a nearby shoal in mid-September, spewing diesel oil over the town's shoreline. The spill took a month to clean up (the Sea Crest used bulldozers to remove oil from its beach), and for several days Falmouth smelled like a refinery, Mr. Battles says. "The cape should be a refuge for the pollution problems of the city," he adds angrily. "Why drive all the way from New York to find the same damn thing here?"

The Falmouth spill also caused extensive mortality in some 24 species of fish and killed large numbers of crabs, lobsters and scallops, according to scientists who surveyed the scene.

But more disturbing were the subtle effects on the creatures that survived the spill. Weeks later divers from the Woods Hole laboratory found fish and crabs whose natural instincts were strangely altered. Flounder that appeared outwardly healthy allowed themselves to be handled by the swimmers; ordinarily they would have scooted away. Normally skittish fiddler crabs also seemed to have lost their escape reaction; most boldly held their ground as the divers approached.

Max Blumer, a noted organic chemist at Woods Hole, observes that many marine animals produce minute quantities of chemicals that perform functions essential to maintaining the cycle of life. These chemicals act as attractants during the mating process. They also aid predators in locating their prey and, conversely, give warning to potential victims that they're being stalked by predators. Oil—whether from a single big spill or a buildup of repeated small doses—may well upset these vital, chemically triggered processes, Mr. Blumer theorizes, and thus could have a disastrous effect on the survival of many species, including those that are commercially important.

AIR PATROLS

Dumping of oil in the sea may also be creating a new risk of cancer in man. Some crude oils contain compounds that tend to produce cancer in animals. (Researchers, for example, have already found a high incidence of cancerous tissue in certain types of fish taken from the oily waters of Los Angeles Harbor.) Fish and shellfish that are eaten by man can ingest these oils. Hence, Mr. Blumer and other scientists speculate that chronic oil pollution may be leading to accumulation of cancer-causing agents in human food.

Three years ago, alarmed over the growing amount of oil in coastal waters, the Coast Guard began a regular schedule of flights by helicopter and airplanes to search out oil slicks and report polluters. Pilots logged 2,000 hours in such patrols last year. The Coast Guard has jurisdiction over all vessels within the three-mile limit and some limited powers beyond that.

One problem faced by the patrols is that ships that deliberately discharge oil often do so at night or during periods of low visibility to avoid detection. To combat this, the Coast Guard is developing an electronic sensing device that will aid pilots in spotting oil slicks even in pitch darkness. If the slick is trailing behind a vessel, presumably the pilot could identify the ship and lodge charges against the owner or master.

Yet even in broad daylight, oil surveillance patrols aren't a cure-all—as is indicated by a recent Coast Guard helicopter flight over New York Harbor. During this 90-minute patrol, the pilot, Lt. (JG) Ray Wirth, and a reporter who occupied the co-pilot's seat easily spotted six different oil slicks drifting rainbow-hued in the bright sunlight. But, as it turned out, none of the sources of the pollution could be positively identified.

FRUSTRATING DUTY

In fact, Lt. Wirth didn't even report four of the slicks. To have done so would have been pointless since they were floating far from any conceivable source. (Had the slicks been large enough to require cleanup, he would have radioed word to his home base.)

The two spills he did report were located near possible sources. One was floating alongside a Liberian-flag tanker moored at Bayonne, N.J. The other was located near a Lever Brothers Co. plant on the west side of the Hudson River. (A Lever Brothers spokesman said later that the plant, which makes detergents, soaps and Spry shortening, has occasionally had trouble with oil leaks but that there was no record of a spill that day. He theorized that the oil may have drifted downstream from some other source.)

However, by the time Coast Guard boats reached the scene of the two spills, the oil had drifted away. Hence, no charges were filed.

"It's very frustrating," the young Coast Guard pilot said after the flight. "There's oil all over, but we can't seem to do much about it."

Even when the Coast Guard has the evidence to take a suspected polluter to court, it isn't clear what Government agency should press the charge. The Interior Department's Federal Water Pollution Control Administration is the official pollution control agency, but its powers are limited by a 1924 law that gives it authority only over spills resulting from "gross negligence"—which is tough to prove. As a result, the Army Corps of Engineers has had to act under an 1899 law that prohibits the dumping of refuse into navigable waters.

Two bills currently before Congress—one in the House and one in the Senate—put considerably more teeth into water pollution laws. But shipping interests are bitterly opposing one feature of the Senate bill, the stronger of the two measures, which imposes unlimited liability upon shipowners for oil spills due to negligence. They contend it will be impossible to get marine insurance unless the liability has a fixed limit.

POLLUTION ON THE HIGH SEAS

There's also a move afoot to strengthen an existing international convention designed to limit oil pollution on the high seas. Currently, the convention allows ships to discharge oil wastes when more than 100 miles from land. Proposed amendments, which require ratification by member nations, would prohibit dumping of oil anywhere in amounts greater than 16 gallons per nautical mile. However, it's widely recognized that enforcing the convention is practically an impossible task.

For its part, the oil industry is earmarking considerable sums of research money to come up with better ways to clean up oil spills. The American Petroleum Institute, an industry trade group, has encouraged the formation of "harbor cooperatives" in more than 50 U.S. ports. These are volunteer groups of oil industry concerns that pool resources, purchase equipment and establish contingency plans for the quick recovery of spills in their harbors.

In addition, oil company-owned tanker fleets and the larger independent tanker operators a few years ago voluntarily adopted a new method of washing cargo tanks that's designed to keep much of the oil residue on board. It works like this: The contaminated tank washings are transferred to a slop tank instead of being pumped overboard. Then, when most of the oil has floated to the top after 36 hours or so, the relatively clean salt water is pumped over the side. The sludge that remains is consolidated with the next cargo.

Had this new method, known as the "load-on-top" technique, not been adopted, tank washings would add at least 2.1 million tons of petroleum to the sea each year, Shell Oil estimates. But the method has gained wide acceptance and, in fact, has cut that potential pollution by 80%, Shell maintains.

Others aren't so sure. Rear Adm. Roderick Y. Edwards, chief of the Coast Guard's office of public and international affairs, agrees the load-on-top technique has made an "appreciable contribution" to reducing pollution. But he doubts it's 80% effective.

KEEPING TO OLD WAYS

For one thing, Adm. Edwards says, heavy weather often prevents the oil residue from separating from the seawater. Also, tankers that don't carry the same type of cargo each trip usually can't save residues from one cargo without contaminating the next one. Finally, he says, masters of many small, independently operated tankers continue to pump the oily washings overboard simply because the load-on-top technique is too time-consuming and bothersome. "A lot of people are still doing anything they can get away with," he adds.

Oil companies and chemical makers are marketing a variety of detergents that destroy the cohesiveness of oil, thinning it into tiny particles that can be more easily disposed of by bacteria and other natural forces. Increasingly, however, the value of these chemicals is being challenged.

For example, it's widely agreed that the two million gallons of detergents sprayed on the Torrey Canyon spill killed far more marine life than did the oil itself. Since then, "nontoxic" detergents have been developed. But some scientists contend that even these supposedly harmless chemicals are quite dangerous. Since they're designed to disperse the oil into the sea—and hence get it off the surface—the chemicals in effect force-fed the toxic oil to marine animals that might not otherwise be affected, it's believed.

Very few chemicals were applied to the Santa Barbara spill. When the slick eluded booms and other mechanical devices designed to contain it at sea, it was decided to let the oil float ashore, where it could be scooped up by bulldozers and absorbed with straw. This devastated the beaches for months and cut deeply into the area's tourist business. But, according to researchers who are studying the spill, the strategy worked. The high mortality of marine life that occurred in the Torrey Canyon spill was avoided—with the exception of seabirds, which died in pathetically large numbers.

THE SO-CALLED SOUTHERN STRATEGY

Mr. HATFIELD. Mr. President, the distinguished Senator from Kentucky (Mr. COOK) recently spoke on a subject which I think merits the close attention of the Senate. His comments are directed at the so-called southern strategy, which some people currently attribute to the entire Republican Party.

Senator COOK is from Kentucky, which adds importance to his words. He criticizes the idea that the young, the city dweller, and the black can be written off as potential Republican voters.

Mr. President, our party must not succumb to any cries for purely sectional appeal. We must move toward a party which is truely national, and responsive to a wide spectrum of voters. Because Senator COOK phrases these thoughts in such a persuasive manner, I ask unanimous consent that his speech to an Indiana Republican fundraising dinner in French Lick, Ind., on November 17 be printed in the RECORD.

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

REMARKS BY SENATOR MARLOW W. COOK

It is good to be back in Indiana. I am not surprised that your Junior Senator was not at the airport to welcome me. As you know,

he and I have had a minor disagreement of late over a certain judicial appointment. He won his re-election last year overcoming a spirited fight by Bill Rucklehaus and I understand that you have even better things in mind for Vance next year.

The state which gave President Nixon his largest plurality (261,226) I predict will surely have at least one Republican Senator by 1971. I know you look forward to making my prediction a reality.

We have many difficult problems confronting the Congress this year most of which could be summed up as the result of Democratic control. Many people do not realize how important control of Congress is. Let me give you an example. All of us, including the President of the United States, knew early in the year how important reform of the Selective Service System would be if we were to maintain the confidence of the youth of America in its government. The President, realizing the psychological importance of draft reform to young America, moved with dispatch forwarding a message to Congress on May 13 which called for authority to institute a lottery and "youngest first" method of selection. After numerous appeals by the Administration to act before the fall semester began, the House finally passed on October 31 a bill which simply repealed the prohibition against a lottery selection method.

And when the bill came over to the Senate what happened? Senator Kennedy, the assistant Democratic leader, threatened to hold up passage to obtain a more comprehensive reform package. Only an appeal by the academic community through Yale President Kingman Brewster succeeded in getting Kennedy to back down. It took a warning by Brewster that a delay would cost Kennedy support among the young people to get the Massachusetts Senator to relent.

Brewster pointed out, "It has often been said that the best is the enemy of the good," and continued, "this bright cynical generation of students is not going to appreciate it if this opportunity for meaningful reform falls by the wayside because of a desire to do more than can realistically be done in this session of Congress."

The phrase "The best is the enemy of the good" might well describe the pretense under which the Democrats have operated during the first session of the 91st Congress. The Administration has sent to Congress 30 messages and is either sponsoring or is endorsing 120 bills in support of its position. And how many have passed the Congress and been presented for Presidential signature? Believe me, very few. The Democrats invariably say "We will refuse to act on your proposal even though it is good until you agree to what we consider to be an even more comprehensive measure." Thus, their conception of what is "best" has certainly been the enemy of our "good" proposals—proposals which are desperately needed by the country.

These are just some of the reasons why we need a Republican Congress no later than 1971. The majority controls the flow of legislation, heads all committees and subcommittees and appoints and controls most of the committee professional staff. A Republican President, ladies and gentlemen, is not enough. We simply must have control of Congress if we are to rebuild America and make this the country it ought to be.

The question then becomes, how do we go about building this majority? A popular thesis for Republican majority in the 70's has been the so-called "Southern strategy" supposedly devised by Attorney General John Mitchell during the Nixon campaign and codified by one of Mitchell's assistants, Kevin Phillips, in his new and controversial book, *The Emerging Republican Majority.*

There are some aspects of the Southern strategy with which I can agree. I certainly concur, for example, that the South is taking a decided turn in the direction of our party. As a Kentuckian I am very proud of that fact. I happen to think, however, that this was inevitable as we are the more conservative of the two major parties and that section of the country certainly is the strongest bastion of conservatism in the United States.

Phillips suggests, and I tend to agree that—

"Generally speaking, the South is more realistic than its critics believe, and nothing more than an effective and responsibly conservative Nixon Administration is necessary to bring most of the Southern Wallace electorate into the fold against a Northeastern liberal Democratic Presidential nominee."

However, it is beyond this that I begin to have serious reservations about the implications of the "Southern strategy" if actively pursued by a national party in power which is also charged with the future direction of the nation.

First, if the Wallace voter of 1968 comes to us because he considers us the more conservative of the two major parties and in a sense the "lesser of two evils" then, of course, as a political organ seeking to perpetuate ourselves in office we should welcome his vote. However, the clear implication in *The Emerging Republican Majority* is that we should pursue policies aimed at "locking up" this vote to the exclusion of at least two major groups in the United States whose views Phillips sees as incompatible with the "Southern strategy."

These two groups are the city dwellers and the young. In regard to the former block, he contends,

. . . Leading big city states like New York, Michigan and Massachusetts are no longer necessary for national Republican victory.

And as to the latter he asserts, "Youth is important, but voters under 25 cast only 7.4% of the nation's ballots in 1968."

I concede both of these points to be accurate politically but what of the country if the party in control of the destiny of the nation pursues policies which "write off" the young and the city dweller.

The two greatest domestic problems facing us in America today are our decaying cities and our disillusioned young. Can the political party which received a mandate from the people to govern ignore the most perplexing problems of our age simply because they did not vote for us? My answer is an emphatic no. With ascension to power also comes the responsibility to govern effectively and no party in power can govern effectively without a sincere commitment to solving the most pressing problems of our age. All Americans are concerned with and have a stake in the solution to national problems whether they be from Bogalusa, Louisiana, Lincoln, Nebraska or Boston, Massachusetts.

Phillips continues with the incredibly cavalier remark:

"One of the greatest political myths of the decade—a product of liberal self-interest—is that the Republican party cannot attain national dominance without mobilizing liberal support in the big cities. Appealing to 'liberal' youth, empathizing with 'liberal' urbanization, gaining substantial Negro support and courting the affluent young professional classes of 'suburbia'."

Ladies and Gentlemen, I contend that if that feeling is a product of liberal self-interest then Phillips' conclusion about that feeling is a product of conservative self-interest.

Another assertion which I must not allow to pass unrebutted is his claim that—

"Substantial Negro support is not necessary to national Republican victory in light of the 1968 election returns."

The black vote may not have secured our victory but I can only say in regard to the implications of that remark that it is, in my opinion, morally wrong to "write off" the black vote. The future of this country in the area of human relations demands that there be no difference between the two major parties in the area of civil rights. The founder of our party, Abraham Lincoln, would have had it no other way. If the majority of black Americans choose to affiliate themselves with the other party for policy reasons such as our strong and consistent record for fiscal conservatism, then so be it. But let the difference between Republicans and Democrats in the area of human relations be no more than the difference between "Tweedle-Dee and Tweedle-Dum".

The course of the Republican party for the future must be the middle ground of moderation. We are the historic home for conservatives and we are glad to have them, but we welcome support from all areas of the country and from all walks of life.

The party which can embrace both John Lindsay and Strom Thurmond is a big enough home for all Americans seeking a change from the directions of the recently terminated Democratic era.

We welcome support from North, East, West and South but we must not, for the sake of purely partisan advantage, pursue policies which will systematically exclude our young, isolate our blacks, and ignore the cancerous decay of our urban centers.

A party morally fit to govern a great nation must be responsive to the needs of its citizens regardless of their geograpic location.

HEALTH HAZARDS OF SMOKING

Mr. MOSS. Mr. President, the Parent-Teachers Association is one of the important groups in the Nation which are doing an excellent job of educating the general public on the health hazards of cigarette smoking.

The PTA in March 1969, conducted three smoking-and-health conferences. At these conferences, an eminent figure in the medical campaign against smoking, Paul DeCamp, M.D., of the Ochsner Clinic, New Orleans, La., provided some interesting information.

I ask unanimous consent that a summary of Dr. DeCamp's presentation be printed in the RECORD.

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

EMPHASIS ON SMOKING AND HEALTH

I think the PTA is remarkable for its industry, its effectiveness, and its winsomeness. It is a real pleasure for me to get to know a number of you who are associated with it.

I'm well aware that some of you still smoke. This is no new problem—the fact that most doctors smoked was the big reason it took 25 years to convince the medical profession of the evils of smoking. One of the very interesting facets of this whole problem is that a tremendous number of people who are convinced that smoking is bad are unable to give up the habit. I will attempt to analyze part of what's behind this behavior.

The first thing I'd like to emphasize is that smoking hasn't been around very long. It was less than five hundred years ago that Europeans discovered a primitive society of American Indians who smoked the tobacco leaf. They took this habit back to Europe, and by the middle of the 16th century the smoking of pipes and cigars was quite common there And, presaging the advertising agency's approach of the present day, smoking became known in 16th-century Europe as a cure for many ills.

It was not until the beginning of this century that the machine-rolled cigarette was introduced. This we now know is the most lethal form of tobacco. There are now 48,000,000 Americans who smoke, which is

approximately 42 percent of the adult population.

It was only in the last quarter century that the medical profession began to be suspicious and was finally convinced that this was a real health hazard. Chest surgeons were the first to become suspicious, for two reasons. First, they had been taught in medical school that cancer of the lung was very rare, but they were finding that in their practices it was much more frequent than they had been led to believe. Second, they discovered that practically everyone who had cancer of the lung was a cigarette smoker. For this reason some thirty studies were made in the 1940's and 1950's of persons with cancer of the lung. Every one of these studies confirmed that patients with cancer of the lung were more often smokers than was true of the general population.

These observations prompted a number of prospective studies of healthy people. One of the most fruitful studies, started by the American Cancer Society and just completed, followed the progress of a million apparently healthy people over a period of six years. A number of other similar studies have been made in Canada, the United States, Great Britain, and elsewhere. All these studies indicate that smoking is a very significant factor in causing cancer of the lung. They also show an even more alarming causal relationship between smoking and such other diseases as chronic noncancerous lung conditions, heart and blood vessel disorders, and cancer in general.

It has become apparent that it takes about twenty pack-years of cigarette smoking—that is, a pack a day for twenty years—to begin to produce cancer of the lung. You can speed it up by smoking two packs a day and arrive in ten years.

There is a striking parallel between the increasing consumption of cigarettes in this country and the increasing instances of cancer of the lung twenty years later. The per capita consumption of cigarettes in the United States was very, very low in 1910 but rose sharply through 1950. Twenty years later, the increase of the occurence of cancer of the lung directly parallels that of the per capita consumption of cigarettes. In 1950, when the first medical concern about smoking was felt, we could see a drop in the per capita consumption of cigarettes, and now it is definitely dropping. However, because of increasing population the *total* consumption of cigarettes continued to rise from 1950 to 1964. It fell a little bit in 1964 with the Surgeon General's report, and then fell again last year. Because it takes twenty years for the carry-over effect, we can assume that cancer of the lung will continue to increase sharply for the next 15 to 20 years unless a very drastic change in the smoking habits takes place in this country.

For male Americans, cancer of the lung has increased 19 times in the last 35 years. Other cancer deaths are either holding steady or decreasing, so the increase of cancer of the lung is the more striking.

In women, the increase has been only 3 times in the last 35 years, whereas deaths from other cancers remained about the same or dropped. Women are fast catching up with men in regard to cigarette smoking and also with regard to occurrence of cancer of the lung.

Although cigars and pipes appear to be less lethal than cigarettes, male cigar smokers have four times the lung cancer death rate of nonsmokers, and pipe smokers have ten times the lung cancer death rate of nonsmokers.

It makes a difference not only whether you smoke, but also how much you smoke. A two-pack-a-day male smoker has 70 times more chance of getting lung cancer than a male nonsmoker. Anything that seems to get more cigarette smoke in the lungs makes a difference. For instance, the younger one starts smoking, the worse off he is.

All the studies of healthy people have demonstrated the same interrelationship between smoking and lung cancer deaths. Not a single study has furnished any contrary evidence, and many other types of research have supported this evidence. One study showed that in smokers 60 percent of the lung's lining cells are abnormally irritated. Nonsmokers have practically no irritation of the lining cells, even from inhaling polluted air. (The smoke that gets into the lungs from a cigarette is 100 to 1,000 times as polluted as the smoke from a heavily industrialized area.) Practically everybody with cancer of the lung has this high incidence of abnormal cells.

That cigarette smoking is the single most common cause of cancer of the lung, which in 1968 caused 59,000 deaths in this country, is no longer considered a matter of debate in the opinion of virtually all responsible investigators, including the U.S. Public Health Service, the American Cancer Society, the American Heart Association, and any other group that has anything to do with patients who have chest conditions.

The difficulty with cancer of the lung is that we cannot cure very many of the cases. The answer is not in treatment, it has to be prevention. What would you think if we had had 60,000 deaths from smallpox last year? We didn't because we did something to prevent it. We can prevent 90 to 95 percent of those 59,000 deaths from cancer of the lung—not by doing anything but by not doing something—smoking. For too many of us, the threat of losing a lung is not enough to get us to stop smoking. I've seen men who have lost one lung and still keep smoking.

The studies of large groups of healthy people have revealed many other sobering facts concerning the relationship between smoking and the occurrence of disease. One finding is that cancer deaths in general are twice as common in smokers as in nonsmokers, for all adult age groups. This is something we hadn't suspected.

Apparently if you smoke cigarettes, your chances of dying from any type of cancer are twice as good as those for nonsmokers.

However, our story doesn't end with this. In recent years there has been a striking rise in the incidence of disability and death from chronic *noncancerous* lung conditions—chronic bronchitis and emphysema. These diseases cause cough, phlegm, lung infections, and shortage of breath, which if unchecked leads to a very miserable death from air hunger and heart failure. In the last five years asthma, an allergic condition, has not increased. But deaths from chronic bronchitis and emphysema have more than doubled in this brief span. In both men and women emphysema and chronic bronchitis are related largely to smoking. As the consumption of cigarettes increases, so do these dread diseases. There is no way of controlling these diseases as long as the patient keeps on smoking. If he stops smoking, then something can be done to regain lost ground, although it cannot ever be completely regained.

Unfortunately, you haven't heard the grimmest part yet! In this country, the big killers are diseases of the heart and blood vessels, which have doubled in incidence in the last 22 years. In 1965, heart disease and strokes accounted for half of all the deaths in the United States. All forms of cancer accounted for only 16 percent.

The vast majority of these diseases of the heart and blood vessels are caused by hardening of the arteries, to which a number of factors contribute. It is now clear that cigarette smoking is one of the significant causes of hardening and blockage of arteries.

Not all the ways in which smoking contributes are known, but several are. Some experiments have indicated that nicotine may raise blood levels of fatty acids and cholesterol. Smoking definitely increases the hazard of blood clotting. Furthermore, it has become apparent that the existence of more than one factor causing hardening of the arteries may multiply its occurrence. As compared with a person who has low blood cholesterol and who does not smoke, smoking *or* high blood cholesterol roughly doubles the chances of coronary artery disease. Smoking *and* high blood cholesterol quadruple the chances.

Hardening of the arteries and resultant diseases are largely preventable by certain simple health measures. There are three health vices in the United States today—smoking, stuffing (overeating), and sitting. These kill more people in the United States than anything else and almost more than everything else put together. Each contributes significantly to hardening of the arteries and heart disease, and each is correctable *without* medication and *without* cost—indeed, with money saved. If your golf clubs or tennis rackets or jogging shoes cost a little money, you can more than pay for them with the money you save on cigarettes and excess food.

The total health hazard of smoking is appalling. According to the study of a million healthy people followed for six years, in the group between ages 45 and 64, deaths from all causes are twice as common in smokers as in nonsmokers. All cancer is twice as common in smokers, and heart and circulatory disease are almost twice as common. As the consumption of cigarettes increases, so do the chances of death, for both men and women alike.

In 1920, a white male at age 25 could expect 41½ more years of life. For a black male, life expectancy was not as high. In the last half century, there has been more progress in medicine than at any previous time in human history. This is the era of vitamins, antibiotics, modern surgery, transplants, and so on. In spite of all this in 45 years we've gained from 4 to 5 years of life expectancy for a young man. During this same time, smoking of cigarettes has cut off 3½ years of life expectancy. During this period of tremendous medical advances, if we had not increased the consumption of cigarettes, we would have gained 7 to 8 years life expectancy instead of 4 to 5 years. It is literally incredible that anybody would continue to smoke in the face of such evidence.

We've talked so much about dying that perhaps we have forgotten about getting sick. Smoking does cause its full share of sickness. It's harder to measure sickness, but one way is by measuring work loss. The average cigarette smoker between the ages of 45 and 64 misses more days of work than the nonsmoker in the same age group (28 percent more for men and 11 percent for women). According to the Public Health Service a total of 77 million working days a year are lost because of smoking. And it's important to remember that we miss just as many fun days as we do work days.

The total economic effects of smoking are staggering. Two million Americans die every year. One out of every seven is apparently killed by cigarettes. Seventy-seven million work days lost, 88 million days sick in bed, 360 million days of restricted activity. If you try to put a financial figure on that, it's hard to do. How much are a third of a million deaths worth? We can put a figure on the days lost from work, and that comes out to a cool $16 billion.

We've been told that we can't afford to lose the $7 billion tobacco industry. It would appear that we can't afford *not* to lose it. Many other industries have come and gone. It's high time that the tobacco industry began to diversify and go into other activities.

and to plan to stop peddling tobacco altogether.

Added to everything else is the fact that smoking makes everyone feel bum. Virtually everyone who stops smoking feels better and has a better appetite. Add that smoking is dirty, it causes bad breath, it causes your clothes to stink, and is often offensive to nonsmokers, who represent the majority of the adult population. It's hard to understand why anybody keeps on smoking.

You don't have to be old and gray to be affected. Every athletic coach knows that smoking cuts physical efficiency and stamina. An interesting study in a Pittsburgh high school showed that regular cigarette smokers had lower grade averages, lower I.Q.'s, higher absenteeism, and a higher number of visits to school health rooms than nonsmokers. Either students smoked because they were stupid, or they became stupid because they smoked. You can have it either way.

We are discussing a habit that is lethal and sickening, interferes with work and play, reduces physical fitness, makes a person feel bad, and tends to be socially offensive. It's a bit hard to understand why that habit is still around.

To some degree ignorance may be a factor. Most people know that smoking is unhealthy, but relatively few realize how deadly and crippling the habit is. Perhaps you did now know some of the things you learned here; they certainly are not known by the general public. One of your challenges is to take this information back home.

Stopping smoking isn't always easy, although it isn't as hard as some smokers think. The best way to stop is to become convinced that it is necessary to stop, and then just go ahead and stop. The encouraging thing is that somewhere between 19 and 21 million Americans have stopped smoking cigarettes. There are only 48 million Americans smoking cigarettes. This means that for every ten people who smoked, three have stopped. This is very encouraging. It is also encouraging that even the youngsters are getting the message. The latest figures among teenagers are that fewer of them are smoking today than a few years ago. At the present time among 18-year-old boys, 37 percent are smokers; among 18-year-old girls, 22 percent are smokers. These figures are lower than those of a few years ago. We've got a long way to go, but we are making headway. I believe that educational programs such as that of the National PTA have a lot to do with it.

Three different studies were made about doctors last year, which showed that in 1968, between 35 and 40 percent of doctors have never smoked; the same number have stopped smoking; and only 20 to 30 percent are still smoking. A hundred thousand doctors have stopped smoking. So can you.

Does it make any difference? In Great Britain a third of the doctors have stopped smoking, and lung cancer among doctors has decreased. Among the male population as a whole, however, smoking is still increasing, and cancer of the lung is still increasing.

Nicotine seems to be a narcotic to some people. Yet by definition it isn't a narcotic. Smoking doesn't hook everybody; many people can stop very easily.

One of the biggest reasons people smoke is because of advertising. In 1964 the tobacco industry spent $260 million on advertising. Three years later they had upped that figure to $312 million—a 20 percent increase in three years. The tobacco industry has certainly demonstrated what money and ingenuity can do with a "nothing" product. But we don't have to be taken in. We can be big. We don't have to start; if we start it, we can stop. We can be grown up. We can be sensible. If necessary we can be different. We can be particular in what we do and the people we associate with. Let's remember that for many, many generations man got along without smoking. Let's make the next generation a "smokeless generation."

JESSE JACKSON: A LEADER DESTINED FOR GREATNESS

Mr. McGOVERN. Mr. President, no man I have met in recent years has impressed me more with his capacity for inspired leadership than the Reverend Jesse Jackson of Chicago. He has been described as the heir apparent to Martin Luther King. He combines spiritual insight, political shrewdness, and practical optimism in a most remarkable way.

Recently, he participated in a long and thoughtful interview with the editors of Playboy magazine. I ask unanimous consent that the interview, published in the November issue of Playboy, be printed in the RECORD.

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

PLAYBOY INTERVIEW: JESSE JACKSON—A CANDID CONVERSATION WITH THE FIERY HEIR APPARENT TO MARTIN LUTHER KING

In the 19 months since the murder of Martin Luther King, only one man has emerged as a likely heir to the slain leader's pre-eminent position in the civil rights movement: Jesse Louis Jackson, the 27-year-old economic director of King's Southern Christian Leadership Conference. The Reverend Jackson's first national exposure, in fact, came as a result of his closeness to Dr. King. He was talking to King on the porch of the Lorraine Motel in Memphis when the fatal shot was fired and cradled the dying man in his arms. The very next day, at a Chicago City Council meeting, Mayor Richard Daley read a eulogy that pledged a "commitment to the goals for which Dr. King stood." The Reverend Jackson had flown in from Memphis without sleep to attend the ceremony; he stood up in a sweater stained with Dr. King's blood and shouted to the assembled Chicago political establishment, "His blood is on the hands of you who would not have welcomed him here yesterday."

That gesture demonstrated both the militant indignation and the dramatic flair that mark Jackson's charismatic style. The New York Times has written that he "sounds a little like the late Reverend Martin Luther King and a little like a Black Panther." It added that "almost everyone who has seen Mr. Jackson in operation acknowledges that he is probably the most persuasive black leader on the national scene."

Jackson's personality is possibly even more in tune with the present black mood than Dr. King's was, because, as Richard Levine pointed out in Harper's, "Dr. King was middle-class Atlanta, but Jesse Jackson was born in poverty in Greenville, South Carolina." Jackson calls himself a "country preacher," but he combines his down-home style with a sharp intellect. He attended the University of Illinois for one year but dropped out in 1960 to attend the Agricultural and Technical College of North Carolina in Greensboro, where the first black sit-in had taken place earlier that year. He was an honor student, quarterbacked the football team and organized civil rights demonstrations. After graduation, Jackson went North to study at the Chicago Theological Seminary, where he devoted most of his extracurricular time to local civil rights work.

It was Dr. King himself who originally spotted Jackson's leadership potential during a massive civil rights drive in Chicago in the summer of 1966 and appointed him to head all of SCLC's economic projects in the North. In the three years since that appointment, Jackson has concentrated most of his efforts on the Chicago-based project called Operation Breadbasket and made that pilot program the most impressive demonstration of black economic and political power in the United States. Breadbasket's organizational methods are now being applied under Jackson's guidance in 15 cities ranging from Los Angeles to Brooklyn.

The project's primary goals are to create jobs for blacks and to encourage them to own and operate businesses. Boycotting, or the threat of it, is Breadbasket's most potent weapon. The effectiveness of this technique was most evident in a breakthrough victory over the huge Atlantic and Pacific Tea Company, which operates 40 stores in Chicago's black ghetto. To avoid the financial loss that a boycott would have caused, the A & P signed a pact guaranteeing jobs for blacks and the distribution of black products on A & P shelves. As Business Week reported in a story about Operation Breadbasket, "Nationally, the organization's efforts have resulted in about 5000 jobs and $40,000,000 in annual salaries to Negroes. But the Chicago campaign [against A & P] represents Breadbasket's most significant victory, for it is the biggest settlement with a chain in a single city, and set a precedent for other foodchain negotiations across the country."

The A & P pact was especially significant because—in addition to a guarantee of over 700 jobs for blacks and marketing more black businessmen's products—the company also agreed to use black-owned janitorial and exterminating companies in its ghetto stores, to bank in black-owned banks, to advertise in black media and to have black construction firms build its ghetto stores. Monthly meetings between representatives of A & P and Breakbasket are designed to assure that the company is not shirking. On the personal level, sensitivity seminars attended by A & P executives attempt to awaken management to the existence and effects of prejudice. Similar agreements have been signed with more than half of all the major food distributors in the ghetto.

The Reverend Jackson created an even more far-reaching program last spring, when he initiated the Illinois Hunger Campaign. Believing that hunger is the one issue that could unite the black and white poor, Jackson led a caravan to all of the poverty areas of Illinois, ending with demonstrations at the state capitol in Springfield. The pressure this exerted on the Illinois legislature was so great that a planned cut of $125,000,000 in welfare funds was restored at a time when New York and California were making sizable cuts in their welfare payments. An impassioned appeal by Jackson, from the steps of the capitol building, inspired a bill to provide school lunches for all of the needy children in the state. Jackson also extracted a promise from the state legislature to prevail on Washington for special surplus-food allotments for the poor. The Illinois Hunger Campaign was conceived by Jackson as an extension of the Poor Peoples' Campaign begun by Dr. King, and there are plans for similar efforts in other states next year.

No matter what his other commitments may be, Jackson always attends the Saturday-morning meeting of Operation Breadbasket. The location has been changed three times this year, because the congregation continually outgrows its premises, and Breadbasket presently resides in a 6000-seat movie theater on Chicago's South Side. The lobby of the theater is filled with tables displaying black merchandise, and the auditorium itself is hung with signs that exhort the gathering to buy black products and use black services. The first hour of the meeting is devoted to Gospel music by the Operation Breadbasket orchestra and choir, interspersed with the business for the week—either boycotts or special "buyins." Playboy's Associate

Articles Editor, Arthur Kretchmer, who conducted this interview with Jackson, describes the remainder of a recent meeting.

"After Breadbasket's projects were out of the way, a frail old lady, whose face was ravaged by time and much else, was given the stage. In a quiet voice, and with great dignity, she briefly described the humiliation she had suffered during an interview with a welfare worker the previous week. Then she said she had come to the meeting to gain the strength that would enable her to block her door in the future. 'They can starve me,' she said, 'but I'll die before they come back with their damn forms and their damn questions.' With that, she slowly raised her fist in the black-power salute and the audience gave her the most sympathetic ovation I've ever heard.

"Then Jackson was introduced—and greeted by ten minutes of standing, clapping, stamping love. He is a big man with an imperial manner. The head is leonine and the facial expression at once fierce and sullen. He was dressed, like a Mod black emperor, in a brilliantly colored dishiki, bell-bottom jeans and high-top country shoes. Biologist Desmond Morris has written that a leader never scrabbles, twitches, fidgets or falters, and Jackson qualifies. For over an hour, he delivered a passionate sermon that described the black man's plight in white society. It was filled with street talk, down-home slang and quotations from the Bible—but its effect was Greek tragedy with soul.

"The sermon was punctuated by piano and organ riffs similar to a rhythm section's backing of a good jazz soloist. Halfway into an eloquent plea that blacks not waste their energy fighting among themselves, he called on one of the choir members, Sister Theresa, to sing 'I Can See the Promised Land,' because 'I need it,' he said. At one point in the sermon, he paused, clearly exhausted, and turned to the audience to say, 'Yes, I'm tired.' An old woman's voice called out, 'Take care of him, Lord. We need him too bad for You to let him die.'

"Everyone around Jackson is acutely aware of his poor health. He has suffered this year from traces of sickle-cell anemia and assorted viruses brought on by lowered resistance. He's been hospitalized a half dozen times but never missed a Saturday at Breadbasket. It is common for a parishioner to greet him with, 'Hello, Reverend Jesse. Are you taking your medicine?'

"After Jackson finished the service, the Operation Breadbasket orchestra played a dozen choruses of a syncopated, soulful 'We Shall Overcome,' while all 6000 people in the audience—a number of whom were white—stood holding hands and swaying back and forth in one of the oldest, most moving rituals of the civil rights struggle. The effect of the morning was catharsis and rejuvenation. I don't think anyone who entered the theater that morning could have left without shedding some of the despair that seems to be afflicting the black liberation movement.

"A few moments later, I had a completely different, but indelible, impression of Jackson's impact. I was waiting to see him in a small dressing room. He was resting in an armchair, talking to a very pretty, shy black girl of about 20 who was standing near him. She said to him, with some embarrassment, 'Reverend, I just want to tell you how much you mean to all of us.' He slowly raised his head and said, 'Hell, that's just a lot of talk. If I was really important to you, you'd take pity on my old tired body and invite me home, so your momma could fix a fine meal for me.' She was immediately flustered and said, 'Oh, Reverend, You're just having fun with me. You don't mean it. You wouldn't come to my house.' He looked at her with a stern expression that he couldn't quite prevent from turning to a smile and said, 'You tell your momma I'm coming over Thursday night. Tell her to do some fixin'.' She looked at him, trying to tell if he were serious, and her eyes widened, her hands began to fuss and her jaw dropped open. Finally, she said, 'Would you really? Would you really come? If you do, I'll charge my friends admission at the door. A half a dollar to see you and a dollar to touch you!' Jackson looked at the girl and then at me, laughing his appreciation. Actually, on those rare occasions when he's in the city, Jackson is well taken care of by his beautiful 25-year-old wife, Jacqueline—and harassed by his three energetic children."

Because of Jackson's heavy schedule, Kretchmer couldn't get enough time with him until both took refuge in a rural retreat where the "country preacher" was free to explore at length the militant new mood of the black struggle and his own role in it. Since Dr. King's death had seemed for many to signal the end of the nonviolent phase of the civil rights movement—a philosophy Jackson continues to champion—the interview began with that topic.

PLAYBOY. Though the mood of blacks has changed markedly since the death of Martin Luther King, are you still committed, as Dr. King was, to nonviolence as the only way to win racial justice?

JACKSON. We will be as nonviolent as we can be and as violent as we must be. We should not choose violence first, because it is an inhumane way of dealing with problems. We also do not have the military resources to deal with the American power structure. There's no sense in facing tanks with a .22 pistol. Our circumstances and terrain would not give us the freedom to use a violent strategy. The ghettos are built like a military stockade. America never needs to actually come in. The lights can be turned off, the water shut off and the food supply stopped. We could be eliminated in the ghetto without anyone even crossing the railroad tracks to get us.

PLAYBOY. Do you mean to imply that if you did have the military resources. you would wage war against white Americans?

JACKSON. I am just pointing out that there is a strong pragmatic case for nonviolence. I am philosophically committed to nonviolence because I think it is the creative alternative and should be used as long as it helps protect and sustain life. It is a creative alternative to the Pentagon, for example. Just as there are forces in this world with a design for killing, so must there be forces with a design for healing.

PLAYBOY. Stokely Carmichael and Eldridge Cleaver, among others, say that unless blacks create their own design for killing, they are going to be killed themselves. Is this an irrevocable split in the black movement?

JACKSON. No. The competition to nonviolence does not come from Stokely or Eldridge; it comes from America's traditions. It comes from little children seeing cowboys solve their moral problems by killing. The competition to nonviolence comes from the military draft, with its nine weeks' training on how to kill. The trouble is that nonviolence is so often defined as refusal to fight, and that is the American definition of cowardice. In fact, marching unarmed against the guns and dogs of the police requires more courage than does aggression. The perverted idea of manhood coming from the barrel of a gun is what keeps people from understanding nonviolence.

PLAYBOY. If your life were endangered, could you use a gun?

JACKSON. Yes. Nonviolence does not demand that one develop an absolute, universal commitment to pacifism. That old notion of being in a dark alley and having a man step out with a gun does not apply. Of course, I am going to do whatever I must to get rid of the man and his gun. I preach nonviolence because it's the better alternative. In that alley, there is no alternative. But peace is the alternative to war, and nonviolence should be seen as the antidote to violence, not simply as its opposite. Nonviolence is more concerned with saving life than with saving face. It is the most sensible way to combat white society's military oppression of blacks.

PLAYBOY. Do you think white America is actually waging war on black America?

JACKSON. Yes, it's a war. Sometimes it's waged by a white army in full military gear, as any weapons count among special riot police would show. But it's also a war of attrition, a siege, in which the violence takes other forms. To me, violence is starving a child or maintaining a mother on insufficient welfare. Violence is going to school 12 years and getting five years' worth of education. Violence is 30,000,000 hungry in the most abundant nation on earth. White America must understand that men will steal before they starve, that if there is a choice of a man's living or dying, he will choose to live, even if it means other men die. These are human reactions, and we cannot assume that black people are going to be anything less than human.

PLAYBOY. Is there a point at which you feel violence would be justified?

JACKSON. If I saw that there was no other way for us to be liberated, yes.

PLAYBOY. For many white people, the most disturbing incident of potential black violence this year was portrayed by a news picture of armed students at Cornell. What do you think about their use of weapons?

JACKSON. They didn't use them, except in the symbolic sense of warning groups that had threatened them that they were capable of their own military defense. I have doubts about the enduring success of the technique of military defense, but I appreciate the feelings that brought such a desperate mood into existence.

PLAYBOY. Another group that has endorsed violence as a tactic is the Black Panthers, which J. Edgar Hoover has called "the greatest threat among the black extremist groups to the internal security of the United States." Do you support the Panthers?

JACKSON. I'm very sympathetic to the Panthers. They are the logical result of the white man's brutalization of blacks. The remarkable thing about them is that they have not conducted any military offenses. They have not gone tc downtown America to shoot up white-owned stores. The Panthers are a defense for justice, just as the Ku Klux Klan is an offense for injustice. That's a qualitative difference between picking up a gun to keep from being brutalized and picking up a gun to *inflict* brutality. As far as Mr. Hoover's opinion goes, I don't think that his perspective is relevant when it comes to the problems that are facing this society—which is surprising, when you consider all the good information he gets. He certainly knows what I'm thinking about and talking about most of the time.

PLAYBOY. Does the FBI keep you under surveillance?

JACKSON. Yes. It's admitted tapping Dr. King's phone, and I used to speak with him at least twice a week. The persons he spoke with were also frequently tapped, and I don't imagine they've untapped me, as my activities have increased since his death. But anything they've heard me say, if they come around, I'll be glad to repeat out loud to them. I want to add that I consider Mr. Hoover himself to be one of the greatest threats to our national security. His wire tapping and other surveillance methods violate the principles of democracy. The FBI director doesn't account to anyone, not even to the Attorney General; and, in reality, he heads what is very nearly a secret police.

It's on this subject of abusive police power that the Panthers are profound. No white community in America has a majority of black police, but black communities are militarily occupied by white police. The Panthers are right to say that the white police should be gotten out, just as the Americans were

right in saying, "Get the Redcoats out." We are saying, "Get the bluecoats out."

PLAYBOY. Aren't you really saying "Get the white bluecoats out"?

JACKSON. No. We don't want white bluecoats, but we don't want black bluecoats, either. We don't want to be policed by a supreme white authority, even if the agents of the authority are black. We're saying that the black community should police itself; the authority for the police should come from the home area, not from city hall, which is alien to us, has never been sympathetic to us and openly supports the police who oppress us.

PLAYBOY. Do you think, as some radicals seem to, that America is a police state?

JACKSON. For black men, it is. Nobody in the black community who's had the experience of being made to spread-eagle over a car for no reason, or because of a simple traffic ticket, would disagree with that. Some black folks disagree, but that's because of their lack of experience. If they just keep on living, they'll confront the reality soon enough. The reality is tyranny, and the tyrant must be opposed. Whether we are called Operation Breadbasket or Black Panthers or niggers, we know who the enemy is. We will gain our freedom by being more willing to die for it than the slavemaster is to die to keep us enslaved.

PLAYBOY. Do you agree with the controversial Panther demand that all black prisoners be released from prison?

JACKSON. Yes, but there are probably some black men who have been so broken, whose lives have been so twisted that they would be dangerous to all other men, both black and white, and I suppose they should not be released from confinement, though I would hope that genuine rehabilitation would replace detention. But just as the black community is a colony of white America, and those of us within that colony should be liberated, so should those of us who have been especially victimized by the viciousness of the colonial rules, and tried by the white slavemaster, be released. All of the black community should be liberated, and that includes those behind steel bars as well as those behind economic and social bars.

PLAYBOY. The subject of black crime preoccupies white America and, in the opinion of some commentators, helped elect Richard Nixon President. Many whites feel that their fears of black crime are completely justified, particularly in the light of your previous statement that black prisoners should be freed. How would you respond to that?

JACKSON. The Crime Commission appointed by Lyndon Johnson showed that most black crime is against blacks. The white folks who exploit us are as safe as a baby in a womb. The black man's hostility comes from the deprivation and frustration and tension of the ghetto. Most people handle that hostility surprisingly well; and those who don't, take it out on the nearest target—other blacks. Another reason black men hurt other black men is that the punishment is less than when you hurt a white man. The price for hostility against whites is too high. To talk back to a white boss is to be fired. And to make violent gestures against white people is to invite instant death. So the hostility that is bred in the ghetto leads to suffering—but mostly by blacks, not whites.

PLAYBOY. The incidence of property crimes by blacks is very high and is increasing. Do you think the white middle class is wrong to be concerned about protecting its possessions?

JACKSON. That property usually belongs to blacks, not whites. It is the ghetto resident whose home is robbed, sometimes two or three times in the same month. Black crimes against property are the result of desperation. I said earlier that a man will steal before he starves. Black crime is crime because of need; whites commit crimes of *greed*. Black folks do not set up elaborate kidnapings for a million-dollar ransom. The financial value of all of the property crimes committed by blacks in one year doesn't equal the money lost in the famous salad-oil swindle. Blacks are not out for a big score; they are out to stay alive. And when he's caught, the black man can't afford bail and a good attorney. Already wounded and probably crippled by the system, he spends more time than whites inside the jail system, where he is further destroyed by it. His criminality is molded by the police state. I was especially aware of this in the South, where I grew up. The police were an absolute power; they were not merely enforcers of the law; they *were* the law. They could do anything they wanted, because the judges and the legal system were thoroughly racist.

PLAYBOY. Do you have any recollections of personal confrontations with the police when you were young?

JACKSON. I remember that they seemed to get a kick out breaking down the front door if you didn't answer quickly enough. When I was a little kid, we'd run and hide under the house at the sight of a police car. Later on, they locked us up for things like vagrancy or cursing. In time, they would kill a few of the guys I grew up with, and it was always "in the line of duty." There were some humorous incidents, too. One cop in Greenville, South Carolina, became famous for locking up a black man for "reckless eyeballing"; he had been staring at a white woman about 100 feet away. And I remember we weren't allowed to stand around the store windows while they were changing clothes on the white store dummies. My Northern friends get a big kick out of that, but it's symbolic of the awesome pattern of Southern oppression.

My own most frightening experience, though, didn't involve a policeman. There was a store on our street run by a white man named Jack. The customers were all black, and it was a comfortable place. Jack used to play with us kids all the time, and we'd run errands for him. One day, I went in and the store was full of people, but I was in a big hurry, the kind of hurry a six-year-old is always in. I said, "Jack, I'm late. Take care of me." He didn't hear me, so I whistled at him. He wheeled around and snatched a .45 pistol from a shelf with one hand and kneeled down to grab my arm in his other fist. Then he put the pistol against my head and, kneading my black arm in his white fingers, said, "Goddamn it! Don't you *ever* whistle at me again, you hear?" I didn't think he was really going to shoot me, even then; the thing that got to me was that none of the black people in the store did or said anything. My impression of the superpower of whites to do absolutely anything they want and get away with it right in the middle of blacks was a traumatic experience that I've never recovered from.

PLAYBOY. Are such experiences for blacks still part of the Southern heritage?

JACKSON. Yes, but less frequently, and I think Dr. King is the reason for the change. The significance of his movement can be seen only against a Southern background. He taught us that even if the police—the law—say you can't sit down, sit down anyway. In most communities until then, there weren't five men who had that kind of courage. He challenged us to stand up to the police we used to run from. In Montgomery, Alabama, the cradle of the Confederacy, he rose up and declared that black men deserve their full rights of manhood. There wasn't enough money to buy him, and there weren't enough jails to hold him. Death itself isn't enough to stop black men from being free, for crucifixion leads to resurrection.

PLAYBOY. One of the seeming ironies of the civil rights movement is that while the Southern black has gone far toward winning freedom, the ghetto black in the North is in an increasingly frustrated mood. How do you explain this?

JACKSON. The Southern movement fulfilled some of the hopes it raised. We achieved our goals in the bus boycotts and the freedom rides. The public-accommodation and voting-rights bills were passed. We haven't had corresponding success in the North. The Northern black has seen some progress, but his advancement doesn't compare with the advancement of white society. The economy quadruples while blacks creep along with unemployment as high as 35 and 40 percent in some black communities. When the white unemployment rate was 20 percent in 1933, it was a Depression that required massive aid. But the black unemployment rate is ignored.

The most frustrated are those who have worked hardest but remain unrewarded. A black man in Chicago with a master's degree earns less than a white man with a high school diploma. You can't tell a man who has been to college that he's not educated enough to qualify for a job that goes to white high school dropouts. If you do, you castrate him. And the Northern black is more frustrated because the indifference of white colonialism in the North is more vicious than the paternalism of the South. The Northern industrialist doesn't have any emotional relationship with the black; he maintains only economic contact. In the North, you get white smiles while the shops are open, but the hypocritical charade is over when the shops close and whites take the money out of the ghetto. It's no coincidence that those stores are the primary targets in a riot.

PLAYBOY. Los Angeles mayor Sam Yorty once stated on television that he thought riots were caused by the mass media. He said that blacks rioted in imitation of the disruptive behavior they saw on television and that if there had been no television coverage of Watts during the first hours of the trouble there in 1965, there would have been no riot. Do you feel that's true?

JACKSON. That's absurd. The riots are expressions of the unheard. The rioters are the mass of black people who invest hard labor on nasty chores—they are floor cleaners, shoeshine boys, hospital attendants—and they find that they have almost no share, no investment, no dividend in a 900-billion-dollar economy. Riots are a reaction to pain and a sense of hopelessness. There are black people whom no President's program has ever reached. My grandmother has lived through every President from 1900 to 1969, and the sum total of their grass-roots programs has not been able to teach her the 26 letters of the alphabet. Riots do not solve problems, but they indicate what those problems are. It is the responsibility of an aching man to tell the truth about his pain. It isn't to his advantage to give the appearance of happiness when he is hurting. In the past, we passively accepted the immoral acts of white society to prove that we were nice, decent folks, but that was our foolishness. Black folks assumed that Pharaoh was going to help them simply because it was the right thing to do. Now we know that Pharaoh's commitment is to property, not to persons. He must be made to do the right thing.

PLAYBOY. It has been alleged by some observers, however, that the riots reveal a kind of death wish on the part of blacks.

JACKSON. It's true that there is in the young generation an inclination toward nihilism. To challenge a police headquarters with a handful of bricks is a suicidal act, but it is also a blow for freedom. What the riots really reveal is the beastliness and sadism of white police. Nearly all of the people who died in riots were blacks killed by whites whose ethics dictate that nickels and dimes are more important than flesh and blood.

PLAYBOY. There are whites who say that activists such as yourself foster the riots, that without you, there'd be racial peace.

JACKSON. White folks don't want peace; they want quiet. The price you pay for peace is justice. Until there is justice, there will be no peace or quiet.

PLAYBOY. At the time of Dr. King's death, many blacks said that white America had lost its last chance to solve the race problem without destroying itself. Do you think that's true?

JACKSON. No, I don't, although I was one of the first people to make that statement. It seemed to to me then that Dr. King's death ended America's last chance to be redeemed. But it is not for us to determine the chances of redemption. There are still people being born with hope, still people fighting with hope. God has not yet damned this country, though one may wonder how long the wicked will prosper. America at this point is the most violent nation in the world.

PLAYBOY. Isn't that a cliché? Don't other nations have wars and assassinations?

JACKSON. Of course. But no other nation wants so clearly to be the world's policeman. No other nation comes down so consistently on the wrong side of every revolutionary movement for liberation from tyranny. Wherever there is a rebellion, our conservative industrialists are helping to end it, whether it's in Angola or Venezuela. Any place we buy oil or rubber, or sell a little Coca-Cola and chewing gum, we've got to protect the old order. We spend $900 per second to kill the Viet Cong but only $77 per person per year to feed the hungry at home. We maintain soldiers in 20 countries around the world, yet we always talk about the Russian threat or the Chinese threat. China does not have a standing army outside of China; Russia has two. Yet we assume that someone's after us, that the "free world" is threatened simply because people want the chance to control their own economic market so they can participate in the world decision-making order. They don't want to go Communist or to crush democracy; they just want to end their serf status; and that's all blacks want here at home.

PLAYBOY. It might seem incongruous to some that you can make this sweeping indictment of America, an indictment that could easily serve as the lead paragraph in one of SDS's revolutionary pamphlets, and yet, as economic director of SCLC and leader of Operation Breadbasket, you are leading blacks who want to buy into the American dream.

JACKSON. It's very simple. For all its faults, America is the only country with the capacity to save the world, even at the very moment that we seem bent on destroying it. We can produce more food, medicine, trained and educated people than anyone else. We try to export our killers, but people have stopped wanting them; they would accept our doctors, scientists and creators, but our armies are outdated. We could liberate nations from their poverty and their pestilence if our value system would allow us to do so. The irony is how close we are to being something great. One fifth of our nation is starving, yet we have the capacity to overfeed it. We could end the starvation in India, heal the sickness in Africa. But the tragedy is that we are as close to destroying the world as we are to saving it. We spent 78.4 billion dollars to kill this year but only 12 billion to heal. Those who are silent now, or are neutral now, must make a decision before the opportunity passes forever.

PLAYBOY. Are you encouraged by the young white radicals who seem determined to change America's value system?

JACKSON. The issues that move them are qualitatively different from the ones that concern blacks. Many of the radical whites say that materialism is no good, that one must seek a new level of spiritualism. Well, we lived for years with spiritualism but without any materialism. Now we'd like to try to balance the two. Many of the young whites are living on the prerogatives of the materialism they shun. They confront their school in the winter, but in the summer, they go off to Sweden or Hawaii. Their discussions of America's corruption take place over steaks. They spend $5000 a year to attend the schools they shut down. We often have the same moral ideals, but the perspective is very different.

I have also been disappointed that we were unable to get any mass help from young whites on the hunger caravan we recently concluded in Illinois. The students were so radical that feeding starving people didn't constitute revolution to them, because "a man needs to do more than eat." But while they were saying that, they were eating very well. To us, they tend to be superfluous.

PLAYBOY. Weren't the strikes at both Harvard and Columbia concerned mainly with accusations by white students that those schools abuse the black community?

JACKSON. I do not mean to condemn their creative protests. They accurately reflect Jesus' position that man cannot live by bread alone. They come from houses with boats and cars and more money than they can spend, yet they find their lives empty. There is beauty in their hearing the heartbeats of other humans. What I'm saying is that there is a lack of depth in their protest, in terms of the black community's real and immediate needs. But I think I must reserve judgment on those whites who are living off the prerogatives of wealth. If they are legitimately concerned, they will take what Daddy leaves and pay back some of that money in reparations to blacks.

PLAYBOY. Do you agree with James Forman's proposal that the churches pay reparations to blacks?

JACKSON. Yes, and eventually the demands will not be limited to the churches. The black community in America is an underdeveloped nation, a victim of America's cold war against her own black people. In that war, all of our supply lines have been cut—educational, commercial, political and psychological. We've been the victims of an unjust war and are due reparations from those who launched it. Business owes us reparations, first for enslaving us, then for refusing to give us work or hiring us for only the lowest-paying, most grueling jobs. And even when we have an opportunity to do the same work as white men, we are paid less for it. The labor unions, for whom we fought, owe us reparations for locking us out. The church is also liable, because it has disregarded its own moral imperatives and cooperated in creating and maintaining a racist society.

PLAYBOY. Do you expect these demands to be met?

JACKSON. For the most part, no.

PLAYBOY. Then isn't the plea for reparations a rhetorical gesture rather than a serious proposal?

JACKSON. The demands are perfectly serious. If they were met, it would mean a great step toward unifying the two separate and unequal societies that the Kerner Commission described after it studied the Newark and Detroit riots. The point is that SCLC and I are not naïve enough to think that the businessmen who control the assets of corporations, labor unions and churches will voluntarily act from some inner moral impetus. America's god is money. God is your ultimate concern, what you give maximum sacrifice for, what you will die for. God is what you worship. The American ideal is maximum profit and minimum person; there is no impulse to share the wealth, to raise up those less fortunate. What counts is the name on the front of the building. Well, I say what counts are the hands that do the work inside.

PLAYBOY. Isn't money also one of Operation Breadbasket's major concerns?

JACKSON. Yes. It's a concern because it's a reality. But the essential purpose of Operation Breadbasket is to have blacks control the basic resources of their community. We want to control the banks, the trades, the building construction and the education of our children. This desire on our part is a defensive strategy evolved in order to stop whites from controlling our community and removing the profits and income that belong to black people. Our programs are dictated by the private-enterprise economy in which we find ourselves. In my heart, however, I know that the entire system is a corruption. To me, the earth belongs to everybody; it's just a very successful rumor white folks have going that the earth belongs to them. The earth is the Lord's and no man creates anything that didn't come from other things that God put here. No man really takes anything away, either. No man can claim that he made soil or wool or milk. White folks can make airplanes, but they can't make mountains. They can make syrup but not water. *Genesis* says that the Lord created the earth and everything therein and gave man, not white man, dominion over it and created a dominion sufficient for everyone to be able to survive and prosper. Now the concept of *Genesis* has obviously been destroyed, and it is our concern to rid America of some of her arrogance and control of God's resources by saying that the food belongs to all the people.

PLAYBOY. Do you think farmers and suppliers should give their food away?

JACKSON. I don't care how the people get food, as long as they get it. The Government can buy the food and give it away in a large-scale version of the present inadequate surplus-food and food-stamp programs. Or it can give the poor enough money to buy the food themselves.

PLAYBOY. Many middle-class whites think that the poor would only buy booze and guns if they had the money.

JACKSON. I challenge anyone with that belief to tour the reeking, rat-infested tenements of Harlem or Chicago's South Side and count the number of alcoholic welfare mothers. There won't be many. Welfare people do not account for this nation's high number of alcoholics. Nor are most guns bought by the black poor. In a home where the children are eating wall plaster because they are hungry, a gun isn't looked upon as an important commodity. But I don't care if the Government wants to give out food instead of money. I would bless any device it might come up with, as long as it does *something*. The country is producing more food than it needs. There is inherent evil in a system that induces men to plow crops under while others starve.

Not only does the food belong to the people but the industrial profit also belongs to the people. If the employees of General Motors left tomorrow, it would have to stop. If the entire board of directors died tomorrow, nothing would stop. What's indispensable are the laborers, not the directors. The laborers can rise from the ranks and direct their fellow laborers. Because they are the basic need, they ought to reap the basic benefits. But in America, about six percent of the people control the basic wealth, and there's something infinitely demonic about that. It's no wonder that America needs the largest military in the world to protect the wealthiest superrich class from people who would rebel against it. There's no basic conflict among the peoples of the world; Russian bus drivers aren't mad at American bus drivers. But the controlling groups are always in conflict with the people—whether it's the Government of the United States, which refuses to adequately protect the poor, or the boards of directors at GM and Ford, which encourage blacks to go into debt to buy automobiles but don't allow blacks to participate in the profitable manufacture and distribution of cars.

PLAYBOY. Can blacks afford to buy automobile agencies?

JACKSON. The companies will lend us the money to buy cars, which leads to profits for them only. They could lend us the money to buy agencies, but they won't, because that would let us profit also.

PLAYBOY. Aren't there some black car dealers?

JACKSON. About 14 dealerships out of 28,000. We are grossly underrepresented in all areas of the economy. There are no black TV stations, for example, and only seven black radio stations. Most of the stations that are beamed toward the black community and play black music are white owned. We can't get FCC outlets, and I'm convinced that there is a conspiracy to keep us from communicating with one another on a mass scale.

PLAYBOY. Do you mean that the Government fears a nationally directed riot?

JACKSON. I don't know what they think; all I know is we can't get licenses when we apply.

PLAYBOY. What does Operation Breadbasket intend to do about this sort of economic underrepresentation?

JACKSON. We have the power, nonviolently, just by controlling our appetites, to determine the direction of the American economy. If black people in 30 cities said simultaneously, "General Motors, you will not sell cars in the black community unless you guarantee us a franchise here next year and help us finance it," GM would have no choice. We can affect their margin of profit by withdrawing our patronage and resisting the system instead of enduring it.

PLAYBOY. Can this really work? And, if so, why hasn't it been done already?

JACKSON. It hasn't been done because we weren't sophisticated enough to see it. This is a step that we haven't been ready to take. But it will certainly be done now, because we are organizing to do it. Black people purchase about 35 to 40 billion dollars' worth of goods each year. We represent the margin of profit in many industries. America depends on our cooperation with her economy, and we shall become the enemies of those businesses and industries that work against our interest by unfair hiring practices, by discriminating against black products, by not making investments in the ghetto to correspond with the profits taken out of it. There is an analogous situation in politics: The black people have not yet realized that *we* can determine who gets elected President: in 1960, it was the South Side of Chicago that turned in the vote that made John Kennedy President. The newspapers all said that Mayor Daley had once again come through with his Cook County machine, but that vote was black. The ghetto, however, has seldom voted in its own self-interest. It has even voted for black politicians who are contemptuous of blacks.

PLAYBOY. Why does the ghetto vote so inefficiently?

JACKSON. Because it's so easy to intimidate or con the poor; they have no recourse. On Election Day, the precinct worker comes around and says that if you don't vote his way, he'll have you thrown out of the housing projects or he'll have your welfare check canceled. Or, if he's a benign type, he'll buy your vote with a chicken. The poor are also frightened out of coming to freedom meetings. But the poor themselves must learn that food is a right and not a privilege. We are marching to gain a subsidy for 30,000,000 hungry Americans who represent a human resource that is more important than any of the mineral resources that this nation subsidizes.

PLAYBOY. What form would that subsidy take?

JACKSON. A guaranteed annual income based upon the Government's own estimate of the amount of money people actually need to live adequate lives. They say that a family of four in a large city in the United States in 1969 requires $5994 per year for minimum maintenance. If that's what's needed, then that's what they should get.

PLAYBOY. Wouldn't that be expensive, especially considering the present high tax burden?

JACKSON. The Senate committee on poverty headed by George McGovern stated after doing field research throughout the nation, that it would cost ten billion dollars per year to feed the poor and fulfill their basic health, clothing and housing needs. I would guess that that's a low estimate. Let's double it and say that the cost would be 20 billion dollars per year. That's less money than we're spending to kill the Viet Cong. It's less money than we're about to spend on the ABM system. It is less than a third of the defense budget. If we wanted men to live as much as we want to see them die, we could do it without any new taxes.

PLAYBOY. But what motivation does the Government have to subsidize the poor?

JACKSON. Out of a spirit of humanity, one would hope; but that is naive. Our job is to create enough press to *force* the Government to act. It is certainly not going to do so on its own. The imbalance of Southern power in the Congress has led to important committees being headed by pathological killers and by men with public commitments to racism. These men—such as Mendel Rivers, Russell Long, Jamie Whitten and Richard Russell—are the black man's burden. The truth is that the Mafia is probably better represented in the Government than blacks are. And numerous other special-interest groups are well taken care of. The situation on the agriculture committees is particularly loathsome to me because of the millions of dollars that are given away to gentlemen farmers who don't farm, while children are starving. Contrast that with the Black Panthers' national breakfast program. They are serving thousands of people free food every week, and the only qualification is that the recipient be hungry. If the Panthers can serve breakfast to 3000 children a week in Chicago or 15,000 in San Francisco, with their lack of resources, what could those cities' government be doing if they had the same interest?

PLAYBOY. If you were the mayor of a major American city, what would you do?

JACKSON. I would declare the poor communities in a state of emergency and deal with the unemployment rate, the high mortality rate and the high t.b. rate. I would set up medicine tents on the streets, and embarrass the Federal and state governments into opening up their food storehouses. I would declare war on disease and hunger. I would enlarge all the city departments that feed and heal people. The welfare of all the people would be attended to before any new golf courses or monuments or stadiums were built. I would force the Government to call out the National Guard to deal with the existing injustices, which make the ghetto a permanent disaster area. There's no reason why the Army couldn't be coming down the street with bayonets, looking for slum landlords. The Army would force trade unions to allow the minority groups in. And those who did not pick up the garbage would themselves be picked up. An Army like that wouldn't have any trouble getting volunteer soldiers because it would be engaged in a *relevant* war.

PLAYBOY. Is that statement a reference to Vietnam?

JACKSON. Let me just say that Vietnam is not a relevant war. It is a war in which the black poor are paying with their lives to protect the investments of a small, rich elite whose Asian investments are threatened by Hanoi.

PLAYBOY. Whatever interests are being served in Vietnam, do you think that you, as a citizen, have the right to pick the wars in which you will fight and those in which you won't?

JACKSON. Of course I have that right. I must reserve the right to decide which wars are just. And I would not fight in a war that I thought was unjust. Nor would I approve of anyone else doing so.

PLAYBOY. Would you encourage drafted blacks to refuse to go to Vietnam, even if it means jail for them?

JACKSON. Yes. and whites, too. Fighting in Vietnam is a step back into slavery for blacks, and into barbarism for whites. The road to jail has often been the road to freedom. Many men—Gandhi, Jomo Kenyatta, Dr. King—have learned that.

PLAYBOY. Although a disproportionate number of blacks have died in Vietnam, there have been few blacks active in the peace movement. Why?

JACKSON. To blacks, the peace movement is a luxury that presupposes you have the time to save somebody aside from yourself. Blacks are just too occupied with their own survival. They have not even been sophisticated enough to know that they can oppose murder. A black man can be easily seduced; it's a revolution for him to go from one meal a day to three. Sometimes I think the blacks are so locked away from information that we could be duped into fighting in South Africa for apartheid, if America told us to do it. We certainly were down there shooting our Dominican brothers. I saw televised scenes of Dominicans lined up against a wall while black GIs held guns on them. But this is not because of ignorance but because of cultural suffocation and improper education.

PLAYBOY. Malcolm X once proposed that the UN send observers into the American black community to determine if blacks were being treated humanely. Do you think that's a practical idea?

JACKSON. Only for symbolic purposes; the UN doesn't have any power and is subject to the American veto.

PLAYBOY. Wouldn't exercising the veto prove so embarrassing to the U.S. that it would refrain from doing so?

JACKSON. I doubt it. And the countries that one might expect to pressure America into dealing humanely with its black minority—the countries of Africa—are themselves too dependent on America's trade and financial aid to wish to antagonize her. It is not in the enlightened self-interest of those countries to rise up in indignation when we're shot up in Detroit or Watts, because we don't affect their essential relationship with the world markets or the World Bank.

PLAYBOY. Both Malcolm and Dr. King worked to mobilize a world-wide conscience against racism before they were struck down. Do you share the view of some that both murders were part of a plan to deprive blacks of their leaders?

JACKSON. Not a single elaborate conspiracy, but it's clear that as we have moved closer to America's nerve center, closer to a position where we could vote men out of office, the killings have increased. And I don't think America has done anything to indicate that she is on the side of Dr. King rather than of his killers.

PLAYBOY. You used the plural. Don't you think that James Earl Ray acted alone?

JACKSON. I would be surprised if it wasn't a conspiracy involving many others.

PLAYBOY. Do you have any evidence to support that belief?

JACKSON. I think the circumstances were very suspicious. As you know, I was with Dr. King when the assassin's bullet was fired. We were talking with Operation Breadbasket's music director, Ben Branch, about songs for the next day's rally. Dr. Abernathy, Andy Young, James Bevel and Bernard Lee were very near. When Dr. King was

shot, I hit the ground, along with the others. We scrambled toward the steps where he was and I looked back over my shoulder, because I was afraid that more shots were going to be fired. I saw so many police coming from the direction of the shot that I actually threw up my hands, thinking that the shot had come from one of them and that I was going to be killed, too. There were hundreds of police in the area, some jumping from the hill where the shot had come from. I tried to tell them that the bullet came from that way.

Now, the hotel that Ray was in—if Ray was the killer—is next door to the fire department. With the shot having been fired and all those police in the area, the usual thing during an emergency in a Southern town would be for a siren to go off that stops the lights and traffic on Main Street, where the hotel is. It was six o'clock in the afternoon, the busiest time for traffic, and it all could have been brought to a halt. But no siren went off, traffic wasn't stopped and Ray escaped through downtown Memphis. The distance he subsequently traveled indicates to me that he didn't do it by himself and that he may have had some very highly placed help. But, of course, finding Dr. King's killers is secondary to getting at the roots of America's violent atmosphere—an atmosphere in which you conform or are broken, in which you take your subordinate place in the industrial hierarchy or are destroyed.

PLAYBOY. What do you think Dr. King would be doing if he were alive today?

JACKSON. Dr. King would still be dealing with the problem of finding a job for everybody; he would still be raising the questions of medical care for everybody, of a full-employment economy. He would still be on the basic issues, still be pointing out the stupidity of the war. He would be in general conflict with Nixon. He would still, as we say, be on the case.

PLAYBOY. Will there ever be another black leader as important as Dr. King?

JACKSON. I don't think so, though, of course, no man can say. But it was Dr. King who crossed the frontier, who made a permanent break with the past. I grew up in the period from 1955 to 1965, and that time was dominated by his courage and strength, as opposed to the previous mass docility of black men. Dr. King was a surprise for a lot of whites who had conned themselves into believing that Negroes were really inferior. He was intelligent, moral, eloquent and courageous. The contrast of his eloquence with the lack of it in those whites he was forced to deal with gave us a rallying point. Even more important was the way he stood up to white military power in the South. Dr. King wasn't afraid of the cop's billy stick, guns or dogs. He overcame the stigma of the jail cells; in fact, he *dignified* the jail cell and wrote great words from it. He was willing to die for black people, and finally did die, not on some lofty mountainside or in the company of ambassadors but kissing garbage men, trying to set them free.

PLAYBOY. In the weeks before he died, did Dr. King express any particular optimism or pessimism about the future of the movement?

JACKSON. He expressed both. SCLC was at that time involved in making its decision about the Poor Peoples' Campaign in Washington, D.C., that ultimately led to Resurrection City. Many of Dr. King's friends and some board members said that we should not go to Washington because of the possibility of a riot. The final decision was his. He was going through a bad time and he showed it at one of the last staff meetings he would ever attend. He was despairing that morning and Andy Young tried to tell him to relax, that things were going to get better. And Dr. King told Andy, "Don't say 'Peace, peace' when there is no peace. The country is swinging to the right and our President is obsessed with the war. Maybe I ought to turn around," he said. But then he stopped; and when he continued, his voice was more firm. "But we've gone too far to turn around. There were dark days during the sit-ins, and in Selma and Birmingham. We've come too far."

Then he changed again. "But I'm still disturbed by the division in the country. Maybe I ought to just fast. And when I get to the point of death, perhaps we could have a summit meeting of blacks. Maybe that would bring us together." But then he seemed to resolve the argument in his mind. He said, "I've seen where we've got to go. We are going to fight the good fight; we are going to liberate our brothers and raise up the poor. We're not going to turn around. It's all very clear to me now." And I think Dr. King at that moment was as sure as he had ever been of the ultimate victory of his movement. Once you've been to the mountaintop, it doesn't matter if James Earl Ray is in the bushes waiting for you.

PLAYBOY. Do you share Dr. King's vision?

JACKSON. In my stronger moments, I have no doubts. I'm even able to love those who persecute me. There must be some force that's committed to redemption, even though it's painful. The alternative is that we will destroy ourselves—"die together as fools," as Dr. King said once. He and Gandhi and Jesus reached a spiritual state that liberates the self. Dr. King did not represent ordinary men. That's what made people love him so much. But what finally happens to the extraordinary men is what happened to Jesus. We admire them but we don't follow them, and finally we kill them because they become such a threat to us.

PLAYBOY. In what way?

JACKSON. Most of us cannot live up to the ideal of the noble and virtuous. Such men make us aware that we must settle for the real and the expedient. We are diminished by their purity, which is a threat to our self-esteem. The idealist keeps our consciences awake, but the pressure on our conscience is so great that it can be relieved only by murder.

PLAYBOY. Dr. King was criticized for placing too much emphasis on conscience. David Halberstam wrote that Dr. King left Chicago in 1966, for example, because he could not inspire a moral consciousness, and Mayor Daley was able to dissipate his campaign with high-sounding but unspecific resolutions. Do you think that Dr. King was too concerned with the moral rather than the tactical aspects of the civil rights movement?

JACKSON. No, I think that even as recently as 1966, Dr. King was correctly analyzing his problem as the need to change the psyche of the black man. You couldn't impress black folks unless you impressed white folks first. Dr. King had to make the movement as large as possible in white eyes to get respect for blacks. I think that we are inclined to lose perspective on how much things have changed since 1955. There was no black consciousness then. Dr. King was dealing with "Negroes"—put quotes around that—whose minds, desires, ambitions and images were white inspired. Aretha Franklin couldn't have made it in 1955. It was Dr. King who moved the "Negro" farther and farther out; and the farther he got from the white shore, the blacker he became.

Dr. King had the most national influence of any black leaders, and his concern was to change national policy. The strategy was always to form a coalition of conscience between the black community and a segment of the white community. An issue had to be defined along moral lines, because the white community will split on the basis of moral against immoral, liberal against conservative. Without that white help, there is no chance for us to have an impact on national policies. Dr. King used to point out that there is not a black college in the country that could remain open six months on black contributions. That's a reality we must face. Even now, there is no civil rights organization of any consequence that functions on black money.

PLAYBOY. Does Operation Breadbastket accept white money?

JACKSON. SCLC accepts any money, and it finances us. But we get more black money out of Chicago than any other civil rights organization has ever gotten out of the black community.

PLAYBOY. What does SCLC think of white participation in the leadership of Breadbasket and other programs?

JACKSON. We discourage it. We need and want to encourage the technical and financial aid of whites in the civil rights movement, but we should make our own decisions. Whites should spend their physical energy liberating *white* America, because white folks need someone to help them understand blacks or they're going to continue to be paralyzed by their paranoia. Whites suffer from nightmares and irrational anxiety. When a black family moves onto a white street, the white girls are not magically impregnated by a black boy. Those fears are unreal. But whites do not allow enough communication with blacks to learn the truth. So other white folks must defend our humanity, even though our skin color is different and our hair grows differently and we have a different heritage.

PLAYBOY. Why is there a preoccupation now with black studies and Afro styles?

JACKSON. The so-called natural movement is simply trying to say that I may not know who I am psychologically and historically, but I'm not going to be defined by white folks any longer. I want to see how I'd look if I just grew. If I didn't use anything white folks gave me to fancy myself up with, what would I look like? Most of us have never given ourselves a chance to find out. We're in search of our existence as a new people—Afro-American. White people forced us to suppress our beauty; now we want to glorify it. The fact that our natural selves conflict with the comfortable, stereo-typed white image of the black man is not our problem.

PLAYBOY. But this new emphasis on blackness seems to lead to some paradoxical situations. In spite of the need for expanded opportunities for blacks to attend college, a number of strikes were initiated last year by black college students who demanded black-studies programs at their schools. Are black-studies programs so important that it's worth closing down a school to get them?

JACKSON. I think so. History plays a large role in a people's growth. The white man took away our history because it was one more way for him to control us. Without a group identity, we had no group loyalty; we were separated from our past to make it easier to control us in the present. It is one thing to see ourselves as a people only 300 years old, born as slaves and moving toward freedom. But, in fact, our forebears date back to the origin of man, and we have always been a creative and productive people; we were enslaved, but now we are returning to freedom—and it's good to come back home. We need the pride and dignity of knowing that we are part of a great continuum. Anthropologists say that mankind originated in Africa. We are the people who carved out the great civilizations of Kush, Songhai, Ghana and Mali. We smelted iron; we mined copper and gold. For us to know this is to know that we can look forward to a great destiny.

PLAYBOY. It's the idea of exclusively black studies that bothers many white people. Other ethnic groups don't have special study programs, do they?

JACKSON. But they do, and the schools recognize them as such. If you are an Italian, for instance, your history courses will cover

the entire history of early Rome and then Renaissance Italy, and they will stress the worth of the Italian contributions. But no ancient-history courses emphasize the blackness of the great early civilizations. And American history courses generally ignore the black man. If the schools had done their job, they wouldn't have the problems they are now confronted with—and richly deserve.

PLAYBOY. Many athletes and entertainers—Bill Cosby, for example—have adopted Afro hair and clothing styles; but aside from this sort of symbolic identification, do you think successful blacks have been as involved as they should be with the movement?

JACKSON. I think the symbolism is important; it shows a new sensitivity. The black athletes and entertainers who are wearing natural hair styles and Afro clothes are specifically defying the white measurement apparatus. But the fact is that the black artist has never been as far away from the black community as the white press sometimes portrays him. Every black man, for example, knows where Sammy Davis' heart is. The black entertainer moves into a white community because the houses are bigger and better there. He is just taking advantage of a new freedom. Historically, the black athlete and entertainer have been in a precarious position where, if they over-identified with the racial situation, they couldn't play in the major night clubs, couldn't get into a movie or were blackballed from a league. Black athletes who take a militant position on the race problem endanger their jobs, even though teams are dependent on their participation. Jackie Robinson broke into baseball in 1945. In 1969, blacks dominate the game. The stars of the National Basketball Association are nearly all black, as are many in the National Football League. But we'd be doing even better in sports if there were not still some discrimination there.

PLAYBOY. What kind of discrimination?

JACKSON. Before I entered college, I was offered a contract to pitch for the Chicago White Sox. They wanted to give me less money to sign than the white boys I was striking out. I'm sure that's generally true, and many black boys can't afford to leave the farm or the factory to try to make it with a team. More indicative of the racism still alive in sports is the fact that in all of major-league baseball, there isn't one black executive or manager.

PLAYBOY. If a black baseball player clearly shows himself to be a managerial material, don't you think he'll get a shot at a manager's job?

JACKSON. What does that mean? Is every white manager "managerial material"? Then how come they're always being fired? In America, a white man, no matter how dumb, is expected to boss a black man; but no black man, no matter how highly qualified, is allowed to give orders to a white man. If a white ballplayer like Eddie Stanky is argumentative and aggressive, he's considered fiery. Therefore, he's a managerial prospect. But Jackie Robinson was fiery as hell, only they called it arrogance. He was an "uppity nigger." When Robinson left baseball, his accumulated knowledge about running bases, pitching, hitting and fielding went with him. It was a waste of a great baseball mind.

PLAYBOY. You seem to be saying that unless a black man is docile, he can't survive; yet the mood of young blacks—including you—is anything but docile. Haven't the times changed?

JACKSON. *We* have changed; I don't know about the times. White society still tries to impose a different code of behavior on blacks than on whites. What to me is an expression of confidence is to white folks an expression of defiance. The country is so used to black people smiling and bowing and acting unsure of themselves that when whites meet someone who confronts them and challenges their standards, they make harsh judgments. Now things are changing so fast that the hostility of white society toward a black man may lead to respect for him from the black community. For a white man to embrace you is for a black man to hold you suspect.

PLAYBOY. You have been accused of cynically manipulating that new mood in your personal choice of dress and hair style. Do you think that if you didn't wear sideburns and a *dashiki,* but dressed conservatively and looked somewhat like a young Martin Luther King, that you could make it as a black leader today?

JACKSON. Style—whether it's Afro or Ivy League—isn't crucial. Hell, there are kids around who look like Che Guevara, but they still need their mommas to help them across the street. Because of all the losses we have suffered, black people are looking for *winners;* that's the only way to get their respect. And a winner is someone who successfuly defies white America. The reason Joe Louis will always be respected in the black community is that at a time when other blacks couldn't even talk to white people, Joe Louis was beating them up, knocking them down and making them bleed. When I do a TV show, I'm aware that every black watching is scoring me against the white opposition, as if I were in a fight. Every black man who has won the loyalty of his community has indicated some expression of defiance for the white man. Malcolm X is a good example. He could look Whitey straight in the eye and tell him he was lying. And Malcolm showed that even the most brutalized experience could be overcome.

PLAYBOY. You obviously don't agree with those who felt that Malcolm was a disruptive force.

JACKSON. Malcolm had become an apostle of peace after his trips to the Near East. America has a knack for killing her men of peace, while men of war continue to thrive. Malcolm's death also pointed up the futility of thinking in exclusively white-black terms. Blacks killed Malcolm, just as a black man betrayed Marcus Garvey and a black woman once tried to stab Dr. King. Black is not always good, just as white is not always bad. We confirmed that lesson at Resurrection City, where white Appalachians shared the mud with us while some blacks on U Street were asking The Man to run us out of town. And it was a black woman who started many of Adam Powell's troubles.

PLAYBOY. The consensus among white liberals is that Adam Powell deserved his fate—and that he was a hindrance to the civil rights movement. Do you disagree?

JACKSON. Absolutely. First of all, and to set the record straight, as head of the House Education and Labor Committee, Adam Powell was responsible for passing over 60 pieces of significant social legislation—more than any other of his virtuous colleagues have ever done. But Adam is even more important, for a depressed black psyche, as a defier of white rules. Something happened to my dad in World War Two that illustrates this. He was serving in France and Strom Thurmond came to speak to his all-black regiment. The Senator's message was that they were there to fight the War, that they were not to bother any women; they were to know their place. In other words, it was all right for my father to risk his life to serve America, but he was still a nigger. So when Adam Powell walked down the halls of Congress with two white women on his arm, just the outrageous defiance of it gave us gratification. The appeal of that defiance will never be lost.

PLAYBOY. That story touches on the strong sexual aspect of racism. Both Malcolm X and Eldridge Cleaver have expressed elaborate theories in which white sexual fears are cited as a fundamental cause of race hatred. Do you agree?

JACKSON. Although sex is a crucial underlying cause of prejudice and racial hatred, it is not relevant to the black liberation movement. We will not allow the white man's sexual problem to stand in the way of our freedom.

PLAYBOY. Can you just ignore it?

JACKSON. Let me explain it with some awful history. In the South, when a slave ran away—thereby expressing his manhood and independence—and he was caught, the punishment for his first offense was whipping or branding. If he ran away again, which was the clearest way for him to assert himself, his punishment was likely to be castration. The slave was told that he was inferior, less than human and completely unappealing to the white woman; but The Man still castrated him. That says a lot about the psychosexual dilemma of the Southern white male. The other part of that dilemma was that because of his fear of black men, the white man had to desensitize white women. The white woman had to spiritually kill herself. For a white woman to see Jim Brown and not think of him as an attractive male means that the nerves are dead within her being. She dehumanized herself, because white men wanted it that way. But when the white man destroyed his relationship with his women, he got his satisfaction from the pursuit of money. So the white man perverted himself and his women.

If some great psychoanalyst had emerged 300 years ago, he might have solved some of the white man's problems and prevented the brutalization of blacks by whites. But we were not rescued, and the intervening 300 years have served to diminish the importance of sexual antagonisms and replace them with a more crippling form of racism. Today, racism is integrated into the ideology of capitalism. I said that the sexual aspect is irrelevant because even if sexual tensions disappeared tomorrow, capitalism would still require a racist ideology in order to maintain a cheap labor base. Racism provides a mechanism by which the slavemaster assures that society will have a ready supply of inferiors who can serve as slaves. Racism is as important to America's domestic colonialism as it was to foreign colonialism; it is an excuse to exploit and enslave a people because they have been defined as inferior. Colonialism is not built upon emotions; it is built upon behavior patterns that are designed to get a profit.

PLAYBOY. Do you think, as some revolutionaries do, that capitalism will have to be destroyed in order to end racism?

JACKSON. It is futile for us to think about ending racism; that is a psychological problem that seems beyond our attempts to affect it. We are fighting to end colonialism—oppression and exploitation. That requires power. The civil rights movement is a lifetime struggle for power. A man who is impotent, no matter how courteous and pleasant looking he is, is told to wait in the lobby. But if you have power, you can be an illiterate boor with tobacco juice running down your face and they will open the door for you. As I said earlier, we are going to organize to exert power on the big corporations. We are going to see to it that the resources of the ghetto are not siphoned off by outside groups. Right now, black exterminating companies don't even get the contracts to kill the ghetto's rats. But that's going to change. If a building goes up in the black community, we're going to build it. And we're going to stop anyone else from building it. If we can't get into those construction unions, they're not going to get into our neighborhoods.

PLAYBOY. But other neighborhoods don't control their business according to ethnic separation. They try to become part of what is traditionally called the American melting pot.

JACKSON. I hear that melting-pot stuff a lot, and all I can say is that we haven't been melted. We've been getting burned on the

bottom of the pot. We don't want anything that's different from the experience of the other ethnic groups. If you go into an Irish neighborhood, most of the businesses are run by Irishmen. The same is true in a Chinese or Jewish or Italian neighborhood. The difference between all of them and us is that they are all separate and independent groups, while we are separate and *dependent*. We want to control the vital elements of our lives: the school boards, the churches, the businesses, the police. The other groups are separate and control themselves, but they are separate and control us as well. That is a colonial situation. And the slums will exist as long as the colonists continue to turn a profit on them. As in any other revolution, we must fight for our independence.

PLAYBOY. But Dr. King once said that his aim was to "break open the city," so that ultimately there would be no separate black and white communities. Have you forsaken that goal?

JACKSON. No. But we recognize that a major part of the black community must first gravitate around itself, as other ethnic groups have done. In these areas, where our living together provides collective security, we ought to have the right to control it. But just as we have the private right to stay where we choose, we should also have the public right to participate in the public arena the way other people do. A man should choose where he wants to live, based on his income, or the fact that a house is close to his job, or because there's a good school nearby; he should not be refused because of his color. He should not be afraid of being bombed out by white bigots or of being harassed by police when he returns from work.

PLAYBOY. Aren't the open-housing laws changing this?

JACKSON. No. There is still segregation. In Chicago, blacks are 30 percent of the population, but they live on ten percent of the land. That congestion is inhuman and a prime target for exploitation by slumlords. People are cramped in body and spirit, and those who can't afford it are paying more for the space in which they live. We are locked away from the resources of the community. Black children who are sick are untended and left to play in their own filth in understaffed, ill-equipped hospitals. Four- and five-year-olds who were lucky enough to enter Head Start programs substantially raised their learning capacity, only to have it fall again as soon as they entered public school. Yet the teachers call the children incompetent. We have no choice about schools and hospitals, because public mobility is denied us. When a white mother decides to move because her neighborhood doesn't serve the needs of her children, the broker asks her where she would like to live; when a black mother faces that problem, she *knows* where she can live—and where she can't. In white communities, there are about 3000 people per square mile; in the ghetto, there are 30,000 people in each square mile. The overcrowding produces bent and perverted people. They are made to suffer so much pain that they feel no need to conserve themselves or their neighborhoods, so they decide to destroy. These are the unheard—until they riot.

PLAYBOY. The majority of those who have participated in riots are in their teens or early 20s. Why?

JACKSON. These kids have an awful lot of reasons for hating America. Their experiences with the dominant culture are nearly all negative; whether it be in school or a courtroom or applying for a job, they are being either deprived or discriminated against. This sense of resentment is acute, and it's just a matter of time before they give up on themselves and this country. Many of them already have. If Richard Nixon really cared about America's future, he'd be showing up at Operation Breadbasket meetings and offering to join us in the fight to reclaim these kids' minds and souls, because they are going to have a large effect on that future. He might at least give us equal time and attention with the moon shot.

PLAYBOY. Weren't you impressed by the moon landing as a scientific achievement?

JACKSON. The only thing that moon shot did for me was turn my stomach. I was in a migrant worker's shack in Georgia a few weeks before the launch. It was about 115 degrees inside in the daytime. It had no toilet—not even an outhouse. No refrigerator, no running water. There was greasy butcher's paper over the space where there should have been windows. The shack was temporary residence for a family of four and they actually paid rent for it. If they hadn't rented it, they wouldn't have been allowed to work the harvest. They were all hungry. The kids' bodies were bloated and discolored. And they suffered from worms. This was *good* time for these people. When the harvest ends, they have to move on and they have nowhere to go. That Sunday night of the moon walk, in my mind's eye, I could see those poor, broken people walking four miles to the company store to watch the two astronauts jump around. Each step Armstrong took cost enough money to feed that family for 100 years.

America has spent 57 billion dollars since 1957 for the ego gratification of planting her flag on top of everyone else. One *tenth* of that was spent in the same period to inadequately feed the hungry. The psychological state of this nation is revealed by the fact that the men whose egos are swelled by putting a flag on a dead rock would not feel the slightest sense of accomplishment from the more humane task of feeding hungry people.

PLAYBOY. Are you encouraged by Nixon's proposals about black capitalism?

JACKSON. Not very much. It is a limited vision to make a few people rich, whereas SCLC's Poor Peoples' Campaign proposes a decent economic base for *all* people. Dr. King died talking about raising the level of dignity for all men. The difference between Dr. King and Mr. Nixon is the difference between a prophet and a politician. I don't believe the Government has plans for the extensive development of the black community. If it did, then the Job Corps would not have been curtailed recently. Even more serious is the Government's lack of understanding of the problems of the potential black businessman and its failure to develop programs to help him.

PLAYBOY. White businessmen object to such demands on the grounds that blacks don't deserve Government considerations that aren't extended also to whites.

JACKSON. The Government aids white businesses all the time—in the areas in which they are endangered. It subsidizes airlines and railroads. It sets up tariffs to protect textile businesses from cheap foreign imports. The black man is endangered as a businessman because of his substandard education, and the Government should be offering technical and advisory service to blacks.

PLAYBOY. What kind of services?

JACKSON. There are some basic areas where the black businessman can use Government help. One is feasibility studies that will tell a man if his idea is sound. Another, of course, is capital, which should be lent according to the soundness of a business idea, rather than withheld reflexively in accordance with impossible strict notions of what constitutes "a bad risk." If a black man came up with the idea for the next generation's Xerox, he probably couldn't get the money to develop it. Next, the Government should help him get his foot in the market's door, so that the black man can at least have a fair chance. This is one area in which Operation Breadbasket has been very successful; we've gotten chain stores such as Jewel and A & P to give shelf space to black products. Then the Government should provide real vocational training. Even if a black kid, who never intends to go to college, graduates from high school, he can't fix the wiring in the house, can't run a machine, can't lay a brick.

And the vocational training should apply also to those who are already running a black business. We helped increase a black man's business from $12,000 to $160,000 in four months. But he couldn't grow with it. He had to pull his business back down to the size of his mind; he had to feel the money, count it in his hands. He couldn't handle a balance sheet, couldn't write notes for working capital before his receipts came in. That man can't go to Harvard Business School—but if the Small Business Administration and President Nixon were serious, there'd be an operation Head Start for the black entrepreneur. The way it is now, a black with talent has to choose to work in the security of a big white company. And his sapped spirit will never produce anything on its own. Black businesses, on the other hand, are a step on the road to freedom. Black products are a focus for a pride in black ability. We can't just consume what the white folks decide to make for us. Consumption leads to fatness, but production leads to freedom. A producer is free to make decisions, but a man who only consumes is a prisoner whose decisions are made by others.

PLAYBOY. Breadbasket's aims, if fulfilled, seem likely to create more middle-class blacks. Do you think there will be strong class divisions between black middle and lower classes as the former get farther away from the ghetto?

JACKSON. I don't think we will have significant class divisions. No matter how wealthy he gets, the black man can rarely buy a house where he wants to; he is still subject to the whim of any white policeman who doesn't like his looks; he is still going to be tried, if accused of a crime, by a jury of his white nonpeers. And these facts bind him firmly with his destitute brother.

PLAYBOY. How do you feel about the young militant's derisive notion that every successful black is an Uncle Tom?

JACKSON. I think it's important to be sensitive to who Uncle Tom is. Uncle Tom is not our enemy. He grew up in the ghetto; he went to bad schools. He's a successful black hustler who bends and smiles before the white man in order to provide for his children. He's not a man who sits around thinking up ways to hurt black people. There's nothing wrong with a Southern boy who grew up in a shack with an outhouse wanting a real home. The jobs we once picketed to get are now being derided as Uncle Tom jobs. But the black *bourgeoisie* is still very close to the roots, if for no other reason than the fact that in the colonial system, he can't get too far. Blacks don't move to white society for joy, fulfillment, good music or tasty meals. They move to get away from bad schools and apartments where the trash isn't collected. They aren't moving away from blacks but from the rats.

PLAYBOY. Are you saying that there's no disunity among blacks?

JACKSON. There is an unfortunate division among blacks now that is set off by a certain self-righteousness, a competition for being the blackest. But we must never forget that Nat Turner was middle class, as were Frederick Douglass and Dr. King—and even Stokely Carmichael. We will not be trapped into glorifying ignorance and poverty. That will not improve the lives of black people.

PLAYBOY. Do you agree with young radicals who feel that blacks who are assimilated into the economy will become new cogs in the corporate machine?

JACKSON. We want to create a new value system that will produce a generation of

black liberators, not exploiters. You can't ask a black man not to work because America's value system is perverted. But I would hope that when the black man gets a job in a company that is part of the military-industrial complex, he will organize in a union that is as concerned with basic values as it is with decent wages. Instead of producing war materiel for an unjust and immoral war, the union could pressure the company into producing goods that will help and heal people. The virtuous and vicious aspects of our economy are interrelated. We produce more food and clothing—and guns—than we need; we have the capacity to save more people from malice and disease than any other nation in the history of the world, and to *kill* more people than any other nation in the history of the world. No one attacks our ability to build X-ray machines or washing machines. Our national priorities are the real problem.

PLAYBOY. Can blacks change them?

JACKSON. This is the challenge of Operation Breadbasket. The businessmen we help, for example, are discouraged from getting rich and leaving the ghetto. We develop profit sharing: we try to make it *our* company as much as the owner's. We encourage a dialog between owner and employee, and we encourage participatory democracy.

PLAYBOY. Can Breadbasket help blacks outside the ghetto as well as within it?

JACKSON. Yes. Let me give you an example of how it can work—a case of real soul power, where blacks had the integrity to stick out a crisis and aid one another over thousands of miles. When the most recent Voting Rights Bill was passed, black Alabama farmers found that they weren't able to find markets for their products anymore. Whites were retaliating for their new political power. On top of that, George Wallace prevented them from borrowing money, so they couldn't expand economically, because of the combined pressures of racism and capitalism. There were 1500 of them—all farming small plots. Instead of quitting, they formed the Southwest Alabama Farmers' Cooperative. They planted and harvested their crops and then brought them to Chicago. We at Breadbasket then went to the supermarkets in the ghetto and told the owners that they would either put the brothers' products on the shelves or face boycotts. They accepted the produce. The brothers in Alabama could farm there and have an open outlet in Chicago. We were able to do this out of a sense of "peoplehood." That's my kind of black nationalism—blacks helping one another on a national scale.

PLAYBOY. Isn't it one of the great fears of Southern whites that blacks—who outnumber them—will usurp their place in society if they ever win enough economic and political power?

JACKSON. The problem here is that the poor white and the poor black have mutual fear. Poor blacks fear that if poor whites aren't eliminated, they won't be able to eat, and the poor whites feel just the same way in reverse. The historical difference is that poor whites in the South have controlled the police and the military and have thereby maintained power over the blacks. We in the Poor Peoples' Campaign believe that the basic anxiety of whites is an irrational fear of extermination—a fear that can be removed with a guaranteed income, with guaranteed medical care and education. Dr. King was firm in his resolve that black power must be secondary to peoples' power. When the economic base of all the people is raised, racism will decline. As the Poor Peoples' Campaign gets stronger, racism will lose its hold on the consciousness of the white poor.

PLAYBOY. Do you honestly think, as Dr. King did, that there's going to be a movement of the poor that will include whites, blacks, Puerto Ricans, Mexicans and Indians?

JACKSON. It's inevitable. If our good sense doesn't connect us through affirmation, then America's greed will lock us together by negation. False racial pride has divided the lower class, but we must stop defining and separating ourselves because of skin color. We should define ourselves by our economic position and shift the fight from a horizontal confrontation of poor black versus poor white to a confrontation of "have" versus "have not." Dr. King could have been the suture that connected the various bones of the bottom classes. Just two weeks before his assassination, there was a meeting of a dozen representative ethnic groups in SCLC's Atlanta office. That was the beginning of something really new, and it is continuing. For just one example, Dr. Abernathy marched with Cézar Chávez and Operation Breadbasket supports the grape strike as if it were our own project, by boycotting and picketing Jewel Tea and other stores where California table grapes are sold.

PLAYBOY. But do you really think that the white poor are going to join you?

JACKSON. The white poor have always been distracted from demanding their rights; they've been too embarrassed to admit their deprivation. They've nourished themselves on the meager psychic diet of racism. But during the Illinois Hunger Campaign, we offered poor whites food and they digested it. In East St. Louis, Illinois, a white man named Hicks addressed a congregation of hunger marchers. Mr. Hicks has nine children and works five and six shifts of day labor a week but still can't make enough to feed his family or even to put a shack over their heads. Mr. Hicks and his family were taken in by black folks. They shared equally, and it was the first time in his life, he said, that he felt any sense of security. There are a lot more Mr. Hickses out there who just haven't realized yet that they don't have to suffer alone, that a massive cooperative effort by the poor class is the only answer. United in a class struggle, we can force the redistribution of wealth in America.

PLAYBOY. The idea of class war, hot or cold, has always been associated with the theories of socialism. Do you think of yourself as a socialist?

JACKSON. I adhere to the ideals of my religion—that the earth is the Lord's and its food was intended for all men. The trend of the world today—in Sweden, Guinea and Britain, for example—is toward some form of democratic socialism, where men eat because the ground is fertile. America stands in conflict with that trend by allowing a few people to control and distribute the food, rather than letting people eat because they are living. The truth, of course, is that this same America, where socialism is such a dirty word, is already operating in a sophisticated state of socialism for the rich, while the poor live in a crude state of classic capitalism.

PLAYBOY. Please explain that.

JACKSON. The people in this society who follow the Protestant ethic and work long hours by the sweat of their brow are the poor. They work at the hardest jobs and often still don't get enough money to pass the poverty level. Even when they try to break out, it's an attempt to start a street-corner business, where the rules of classic capitalism prevail. The poor storekeeper, for example, doesn't control his market through advertising; he can't float a bond issue and use other people's money to run his business. But the rich man has socialism. We've got 6536 farmers in this country who receive $25,000 not to work. That's socialism. The campuses expand, chopping pieces of land out of black neighborhoods, with the financial help of the National Education Act. Even wealthy schools for rich men's sons are state supported. The interestate highway program, none of which benefits those who can't afford a car, is 90 percent Federally financed. There wouldn't be a trucking industry without Government help. The list is endless and includes the oil companies and their depletion allowance, the railroads, the airlines and airports, the power companies. The rich talk about tax shelters and tariff protections, while the poor talk about sweat and blood.

PLAYBOY. But isn't welfare a form of socialism for the poor?

JACKSON. As it now stands, welfare is a form of humiliation. It is demeaning and dehumanizing. Men use money; welfare recipients use stamps. Men have privacy; welfare recipients have no privacy and can be visited any time of day or night. Their most intimate relationships can be called into question by people who are indifferent to them. Instead of abusing the poor, this nation has to understand that the welfare recipient is a product of the success of our economy. The unskilled black man whose job has been lost to technology today will be joined shortly by the unskilled white man whose job will be lost to the next technological advance. Either we see these men as having been freed by technology, perhaps to fulfill a creative role, or we see these men as having worked hard only to find themselves enslaved in poverty by the same technology. Whichever perspective one has, we must evolve a subsidy that will preserve these precious human lives, not destroy them as welfare has.

PLAYBOY. Were you encouraged by President Nixon's new welfare proposals?

JACKSON. I was thoroughly discouraged. I watched Nixon the night he delivered that welfare address. My anger was tempered only by my incredulity at the immensity of his con job. He lied for nearly an hour and didn't even crack a smile. He asked the country to think of him as a great humanitarian, but we weren't fooled. Behind all those promises is the single fact that the states are going to retain control of most of the Nixon program. When the states had the power, black people couldn't vote, couldn't ride in the front of a bus, couldn't drink from any public water fountain, couldn't use any john they wanted. Now Nixon says to Thurmond and Stennis, "Take care of them poor folks." Right this minute, there are 40 states violating the welfare laws. We don't need a redistribution of welfare-disbursement stations in this country; we need a redistribution of wealth. The President challenged the poor to go to work, without saying what he would do to improve the lot of those who can't work. I'll be encouraged when the President challenges the rich to show their humanity and grant to the poor their basic rights as human beings.

PLAYBOY. The white lower middle class is becoming quite vocal about its opposition to welfare in any form for those they characterize as too lazy to work. What's your reaction?

JACKSON. The fact is that the poor work the hardest and have always done so. We made cotton king, cooked other people's food when we had none of our own, stooped to clean bathrooms. Now we are unskilled, because the schools don't teach us, because less money is spent on the education of blacks than is spent on whites. A state of despair has set in for those in the black community who have been told no too often, and perhaps they never can be healed. When white people say they know a man on welfare who is too lazy to work, I say that may be so. But the man they see is a dried-up prune. I ask them, "Did you see that man when he was a boy? Did you see him when he said, 'Momma, do you have a piece of bread?' Did you see him before hope was snuffed out by despair?" The white middle class is paying less tax money to support welfare mothers than it is to support the farm industry. I don't hear them complaining about that. The bulk of their tax money goes to subsidizing the rich and fighting wars abroad—wars fought by the sons of welfare mothers, not by the middle-class kids who go to college. The middle class invests in America with its tax dollars, but the poor have to invest their lives.

PLAYBOY. Is it possible to raise a family on the funds provided by welfare? Many claim it isn't.

JACKSON. Let me put it this way: If I give you 22 cents for a meal, you know pretty well what you're going to get to eat. I thought I knew what poverty was all about until I went on our hunger campaign. I saw children eating red clay. Doctors call it pica when people who don't get sufficient food eat things that have the appearance of food. I saw a mother give her child saltines and onions for breakfast and send her off to school on that. I saw a white mother with four kids, one of whom, a boy, had leukemia. He drank all the milk the family was allotted on a food-stamp supplement, and it wasn't enough even for him. She took him everywhere in a little wagon, the kind kids play with. He was frail and helpless, and the mother was exhausted; the entire family looked bloodless and frightened, as if they would never have a moment's joy. I can understand why they might feel that way, living as they must with the fact that there is a ceiling on the welfare allotment but no ceiling on the rent or the food prices or the amount of tragedy a family can suffer. The insufficient welfare funds are especially damaging to babies. Eighty percent of the brain develops during the three months immediately before birth and the first three years of life. The minds of welfare children, who cannot get enough to eat, are stricken early.

PLAYBOY. Why don't welfare allowances provide adequate support?

JACKSON. Welfare allotments tend to be about one third of the minimal standard of living as defined by the Government. In Texas, New York and California this year, even that meager appropriation was cut. Furthermore, rents and food prices are higher in poor areas than in middle-class areas, so the poor must spend more, even though they have less. The result of this deprivation is that the black child goes to school without breakfast, cannot afford lunch at school and cannot look forward to a decent supper at night. His hunger is such a distraction that he is not motivated to learn. All of these elements combine to place him farther and farther behind in school. He has no goals, no hero images, no sense of purpose or identity. He is physically weaker than his white contemporaries and probably sickly, because he doesn't get medical care.

PLAYBOY. Earlier, you referred to the dominance of professional sports by black athletes. That doesn't fit with the image of physical weakness you just presented.

JACKSON. Some men will thrive even in a prison camp, so it isn't surprising that you'll find an occasional black youth who overcomes his poverty. But the important reason for the dominance of black athletes is that a high proportion of black men—both those who ate well and those who didn't—directed themselves toward athletics because the field was more open to them than any other. More blacks tried to be boxers because there was no point in trying to be a bookkeeper or a mathematician. A black man whose mind might have had great aptitude for math wouldn't have been trained by a ghetto school. It made more sense for him to try to be a ballplayer, even a third-rate one, because it was so unlikely that he'd have a fair chance to be anything else.

PLAYBOY. A persistent part of the white stereotype of the black man is that he runs faster and jumps higher than whites. But some anthropologists have claimed recently that there actually are genetic differences between white and black. Will this new evidence worsen the relationship between white and black?

JACKSON. It won't affect us. The black man has never needed to believe that there are differences; that's a white man's problem. Our natures are the same. Our urges and drives as people are the same. Mankind has one father, and that's time. It has one mother, and that's nature. Both of these life processes are sound and consistent and universal. The third process is brotherhood, which is all messed up, because white folks have tried to withdraw from it. The eternal existential dilemmas of fate and death, guilt and condemnation, emptiness and meaninglessness are the same for all men. But our relationship, based upon distorted information peddled by white folks who reject the humanity of others, has been perverted.

PLAYBOY. What are the psychological and cultural differences between white and black, if any?

JACKSON. Slavery is our cultural heritage and it should have been a thoroughly destructive one. But instead of seeing ourselves as slaves from Africa brought over to serve the lusts and wants of white people, a providential way of seeing our slavery is that we are missionaries sent from Africa by God to save the human race. Who else is in a position so close to the Pentagon, the greatest threat to the world's existence? Who else is in a position to literally redirect the most powerful economy on earth? Who else in the world is in the enemy's kitchen and his schoolroom? We are, perhaps, the only ethnic group in the world that has the power to redirect the destiny of white America. Neither China nor Russia nor France nor England could do it. I don't look for white folks to give me any direction. My experience has taught me that white people are spiritually impotent, by and large, because all they've really produced is a lot of goods and services and a lot of death.

PLAYBOY. That's a sweeping condemnation. Would you say that the late Norman Thomas, to name one of many men, was spiritually impotent?

JACKSON. No, he was certainly a spiritual man, and you could find others. The point is that such a man is not representative of the white American culture. In fact, the secondary roles that genuinely humane white people are forced to play is indicative of what I'm trying to say. Black society chooses to be led by its prophets, white society by its hustlers. The men of highest sensibility in white society find themselves rebelling from it—just as blacks must rebel. America is known not for her capacity to love and heal but for her capacity to organize and kill. America has an aristocratic, military definition of man. American men judge themselves by their wealth, status and power, not by their intelligence, compassion or creativity. That's why the idea of looking for racial equality here is a farce. To become equal to white folks would be to become part of the greatest tradition of killing in the history of the world.

PLAYBOY. That might sound to some not only like a blatant overstatement but like a proclamation of black supremacy.

JACKSON. I don't know what it sounds like, but I know what the record will indicate. There is no evidence of Africa invading Europe, of her early advanced civilizations killing or enslaving other nations. Historically, blacks have not been the aggressors in war, not even here in America. We did not mobilize to go to war for our long-overdue justice, but there have been wars of injustice waged against us. The profound men in this culture have been black—Frederick Douglass, for example, who was more pertinent than Lincoln on the subject of slavery and the liberation of mankind. And the crusader for justice in Mississippi was Medgar Evers, not Jim Eastland. In New York, Malcolm was pertinent, not Nelson Rockefeller, who did not bat an eye when he approved the welfare cuts. The one who cried out for peace in the world and meant it was not the white leader, President Johnson; it was the black leader, Dr. King. During the past 15 years, Dr. Abernathy has been more relevant than any American President. Blacks have striven for moral dignity and, by contrast with America's state of immorality, we appear to be moral supremacists, not black supremacists.

PLAYBOY. The war in Biafra seems every bit as brutal as any other war. Black life there seems to be as cheap to blacks as you say it is to whites in this country.

JACKSON. The Nigerians and Biafrans are fighting with white men's weapons. They are fighting a war that is based on a white man's division of Africa, and the cause of the division was an earlier economic colinialism. The war is an unfortunate aberration and the signs of white meddling are everywhere in it.

PLAYBOY. During the 1968 teachers' strike in New York City, there was evidence of deep-rooted black hostility toward Jews. Is anti-Semitism consistent with your claim of black moral supremacy?

JACKSON. In the first place, there were really few examples of black anti-Semitism and these examples were blown out of all proportion by the teachers' union, which benefited by the dissemination of fear. More significantly, though, I don't think you can characterize blacks as anti-Semites. We have never been obsessed with the Jew as Christ killer. But our relationship with the Jew has changed as the black movement has changed. When blacks began to confront the Southern white power structure, most of which was WASP Baptist and Methodist, Jews gave us great support, both financial and moral, and a real kinship developed. But once the movement moved North and the problem was defined not just in terms of social segregation but in terms of economic colonialism, the Jew began to be revealed as landlord and shopowner. Of course, he is more conspicuous than the Protestant, because his name is likely to identify his ethnic background. And he is also more sensitive: It is much easier to embarrass or humiliate a Jew than either a Protestant or a Catholic, because, unlike the others, the Jew immediately identifies with suffering.

As blacks have emerged, the Jew has been there as teacher and shopkeeper, and there has been an inevitable friction. But I think the mood of the blacks is more one of anti-colonialism than of anti-Semitism. For blacks cannot afford to be anti-people; no matter who the people are, they must be anti-evil. I think the Jews who are most concerned about anti-Semitism, however, should keep in mind that blacks have not exploited Jews *at all*. We have not owned anything in the Jewish community—no clothing stores, banks, food stores. The Jewish community, like most others, has a left and a right wing—some who operate in a tradition of justice and others who violate that tradition. Rather than develop a persecution complex, perhaps it ought to expend some of the energy it spends complaining about black anti-Semitism on the Jewish merchants who are known to be exploiters and tend to pull the reputation of the Jewish community down.

PLAYBOY. Jews, along with Irish, Italian and other immigrant groups, are often held up as an example that the blacks, if they were industrious enough, could emulate. The premise is that those groups were poor and lived in ghettos but were able to overcome that experience and join the American mainstream. Why hasn't that happened to blacks?

JACKSON. First, those groups came here voluntarily and were always free. We came here involuntarily and are still not wholly free. The other immigrant groups are white and could lose their identity and merge with the majority when it was necessary; with a few technical skills or a decent education, it was a simple matter for them to bypass prejudice. Their families were not destroyed and their sense of historical continuity was preserved. Most importantly, they did not

suffer the tremendous color stigma of the white man.

Historically, there was a conspiracy to hold us down. We were enslaved, then locked into plantations, as we are now locked into ghettos. When America finally released our physical bonds in 1865, it was as if we had been in jail for 200 years and were let out without a road map or a dime to go to the city. There was no attempt to help us overcome the psychological or economic hardships of slavery. Many blacks didn't survive; and of those who did, most had to pervert their natures—become invisible men, as Ralph Ellison wrote, become hidden, for it was too dangerous to assert one's real identity, one's manhood. No other ethnic group was faced by a hostile white society that wanted to castrate it both physically and psychologically.

PLAYBOY. Then today's black militance is a quest to resurrect that manhood.

JACKSON. One thing that I have to say right off is that there's nothing to be learned from the white man's idea of manhood. An American man is identified by his weapon, by what he controls. American men are obsessed; they are gratified by making money they can't even spend, which is a kind of emptiness of the soul. Real manhood should be defined by the ability to help and to heal, by an extension of the mind, by knowledge exerting its power over ignorance. Real manhood comes from helping others be free, by breaking the bonds of slavery.

PLAYBOY. Do you mean that metaphorically?

JACKSON. Only partly. Many of us have internalized slavery and behave like slaves, responding to the slavemaster when he calls. In some communities, we must fight our own people because they maintain the slave institutions. They are still in awe of Pharaoh and are afraid to confront him. That is a form of slavery. The slave psychology works on a subtle level that wraps the black mind. It has been drummed into blacks that whites are the creators and producers and thinkers. Blacks whom we might have respected were taken from us. George Washington Carver's image is one of a docile creature—an old man in a laboratory, bowing to a white child. The fact is that he developed over 300 elements from the peanut and almost single-handedly revived the Southern economy. A black man, Daniel Hale Williams, was the first open-heart surgeon. There are many, many other examples, but the point is that blacks never knew about them. It was easy to preserve the image of the dull-witted, slow-talking and thinking black bumbler. There is still a need among blacks for white validation of their efforts. If Tommie Smith and John Carlos had a race tomorrow and both broke their records for the 220-meter dash, and the race were held on a black campus, where all the judges were black, black people wouldn't believe it—and neither would whites. But if it were a white track meet, there'd be no problem. As for our churches, they gave up their soul—and I mean that in both senses—to copy white church styles. That's why at Operation Breadbasket meetings, which are deeply based in religion, we have a band and a Gospel choir and consciously try to capture the rhythm of our people.

PLAYBOY. Is the slave psychology the reason for your own fieriness and emotionalism when you address a black congregation?

JACKSON. Certainly. I am seeking converts—not necessarily to religion, although there's that, too. But I want to make my people realize their own selfhood. I begin each service with a chant that says, "I am *somebody*." It also says, "I may be poor and I may be on welfare, but I am *somebody*." Because black people have to learn that they have rights just because they're alive. They've got to stop putting themselves down because of an induced inferiority complex. The slave psychology was apparent when Dr. King came out against the Vietnam war. He had all the credentials you could ask for: Nobel Prize winner, an international leader, a scholar and a Ph. D. But blacks said he had a lot of audacity; he's a preacher and should confine himself to civil rights. But when Robert Kennedy and Senator McGovern took the same position, then it was all right. And after Memphis, when SCLC's James Bevel expressed Dr. King's contempt for capital punishment, he was scorned by the black community. He said Dr. King would have wanted James Earl Ray rehabilitated, would have said to fight hatred but spare the hater. Bevel also pointed out the irony of trying to obtain justice by sacrificing a two-bit waiter for a billion-dollar black prophet. But blacks said he was crazy. Then Ted Kennedy said that Sirhan's life should be spared because his brother Robert was against capital punishment. The black community immediately cited Teddy as a great man of justice who didn't become vindictive in the face of personal tragedy. This is a painful indication of our self-contempt. We must stop looking to whites to validate our worth; we must look within for beauty and strength and courage.

PLAYBOY. Your own self-confidence, as contrasted with Dr. King's humility, seems to be of formidable dimensions, and you've been accused of messianic impulses. Do you see yourself as the next great national black leader?

JACKSON. First of all, Dr. King was not humble; he was forthright and audacious. He was killed for challenging white power. As for me, I am confident of my abilities as a social analyst, but I have no illusions of grandeur. My job is to proclaim liberty, to preach unity, to bind up broken hearts. I am just taking care of my assignment. Besides, anyone in public life in this violent society who would make such long-range plans is a fool.

PLAYBOY. You certainly expose yourself to the risk of assassination as much as any man. Do you think that you may be subconsciously seeking martyrdom?

JACKSON. I want to live. I've got no hang-up with that. But a man must be willing to die for justice. Death is an inescapable reality, and men die daily, but good deeds live forever. An assassin believes that you can kill the dream by killing the dreamer; that is an error.

PLAYBOY. Would you have any special message to leave with black people if you were killed?

JACKSON. Yes. Don't send flowers. Don't come around with your tears. Picket. Go to P.T.A. meetings. Fight for higher wages. If I die tonight and you wake up tomorrow, make the most of it.

PLAYBOY. You've been quite sick a few times this year, once with a form of anemia, and also with some very debilitating viruses. Yet you hardly let up on your activities, rarely sleep and constantly drive yourself toward exhaustion. Why?

JACKSON. Because I have a sense of urgency about what has to be done. It is not the thought of death so much as it is the crying need for justice. Perhaps both facts motivate me simultaneously. I do feel that I have to fulfill my work in an appointed time. I would like to sleep, but ideas come to me in the night and wake me. I think I'm drawing my stamina from a spiritual source that has been allotted to me; for that reason, I have no choice but to keep on driving. You can't devote the energy necessary to confront Pharaoh unless you are spiritually consumed by the need for liberation. But that is social consciousness, not a messianic need to be worshiped. There are some aspects of glory attached to having the privilege to lead, but none of the agony ever gets publicity, because television cameras don't record people tossing and turning in their beds at night.

PLAYBOY. Inasmuch as the Southern Christian Leadership Conference is basically a religious group, it's understandable that religion plays a large role in your life. But what appeal can the church have for a cynical 20-year-old kid from the ghetto?

JACKSON. The black church is relevant because it has provided a home for our rebellion. It has cherished our people. The white church, on the other hand, worships *worship*, not Christ nor love nor brotherhood. God is very sick here; the God of justice and liberty is almost nonexistent. Christianity is universal, but the American flag flies higher than the cross in American churches; and when wartime comes, universal love goes out the window. If Americans had a true God consciousness, they could not leave the church on Sunday and shield their eyes from the hungry.

But there is extraordinary relevance in the actual teaching of Christ. If you love people, you will not destroy them in war; if you love deeply, you will distribute the goods of the earth that the Father provided, so that people will be fed and housed. That is the Jesus I identify with. His was a program for feeding the hungry, clothing the naked and giving company to the lonely.

PLAYBOY. In the past, some critics have regarded Christianity as an impediment to black liberation; blacks were supposed to have been content to get their reward in heaven. Did you consciously evolve this activist approach to Christianity?

JACKSON. My religious philosophy can be summed up in an old Southern story about two farmers. One farmer was most concerned about his duty to God. He attended church every day and worked his fields in the afternoon. His neighbor never attended church and never paid any attention to religious rituals. The first farmer was just eking out a living; the second farmer was getting twice the harvest from a lot the same size. Finally, the first farmer said to the second, "Brother, I don't understand. I've been working this land and doing my duty for God and asking His help. I go to church each day. Yet I can't get ahead at all. You never take care of your religious obligations, yet you're getting all the bounty. What am I doing wrong?" The second farmer answered, "I don't know what you're talking to God all the time for. He doesn't know anything about farming. This place didn't produce *anything* when He had it all to Himself." That's the whole thing. God made it but man has to go out and do it.

PLAYBOY. In our interview with Dr. King four years ago, he said the aims of SCLC were removing the barriers of segregation, disseminating the creative philosophy of nonviolence and total integration of the Negro into American life. How much have things changed since then?

JACKSON. Four years ago, SCLC was a Southern movement primarily concerned with social segregation. Blacks were defined as less than human and were not allowed to participate in public. We were "boys" and our goal was to be recognized as men. That drive was aimed at creating a moral consciousness, and one of our slogans was "Save the Soul of America." I think that one of the reasons for impatience among blacks today, and the reason for the appeal of violence, is that we never before knew just how awful the secrets locked in America's soul really were. We didn't know then that America would bomb a people to pieces and side with the oppressors in order to preserve her financial investments. We didn't know then that the Northern liberal had better manners than Bull Connor but that his institutions were no less thoroughly racist. And we didn't know then that the capitalists who slandered us with cries of "Communist" were living high off the Government hog, while we were starving in the streets.

This education of ours has led to a change of mood. Our first concern now is not white

America's soul; it is black America's body. We are justified in our impatience, because that body is hungry. When Moses had his illumination and realized that he could confront Pharaoh, the Bible says that Moses had to take his shoes off, because now he was on holy ground and the bushes were burning. Actually, the bushes were not burning; Moses was burning. His eyes were aflame—the skin had come off them. Black people today are burning; the skin is off their eyes. The movement is now in a resistance phase and we will no longer cooperate with the white slavemaster. Either we are going to live or America is going to die. The ghetto experience has not been a satisfying or a useful one, but it has given us inner resources—the ability to do much with very little.

I read in the white press how black people are dispirited and confused. White editorial writers claim that the civil rigths movement is fragmented. That is not true; the movement is very together: The NAACP, which just saved the Voting Rights Bill, is doing its thing in Southern courts; the Urban League is doing its thing in industry; the Panthers are feeding kids in the streets; SCLC just had a political victory in Greene County, Alabama; Operation Breadbasket is thriving. It is white America that is at the crossroads. If she does not join us in the resurrection of her soul, in the fulfillment of her dream for all her people, then I foresee a day when little children in a schoolroom on the moon read in the history books about an empire that crumbled because all her power and might of arms could not cure the immoral greed that diseased her spirit.

TOWARD MORE ADEQUATE SOCIAL SECURITY—VIII

Mr. WILLIAMS of New Jersey. Mr. President, within a matter of weeks Members of the House and Senate will make one of the most important decisions to be made during this Congress.

I refer to the action we will take on raising social security benefits. The administration has proposed an across-the-board increase of 10 percent and no rise in minimum benefits.

The Senate Special Committee on Aging has received mail from hundreds of elderly persons who say that this proposal would offer no relief at all. It would not even cover the cost-of-living increases that have occurred since the last increase in benefits.

A much more realistic program is offered in S. 3100, which would raise benefits 20 percent in January and another 20 percent in January 1972. It would also: raise minimum benefits from $55 to $120 over a 2-year period, establish an automatic cost-of-living adjustment mechanism, and liberalize medicare coverage.

How badly do we need reform of our social security coverage? The answer to that question is provided in the letters received in the committee office and in the statements I have heard at "information sessions" which I am conducting on Saturday mornings in New Jersey.

The most recent meeting took place in Toms River, Ocean County, N.J. There, witnesses told of the great influx of elderly persons who see the advantages of retirement there. But, although the climate is good and the surroundings pleasant, rising costs and other problems are eating into retirement income. Men and women who had saved all for a lifetime find that property taxes, inflationary medical costs, and inflation in general are wiping out their economic security.

Consider the following examples provided by a witness who spoke before the 1,000 persons who were at the meeting:

Widow A receives minimum Social Security payment of $55.00 less Medicare payment of $4.00. This leaves $51.00. Also receives monthly payment of $103.55 on a mortgage she holds, but this will stop soon. This is a total of $154.55 for monthly expenditures. Taxes $880.00 less $80.00 tax exemption. She has to pay for food, heat, gas electricity, telephone and maintenance. This widow is 74 years of age and when I called at her home she was up on a ladder painting the trim on her house.

Widow B. Total income $108.90 less Medicare payment gives her actually $104.90. Taxes are $339.16 as she lives in Bricktown. She has food, heat, gas, electricity, telephone and maintenance, to pay for also. Since her husband passed away a year ago she has had to have installed a complete new furnace and a new water pump. How long at this rate can her meager savings last?

Another witness declared:

We do not want charity. We believe we have contributed substantially in the past by our economic efforts. Through the mismanagement of our national economy we have been brought to the point where we plead for your continued and immediate help.

A representative of Ocean County College was on hand, and he made a point which the Committee on Aging has emphasized in its recent documents dealing with the economics of aging. That point is that retirement income problems do not affect the elderly alone. All generations have a stake in resolving chronic problems—including inadequate social security levels related to economic insecurity of the elderly. The witness said:

With 37.4 percent of the Ocean County population over 60 and 40 percent under 25 there is considerable pressure on the middle group of wage earners. Subtract the substantial numbers on welfare rolls and the pressure increases. It is important to consider not only population growth but its distribution.

Mr. President, the problems of the elderly in Ocean County may vary somewhat from problems faced by those who live in central cities or in remote rural areas. But there is a common effect: desperately inadequate income.

The statement issued by the representatives of Ocean County College provides a direct and informative evaluation of pressures that have had their effect upon the elderly in Ocean County. I ask unanimous consent that this statement and two newspaper articles describing the meeting be reprinted in the RECORD to add new and useful information to our national dialog on the need for social security increases.

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

[From the Trenton (N.J.) Times Advertiser, Nov. 9, 1969]

ELDERS DECRY HARDSHIPS, INSIST CONGRESS HIKE BENEFITS

(By James Larig)

TOMS RIVER.—Nearly 750 senior citizens gathered in Ocean County yesterday to complain to Sen. Harrison A. Williams (D-N.J.) about the nation's spiraling inflationary trends which they said undermined their livelihoods as retired persons.

Most of these complaints centered around hardships caused by excessive taxes, especially property taxes, and the increasing costs of medical care, especially prescription drugs.

Several persons pointed out that many retired persons receive as little as $100 a month and John Buday, senior citizen coordinator, Ocean Community Action Now, Inc., said that 90 percent of all elderly singles have an annual income of under $3,000. Those figures are below the official poverty line set by the government.

BIGGER HALL NEEDED

The fact-finding hearing, conducted by Sen. Williams, was originally scheduled to be held in the 238-seat Lecture Hall on the campus of Ocean County Community College. The session's start was delayed so that everyone could travel the short distance to the Toms River Intermediate School auditorium. Additional chairs still had to be carried to accommodate the crowd.

Sen. Williams said that to call the turnout a "magnificent outpouring of concerned citizens would be putting it mildly."

Yesterday's meeting was one of a series of information sessions conducted by Sen. Williams in an effort to obtain "grassroots opinion and information" for legislation to improve the economic status of the nation's elderly.

The Senator said that hearings would be held soon in Mercer County, but no date has been set.

WOULD RAISE BENEFITS

Sen. Williams recently introduced a bill to increase Social Security benefits by 20 percent in January, with an additional 20 percent increase in January of 1972, provisions for automatic cost-of-living increases, and the inclusion of prescription drugs as a part of medicare.

Asked how the bill's future was looking, the Senator said backers were "struggling for interim increases before Congress adjourns for Christmas vacation."

Williams is hoping the interim increase will be 15 percent. He added that he believes a majority of the Senate will support the measure.

At yesterday's hearing, Williams heard several local leaders of senior citizen groups depict the plight of the elderly in face of the continuous rise in the costs of everything, especially medical expenses.

Arthur Wacker of Manchester Township said that if some of the Senator's colleagues had done their homework some time ago, today's meeting wouldn't have been necessary.

SPEEDY ACTION POSSIBLE

He also said that action on Sen. Williams' bill could be taken quickly and increases made by Jan. 1, 1970, pointing to recent congressional pay increases as an indication to how fast Congress can act when it wants to do so.

Several arguments dealt with placing life savings into a piece of property and then finding that yearly assessments push the taxes upward beyond their retirement income.

Most of those speaking yesterday rejected any forms of charity and felt it unnecessary to go into detail on what kind of citizens they were and what taxes they paid when they were working because, as one man said, "They know we worked and paid taxes."

Concern over the scheduled monthly hike in Medicare payments was also expressed by speakers on stage and from the audience.

Eugene Friedman, president of the New Jersey State Nursing Home Association and a member of the New Jersey Medical Assistance Advisory Council, told the group he wanted to see the proper utilization of hos-

pital facilities to relieve overcrowded conditions. He said that some hospital patients could easily spend part of their recovery time in nursing homes or in home-care programs at about one third of the cost.

[From the Asbury Park (N.J.) Press, Nov. 9, 1969]

ONE THOUSAND SENIOR CITIZENS MEET WITH SENATOR WILLIAMS

TOMS RIVER.—More than 1,000 senior citizens from Ocean County gathered yesterday at the Intermediate School for a sing-in and talk-in with U.S. Sen. Harrison A. Williams Jr., D–N.J.

The meeting originally was schdeuled to be conducted in the Ocean County College lecture hall. However, after more than 500 persons showed at the lecture hall, Andrew S. Moreland, college president, was forced to move the meeting to the Intermediate School on Hooper Avenue.

The traffic caused tieups on Hooper avenue for almost an hour as carloads upon carloads of senior citizens arrived at the school.

SING-IN FIRST

While the speakers waited for the people to be seated in the school auditorium, which seats only 750, Sen. Williams asked if there were any piano players in the audience.

A man identified as Fred Weber seated himself at the piano in front of the stage and played a medley of "old-timer" hit songs with the audience singing along. The "sing-in," as it was later described jokingly by some people in the audience, lasted nearly a half hour.

Much of the discussion during the talk-in, which Sen. Williams described as an information session, centered around the problems of the senior citizen in the county.

"I am holding this information session because I am building a case in the Congress for comprehensive legislation that will attack economic problems (of senior citizens) on several fronts," the senator explained.

Similar meetings have been conducted in Bergen, Cape May, Hudson, and Middlesex counties.

"I can tell you that there is no substitute for hearing directly from the people most affected by the everyday realities of inadequate income," Sen. Williams said, drawing applause from the large audience.

"I am critical of the administration's proposal for a flat across-the board increase of 10 per cent, effective in April," he continued. "In my opinion, this proposal would merely establish an escalator that begins and ends in the basement."

HITS PLAN

The senator pointed out the administration's plan would do nothing to raise the minimum benefits for senior citizens and would not bring benefits up to the cost of living increases which have occurred since the social security increases of 1967.

However, he said he has introduced a bill which not only increases benefits but also establishes an automatic cost of living increase.

"The bill will increase benefits by 20 per cent, effective Jan. 1, and by another 20 per cent in January, 1972," he explained.

He said the bill also will:

Raise minimum benefits in steps from $55 now to $120 by January, 1972.

Wipe out Medicare Part B monthly premium which costs the senior citizen $4 a month now and will be increased by $1 shortly.

And put some out-of-hospital prescription drugs under Medicare.

LOW INCOME CITED

Russell P. McClain, chairman of the social science department at Ocean County College, said the mean income of retirees and senior citizens in the county was below the prevailing income of the area.

John Buday, senior citizen coordinator for the county's antipoverty agency, agreed with Mr. McClain and said the annual income for a majority of the senior citizens in the county was below $3,000. This, he contended, makes many of them eligible for welfare.

All panel members agreed there is also a pressing need for more hospital and medical facilities in the county to take care of the senior citizen's medical needs.

Mr. McClain noted much of the hospital space in the county is used by senior citizens.

Municipal tax structures and increasing property taxes also were attacked by panel members.

Mr. Buday pointed out although many municipalities offer senior citizens an $80 deduction in taxes, that amount is more than paid back to the town by senior citizens in increased property assessments on their lands.

He also said that because of increasing taxes on the homes of senior citizens in many county municipalities, many were forced to sell their homes.

"They just can't keep up with the increasing property taxes on their limited incomes," he added.

Among the other problems presented were increasing hospital and drug costs for senior citizens in the county. Other panel members said many doctors are taking advantage of the medicare program by charging senior citizens more for the services.

"The doctors and the American Medical Association fought Medicare tooth and nail," said panel member Harold Days. Since it's been passed, they've never had it so good."

MEMORANDUM

To Senator Harrison A. Williams, chairman, the U.S. Senate Special Committee on Aging.

From Russell H. McClain, chairman, Social Sciences and Public Administration, Norman V. Scurria, assistant to the president, Ocean County College, Toms River, N.J.

Subject: Population Trends in Ocean County.

Supplying accurate population figures in the year before a census is somewhat comparable to coming up with the money for the gas bill on the day before payday. One temptation is to say, as they once said in a famous United States subdivision, "Wait till next year."

However, Ocean County has an excellent Planning Board, a superb Bureau of Public Relations, a branch of the New Jersey Division On Aging, hospitals, schools, and other institutions that have made and are making studies, projections and collecting data. We request permission to bring to your attention information obtained from some of these organizations.

I. The most obvious fact is that the population of Ocean County is growing at a very rapid rate:

Estimated present population	187,676
1960 Census	108,241
1950 Census	56,622

These figures indicate a 91.2 percent increase over the 1950 census in the 1950–1960 decade. The present population has increased 79,435 (a 73.4 percent increase) over the 1960 census figure.

Projections by the County Planning Board are for a population of 259,469 in Ocean County by 1975. In other words 71,793 will be added to the county's population in the next seventy-two months—997 new citizens each month. This will represent an increase of 38.3 over the present 187,676 in the next six years. County officials estimate 30 percent of persons moving to Ocean County are retirees.

Appended to this statement is a graphic representation showing the sharply rising population curve of Ocean County as compared to curves of New Jersey and the United States.

Growth is even more dramatic in certain areas of the country. For example the two most populous townships—Brick and Dover—doubled in population 1950–1960 (Brick 16,299 to 30,410; Dover 17,414 to 33,700) and are projected to gain another 50 percent by 1975 (Brick 30,410 to 46,430; Dover 33,700 to 47,802).

II. The percentage of citizens over 60 to the total population has increased even more than the general population growth as indicated in the following tables:

GROWTH OF 60-PLUS AGE GROUPS AS A PERCENT OF TOTAL POPULATION

Ages	1960 Number	1960 Percent of 108,241	1969 Number	1969 Percent of 187,676
60 to 64	5,372	4.9	27,030	14.4
65 to 69	5,290	4.9	23,020	12.3
70 to 74	3,797	3.5	13,006	6.9
Over 75	3,706	3.4	7,000	3.8
Total over 60	18,165	16.7	70,056	37.4

PERCENTAGE INCREASE OF AGE GROUPS OVER 60

	1960	1969	Percent increase 1960–69
60 to 64	5,372	27,030	403.11
65 to 69	5,290	23,020	335.16
70 to 74	3,797	13,006	245.17
Over 75	3,706	7,000	88.89

As indicated the number of persons in 60-plus age groups has in some instances increased four-fold and the ratio to the county's total population has more than doubled.

III. Ocean County's population mosaic indicates many possible problems.

A casual observation of the Ocean County population picture indicates many difficult areas.

With 37.4 percent of the population over 60 and 40 percent under 25 there is considerable pressure on the middle group of wage earners. Subtract the substantial numbers on welfare rolls and the pressure increases. It is important to consider not only population growth but its distribution.

Medical facilities and expertise are in short supply as will be indicated by a speaker later in the program. Ocean County has three hospitals, ten nursing homes and an insufficient supply of expertise in almost all fields.

Police, fire, recreation and similar services are running on treadmills in attempts to keep abreast of needs.

In many instances the mean incomes of retirees is substantially below the prevailing area income. Sales Management Magazine (December 31, 1968) estimated effective buying income per household in Ocean County at $8,170.

IV. Sixty-plus population of the county tends to concentration and organization.

A considerable segment of the county's retired citizens live in collections of housing units sometimes referred to as "retirement villages." Ocean County has nine villages, two under construction and one approved this week by the County Planning Board. In general residents in these developments are probably above the average retiree in financial assets. To establish residence in a village may require an investment as high as the $25,000–$30,000 bracket.

At least forty-four organizations composed exclusively of persons in the plus-60 age bracket are in operation in Ocean County. Many of them are represented in the audience

present for this meeting. Their purpose is to channel efforts of their members toward certain objectives.

V. The Community College.

Members of the Faculty and Staff of Ocean County Community College have participated in seminars sponsored by the New Jersey Division on Aging, participated in meetings similar to this one.

Our purpose is to remain perceptive to the needs of the community and serve as many groups in the expanding population of the County as possible.

One fact stands out in preparation of even a brief statement: reliable, up-to-date, accurate information is difficult to obtain. Lack of such data hampers valid, reasoned conclusions.

Several years ago the College attempted to fund a project to establish a data bank of information on population trends in the County. It was contention that reliable, complete, accurate, available information could reduce chance and guesswork in the action necessary to solve the problems of all groups.

It is our hope that an information center may become a reality. As a community college we are consantly seeking ways to assist all citizens of the community.

We have intentionally kept our statement brief and general—leaving specifics to speakers to follow. On behalf of Ocean County College—our thanks to Senator Williams for the honor and privilege of appearing here.

SEGREGATION IN THE SCHOOLS OF PENNSYLVANIA

Mr. STENNIS. Mr. President, according to the 1968–69 HEW school survey, Pennsylvania has a total of 2,120,870 students enrolled in the elementary and secondary schools. Of this total, 1,841,846—or 86.5 percent—are white, 265,019—or 12.4 percent—are Negro, 11,635—or 0.5 percent—are Spanish-speaking Americans, and the balance of 2,370—or 0.1 percent—are made up of American Indians and Orientals.

The racial data contained in the HEW's IBM run reflects that there are 11 cities or townships in Pennsylvania which have one or more schools where Negro students make up 80 percent or more of the school's total enrollment. However, in these 11 school districts are enrolled 83.1 percent of the total Negro students in the State of Pennsylvania, and in these 11 school districts there are 175 schools where the Negro student enrollment is between 80 percent and 100 percent of the total enrollment. There are 156,129 Negro students, or 58.8 percent of all Negro students in the State of Pennsylvania, in these 175 schools. There are 135,194, or 51 percent of all Negro students in the State of Pennsylvania in 145 schools that are 90 percent to 100 percent segregated. There are 114,328, or 43.1 percent of Pennsylvania's total Negro student enrollment in 115 schools that are 95 percent to 100 percent segregated, and there are 89,867, or 33.9 percent of Pennsylvania's total Negro student enrollment, in 96 schools that are 99 percent and 100 percent segregated.

Philadelphia, of course, is the largest city in Pennsylvania and it has a total public school enrollment of 282,617, of which 109,512—or 38.7 percent—are white students, 166,083—or 58.8 percent—are Negro, and 7,022—or 2.5 percent—are Spanish Americans. There are no other minority group students.

Philadelphia has nine schools with a total enrollment of 7,206 that are 100 percent Negro. It has another 57 schools, with a total enrollment of 68,402, that are 99 percent to 99.9 percent Negro segregated. It has 26 schools, with a total enrollment of 26,333, that are 95 percent to 98.9 percent Negro segregated and another 17 schools, with a total enrollment of 14,571, that are 90 percent to 95 percent Negro segregated. In other words, there are 109 schools in Philadelphia with a total enrollment of 116,512, that are 90 percent to 100 percent Negro segregated.

There are another 23 schools, with a total enrollment of 20,228 that are 80 percent to 90 percent Negro segregated and another 36 schools, with a total enrollment of 37,994, that are 50 percent to 80 percent Negro majority. There are 151,193 Negro students—or 91 percent of the total Negro student enrollment in Philadelphia—attending majority black schools. There are 19,174—or 17.5 percent of the total—white students attending these majority Negro schools.

With respect to the white majority schools, of the total white student enrollment of 109,512, there are six schools with a total enrollment of 4,052 that are 100 percent white. There are 14 schools with a total enrollment of 19,596 that are 99 percent white, and there are 16 schools with a total enrollment of 17,828 students that are 95 percent to 98.9 percent white. There are 29 schools with a total enrollment of 26,942 that are 81.8 percent to 93.6 percent white, and another 43 schools with a total enrollment of 39,460 that are 50 percent to 80 percent white. In summary, 89,535, or 81 percent of the total white enrollment in Philadelphia, are attending majority white schools, and 18.3 percent of the white students are attending majority black schools; 16,718 Negro students, or approximately 10 percent of the total Negro enrollment in Philadelphia, attend majority white schools, and 90 percent attend majority black schools.

In Pittsburgh, there is a total public school enrollment of 76,268 in 113 schools, of which 46,005—60.3 percent—are white, 29,898—39.2 percent—are Negro, and 365—0.5 percent—are from other minority groups.

In the black majority schools, there are five schools with a total enrollment of 2,932 that are 100 percent Negro. There are eight schools with a total enrollment of 8,693 that are 90.9 percent to 99.5 percent Negro segregated. There are 6 schools with a total enrollment of 4,387 that are 90.8 percent to 97.4 percent Negro segregated. In other words, a total of 16,012—or 53.7 percent—of the total Negro student enrollment in Pittsburgh are attending schools that are 90 percent to 100 percent segregated. There are four schools with a total enrollment of 2,698 that are between 80 percent and 90 percent Negro segregated, and another 11 schools with a total enrollment of 8,977 that are 50 percent to 80 percent Negro majority.

Of the 46,005 white students in Pittsburgh, 4,018—or 8.7 percent—are enrolled in majority Negro schools.

In the majority white schools, there are 12 schools with a total enrollment of 5,711 that are 99 percent and 100 percent white. Another 17 schools with a total enrollment of 8,415 are 95 percent to 98.6 percent white, and another 10 schools with a total enrollment of 9,228 that are 90 percent to 95 percent white. Accordingly, there are 39 schools that are 90 percent to 100 percent white and have enrolled 48.7 percent of the total white student enrollment of Pittsburgh. There are another 17 schools with a total enrollment of 13,883 that are 80 percent to 90 percent white, and another 11 schools with a total enrollment of 11,347 that are 50 percent to 80 percent white majority.

There are 6,373, or 21 percent, of the total Negro student enrollment in Pittsburgh who attend these majority white schools, and 79 percent attend majority black schools.

As previously indicated, there are numerous other cities and school districts in Pennsylvania which have highly segregated Negro schools, including the State capital, Harrisburg, which, in 19 schools has a total student enrollment according to HEW's 1968–69 school survey, of 13,491, of which 50 percent are Negro and 49.4 percent are white—yet, nearly 50 percent of the total Negro student enrollment is in five schools that are 86.3 percent to 97.7 percent Negro majority, and 17.3 percent of the total white student enrollment attend majority black schools. However, in the interest of time, I shall only comment on one other small school district—Penn Hills Township, Pa., because it is the only school district in the State of Pennsylvania where HEW has seen fit to take any action and is one of only six school districts in the north and west where HEW has sent out letters of noncompliance with the Civil Rights Act of 1964.

Penn Hills, according to the 1968–69 HEW school survey, has in 16 public schools a total enrollment of 14,128, of which 13,237 or 93.9 percent are white students, and 809, or 5.7 percent, are Negro, with 45, or 0.3 percent, consisting of other minority groups. Yet, with only a Negro enrollment of 5.7 percent in the school district, Penn Hills had one 100 percent Negro school. It is my understanding that, upon a complaint, HEW made an investigation of this district and found that the 100 percent Negro school was being maintained in a relatively rural area and 85 percent of the student body was being bused. After the investigation and negotiations with the school district officials, it is understood that an agreement was worked out where this school would be desegregated in two steps over a period of 2 years. According to the HEW's IBM data on the 1968–69 school survey, it is indicated that there were 246 of the 809 Negro

students still attending this 100 percent Negro school, and this represents approximately one-half of the original enrollment which was in the first step of desegregation.

The next school listed in the IBM data is 91.4 percent white, or 8.6 percent Negro, and the other schools have even fewer Negroes, down to 100 percent white schools.

I think this is important as an example that HEW was not concerning itself with the Philadelphia's or the Pittsburgh's where the real problem of segregation is, but with an isolated township having less than 1,000 Negro students, representing only 5.7 percent of the townships public school enrollment.

I ask unanimous consent to have printed in the RECORD information relating to Pennsylvania.

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

PENNSYLVANIA STATE TOTAL

[Number of districts: 454. Representing: 568. Number of schools: 3,978. Representing: 4,412.]

	American Indian	Negro	Oriental	Spanish American	Minority total	Others	Total
Students	388	265,019	1,982	11,635	279,024	1,841,846	2,120,870
Representing	411	268,514	2,073	11,849	282,848	2,013,163	2,296,011
Teachers	5	4,781	41	83	4,910	81,379	86,289
Representing	5	4,831	43	87	4,967	88,436	93,403

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT

PENNSYLVANIA STATE TOTAL

DISTRICT: BRADDOCK BORO SCHOOL DISTRICT. NUMBER OF SCHOOLS: 4. REPRESENTING: 5. CITY: BRADDOCK COUNTY: 2. ALLEGHENY COUNTY. ASSURANCE: 441

	Students—							Weight: 1.3—grades	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total		American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Number	0	781	5	0	786	385	1,171		0	2	0	0	2	54	56
Percents	0.0	66.7	0.4	0.0	67.1	32.9	100.0		0.0	3.6	0.0	0.0	3.6	96.4	100.0
Carnegie Elementary School (3).	0	297	0	0	297	31	328	001111100000000 (90.5)	0	1	0	0	1	11	12
Braddock Junior High School (2).	0	203	3	0	206	90	296	000000001110000 (69.6)	0	1	0	0	1	11	12
Copeland Elementary (4).	0	128	0	0	128	58	186	001111100000000 (68.8)	0	0	0	0	0	9	9
Braddock Senior High School (1).	0	153	2	0	155	206	361	000000000001110 (42.9)	0	0	0	0	0	23	23

DISTRICT: McKEESPORT AREA SCHOOL DISTRICT. NUMBER OF SCHOOLS: 23. REPRESENTING: 23. CITY: McKEESPORT. COUNTY: 2. ALLEGHENY

Number	7	1,336	12	43	1,398	9,162	10,560		0	7	0	0	7	406	413
Percents	0.1	12.7	0.1	0.4	13.2	86.8	100.0		0.0	1.7	0.0	0.0	1.7	98.3	100.0
Shaw Avenue Elementary (14).	1	487	0	14	502	99	601	011111110000000 (83.5)	0	5	0	0	5	14	19
Centennial Elementary (2).	0	247	1	4	252	412	664	011111110000000 (38.0)	0	0	0	0	0	23	23
McKeesport Junior High School (21).	0	281	1	6	288	1,217	1,505	000000001110000 (19.1)	0	2	0	0	2	64	66
Vocational High School (23).	0	95	1	1	97	616	713	000000000001110 (13.6)	0	0	0	0	0	34	34
West Side Elementary (18).	0	21	0	3	24	225	249	011111110000000 (9.6)	0	0	0	0	0	7	7
McKeesport Area Senior High School (22).	1	154	3	2	160	1,729	1,889	000000000001110 (8.5)	0	0	0	0	0	78	78
Versailles-Walnut Elementary (17).	2	10	0	0	12	206	218	011111110000000 (5.5)	0	0	0	0	0	7	7
Eleventh Ward Elementary (4).	0	8	1	1	10	263	273	011111110000000 (3.7)	0	0	0	0	0	10	10
Archer Street Elementary (1).	0	0	0	2	2	73	75	001111110000000 (2.7)	0	0	0	0	0	3	3
George Washington Elementary (7).	0	11	1	1	13	503	516	011111110001110 (2.5)	0	0	0	0	0	20	20
White Oak Elementary (19).	3	5	1	4	13	695	708	011111110000000 (1.8)	0	0	0	0	0	22	22
Fifth Avenue Elementary (6).	0	0	3	0	3	176	179	011111110000000 (1.7)	0	0	0	0	0	7	7
McClure Junior High School (20)	0	15	0	0	15	942	957	000000001110000 (1.6)	0	0	0	0	0	44	44
East End Elementary (3).	0	1	0	2	3	213	216	011111110000000 (1.4) 001111110000000	0	0	0	0	0	7	7
McCave Elementary (13).	0	0	0	1	1	115	116	(0.9)	0	0	0	0	0	6	6
Grandview Elementary (8).	0	0	0	2	2	239	241	011111000000000 (0.8)	0	0	0	0	0	8	8
Versailles Avenue Elementary (16).	0	1	0	0	1	305	306	011111100000000 (0.3)	0	0	0	0	0	12	12

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

PENNSYLVANIA STATE TOTAL—Continued

DISTRICT: McKEESPORT AREA SCHOOL DISTRICT. NUMBER OF SCHOOLS: 23. REPRESENTING: 23. CITY: McKEESPORT. COUNTY: 2. ALLEGHENY—Continued

	Students—							Weight: 1.3—grades	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total		American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Greenwood Elementary (10).	0	0	0	0	0	205	205	011111110000000 (0.0)	0	0	0	0	0	8	8
Lincoln Elementary (12).	0	0	0	0	0	284	284	001111110000000 (0.0)	0	0	0	0	0	10	10
Highland Elementary (11).	0	0	0	0	0	107	107	011111110000000 (0.7)	0	0	0	0	0	4	4
Third Street Elementary (15).	0	0	0	0	0	184	184	011111110000000 (0.0)	0	0	0	0	0	7	7
Grandview Elementary Annex (9).	0	0	0	0	0	143	143	000001110000000 (0.0)	0	0	0	0	0	5	5
Fawcett Elementary (5).	0	0	0	0	0	211	211	011111110000000 (0.0)	0	0	0	0	0	6	6

DISTRICT: PENN HILLS TOWNSHIP SCHOOL DISTRICT. NUMBER OF SCHOOLS: 16. REPRESENTING: 16. CITY: PITTSBURGH. COUNTY: 2 ALLEGHENY COUNTY

Number	1	809	35	10	855	13,273	14,128		0	5	0	0	5	576	581
Percents	0.0	5.7	0.2	0.1	6.1	93.9	100.0		0.0	0.9	0.0	0.0	0.9	99.1	100.0
Lincoln Park Elementary School (5).	0	246	0	0	246	0	246	001111000000001 (100.0)	0	1	0	0	1	11	12
Seneca Junior High School (14).	0	86	0	0	86	916	1,002	000000001100000 (8.6)	0	0	0	0	0	44	44
John H. Linton Intermediate High School (15).	0	146	2	0	148	2,435	2,583	000000000011001 (5.7)	0	2	0	0	2	109	111
Penn Hills Senior High School (16).	0	121	4	0	125	2,202	2,327	000000000000110 (5.4)	0	1	0	0	1	114	115
Hebron Elementary School (4).	0	41	3	3	47	935	982	001111110000000 (4.8)	0	0	0	0	0	34	34
Penn Junior High School (13).	1	46	6	0	53	1,186	1,239	000000001100001 (4.3)	0	0	0	0	0	50	50
Davidson Elementary School (2).	0	13	0	0	13	354	367	001111110000000 (3.5)	0	0	0	0	0	13	13
Washington Elementary School (10).	0	35	1	4	40	1,097	1,137	001111110000001 (3.5)	0	0	0	0	0	44	44
Shenandoah Elementary School (8).	0	28	0	0	28	920	948	001111110000000 (3.0)	0	0	0	0	0	37	37
Roberts Elementary School (7).	0	13	10	1	24	849	873	001111110000000 (2.7)	0	0	0	0	0	34	34
Thad Stevens Elementary School (9).	0	10	1	2	13	540	553	001111110000000 (2.4)	0	0	0	0	0	20	20
Forbes Elementary School (3).	0	12	4	0	16	704	720	001111110000000 (2.2)	0	1	0	0	1	25	26
Morrow Elementary School (6).	0	0	3	0	3	137	140	001100000000000 (2.1)	0	0	0	0	0	5	5
William McKinley Elementary School (11).	0	6	1	0	7	439	446	001111110000001 (1.6)	0	0	0	0	0	15	15
William Penn Elementary School (12).	0	6	0	0	6	425	431	001111110000000 (1.4)	0	0	0	0	0	15	15
Ben Franklin Elementary School (1).	0	0	0	0	0	134	134	001111000000000 (0.0)	0	0	0	0	0	6	6

DISTRICT: PITTSBURGH CITY SCHOOL DISTRICT. NUMBER OF SCHOOLS: 113. REPRESENTING: 113. CITY: PITTSBURGH. COUNTY: 2 ALLEGHENY

Number	15	29,898	196	154	30,263	46,005	76,268		0	354	4	4	362	2,660	3,022
Percents	0.0	39.2	0.3	0.2	39.7	60.3	100.0		0.0	11.7	0.1	0.1	12.0	88.0	100.0
Lincoln Elementary School (72).	0	487	0	7	494	0	494	111111110000000 (100.0)	0	3	0	0	3	18	21
W. H. McKelvy (86)	0	566	0	0	566	0	566	111111110000001 (100.0)	0	9	0	0	9	16	25
Robert L. Vann Elementary (106).	0	620	0	0	620	0	620	111111110000000 (100.0)	0	14	0	0	14	14	28
Herron Hill Junior High School (10).	0	847	0	0	847	0	847	000000001110000 (100.0)	0	13	0	0	13	34	47
Letsche (70)	0	405	0	0	405	0	405	111111110000000 (100.0)	0	8	0	0	8	14	22
Crescent Elementary School (45).	0	927	0	0	927	1	928	111111110000001 (99.9)	0	9	0	0	9	24	33
Baxter Elementary (29)	0	1,185	0	0	1,185	2	1,187	111111110000000 (99.8)	0	15	0	0	15	37	52

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

PENNSYLVANIA STATE TOTAL—Continued

DISTRICT: PITTSBURGH CITY SCHOOL DISTRICT. NUMBER OF SCHOOLS: 113. REPRESENTING: 113. CITY: PITTSBURGH. COUNTY: 2 ALLEGHENY—Continued

	Students—							Weight: 1.3—grades	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total		American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Miller Elementary (78)	0	579	0	0	579	1	580	111111110000001 (99.8)	0	14	0	0	14	14	28
Madison Elementary School (74).	0	542	0	0	542	1	543	111111110000000 (99.8)	0	6	0	0	6	17	23
Westinghouse Senior-Junior High (24).	0	2,921	0	0	2,921	7	2,928	000000001111111 (99.8)	0	45	2	0	47	81	128
Belmar Elementary (31).	0	968	0	0	968	3	971	111111110000000 (99.7)	0	12	0	0	12	22	34
A. Leo Weil Elementary (107).	0	972	4	3	979	5	984	111111110000001 (99.5)	0	13	0	0	13	24	37
Homewood Elementary (65).	0	569	0	0	569	3	572	111111110000001 (99.5)	0	6	0	0	6	16	22
Fifth Avenue Jr. Sr. High School (7).	0	1,191	2	0	1,193	32	1,225	000000001111111 (97.4)	0	19	1	0	20	52	72
Beltzhoover Elementary School (32).	0	730	0	0	730	52	782	111111110000000 (93.4)	0	5	0	0	5	22	27
Lemington (69)	0	777	6	0	783	56	839	111111111100000 (93.3)	0	14	0	0	14	16	30
Forbes Elementary (54).	0	292	0	0	292	21	313	111111110000001 (93.3)	0	5	0	0	5	13	18
Manchester Elementary (75).	0	590	0	1	591	52	643	111111110000001 (91.9)	0	10	0	0	10	19	29
Larimer School (67)	0	531	0	0	531	54	585	111111110000001 (90.8)	0	6	0	0	6	21	27
Conroy Junior High (6)	0	290	0	0	290	45	335	000000001110000 (86.6)	0	3	0	0	3	16	19
H. C. Frick (56)	0	862	13	8	883	169	1,052	111111111100001 (83.9)	0	1	0	0	1	36	37
Philip Murray Elementary (84).	0	738	0	2	740	142	882	111111100000001 (83.9)	0	4	0	0	4	24	28
Conroy Elementary School (43).	0	347	0	0	347	82	429	111111110000000 (80.9)	0	6	0	0	6	14	20
Mary J. Cowley (44)	0	441	0	40	481	142	623	111111110000001 (77.2)	0	3	0	0	3	26	29
Burgwin (36)	0	548	0	5	553	171	724	111111110000001 (76.4)	0	1	0	0	1	25	26
Schenley High School (20).	0	1,132	11	5	1,148	455	1,603	000000000011111 (7.16)	0	12	0	1	13	55	68
Fort Pitt Elementary (55).	0	603	0	2	605	374	979	111111111100000 (61.8)	0	4	0	0	4	34	38
Holmes Elementary School (64).	0	255	20	0	275	172	447	111111111100001 (61.5)	0	1	0	0	1	19	20
Northview Heights School (88).	0	698	0	0	698	474	1,172	111111110000000 (59.6)	0	4	0	0	4	37	41
James E. Rogers (95)	0	471	4	6	481	328	809	111111111100001 (59.5)	0	2	0	0	2	27	29
Knoxville Junior High School (11).	0	564	4	1	569	419	988	000000001110000 (57.6)	0	11	0	0	11	28	39
Arsenal Elementary School (27).	0	260	0	0	260	213	473	111111111100000 (55.0)	0	3	0	0	3	23	26
Arlington (26)	0	369	0	0	369	308	677	111111110000001 (54.5)	0	1	0	0	1	29	30
Gladstone Elementary (59).	0	248	0	0	248	234	482	111111110000000 (51.5)	0	0	0	0	0	17	17
Fairywood Elementary School (52).	0	232	0	0	232	235	467	111111110000001 (49.7)	0	2	0	0	2	15	17
Chartiers Elementary School (38).	0	100	0	0	100	110	210	011111110000000 (47.6)	0	0	0	0	0	6	6
Gladstone Junior Senior High School (8).	0	363	0	2	365	430	795	000000001111111 (45.9)	0	8	0	1	9	36	45
David B. Oliver Senior High School (15).	0	390	0	0	390	656	1,046	110000000011110 (37.3)	0	7	0	0	7	43	50
Allegheny High School (2).	1	356	4	4	365	641	1,006	000000000001110 (36.3)	0	2	0	0	2	42	44
Columbus Middle School (25).	0	262	0	0	262	472	734	000000011100000 (35.7)	0	3	0	0	3	35	38
Clayton Elementary School (40).	0	192	1	2	195	359	554	111111100000000 (35.2)	0	0	0	0	0	22	22
Park Place (91)	0	70	0	1	71	143	214	011111111100000 (33.2)	0	0	0	0	0	8	8
Regent Square (94)	0	56	0	0	56	116	172	011111111100000 (32.6)	0	1	0	0	1	8	9
Dilworth (47)	0	179	3	2	184	383	567	011111111100000 (32.5)	0	0	0	0	0	20	20
Fineview Elementary (53).	0	74	0	3	77	181	258	111111110000000 (29.8)	0	0	0	0	0	11	11

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

PENNSYLVANIA STATE TOTAL—Continued

DISTRICT: PITTSBURGH CITY SCHOOL DISTRICT. NUMBER OF SCHOOLS: 113. REPRESENTING: 113. CITY: PITTSBURGH. COUNTY: 2 ALLEGHENY—Continued

	Students—							Weight: 1.3—grades	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total		American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Latimer Jr. High (13)	3	250	3	0	256	619	875	000000001110000 (29.3)	0	4	0	0	4	39	43
Liberty Elementary School (71).	0	114	11	1	126	306	432	011111111100001 (29.2)	0	1	0	0	1	20	21
Friendship (57)	0	115	4	0	119	309	428	111111111100001 (27.8)	0	2	0	0	2	16	18
McNaugher Elementary School (87).	0	234	0	3	237	617	854	011111111100001 (27.8)	0	0	0	0	0	29	29
Thaddeus Stevens School (103).	0	221	4	0	225	626	851	111111111100000 (26.4)	0	0	0	0	1	29	30
Knoxville Elementary School (66).	0	112	5	0	117	336	453	011111110000000 (25.8)	0	0	0	0	0	14	14
Greenfield Junior High School (9).	0	48	0	0	48	145	193	000000001110000 (24.9)	0	0	0	0	0	4	4
Schiller Elementary School (98).	0	102	4	0	106	349	455	111111110000001 (23.3)	0	2	0	0	2	17	19
East Street (50)	0	50	4	0	54	180	234	111111110000000 (23.1)	0	0	0	0	0	8	8
Pioneer Secondary-Orthopedically Handicapped (18)	0	12	0	0	12	40	52	000000001111111 (23.1)	0	0	0	0	0	4	4
Connelley Vocational-Technical High School (5).	0	67	1	0	68	243	311	000000000000001 (21.9)	0	1	0	0	1	31	32
Hays Elementary School (63).	0	38	0	0	38	145	183	011111111100000 (20.8)	0	0	0	0	0	7	7
Spring Hill Elementary (101).	0	62	3	0	65	261	326	011111110000000 (19.9)	0	0	0	0	0	10	10
John Morrow School (81).	0	89	0	0	89	367	456	011111100000000 (19.5)	0	1	0	0	1	19	20
Sterrett School (102)	0	63	0	1	64	268	332	011111111100000 (19.3)	0	0	0	0	0	13	13
Peabody High School (16).	0	459	7	0	466	2,165	2,631	000000000011110 (17.7)	0	4	0	0	4	105	109
Woolslair School (112)	0	92	0	0	92	444	536	1111111110000 (17.2)	0	0	0	0	0	19	19
South Junior-Senior High School (21).	0	222	8	3	233	1,153	1,386	000000001111110 (16.8)	0	2	0	0	2	68	70
Morse Elementary (82)	0	22	1	5	28	140	168	111111110000000 (16.7)	0	0	0	0	0	7	7
Perry Junior Senior High School (17).	0	221	1	2	224	1,248	1,472	000000000111110 (15.2)	0	2	0	0	2	59	61
Halls Grove (62)	0	23	0	0	23	134	157	011111100000000 (14.6)	0	0	0	0	0	6	6
Swisshelm (105)	0	27	0	0	27	173	200	011111111100000 (13.5)	0	0	0	0	0	7	7
Horace Mann (76)	0	49	0	0	49	345	394	011111100000001 (12.4)	0	1	0	0	1	12	13
East Park Elementary (49).	0	22	0	0	22	156	178	111111110000001 (12.4)	0	0	0	0	0	9	9
H. B. Davis (46)	0	28	2	0	30	213	243	011110000000000 (12.3)	0	1	0	0	1	10	11
Langley Junior-Senior High (12).	5	251	5	6	267	1,907	2,174	000000001111110 (12.3)	0	4	0	2	6	73	79
Pioneer Elementary-Orthopedically Handicapped (113).	0	10	0	0	10	76	86	011111111100001 (11.6)	0	0	0	0	0	6	6
Phillips (92)	0	37	0	4	41	344	385	011111110000001 (10.6)	0	0	0	0	0	15	15
South Hills Senior High School (22).	2	278	4	5	289	2,470	2,759	000000000011110 (10.5)	0	2	0	0	2	95	97
Wightman School (111).	0	64	1	1	66	581	647	011111110000000 (10.2)	0	0	0	0	0	23	23
East Carnegie Elementary (48).	0	4	0	0	4	44	48	001111110000000 (8.3)	0	0	0	0	0	3	3
Linden Elementary (73)	0	42	4	4	50	590	640	011111111100001 (7.8)	0	0	0	0	0	22	22
Spring Garden Elementary School (100)	0	28	0	0	28	333	361	111111110000000 (7.8)	0	0	0	0	0	13	13
Greenfield Elementary School (61)	0	38	1	0	39	480	519	111111110000000 (7.5)	0	0	0	0	0	15	15
Carrick High School (4)	3	94	7	1	105	1,554	1,659	000000000011110 (6.3)	0	1	0	0	1	61	62
Prospect Elementary School (93)	0	39	0	0	39	578	617	011111110000001 (6.3)	0	0	0	0	0	20	20
Chatham (39)		27	3	1	31	530	561	011111111000000 (5.5)	0	0	0	0	0	17	17

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

PENNSYLVANIA STATE TOTAL—Continued

DISTRICT: PITTSBURGH CITY SCHOOL DISTRICT. NUMBER OF SCHOOLS: 113. REPRESENTING: 113. CITY: PITTSBURGH. COUNTY: 2 ALLEGHENY—Continued

	Students—							Weight: 1.3—grades	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total		American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Allderdice Junior-Senior High School (1)	0	180	6	3	189	3,248	3,437	000000001111110 (5.5)	0	10	0	0	10	126	136
Colfax Elementary School (41)	0	28	10	2	40	699	739	011111111000000 (5.4)	0	2	0	0	2	25	27
Beechwood (30)	0	46	2	5	53	1,003	1,056	011111111100000 (5.0)	0	0	1	0	1	32	33
Arsenal Vocational-Technical High (3).	0	3	0	0	3	73	76	000000000000010 (3.9)	0	0	0	0	0	7	7
Washington Vocational-Technical High (23).	0	4	0	0	4	99	103	000000000000010 (3.9)	0	0	0	0	0	10	10
Bon Air Elementary School (34).	0	3	3	0	6	159	165	011111110000000 (3.6)	0	0	0	0	0	5	5
Grandview Elementary (60).	0	19	0	0	19	509	528	011111110000001 (3.6)	0	0	0	0	0	18	18
Sunnyside Elementary School (104).	0	19	2	0	21	589	610	011111111000000 (3.4)	0	1	0	0	1	21	22
Whittier (110)	0	17	0	0	17	487	504	011111110000001 (3.4)	0	0	0	0	0	17	17
Sheraden Elementary School (99).	0	27	0	0	27	824	851	011111110000000 (3.2)	0	0	0	0	0	25	25
Morningside (80)	0	15	0	0	15	483	498	011111111100000 (3.0)	0	0	0	0	0	15	15
Prospect Junior High (19).	0	20	2	0	22	758	780	000000001110000 (2.8)	0	1	0	0	1	34	35
Mifflin Junior High School (14).	0	6	0	0	6	232	238	000000001110000 (2.5)	0	0	0	0	0	8	8
Overbrook Elementary School (90).	0	14	1	1	16	653	669	011111111100000 (2.4)	0	0	0	0	0	24	24
McCleary (85)	0	10	0	0	10	426	436	111111111100001 (2.3)	0	1	0	0	1	12	13
John Minadeo (79)	0	11	7	1	19	814	833	011111110000000 (2.3)	0	1	0	0	1	25	26
Fulton Elementary School (58).	0	9	4	1	14	723	737	111111111100000 (1.9)	0	1	0	0	1	23	24
Oakwood Elementary (89).	0	0	2	0	2	115	117	011111110000000 (1.7)	0	0	0	0	0	4	4
Fairview Elementary School (51).	0	3	0	0	3	211	214	011111000000000 (1.4)	0	0	0	0	0	7	7
Concord (42)	0	0	0	4	4	497	501	011111110000001 (0.8)	0	0	0	0	0	15	15
Mount Oliver Elementary School (83).	0	4	0	0	4	498	502	011111111100000 (0.8)	0	1	0	0	1	16	17
Lee School (68)	1	0	1	0	2	308	310	011111110000000 (0.6)	0	0	0	0	0	9	9
Banksville (28)	0	1	1	1	3	521	524	011111111100000 (0.6)	0	0	0	0	0	15	15
Brookline Elementary School (35).	0	5	0	0	5	922	927	011111111100000 (0.5)	0	1	0	0	1	30	31
Quentin Roosevelt (96)	0	0	0	2	2	371	373	011111100000000 (0.5)	0	0	0	0	0	9	9
Boggs Avenue (33)	0	0	0	2	2	420	422	011111110000000 (0.5)	0	1	0	0	1	12	13
Carmalt Elementary (37).	0	1	0	0	1	256	257	011110000000000 (0.4)	0	0	0	0	0	7	7
Westwood (109)	0	0	0	1	1	451	452	011111110000000 (0.2)	0	0	0	0	0	13	13
Schaeffer School (97)	0	0	0	0	0	313	313	011111110000000 (0.0)	0	0	0	0	0	0	9
Mifflin Elementary School (77).	0	0	0	0	0	521	521	011111110000000 (0.0)	0	0	0	0	0	12	12
West Liberty (108)	0	0	0	0	0	609	609	011111111100001 (0.0)	0	0	0	0	0	20	20

DISTRICT: WILKINSBURG BOROUGH SCHOOL DISTRICT. NUMBER OF SCHOOLS: 7. REPRESENTING: 7. CITY: WILKINSBURG. COUNTY: 2 ALLEGHENY

Number	0	1,773	11	4	1,788	2,695	4,483		0	7	0	0	7	177	184
Percent	0.0	39.5	0.2	0.1	39.9	60.1	100.0		0.0	3.8	0.0	0.0	3.8	96.2	100.0
Semple Elementary School (4).	0	471	0	0	471	10	481	011111110000000 (97.9)	0	2	0	0	2	16	18
Allison Elementary School (1).	0	355	0	0	355	154	509	011111110000000 (67.7)	0	1	0	0	1	15	16
Wilkinsburg Junior High School (6).	0	424	2	1	427	601	1,028	000000001110000 (41.5)	0	1	0	0	1	45	46
Turner Elementary School (5).	0	186	3	1	190	356	546	011111110000000 (34.8)	0	0	0	0	0	16	16

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

PENNSYLVANIA STATE TOTAL—Continued

DISTRICT: WILKINSBURG BOROUGH SCHOOL DISTRICT. NUMBER OF SCHOOLS: 7. REPRESENTING: 7. CITY: WILKINSBURG. COUNTY: 2 ALLEGHENY—Continued

	Students—							Weight:	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total	1.3—grades	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
ilkinsburg Senior High School (7).	0	320	2	0	322	709	1,031	000000000001110 (31.2)	0	3	0	0	3	53	56
Kelly Elementary School (3).	0	5	4	0	9	307	316	011111110000000 (2.8)	0	0	0	0	0	13	13
Johnston Elementary School (2).	0	12	0	2	14	558	572	011111110000000 (2.4)	0	0	0	0	0	19	19

DISTRICT: SCHOOL DISTRICT OF THE BOROUGH OF ALIQUIPPA. NUMBER OF SCHOOLS: 10. REPRESENTING: 10. CITY: ALIQUIPPA. COUNTY: 4. BEAVER

Number	0	1,775	4	1	1,780	2,835	4,615		0	24	0	0	24	180	204
Percent	0	38.5	0.1	0	38.6	61.4	100.0		0	11.8	0	0	11.8	88.2	100.0
Jones Elementary School (3).	0	391	0	0	391	72	463	110111000000000 (84.4)	0	4	0	0	4	15	19
McDonald School (9)	0	82	0	0	82	67	149	011111100000000 (55.0)	0	1	0	0	1	4	5
Franklin (6)	0	183	1	0	184	159	343	000000110000000 (53.6)	0	2	0	0	2	12	14
Washington School (10)	0	122	0	0	122	134	256	011111110000000 (47.7)	0	2	0	0	2	7	9
Aliquippa Junior High School (2).	0	407	1	1	409	694	1,103	000000001110000 (37.1)	0	9	0	0	9	44	53
Highland (7)	0	79	0	0	79	172	251	011111100000000 (31.5)	0	2	0	0	2	8	10
Aliquippa Senior High School (1).	0	329	2	0	331	801	1,132	000000000001110 (29.2)	0	1	0	0	1	54	55
New Sheffield Elementary School (4).	0	132	0	0	132	344	476	011111110000000 (27.7)	0	2	0	0	2	18	20
Spaulding (8)	0	31	0	0	31	88	119	011000000000000 (26.1)	0	0	0	0	0	6	9
Laughlin Elementary School (5).	0	19	0	0	19	304	323	011111100000000 (5.9)	0	1	0	0	1	12	13

DISTRICT: HARRISBURG CITY SCHOOL DISTRICT. NUMBER OF SCHOOLS: 18. REPRESENTING: 18. CITY: HARRISBURG. COUNTY: 22 DAUPHIN

Number	2	6,668	17	61	6,748	6,743	13,491		0	105	0	2	107	454	561
Percent	0.0	49.4	0.1	0.5	50.0	50.0	100.0		0.0	18.7	0.0	0.4	19.1	80.9	100.0
Downey Elementary School (8).	0	464	0	0	464	11	475	011111110000000 (97.7)	0	6	0	0	6	14	20
Hamilton Elementary School (10).	0	736	0	0	736	24	760	011111110000000 (96.8)	0	15	0	0	15	13	28
Benjamin Franklin Elementary School (5).	0	695	0	1	696	26	722	011111110000000 (96.4)	0	7	0	0	7	19	26
Woodward Elementary School (18).	0	414	0	0	414	28	442	011111110000000 (93.7)	0	9	0	0	9	6	15
Lincoln Elementary School (11).	0	615	0	0	615	98	713	111111100000000 (86.3)	0	15	0	0	15	9	24
Camp Curtin Junior High School (1).	0	787	1	7	795	485	1,280	000000001110000 (62.1)	0	9	0	0	9	61	70
William Penn Senior High School (4).	0	596	1	1	598	499	1,097	000000000001110 (54.5)	0	4	0	1	5	49	54
Cameron Elementary School (7).	0	205	1	0	206	250	456	011111110000000 (45.2)	0	1	0	0	1	14	15
Steele Elementary School (16).	0	346	0	12	358	464	822	011111110000000 (43.6)	0	4	0	0	4	23	27
John Harris Senior High School (3).	0	581	2	1	584	905	1,489	000000000001110 (39.2) 000000001110000	0	8	0	0	8	65	73
Edison Junior High School (2).	0	616	2	8	626	1,027	1,653	(37.9)	0	13	0	1	14	70	84
Boas Elementary School (6).	0	80	3	8	91	219	310	011111110000000 (29.4)	0	1	0	0	0	11	12
Foose Elementary School (9).	2	161	3	2	168	671	839	011111110000000 (20.0)	0	2	0	0	2	29	31
Shimmell Elementary School (15).	0	103	0	11	114	457	571	011111110000000 (20.0)	0	1	0	0	1	18	19
Marshall Elementary School (12).	0	99	3	0	102	487	589	011111110000000 (17.3)	0	3	0	0	3	16	19
Riverside Elementary School (14).	0	37	0	0	37	185	222	011111110000000 (16.7)	0	2	0	0	2	5	7
Melrose Elementary School (13).	0	102	0	0	102	629	731	011111110000000 (14.0)	0	2	0	0	2	25	27
Webster Elementary School (17).	0	31	1	10	42	278	320	011111110000000 (13.1)	0	3	0	0	3	7	10

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

PENNSYLVANIA STATE TOTAL—Continued

DISTRICT: CHESTER CITY SCHOOL DISTRICT. NUMBER OF SCHOOLS: 17. REPRESENTING: 17 CITY: CHESTER. COUNTY: 23 DELAWARE

	Students—							Weight: 1.3—grades	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total		American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Number	2	8,120	4	38	8,164	3,381	11,545		0	200	0	1	201	291	492
Percent	0.0	70.3	0.0	0.3	70.7	29.3	100.0		0.0	40.7	0.0	0.2	40.9	59.1	100.0
John A Watts Elementary School (16)	0	350	0	0	350	0	350	011111000000000 (100.0)	0	10	0	0	10	2	12
Douglass Junior High School (2).	0	522	0	0	522	0	522	000000001110000 (100.0)	0	20	0	0	20	13	33
Dewey-Mann (6)	0	658	0	0	658	5	663	011111000000001 (99.2)	0	25	0	0	25	4	29
Franklin (7)	0	1,014	0	3	1,017	9	1,026	011111000000000 (99.1)	0	28	0	0	28	5	33
A. H. Showalter Junior High School (4).	0	725	0	2	727	33	760	000000001110000 (95.7)	0	17	0	0	17	19	36
Larkin (9)	0	474	0	7	481	46	527	011111000000000 (91.3)	0	3	0	0	3	13	16
Lincoln (10)	0	561	0	0	561	57	618	010000110000000 (90.8)	0	14	0	0	14	5	19
Booker T. Washington (15).	0	688	0	2	690	124	814	010000110000000 (84.8)	0	17	0	0	17	7	24
Morton (12)	0	205	0	14	219	55	274	011111000000000 (79.9)	0	4	0	0	4	5	9
Chester High School (1).	0	1,480	2	1	1,483	721	2,204	000000000001110 (67.3)	0	18	0	1	19	103	122
Pulaski Junior High School (3).	0	329	0	3	332	307	639	000000001110000 (52.0)	0	13	0	0	13	25	38
Martin Special Elementary (11).	0	41	0	0	41	39	80	000000000000001 (51.3)	0	4	0	0	4	2	6
D. W. Jefferis (8)	0	224	0	1	225	289	514	011111000000000 (43.8)	0	4	0	0	4	13	17
Smedley Junior High School (5).	0	316	0	2	318	426	744	000000001110000 (42.7)	0	3	0	0	3	38	41
Stetser Elementary School (14).	0	182	0	0	182	279	461	010000110000000 (39.5)	0	5	0	0	5	10	15
John Wetherill Elementary (17).	0	156	1	1	158	345	503	011111000000000 (31.4)	0	4	0	0	4	11	15
William Penn Elementary School (13).	2	195	1	2	200	646	846	011111000000000 (23.6)	0	11	0	0	11	16	27

DISTRICT: DARBY TOWNSHIP SCHOOL DISTRICT. NUMBER OF SCHOOLS: 3. REPRESENTING: 4. CITY: GLENOLDEN. COUNTY: 23.

Number	0	1,232	0	0	1,232	518	1,750		0	56	0	0	56	21	77
Percent	0.0	70.4	0.0	0.0	70.4	29.6	100.0		0.0	72.7	0.0	0.0	72.7	27.3	100.0
Thomas V. Studevan School (2).	0	384	0	0	384	0	384	001111100000000 (100.0)	0	13	0	0	13	2	15
Darby Township Junior-Senior High School (1).	0	599	0	0	599	214	813	000000001111110 (73.7)	0	30	0	0	30	12	42
Darby Township Elementary School (3).	0	249	0	0	249	304	553	001111110000000 (45.0)	0	13	0	0	13	7	20

DISTRICT: NORRISTOWN AREA SCHOOL DISTRICT. NUMBER OF SCHOOLS: 14. REPRESENTING: 14. CITY: NORRISTOWN COUNTY: 46. MONTGOMERY COUNTY

Number	0	1,981	5	18	2,004	7,722	9,726		28	1	0	29	354	383	
Percent	0.0	20.4	0.1	0.2	20.6	79.4	100.0	0.0	7.3	0.3	0.0	7.6	92.4	100.0	
George Washington (10).	0	360	0		360	73	423	011111110000000 (83.1)	0	4	0	0	0	15	19
Joseph K. Gotwals (3)	0	475	0	1	476	143	619	011111110000000 (76.9)	0	4	0	0	4	18	22
Winfield S. Hancock (4).	0	294	0	1	295	439	734	011111110000000 (40.2)	0	5	0	0	5	23	18
David Rittenhouse Junior High School (12).	0	238	0	3	241	558	799	000000011100000 (30.2)	0	2	0	0	2	33	53
A. D. Eisenhower Senior High School (14).	0	289	0	0	289	1,440	1,729	000000000011110 (16.7)	0	2	0	0	2	77	79
Thomas J. Stewart Junior High School. (13).	0	145	0	0	145	734	879	000000001110000 (16.5)	0	2	0	0	2	37	39
Theodore Roosevelt (9).	0	61	0	3	64	413	477	011111110000000 (13.4)	0	3	0	0	3	15	18
Abraham Lincoln (6)	0	42	0	0	42	491	533	011111110000000 (7.9)	0	2	0	0	2	17	19
Cole Manor (2)	0	26	1	0	27	521	548	011110000000000 (4.9)	0	1	0	0	1	19	20

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

PENNSYLVANIA STATE TOTAL—Continued

DISTRICT: NORRISTOWN AREA SCHOOL DISTRICT. NUMBER OF SCHOOLS: 14. REPRESENTING: 14. CITY: NORRISTOWN COUNTY: 46. MONTGOMERY COUNTY—Continued

	Students—							Weight: 1.3—grades	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total		American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
East Norriton Junior High School (11).	0	17	0	0	17	455	472	000000001110000 (3.6)	0	0	0	0	0	22	22
Penn Square (8)	0	22	1	0	23	680	703	0100111100000000 (3.3)	0	0	1	0	1	23	24
Marshall Street School (7).	0	9	2	5	16	696	712	011111110000000 (2.2)	0	1	0	0	1	22	23
John F. Hartranft (5)	0	0	0	5	5	526	531	011111110000000 (0.9)	0	2	0	0	2	16	18
Burnside (1)	0	3	1	0	4	553	557	011111110000000 (0.7)	0	0	0	0	0	17	17

DISTRICT: SCHOOL DISTRICT OF PHILADELPHIA. NUMBER OF SCHOOLS: 278. REPRESENTING: 278. CITY: PHILADELPHIA. COUNTY: 51 PHILADELPHIA

Number	0	166,083	0	7,022	173,105	109,512	282,617		0	3,499	15	10	3,524	7,767	11,291
Percent	0.0	58.8	0.0	2.5	61.3	38.7	100.0		0.0	31.0	0.1	0.1	31.2	68.8	100.0
Thomas Dunlap (128)	0	739	0	0	739	0	739	011111110000000 (100.0)	0	14	0	0	14	10	24
Pennypack House (854).	0	5	0	1	6	0	6	000000000000001 (100.0)	0	1	0	0	1	7	8
George Brooks (122)	0	737	0	0	737	0	737	011111110000000 (100.0)	0	11	0	0	11	13	24
Arnold Pratt (439)	0	1,355	0	0	1,355	0	1,355	011111110000000 (100.0)	0	40	0	0	40	10	50
Com. John Barry (120)	0	1,408	0	0	1,408	0	1,408	011111110000000 (100.0)	0	26	0	0	26	20	46
John F. Sartain (243)	0	549	0	0	549	0	549	011111110000000 (100.0)	0	12	0	0	12	9	21
Chester A. Arthur (248)	0	603	0	0	603	0	603	011111110000000 (100.0)	0	13	0	0	13	14	27
Frederick Douglass (228).	0	1,219	0	1	1,220	0	1,220	011111110000000 (100.0)	0	26	0	0	26	15	41
Spring Garden (342)	0	586	0	3	589	0	589	011111110000000 (100.0)	0	7	1	0	8	13	21
Mayer Sulzberger (112)	0	1,753	0	1	1,754	1	1,755	000000001110000 (99.1)	0	64	0	0	64	11	75
Strawberry Mansion (414).	0	2,712	0	1	2,713	2	2,715	000000001110000 (99.9)	0	53	0	2	55	50	105
M. Hall Stanton (440)	0	1,244	0	5	1,249	1	1,250	011111110000000 (99.9)	0	25	0	0	25	23	48
Belmont (121)	0	1,190	0	1	1,191	1	1,192	011111110000000 (99.9)	0	25	0	0	25	18	43
Add B. Anderson (146)	0	1,166	0	0	1,166	1	1,167	011111110000000 (99.9)	0	24	0	0	24	15	39
James G. Blaine (422)	0	1,087	0	0	1,087	1	1,088	011111110000000 (99.9)	0	23	0	0	23	15	38
William D. Kelley (234)	0	993	0	1	994	1	995	011111110000000 (99.9)	0	19	0	0	19	14	33
William McIntyre (435)	0	900	0	1	901	1	902	011111110000000 (99.9)	0	20	0	0	20	20	40
Walter George Smith (244).	0	708	0	0	708	1	709	011111110000000 (99.9)	0	16	0	0	16	14	30
James Rhoads (141)	0	1,406	0	0	1,406	2	1,408	011111111100000 (99.9)	0	29	0	0	29	22	51
Lehigh (444)	0	662	0	0	662	1	663	011111110000000 (99.8)	0	10	0	0	10	13	23
William Dick (427)	0	1,299	0	0	1,299	2	1,301	011111110000000 (99.8)	0	35	0	0	35	16	51
William L. Sayre (110)	0	1,887	0	0	1,887	3	1,890	000000001110000 (99.8)	0	47	0	0	47	54	101
Nathaniel Hawthorne (326).	0	484	0	2	486	1	487	011111110000000 (99.8)	0	11	0	0	11	8	19
George C. Meade (238)	0	1,437	0	2	1,439	3	1,442	011111110000000 (99.8)	0	31	0	0	31	24	55
Leslie P. Hill (445)	0	1,430	0	0	1,430	3	1,433	011111110000000 (99.8)	0	36	0	0	36	20	56
Andrew Hamilton (129)	0	849	0	0	849	2	851	011111110000000 (99.8)	0	19	0	0	19	13	32
Tanner Duckrey (446)	0	827	0	4	831	2	833	011111110000000 (99.8)	0	22	0	0	22	12	34
Grover Cleveland (426)	0	1,224	0	0	1,244	3	1,247	011111110000000 (99.8)	0	18	0	0	18	24	42
David Landreth (235)	0	826	0	0	826	2	828	011111110000000 (99.8)	0	12	0	0	12	17	29
Gen. John F. Reynolds (242).	0	1,229	0	2	1,231	3	1,234	011111110000000 (99.8)	0	24	1	0	25	14	39
Walton (442)	0	1,140	0	0	1,140	3	1,143	011111110000000 (99.7)	0	23	0	0	23	20	43
William S. Stokeley (441).	0	378	0	0	378	1	379	011111110000000 (99.7)	0	6	0	0	6	6	12
Alexander Wilson (143).	0	741	0	0	741	2	743	011111111000000 (99.7)	0	23	0	0	23	12	35
Morton McMichael (136).	0	1,832	0	0	1,832	5	1,837	011111111100000 (99.7)	0	57	0	0	57	23	80
George W. Childs (226)	0	1,067	0	3	1,070	3	1,073	011111110000000 (99.7)	0	9	0	0	9	28	37
George Washington Carver (225).	0	1,038	0	3	1,041	3	1,044	011111110000000 (99.7)	0	30	0	0	30	10	40

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

PENNSYLVANIA STATE TOTAL—Continued

DISTRICT: SCHOOL DISTRICT OF PHILADELPHIA. NUMBER OF SCHOOLS: 278. REPRESENTING: 278. CITY: PHILADELPHIA. COUNTY: 51 PHILADELPHIA—Continued

	Students—							Weight: 1.3—grades	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total		American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Martha Washington (142).	0	1,029	0	0	1,029	3	1,032	011111111000000 (99.7)	0	26	0	0	26	14	40
Oliver Wendell Holmes (132).	0	998	0	0	998	3	1,001	011111110000000 (99.7)	0	22	0	0	22	14	36
Mary C. Wister (347)...	0	614	0	9	623	2	625	011111110000000 (99.7)	0	14	0	0	14	11	25
Edwin M. Stanton (245).	0	613	0	0	613	2	615	011111110000000 (99.7)	0	0	0	0	9	14	23
Alain Locke (147).....	0	919	0	0	919	3	922	011111110000000 (99.7)	0	23	0	0	23	12	35
George Clymer (522)...	0	1,163	0	0	1,163	4	1,167	011111110000000 (99.7)	0	13	0	0	13	32	45
Paul Lawrence Dunbar (525).	0	555	0	14	569	2	571	111111110000000 (99.6)	0	17	0	0	17	10	27
Eleanor Cope Emlen (622).	0	1,388	0	0	1,388	5	1,393	011111110000000 (99.6)	0	29	0	0	29	16	45
Roberts Vaux (213)....	0	1,757	0	5	1,762	7	1,769	000000001110000 (99.6)	0	49	0	0	49	32	81
Thomas Fitzsimons (411).	0	1,850	0	1	1,851	8	1,859	000000001110000 (99.6)	0	47	0	0	47	30	77
William C. Bryant (123).	0	1,369	0	0	1,369	6	1,375	011111110000000 (99.6)	0	26	0	0	26	20	46
Simon Gratz (401).....	0	4,237	0	5	4,242	19	4,261	000000000001110 (99.6)	0	59	0	0	59	121	180
Norris S. Barratt (211)..	0	1,302	0	2	1,304	6	1,310	000000001110000 (99.5)	0	39	0	0	39	33	72
Kenderton (431).....	0	1,267	0	4	1,271	6	1,277	011111110000000 (99.5)	0	27	0	0	27	27	54
William Henry Harrison (531).	0	616	0	1	617	3	620	011111110000000 (99.5)	0	14	0	0	14	10	24
Rudolph Blankenburg (423).	0	942	0	1	943	5	948	011111110000000 (99.5)	0	17	0	0	17	20	37
Gustavus S. Benson (223).	0	560	0	0	560	3	563	011111100000000 (99.5)	0	10	0	0	10	10	20
Pennell (634).....	0	1,058	0	1	1,059	6	1,065	011111110000000 (99.4)	0	17	0	0	17	8	25
Gen. Phillip Kearny (330).	0	482	0	45	527	3	530	011111110000000 (99.4)	0	12	0	0	12	14	26
John F. Hartranft (532).	0	456	0	57	513	3	516	011100000000000 (99.4)	0	10	0	0	10	17	27
Joseph Leidy (433).....	0	1,038	0	0	1,038	7	1,045	011111110000000 (99.3)	0	12	0	0	12	23	35
William B. Hanna (429).	0	1,271	0	1	1,272	9	1,281	011111110000000 (99.3)	0	14	0	0	14	27	41
John Wanamaker(513).	0	1,737	0	35	1,772	13	1,785	000000001110000 (99.3)	0	36	0	0	36	33	69
Edward Gideon (231)...	0	950	0	0	950	7	957	011111110000000 (99.3)	0	21	0	0	21	16	37
Samuel B. Huey (133)..	0	1,555	0	0	1,555	13	1,568	011111110000000 (99.2)	0	31	0	0	31	18	49
Lydia Darrah (227).....	0	534	0	12	546	5	551	011111110000000 (99.1)	0	15	0	0	15	11	26
Elizabeth Duane Gillespie (412).	0	1,782	0	4	1,786	17	1,803	000000001110000 (99.1)	0	31	0	0	31	13	44
Thomas M. Peirce (438).	0	1,402	0	0	1,402	14	1,416	011111110000000 (99.0)	0	12	0	0	12	31	43
Joseph C. Ferguson (529).	0	1,400	0	361	1,761	18	1,779	011111110000000 (99.0)	0	34	0	1	35	26	61
Robert Morris (239)...	0	1,165	0	7	1,172	12	1,184	011111110000000 (99.0)	0	16	1	0	17	29	46
William M. Meredith (335).	0	464	0	7	471	5	476	011111110000000 (98.9)	0	7	0	0	7	13	20
West Philadelphia (102).	0	3,662	0	0	3,662	39	3,701	000000000001110 (98.9)	0	47	0	0	47	114	161
William F. Harrity (131).	0	1,013	0	1	1,014	11	1,025	011111110000000 (98.9)	0	12	0	0	12	18	30
William B. Shoemaker (413).	0	1,611	0	0	1,611	20	1,631	000000001110000 (98.8)	0	48	0	0	48	33	81
Benjamin Franklin (201).	0	1,783	0	71	1,854	25	1,879	000000000001110 (98.7)	0	24	0	0	24	70	94
William S. Peirce (240).	0	610	0	0	610	10	620	011111110000000 (98.4)	0	18	0	0	18	7	25
Benjamin B. Comegys (126).	0	1,016	0	3	1,019	17	1,036	011111110000000 (98.4)	0	10	0	0	10	20	30
William McKinley (535).	0	224	0	236	460	8	468	011111000000000 (98.3)	0	4	0	0	4	14	18
Edward Heston (430)...	0	943	0	1	944	17	961	011111110000000 (98.2)	0	11	0	0	11	18	29
Charles Richard Drew (127).	0	521	0	0	521	10	531	011111110000000 (98.1)	0	12	0	0	12	11	23

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

PENNSYLVANIA STATE TOTAL—Continued

DISTRICT: SCHOOL DISTRICT OF PHILADELPHIA. NUMBER OF SCHOOLS: 278. REPRESENTING: 278. CITY: PHILADELPHIA. COUNTY: 51 PHILADELPHIA—Continued

	Students—							Weight: 1.3—grades	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total		American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Youth Development Center (148).	0	121	0	11	132	3	135	000000000000001 (97.8)	0	3	0	0	3	1	4
James R. Ludlow (534)	0	535	0	370	905	21	926	011111110000000 (97.7)	0	8	0	3	11	19	30
William Penn (203)	0	1,428	0	52	1,480	35	1,515	000000000001110 (97.7)	0	26	1	0	27	49	76
Elisha Kent Kane (233)	0	325	0	11	336	8	344	000000000000001 (97.7)	0	22	0	0	22	4	26
E. Spencer Miller (436)	0	317	0	0	317	8	325	000000000000001 (97.5)	0	21	0	0	21	7	28
John G. Whittier (443)	0	1,208	0	0	1,208	32	1,240	011111110000000 (97.4)	0	10	0	0	10	31	41
Overbrook (437)	0	638	0	4	642	19	661	011111110000000 (97.1)	0	5	0	0	5	15	20
Thaddeus Stevens (343).	0	226	0	142	368	12	380	011111110000000 (96.8)	0	9	0	0	9	12	21
John L. Kinsey (628)	0	1,525	0	9	1,534	51	1,585	011111110000000 (96.8)	0	15	0	0	15	33	48
Theodore Roosevelt (611).	0	1,564	0	7	1,571	63	1,634	000000001110000 (96.1)	0	27	0	0	27	44	71
Francis D. Pastorious (633).	0	1,116	0	12	1,128	47	1,175	011111110000000 (96.0)	0	17	0	0	17	26	43
Edward M. Paxson (337).	0	174	0	13	187	8	195	011111110000000 (95.9)	0	11	0	0	11	4	15
William Rowen (636)	0	1,350	0	2	1,352	58	1,410	011111110000000 (95.9)	0	11	0	0	11	28	39
Stoddart-Fleisher (312).	0	1,151	0	202	1,353	62	1,415	000000001110000 (95.6)	0	46	0	0	46	29	75
Thomas Durham (230).	0	275	0	0	275	13	288	011111110000000 (95.5)	0	10	0	0	10	6	16
John Wister (643)	0	738	0	1	739	38	777	011111110000000 (95.1)	0	16	0	0	16	16	32
John Welsh (542)	0	720	0	430	1,150	64	1,214	011111110000000 (94.7)	0	12	0	1	13	29	42
Avery D. Harrington (130).	0	1,093	0	4	1,097	63	1,160	011111110000000 (94.6)	0	12	0	0	12	23	35
Octavius Catto (145)	0	218	0	0	218	13	231	000000000000001 (94.4)	0	16	0	0	16	6	22
Drexel (250)	0	150	0	92	242	15	257	000011000000000 (94.2)	0	3	0	0	3	1	4
Delaplaine McDaniel (237).	0	721	0	2	723	47	770	011111110000000 (93.9)	0	8	0	0	8	19	27
Simon Muhr (538)	0	592	0	20	612	42	654	011111110000000 (93.6)	0	9	0	0	9	13	22
Robert Fulton (624)	0	908	0	3	911	63	974	011111110000000 (93.5)	0	25	0	0	25	18	43
Laura Wheeler Waring (249).	0	161	0	449	610	43	653	011111000000000 (93.4)	0	13	0	0	13	19	32
Fairhill (528)	0	413	0	203	616	47	663	011111000000000 (92.9)	0	4	0	0	4	22	26
Anna Howard Shaw (111).	0	2,267	0	4	2,271	184	2,455	000000001110000 (92.5)	0	38	0	0	38	72	110
Charles Y. Audenried (210).	0	949	0	5	954	83	1,037	000000001110000 (92.0)	0	19	0	0	19	32	51
Daniel Keyser (651)	0	217	0	0	217	19	236	011110000000000 (91.9)	0	3	0	0	3	5	8
Alexander Dallas Bache (221).	0	521	0	64	585	58	643	011111110000000 (91.0)	0	9	0	0	9	15	24
James Elverson, Jr. (527).	0	884	0	3	887	91	978	011111110000000 (90.7)	0	21	0	0	21	13	34
General Louis Wagner (613).	0	2,043	0	9	2,052	211	2,263	000000001110000 (90.7)	0	26	0	0	26	79	105
Youth Development Center (749).	0	177	0	1	178	19	197	000000000000001 (90.4)	0	6	0	0	6	10	16
Oliver P. Cornman (323).	0	166	0	2	168	18	186	000000000000001 (90.3)	0	18	0	0	18	3	21
James Alcorn (220)	0	725	0	5	730	85	815	011111110000000 (89.6)	0	7	0	0	7	20	27
Charles E. Bartlett (310).	0	858	0	23	881	106	987	000000001110000 (89.3)	0	26	0	0	26	28	54
Daniel Boone (320)	0	274	0	5	279	35	314	000000000000001 (88.9)	0	14	0	0	14	16	30
Lewis C. Cassidy (424)	0	806	0	1	807	102	909	011111110000000 (88.8)	0	10	0	0	10	22	32
George W. Nebinger (336).	0	445	0	53	498	65	563	011111110000000 (88.5)	0	7	0	0	7	17	24
Samuel Powel (139)	0	252	0	0	252	33	285	011111110000000 (88.4)	0	7	0	0	7	6	13
Thomas A. Edison (502).	0	1,706	0	136	1,842	251	2,093	000000000001110 (88.0)	0	21	1	0	22	84	106
Southwark (341)	0	535	0	4	539	80	619	011111110000000 (87.1)	0	4	0	0	4	24	28

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

PENNSYLVANIA STATE TOTAL—Continued

DISTRICT: SCHOOL DISTRICT OF PHILADELPHIA. NUMBER OF SCHOOLS: 278. REPRESENTING: 278. CITY: PHILADELPHIA. COUNTY: 51 PHILADELPHIA—Continued

	Students—							Weight: 1.3—grades	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total		American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
R. L. Wright (748)	0	421	0	33	454	68	522	011111110000000 (87.0)	0	7	0	0	7	10	17
Thomas B. Read (154)	0	144	0	0	144	22	166	000000000000001 (86.7)	0	2	0	0	2	7	9
William H. Hunter (533)	0	305	0	155	460	71	531	111111000000000 (86.6)	0	10	0	0	10	12	22
Youth Development Day Treatment Center (759)	0	92	0	2	94	15	109	000000000000001 (86.2)	0	6	0	0	6	7	13
Edward Bok (306)	0	1,436	0	18	1,454	237	1,691	000000000011110 (86.0)	0	23	0	0	23	94	117
Overbrook (402)	0	3,836	0	4	3,840	654	4,494	000000000011110 (85.4)	0	32	1	0	33	181	214
Henry C. Lea (114)	0	1,393	0	3	1,396	244	1,640	011111111110000 (85.1)	0	21	0	0	21	39	60
East Falls (642)	0	533	0	11	544	98	642	011111110000000 (84.7)	0	7	0	0	7	12	19
Alice Cary (124)	0	178	0	1	179	34	213	000000000000001 (84.0)	0	6	0	0	6	3	9
George Thomas (553)	0	227	0	216	443	89	532	011111110000000 (83.3)	0	5	0	0	5	10	15
Edward T. Steel (639)	0	639	0	15	654	133	787	011111110000000 (83.1)	0	8	0	0	8	15	23
George Washington (346)	0	545	0	60	605	134	739	011111110000000 (81.9)	0	9		0	9	22	31
Anna L. Lingelbach (644)	0	444	0	2	446	103	549	011111110000000 (81.2)	0	6	0	0	6	14	20
Thomas Jefferson (328)	0	203	0	152	355	83	438	111111110000000 (81.1)	0	9	0	0	9	11	20
William F. Miller (536)	0	167	0	306	473	117	590	011111110000000 (80.2)	0	6	1	1	8	13	21
Germantown (602)	0	2,896	0	13	2,909	774	3,683	000000000001110 (79.0)	0	37	0	0	37	144	181
William B. Mann (434)	0	903	0	2	905	269	1,174	011111110000000 (77.1)	0	11	0	0	11	30	41
Julia Ward Howe (732)	0	459	0	20	479	144	623	011111110000000 (76.9)	0	5	0	0	5	16	21
Moore Hall (686)	0	228	0	1	229	69	298	000000110000000 (76.8)	0	4	0	0	4	5	9
Henry W. Longfellow (734)	0	117	0	120	237	75	312	010111110000000 (76.0)	0	5	0	0	5	7	12
Masterman Junior High (214)	0	258	0	79	337	107	444	000000001110000 (75.9)	0	3	0	0	3	25	28
Dimner Beeber (410)	0	1,213	0	3	1,216	456	1,672	000000001110000 (72.7)	0	17	0	0	17	59	76
Andrew Jackson (327)	0	317	0	5	322	121	443	011111110000000 (72.7)	0	4	0	0	4	14	18
Charles Carroll (545)	0	125	0	15	140	53	193	000000000000001 (72.5)	0	3	0	0	3	10	13
Stephen A. Douglas (524)	0	194	0	38	232	96	328	000000000000001 (70.7)	0	7	0	0	7	8	15
George Wolf (144)	0	323	0	4	327	138	465	011111110000000 (70.3)	0	8	0	0	8	12	20
Charles W. Henry (625)	0	689	0	1	690	297	987	011111111100000 (69.9)	0	12	0	0	12	16	28
Edgar Allan Poe (241)	0	402	0	3	405	175	580	011111110000000 (69.8)	0	7	0	0	7	16	23
Kensington High (501)	0	838	0	141	979	425	1,404	000000000001110 (69.7)	0	7	0	0	7	69	76
Samuel W. Pennypacker (635)	0	708	0	1	709	339	1,048	011111110000000 (67.7)	0	12	0	0	12	18	30
Thomas Powers (552)	0	328	0	20	348	173	521	011111110000000 (66.8)	0	2	0	0	2	7	9
Thomas Potter (539)	0	128	0	221	349	187	536	011111110000000 (65.1)	0	1	1	0	2	12	14
Edwin H. Fitler (623)	0	434	0	21	455	297	752	011111100000000 (60.5)	0	7	0	0	7	14	21
Murrell Dobbins (406)	0	1,255	0	94	1,349	898	2,247	000000000011110 (60.0)	0	21	0	0	21	110	131
Edwin H. Vare (212)	0	773	0	11	784	541	1,325	000000001110000 (59.2)	0	17	0	0	17	46	63
Anna Blakiston Day (620)	0	400	0	6	406	284	690	011111110000000 (58.8)	0	8	0	0	8	16	24
Henry H. Houston (626)	0	588	0	5	593	418	1,011	011111111100000 (58.7)	0	9	0	0	9	30	39
Anthony Wayne (246)	0	393	0	1	394	278	672	011111110000000 (58.6)	0	5	0	0	5	16	21
Willis & Elizabeth Martin (236)	0	104	0	10	114	81	195	000000000000001 (58.5)	0	6	0	0	6	20	26
John Bartram (101)	0	2,132	0	6	2,138	1,610	3,748	000000000011110 (57.0)	0	35	0	0	35	155	190
S. Weir Mitchell (137)	0	645	0	0	645	532	1,177	011111110000000 (54.8)	0	8	0	0	8	15	23
Allen M. Stearne (729)	0	259	0	27	286	245	531	011111110000000 (53.9)	0	5	0	0	5	15	20
Jay Cooke (710)	0	828	0	33	861	769	1,630	000000001110000 (52.8)	0	13	0	0	13	63	76
Logan (630)	0	336	0	10	346	310	656	011111110000000 (52.7)	0	10	0	0	10	30	40
Masterman Laboratory and Demonstration (222)	0	241	0	6	247	222	469	000111110000000 (52.7)	0	7	0	0	7	13	20

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

PENNSYLVANIA STATE TOTAL—Continued

DISTRICT: SCHOOL DISTRICT OF PHILADELPHIA. NUMBER OF SCHOOLS: 278. REPRESENTING: 278. CITY: PHILADELPHIA. COUNTY: 51 PHILADELPHIA—Continued

	Students—							Weight: 1.3—grades	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total		American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
John Muffet (537)	0	101	0	150	251	226	477	011111110000000 (52.6)	0		0	1	6	12	18
South Philadelphia High (301)	0	1,980	0	34	2,014	1,842	3,856	000000000001110 (52.2)	0	23	0	0	23	151	174
William C. Longstreth (135)	0	425	0	1	426	391	817	011111110000000 (52.1)	0	7	0	0	7	16	23
William T. Tilden (113)	0	877	0	1	878	829	1,707	000000111100000 (51.4)	0	25	0	0	25	60	85
Samuel Gompers (428)	0	373	0	1	374	363	737	011111110000000 (50.7)	0	6	0	0	6	17	23
Ellwood (726)	0	292	0	1	293	293	586	011111110000000 (50.1)	0	4	0	0	4	14	18
Joseph W. Catherine (125)	0	434	0	1	435	445	880	011111110000000 (49.4)	0	8	0	0	8	22	30
Thomas Mifflin (632)	0	520	0	1	521	538	1,059	011111111100000 (49.2)	0	14	0	0	14	24	38
Thomas Shallcross (833)	0	55	0	1	56	58	114	000000000000001 (49.1)	0	2	0	0	2	6	8
Penn Treaty (511)	0	453	0	330	783	847	1,630	000000001110000 (48.0)	0	12	0	0	12	68	80
Horace H. Furness (311)	0	585	0	25	610	674	1,284	000000001110000 (47.5)	0	10	0	0	10	44	54
Joseph E. Hill (653)	0	55	0	0	55	62	117	000000000000001 (47.0)	0		0	0	5	9	14
Franklin Smedley (742)	0	319	0	2	321	375	696	011111110000000 (46.1)	0	6	0	0	6	17	23
Memorial Widener (640)	0	190	0	4	194	229	423	000000000000001 (45.9)	0	4	0	0	4	32	36
Walnut Street Center (173)	0	40	0	0	40	51	91	111000000000000 (44.0)	0	2	0	0	2	4	6
John Paul Jones (510)	0	438	0	201	639	821	1,460	000000001110000 (43.8)	0	8	0	0	8	55	63
John B. Stetson (512)	0	585	0	257	842	1,091	1,933	000000001110000 (43.6)	0	15	0	0	15	73	88
Francis S. Key (331)	0	235	0	2	237	332	569	011111110000000 (41.7)	0	5	0	0	5	17	22
George A. McCall (334)	0	183	0	91	274	396	670	011111111100000 (40.9)	0	7	0	0	7	22	29
Morris E. Leeds (610)	0	646	0	1	647	1,004	1,651	000000001110000 (39.2)	0	14	0	0	14	57	71
Walter B. Saul (604)	0	144	0	0	144	257	401	000000000011110 (35.9)	0	4	0	0	4	18	22
F. Amedee Bregy (224)	0	378	0	14	392	700	1,092	011111110000000 (35.9)	0	2	0	0	2	29	31
John M. Patterson (140)	0	328	0	1	329	617	946	111111000000000 (34.8)	0	12	0	0	12	21	33
Warren G. Harding (711)	0	501	0	17	518	1,001	1,519	000000001110000 (34.1)	0	10	0	0	10	58	68
Alexander K. McClure (738)	0	263	0	12	275	544	819	011111110000000 (33.6)	0	4	0	0	4	24	28
Gilbert Spruance (835)		303	0	1	304	605	909	011111110000000 (33.4)	0	6	0	0	6	26	32
Olney (702)	0	1,289	0	22	1,311	2,622	3,933	000000000011110 (33.3)	0	15	0	0	15	157	172
Franklin Spencer Edmonds (621)	0	445	0	11	456	914	1,370	011111110000000 (33.3)	0	10	0	0	10	32	42
Francis Read (348)		105	0	0	105	220	325	011111110000000 (32.3)	0	1	0	0	1	10	11
John Story Jenks (627)	0	171	0	0	171	361	532	011111111100000 (32.1)	0	5	0	0	5	15	20
City Center (247)	0	169	0	2	171	362	533	100000010000000 (32.1)	0	4	1	0	5	12	17
Eliza B. Kirkbride (332)	0	151	0	23	174	375	549	011111110000000 (31.7)	0	4	0	0	4	18	22
John H. Taggart (344)	0	192	0	7	199	433	632	011111110000000 (31.5)	0	5	0	0	5	19	24
Robert E. Lamberton (432)	0	364	0	1	365	806	1,171	011111110000000 (31.2)	0	10	0	0	10	32	42
Joel Cook (650)	0	91	0	0	91	204	295	011111111000000 (30.8)	0	3	0	0	3	7	10
Thomas G. Morton (138)	0	210	0	0	210	484	694	111111000000000 (30.3)	0	10	0	0	10	16	26
James Dobson (645)	0	168	0	0	168	392	560	011111111100000 (30.0)	0	6	0	0	6	16	22
Russel H. Conwell (523)	0	145	0	25	170	418	588	010011111100000 (28.9)	0	6	2	0		25	33
High School for Girls (605)	0	753	0	3	756	1,899	2,655	000000000011110 (28.5)	0	10	0	0	10	88	98
D. Newlin Fell (324)	0	178	0	2	180	453	638	011111110000000 (28.4)	0	3	0	0	3	21	24
John F. McCluskey (631)	0	202	0	3	205	517	722	011111110000000 (28.4)	0	7	0	0	7	20	27
Bayard Taylor (744)	0	95	0	67	162	414	576	011111111100000 (28.1)	0	6	0	0	6	14	2

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

PENNSYLVANIA STATE TOTAL—Continued

DISTRICT: SCHOOL DISTRICT OF PHILADELPHIA. NUMBER OF SCHOOLS: 278. REPRESENTING: 278. CITY: PHILADELPHIA. COUNTY: 51 PHILADELPHIA—Continued

	Students—							Weight:	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total	1.3—grades	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Stephen Girard (232)	0	205	0	0	205	576	781	01111111100000 (26.2)	0	4	0	0	4	21	25
Abigail Vare (345)	0	146	0	14	160	456	616	01111111000000 (26.0)	0	4	0	0	4	18	22
Gen. David B. Birney (721)	0	204	0	32	236	681	917	01111111000000 (25.7)	0	6	0	0	6	23	29
George Chandler (551)	0	44	0	24	68	206	274	01111111000000 (24.8)	0	2	0	0	2	6	8
George C. Thomas (313)	0	207	0	4	211	695	906	00000000111000 (23.3)	0	10	0	0	10	33	43
J. Hampton Moore (831)	0	144	0	64	208	785	993	01111111000000 (20.9)	0	3	0	0	3	30	33
Ethan Allen (820)	0	985	0	8	193	749	942	01111111110000009 (20.5)	0	2	0	0	2	32	34
Solomon Sclis-Cohen (334)	0	196	0	14	210	947	1,157	01111111000000 (18.2)	0	5	0	0	5	35	40
Central (601)	0	418	0	8	426	1,984	2,410	00000000011110 (17.7)	0	12	0	0	12	90	102
Alexander Adaire (520)	0	114	0	13	127	592	719	01111111000000 (17.7)	0	4	0	0	4	18	22
Clara Barton (720)	0	137	0	7	144	704	848	01111111100000 (17.0)	0	8	0	0	8	22	30
George Sharswood (340)	0	89	0	0	89	446	535	01111111000000 (16.6)	0	3	1	0	4	13	17
Isaac A. Sheppard (541)	0	33	0	47	578	578	685	01111111000000 (15.6)	0	4	0	0	4	18	22
Jules E. Mastbaum (506)	0	178	0	71	249	1,423	1,672	00000000001110 (14.9)	0	11	0	0	11	97	108
Roxborough (603)	0	318	0	0	318	1,919	2,237	00000000011110 (14.2)	0	13	0	0	13	89	102
Feltonville (731)	0	36	0	3	39	262	301	01111111000000 (13.0)	0	2	0	0	2	7	9
Henry A. Brown (521)	0	56	0	26	82	554	636	01111111000000 (12.9)	0	5	0	0	5	16	21
Thomas Creighton (724)	0	92	0	2	94	660	754	01111111100000 (12.5)	0	3	0	0	3	24	27
John Marshall (736)	0	49	0	4	53	391	444	01111111000000 (11.9)	0	1	0	0	1	16	17
William Levering (629)	0	104	0	0	104	797	901	01111111100000 (11.5)	0	5	0	0	5	27	32
William C. Jacobs (828)	0	6	0	16	22	171	193	00000000000001 (11.4)	0	2	0	0	2	13	15
James Russell Lowell (735)	0	65	0	5	70	555	625	01111111100000 (11.2)	0	4	0	0	4	18	22
Andrew Morrison (739)	0	61	0	7	68	566	634	01111111100000 (10.7)	0	4	0	0	4	15	19
James J. Sullivan (743)	0	68	0	4	72	613	685	01111111000000 (10.5)	0	5	0	0	5	20	25
Laura H. Carnell (722)	0	109	0	8	117	999	1,116	01111111000000 (10.5)	0	4	0	0	4	31	35
Francis Hopkinson (730)	0	92	0	2	94	829	923	01111111100000 (10.2)	0	5	0	0	5	27	32
Richmond (540)	0	51	0	14	65	605	670	01111111000000 (9.7)	0	5	0	0	5	22	27
Benjamin Franklin (728)	0	61	0	0	61	580	641	01111111000000 (9.5)	0	0	0	0	0	19	19
Olney (740)	0	55	0	4	59	566	625	01111111100000 (9.4)	0	5	0	0	5	15	20
Frankford (701)	0	200	0	9	209	2,182	2,391	00000000001110 (8.7)	0	4	0	0	4	102	106
Lawndale (829)	0	37	0	0	37	413	450	01111111000000 (8.2)	0	1	0	0	1	11	12
Henry W. Lawton (733)	0	52	0	1	53	613	666	01111111000000 (8.0)	0	3	0	0	3	19	22
Joseph H. Brown (821)	0	53	0	0	53	626	679	01111111100000 (7.8)	0	4	0	0	4	16	20
Samuel S. Fels (810)	0	136	0	1	137	1,696	1,833	00000001110000 (7.5)	0	14	0	0	14	66	80
Hamilton Disston (824)	0	66	0	2	68	878	946	01111100110000 (7.2)	0	2	0	0	2	30	32
William Cramp (723)	0	25	0	12	37	539	576	01111100000000 (6.4)	0	5	0	0	5	10	15
Frances E. Willard (544)	0	13	0	7	20	388	408	01111111000000 (4.9)	0	1	0	0	1	13	14
Benjamin Crispin (822)	0	20	0	3	23	526	549	01111111000000 (4.2)	0	0	0	0	0	15	15
John H. Webster (745)	0	15	0	11	26	823	849	01111111000000 (3.1)	0	7	0	0	7	20	27
Horatio B. Hackett (530)	0	2	0	17	19	652	671	01111111000000 (2.8)	0	4	0	0	4	20	24
Washington Senior High (803)	0	65	0	2	67	2,309	2,376	00000000001110 (2.8)	0	4	0	0	4	101	105
Wissahickon (641)	0	12	0	0	12	460	472	01111111000000 (2.5)	0	5	0	0	5	8	13
John Hancock (818)	0	15	0	3	18	705	723	01111111000000 (2.5)	0	7	0	0	7	24	31

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

PENNSYLVANIA STATE TOTAL—Continued

DISTRICT: SCHOOL DISTRICT OF PHILADELPHIA. NUMBER OF SCHOOLS: 278. REPRESENTING: 278. CITY: PHILADELPHIA. COUNTY: 51 PHILADELPHIA—Continued

	Students—							Weight:	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total	1.3—grades	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Abraham Lincoln (801)	0	73	0	8	81	3,918	3,999	000000000111110 (2.0)	0	11	0	0	11	161	172
Woodrow Wilson (812)	0	38	0	0	38	1,839	1,877	000000001110000 (2.0)	0	8	0	0	8	68	76
A. S. Jenks (329)	0	5	0	0	5	274	279	011111110000000 (1.8)	0	2	0	0	2	5	7
Shawmont (638)	0	14	0	0	14	896	910	011111111100000 (1.5)	0	5	1	0	6	21	27
Philip H. Sheridan (741)	0	8	0	5	13	886	899	011111110000000 (1.4)	0	7	1	0	8	20	28
Edwin Forrest (825)	0	9	0	1	10	839	849	011111111000000 (1.2)	0	3	0	0	3	24	27
Bridesburg (747)	0	4	0	0	4	364	368	011111110000000 (1.1)	0	2	0	0	2	9	11
Thomas Holme (827)	0	16	0	2	18	1,647	1,665	011111110000000 (1.1)	0	5	0	0	5	41	46
Henry R. Edmunds (725)	0	8	0	2	10	924	934	011111111100000 (1.1)	0	5	0	0	5	22	27
Northeast (802)	0	33	0	7	40	3,921	3,961	000000000001110 (1.0)	0	10	0	0	10	145	155
Torresdale (853)	0	1	0	0	1	110	111	000000000000001 (0.9)	0	0	0	0	0	9	9
George Washington Jr. High (813)	0	14	0	5	19	2,184	2,203	000000001110000 (0.9)	0	12	0	1	13	80	93
Robert Blair Pollock (841)	0	6	0	4	10	1,348	1,358	011111100000000 (0.7)	0	6	0	0	6	34	40
Benjamin Rush (815)	0	8	0	1	9	1,273	1,282	000000111000000 (0.7)	0	11	0	0	11	45	56
Thomas K. Finletter (727)	0	6	0	2	8	1,134	1,142	011111111100000 (0.7)	0	3	1	0	4	37	41
Lewis Elkin (526)	0	1	0	4	5	833	838	011111110000000 (0.6)	0	3	0	0	3	22	25
Mayfair (830)	0	4	0	1	5	1,094	1,099	011111111000000 (0.5)	0	7	0	0	7	25	32
William H. Loesche (844)	0	5	0	0	5	1,149	1,154	011111110000000 (0.4)	0	6	0	0	6	26	32
Fox Chase (826)	0	0	0	3	3	787	790	011111110000000 (0.4)	0	3	0	0	3	21	24
Aloysius L. Fitzpatrick (839)	0	4	0	1	5	1,613	1,618	011111000000000 (0.3)	0	11	0	0	11	33	44
Stephen Decatur (842)	0	4	0	0	4	1,672	1,676	011111000000000 (0.2)	0	4	0	0	4	40	44
Bustleton (840)	0	1	0	1	2	1,536	1,538	011111110000000 (0.1)	0	7	0	0	7	42	49
Watson Comly (837)	0	1	0	0	1	825	826	011111110000000 (0.1)	0	1	0	0	1	22	23
Pennsylvania Advancement Inc. (773)	0	0	0	0	0	0	0	000000011100000 (0.0)	0	4	0	0	4	15	19
Joseph J. Greenberg (843)	0	0	0	0	0	1,341	1,341	011111110000000 (0.0)	0	5	0	0	5	34	39
Louis H. Farrell (838)	0	0	0	0	0	1,133	1,133	011111110000000 (0.0)	0	2	0	0	2	29	31
Kennedy C. Crossan (823)	0	0	0	0	0	461	461	011111110000000 (0.0)	0	3	0	0	3	11	14
William H. Ziegler (746)	0	0	0	0	0	329	329	011111110000000 (0.0)	0	1	0	0	1	9	10
Rhawnhurst (836)	0	0	0	0	0	787	787	011111110000000 (0.0)	0	3	0	0	3	17	20
Youth Study Center (253)	0	0	0	0	0	1	1	000000000000001 (0.0)	0	12	0	0	12	7	19
Joseph Allison (420)	0	0	0	0	0	0	0	000011110000000 (0.0)	0	6	0	0	6	7	13

REMARKS OF SENATOR CURTIS AT RECENT SENATE BREAKFAST GROUP

Mr. STENNIS. Mr. President, recently the Senator from Nebraska (Mr. CURTIS) made very appropriate and highly valuable remarks at the Senate breakfast group.

His thoughts are so well expressed and have so much content that I think they ought to be shared with the Senate, as well as with the public.

I ask unanimous consent that the remarks of the Senator from Nebraska be printed in the RECORD.

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

REMARKS OF SENATOR CARL T. CURTIS

My topic is "Christ and Politics." Perhaps it would be well that we set forth some definitions so that you will know that my remarks are within the scope of the topic assigned to me.

Politics has been described in various ways. In its narrowest sense it means a political contest between opposing parties or opposing candidates. I do not subscribe to such a narrow definition. Politics is the participation by people in the process of self-government. This involves the participation by the rank and file of our citizens, as well as the participation in the operation of government by those who hold office. We could even go a bit farther and say that politics in its broadest and most noble sense is government. Government is the rule of law, so in my remarks we will be talking about government and law.

We are often reminded that the Old Testament is the book of law and that the New Testament is the book of grace. As for me, while I accept the fact that the law is of paramount importance in the Old Testament and that Christ's saving grace is the one great theme of the New Testament, I am convinced that the Old and New Testaments are inseparable.

Christ came to earth and was born and lived as man but Christ was God. Christ did

not come into being when he was born of Mary in Old Bethlehem. Christ always existed. He is eternal. He himself said in John 10:30, "I and my Father are one." Later in that same chapter He said, "The Father is in me and I am in him."

Those who had the privilege of walking upon the earth when Christ dwelt here as man had the opportunity of hearing him say that which is recorded in John 12:45, "And he that seeth me seeth him that sent me."

It must have been a unique experience indeed for his followers to hear him say what is recorded in John 14:7–10.

"If ye had known me, ye should have known my Father also: and from henceforth ye know him, and have seen him. Philip saith unto him, Lord, shew us the Father, and it sufficeth us. Jesus saith unto him, Have I been so long time with you, and yet hast thou not known me, Philip? he that hath seen me hath seen the Father; and how sayest thou then, Shew us the Father? Believest thou not that I am in the Father, and the Father in me? the words that I speak unto you I speak not of myself: but the Father that dwelleth in me, he doeth the works."

In other words, Christ has always existed and his existence will never terminate. And the Old Testament as well as the New is His book.

Because the Old Testament is the book of law and my subject has to do with politics, which means government and law, I perhaps will be quoting as freely from the Old Testament as the New.

Speaking of the law as set forth in the Old Testament, Christ said in Matthew 5:17 and 18, "Do not think that I have come to do away with the law of Moses and the teaching of the prophets. I have not come to do away with them but to give them real meaning. Remember this—as long as heaven and earth last the least point or the smallest detail of the law will not be done away with, not until the end of all things." And again it is recorded in Luke 16:17 that Christ said, "It is easier for heaven and earth to pass than for one title of the law to fail."

In the 7th Chapter of Romans, Verse 12, we are told, "Wherefore the law is holy and the commands are holy and just and good."

I believe it is important that we realize that there are two kinds of law. There is God's law and there is man's law. Christ himself recognized this distinction when He said in Matthew 22:21, "Render unto Caesar the things that are Caesar's but unto God the things that are God's." He, of course, was referring to allegiance, loyalty and commitment, as well as distinguishing between man's law and God's law.

There would be chaos in the world if there were no government. I admit that governments make mistakes and that oftentimes we have too much government. Nevertheless, government is necessary. I am referring to the government that man sets up. Government is based upon law. These laws govern the conduct of men in their relation to each other and in their relation to society as a whole.

Throughout the centuries, government has been a force for good notwithstanding the fact that we have had bad governments and that oftentimes governments are headed by individuals who are not good individuals. The fact remains that government is our means for keeping order, removing violent offenders from society, settling disputes between individuals, and providing community services. The whole idea is set forth in God's word. In the Bible we find not only the recitation of many laws, but we find the pattern for systems of government, or we might refer to them as Constitutions.

It appears that at one time Moses, who became the great lawgiver, was trying to run the government all by himself. May I read to you from the 18th Chapter of Exodus, Verses 13 to 16, inclusive?

"And it came to pass on the morrow, that Moses sat to judge the people: and the people stood by Moses from the morning unto the evening.

"And when Moses' father-in-law saw all that he did to the people, he said, What is this thing that thou doest to the people? Why sittest thou thyself alone, and all the people stand by thee from morning unto even?

"And Moses said unto his father-in-law, Because the people come unto me to enquire of God:

"When they have a matter, they come unto me; and I judge between one and another, and I do make *them* know the statutes of God, and his laws."

Those in the audience who are fathers-in-law can take heart over the fact that the father-in-law of Moses was a wise man. He said in Verses 17–19, inclusive:

"And Moses' father-in-law said unto him, The thing that thou doest is not good. Thou wilt surely wear away, both thou, and this people that is with thee: for this thing is too heavy for thee; thou are not able to perform it thyself alone. Hearken now unto my voice, I will give thee counsel, and God shall be with thee: Be thou for the people to Godward, that thou mayest bring the causes unto God."

Moses' father-in-law not only told Moses how to spread out the burden of administering government but he also suggested that they have a legislative branch of government and that they write some laws and rules for the people to follow. Listen to what Verse 20 has to say:

"And thou shalt teach them ordinances and laws, and shalt show them the way wherein they must walk, and the work that they must do."

In Verses 21 through 26 the father-in-law of Moses stressed the point that those who hold office, judges in this case, should be able and honest men. Here is what he said:

"Moreover thou shalt provide out of all the people able men, such as fear God, men of truth, hating covetousness; and place

"such over them, to be rulers of thousands, and rulers of hundreds, rulers of fifties, and rulers of tens:

"And let them judge the people at all seasons; and it shall be, that every great matter they shall bring unto thee, but every small matter they shall judge: so shall it be easier for thyself, and they shall bear the burden with thee.

"If thou shalt do this thing, and God command thee so, then thou shalt be able to endure, and all this people shall also go to their place in peace.

"So Moses hearkened to the voice of his father-in-law, and did all that he had said.

"And Moses chose able men out of all Israel, and made them heads over the people, rulers of thousands, rulers of hundreds, rulers of fifties, and rulers of tens.

"And they judged the people at all seasons: the hard causes they brought unto Moses, but every small matter they judged themselves."

A similar thought is expressed in Deuteronomy 1, Verse 13, which reads as follows:

"Take you wise men, and understanding, and known among your tribes, and I will make them rulers over you."

Without government and without law, there could be no civilization. Government and law were given to man by God. Our entire system of law emanates from the Ten Commandments. I might recite to you those commandments in their abbreviated form:

"You shall have no other gods before me.

"You shall not make yourself a graven image . . .

"You shall not take the name of the Lord your God in vain . . .

"Remember the sabbath day, to keep it holy . . .

"Honor your father and your mother . . .

"You shalt not kill.

"You shall not commit adultery.

"You shall not steal.

"You shall not bear false witness against your neighbor.

"You shall not covet . . ."

A great portion of man-made laws deals with property rights. This is true whether it is the ownership of a house, a broadcaster's license, or the royalty rights that one has from writing a book or any other property rights. The foundation upon which all law governing property rights rests is the commandments. "Thou shall not steal, thou shall not covet, and thou shall not bear false witness." Likewise we could point out that all good laws covering domestic relations and juvenile delinquency are rooted in the commandment against immorality and the commandment to honor your father and mother.

When Isaiah the prophet, in foretelling the coming of Christ to earth, said in Isaiah 9:6, "And the government shall be upon his shoulder," he was stating a literal truth that cannot be disputed by the facts of history.

America has been greatly blessed. Our government today is the oldest continuous government on the face of the earth. Isaiah was right when he said, "The government shall be upon His shoulder."

We wouldn't need any laws in the world if every individual fully committed his life to Christ. We will need laws and we will need government and we will need politics, which is the participation in government, just as we will need police and armies until the time comes when all men are subject to His will and grace. This thought is borne out in I Timothy 1: 8–10, which reads as follows:

"We know that the Law is good; if it is used as it should be used. It must be remembered, of course, that laws are made, not for good people, but for lawbreakers and criminals, for the godless and sinful, for those who are not religious or spiritual, for men who kill their fathers or mothers, for murderers, for the immoral, for sexual perverts, for kidnapers, for those who lie and give false testimony or do anything else contrary to the true teaching."

One of the very reasons that we need a Savior is that man is unable to live up to the law. Listen to what is said in Verse 3 of Chapter 8 of Romans:

"What the Law could not do, because human nature was weak, God did. He condemned sin in human nature by sending his own Son, who came with a nature like man's sinful nature to do away with sin."

It is written "blessed is the nation whose God is the Lord." Truly the prophet Isaiah was right when he said, "And the government shall be upon His shoulders."

SALT LAKE CITY BOARD OF COMMISSIONERS SUPPORT PRESIDENT

Mr. BENNETT. Mr. President, yesterday in the House a resolution was passed by a very wide margin, expressing support for President Nixon's efforts to find a just and negotiated peace in South Vietnam.

Over the past year we have seen a polarization of sorts in this country on the Vietnam conflict. On the one extreme are those who demand an immediate withdrawal and in my mind, fail to examine and admit the consequences

of such a policy. On the other hand are those who have advocated total destruction of North Vietnam. In the vast middle ground is the great body of American people who seem to realize and understand that President Nixon is making a sincere and honest effort to resolve this very complex, frustrating, and terrible war. This great body of American people realize that he cannot succeed if he is constantly undermined in his efforts for peace. This, I think, was reflected in the House vote yesterday.

I was in Utah for the Thanksgiving recess and I found it reflected there in my visits with my fellow Utahans. It is reflected in my mail which runs heavily in favor of the President. I am pleased to announce to the Senate that the Board of Commissioners of Salt Lake City has expressed a similar position in the form of a resolution which I received today. I ask unanimous consent that the resolution be printed as a new and convincing expression that a large majority of our people are behind the sincere and genuine efforts of our President, to bring peace to a troubled world and unity to a divided and deeply concerned Nation.

I express my appreciation to the board of commissioners for this patriotic, farsighted, and courageous resolution.

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

RESOLUTION

Whereas, the present war in Vietnam is the subject of controversy and debate among various groups and organizations in the United States; and

Whereas, the opposition to our national involvement in Southeast Asia is being led by radical elements of a vocal minority of the citizens of this great land whose stated purposes and objectives lend aid and comfort to the enemy in a battlefield which has claimed thousands of American lives; and

Whereas, the duly elected Board of Commissioners of Salt Lake City support our servicemen in Vietnam and support the President of the United States in his efforts to achieve a just and honorable peace in Vietnam.

Now, therefore, be it resolved by the Board of Commmissioners of Salt Lake City that said Board affirms its support for President Nixon in his efforts to negotiate a just peace in Vietnam, and in doing so expresses the earnest hope of the people of the United States for such a peace, calls attention to the numerous peaceful overtures which the United States has made in good faith toward the Government of North Vietnam, approves and supports the principles enunciated by the President that the people of South Vietnam are entitled to choose their own government by means of free elections open to all South Vietnamese and supervised by an impartial international body, and that the United States is willing to abide by the results of such elections, and supports the President in his call upon the Government of North Vietnam to announce its willingness to honor such elections and to abide by such results and to allow the issues in controversy to be peacefully so resolved in order that the war may be ended and peace may be restored at last in Southeast Asia.

The City Recorder is hereby directed to mail a copy of this resolution to the Honorable Richard M. Nixon, President of the United States of America, and to the members of the United States Senate and House of Representatives from the State of Utah.

Passed by the Board of Commissioners of Salt Lake City, Utah, this 19th day of November, 1969.

J. BRACKEN LEE,
Mayor.
JAMES L. BARKER, Jr.,
Commissioner.
E. J. GARN,
Commissioner.
GEORGE B. CATMULL,
Commissioner.
CONRAD H. HARRISON,
Commissioner.

THE U.S. RECORD ON RATIFICATION OF HUMAN RIGHTS CONVENTIONS

Mr. PROXMIRE. Mr. President, 19 human rights conventions and covenants designated to implement the universal declaration of human rights, adopted on December 10, 1948, have been embraced by the United Nations General Assembly, and many have been ratified by member nations. However, only two of these have been ratified by the United States: the supplementary convention on the abolition of slavery in 1967 and the convention concerned with the protocol relating to the status of refugees in 1968.

Other conventions which have been submitted to the Senate for approval are: the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention Concerning Freedom of Association and Protection of the Right to Organize—both submitted in 1949 by President Truman; the Convention on the Political Rights of Women and the convention concerning the abolition of forced labor—both submitted in 1963 by President Kennedy; and, finally, the convention concerning discrimination in respect of employment and occupation submitted by President Johnson.

Having ratified only two conventions, the United States ranks very low among the 126-member nations of the United Nations. This is certainly not a record that we in this Nation founded on the basic human rights of freedom and liberty can be proud of. The human rights conventions affirm those principles which we declare on a national level to be a right of each individual.

I urge this Chamber to look at the record that we have established on the ratification of human rights conventions. I then would ask this body to ask itself if this record is in keeping with the American tradition concerning these rights. I believe the answer that would then be arrived at would be a negative one. I, therefore, again admonish this Chamber to get on with the task of making this Nation's committment to human rights an international one.

FOUNDATIONS AND THE UNITY OF CHARITABLE ORGANIZATIONS

Mr. GOODELL. Mr. President, the tax reform bill which is now before the Senate will affect the quality of American life. Nowhere is this more apparent than in the provisions in the bill which would change the tax treatment of private foundations.

I have voiced my concern for the past few months over the effects of punitive legislation which would limit the effectiveness of private foundations in continuing their innovative and creative role in American life. Within the next few days, the Senate will have an opportunity to vote upon a number of amendments which, in my opinion, mitigate unnecessarily harsh provisions now in the Senate bill. The outcome of the Senate's decision is an important one for the direction which our society will take in future years.

I would like to call to the attention of my colleagues a recent speech on the subject of foundation tax reform by Alan Pifer, president of the Carnegie Corp. of New York. Mr. Pifer, who was Chairman of President-elect Nixon's Task Force on Education, is well known for his scholarly concern for the nature of private institutions in America. I think that his views on the effect of this legislation on the private sector of our society will be of great interest to us all.

Mr. President, I ask unanimous consent that the text of Mr. Pifer's speech on the occasion of the 50th anniversary of the John Price Jones Co. be printed in the RECORD.

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

FOUNDATIONS AND THE UNITY OF CHARITABLE ORGANIZATIONS

(By Alan Pifer, president, Carnegie Corp. of New York)

I am delighted to be here with you this evening helping to celebrate the 50th Anniversary of the John Price Jones Company. It is an occasion that deserves special note. Having myself been fortunate enough to spend my entire career working for organizations that don't have to raise money—but ones in which I have been particularly aware of the agonies of those that do—I have had an ample and fully objective opportunity to assess the role played by fund raising counsel. Let me admit that I have turned from skeptic to admirer as I have watched some of the best of these firms in action. I regard them now as an essential feature of the philanthropic scene and a strong ally to all of us who value the continued existence of free, private institutions in our society.

Since this is a special evening for those who have served John Price Jones in the past as well as those who do so today, I must at least mention briefly a former vice president of the company who is here tonight, James Powell-Tuck. For the past 18 years P.T. has been the much loved and respected director of development of the Norwalk Hospital, a fine institution serving a group of Connecticut communities. The extraordinary success he has had in that capacity has revealed to all who use and support the hospital the truth that a good director of development is not just a money raiser. First and foremost he is a leader who helps set goals for an institution and then builds a sustaining relationship between the institution and its constituency through which the goals are met. In this marriage, money is never irrelevant, but over time it becomes simply the by-product of a deeper tie based on mutual understanding, affection and pride. And so it has been at Norwalk.

FOUNDATIONS ON THE DEFENSIVE

Gathered here tonight are men and women who believe deeply in private institutions. That is why we are here. If any one of us, however, is still operating on the assump-

tion that the position of private institutions in our national life remains as basically secure as it has been in the past, he is probably living in a fool's paradise.

The assault this year on foundations if it reveals anything, tells us that the safety of all types of private charitable organizations—religious, educational, medical and philanthropic—may now be in serious doubt. The advocacy of pluralism may still make for good political rhetoric, but there seem to be fewer and fewer people at the nation's center of power who really believe in it and are prepared to act on that belief.

From what I have witnessed in Washington in recent months, it is my sad conclusion that the role played by free, private institutions as a bulwark of the American democratic system may be in jeopardy. I say this because I have seen alarming evidence both in the Congress and the Executive Branch of an astonishing lack of knowledge, and hence lack of concern, not just about foundations but about private organizations generally. Beyond that there is a pervasive atmosphere of suspicion, even hostility, to the very idea of the independence of foundations, and this seems to extend in some measure to other private tax-exempt institutions as well.

Particularly distressing is the seeming ignorance among high officials of the nature and meaning of certain broad fundamental concepts which give unity to the entire charitable organization field and which make the welfare of foundations and other types of charitable organizations an indivisible matter.

Many people have been slow to recognize in the current attack on foundations the broader danger to private charitable organizations generally. This is because the foundation field had gradually slipped into a position of extreme vulnerability as the result of a growing loss of public confidence in it occasioned by real and fancied foundation misdeeds.

Lumping the charges against foundations—right or wrong—indiscriminately together, foundations have come to be thought of as tax dodges for the wealthy; as involved in improper political activity; as the backers and promoters of extremism, Left or Right; as the corrupters of public officials; as representing dangerous concentrations of economic power; as favoring black people, the intellectual elite and the citizens of other countries at the expense of the "common American"; and so on. The list of fears and phobias has lengthened over the years with each Congressional investigation and has been assiduously kept alive, whether based on truth or falsehood, by relentless and sometimes unscrupulous critics.

What we have seen in the past year is a recrudescence of all the long-smoldering antipathies toward foundations suddenly fanned into a roaring flame by the wind of a taxpayers' revolt—a revolt not just against high tax rates but also against inequities in the system of taxation. And the heat has been felt in Washington. Unfortunately, many observers in other kinds of private institutions have felt that this was not their fight and that the foundation field perhaps deserved at least a good scare. They have, therefore, overlooked the wider dangers inherent in the excessive aspects of the Congressional response to the public heat. They have failed to see that in these excesses could lie the seeds of the destruction not just of foundations but of other private institutions as well.

Granting, of course, that there have been real financial abuses in some foundations, and conceding that specifically tailored measures to prevent these abuses are highly desirable, there are five themes which have appeared in the legislative debate on foundations that are cause for real alarm. Whether the full force of each of these themes will be evident in the law Congress finally passes is still in doubt, but that is not the point here. It is the fact that these ideas have even been seriously considered at one stage or another that is disturbing.

A TAX ON FOUNDATIONS

The first of these themes has had the most public discussion and has aroused opposition from other classes of charitable organizations as well as foundations. This is the notion that foundations should pay a federal tax on their investment income from endowment, on the theory that all who share in the benefits of government and are thought to be able to do so should contribute to its cost. The opposition to such a tax has centered on the loss of income it would entail to other private organizations, as it would in effect be a tax not on foundations but on the charities they support. Thus, foundations are able to help pay the cost of government only at the expense of their beneficiaries.

Important as this consideration is, it is not by any means the chief harm the tax would do. Its worst feature would be that it would for the first time breach the principle of total exemption from income tax of charitable organizations, a principle which has been basic to our social system and served the nation well since a constitutionally based income tax was first introduced in 1913.

A tax on foundations would set a precedent that could in time lead to a similar loss of full exemption by other classes of endowed charitable institutions—private universities, colleges and schools, voluntary hospitals and welfare organizations and religious institutions. If it were considered proper by this Congress that foundations contribute to the cost of government, then it could seem logical to some future Congress that these other institutions, which also share in the benefits of government, pay their fair share. A tax would, furthermore, serve as a precedent to encourage other levels of government to levy an income tax on foundations and in time on other charitable organizations.

It might, therefore, be only a matter of a few years before income tax exemption, which is basic to the financial viability of private, charitable organizations, disappeared from our national life altogether. The ensuing enfeeblement and demise of many of these private organizations would in itself spell the end of much of the nongovernmental, pluralistic activity that is essential to the American form of democracy.

An income tax on foundations, because of what it could set in motion, can, therefore, be viewed as being inimicable to the very nature of our kind of society, not, of course, deliberately so but nonetheless potentially as dangerous to it as the threat of foreign ideologies. And that should be cause for the most sober reflection.

THE NATURE OF FOUNDATION FUNDS

A second disturbing theme of the legislative proceedings in Washington has been the assertion that foundation income is really public money, because it is itself tax-exempt and because it derives from endowment funds created by gifts which offered a donor tax advantages; and yet decisions on the use of this income are not subject to the normal forms of government decision making and public accountability. This frequently repeated statement is usually made in a kind of accusatory manner, with heavy emphasis on the *privilege* of tax deductability and tax exemption, as if there was something inherently wrong, or contrary to the public interest, about these tax benefits and about private, self-perpetuating boards of trustees having the power to give away foundation funds.

What this kind of statement overlooks, of course, is that if there is validity to it, it must also apply logically to *any* funds derived from a gift that brought tax benefits to a donor and to the investment income of *all* private tax-exempt organizations, be they educational, medical, religious, or any other. And it must be remembered that these other types of charitable organizations are as much governed by private, self-perpetuating boards of trustees as are foundations.

Those who glibly say that foundation funds are really public funds are in fact raising a fundamental general question of whether there can be any such thing as really private endowment funds in our society any longer, and are thereby in fact challenging the very right to existence of tax-exempt private organizations.

While granting that foundations, and hence foundation funds, do have their public aspects and their funds quite properly should be regarded as being impressed with a public trust, it must always be remembered that since foundations are formed as private corporations by private individuals, they are *private* institutions, and the funds they possess and spend are private funds. In this respect the tax benefits foundations enjoy should be seen as society's quid pro quo for the charitable functions they perform that would otherwise either be a burden on public, tax-derived funds or not be performed at all. They are simply one part, and a vital part, of a group of incentives which the state offers to private citizens to encourage them to perform charitable acts.

PROTECTING GOVERNMENT FROM FOUNDATIONS

A third theme in the legislation, sometimes explicitly stated and always implied, has been that foundations represent a potentially evil influence on government, and government must, therefore, be protected from contact with them. The Ways and Means Committee initially proposed restrictions on the influencing of legislation by foundations so stringent as virtually to bar them altogether from participation in public policy formation, and its final proposals were nearly as restrictive.

Aside from being profoundly insulting to many fine public officials, both elected and appointed, by implying that they lack the intelligence, integrity and courage to make independent decisions in the public interest, such a concept, if given effect in the final legislation, will erect a barrier not only between government foundations but between government and many valuable experimental projects financed by foundations but carried out by other tax-exempt organizations and institutions. Government—and hence the public—will thereby in an important respect be denied the benefits of private sector experience, ideas and initiative. The public loss will be particularly great in fields such as education, health care, scientific policy, welfare, conservation, and the control of environmental pollution where substantial general improvements cannot be made with private funds alone but must inevitably entail massive governmental participation.

It is distressing that this notion of insulating the processes of government from the private, nonprofit sector should have come to the fore just at a time when the public interest would most be served by a maximum amount of public/private cooperation. And it is ironic that this should have happened when foundations generally had at last outgrown the deep antipathy that many of them traditionally felt toward cooperation with government.

CONTROL THROUGH TAXATION

A fourth troublesome aspect of the legislation is the way the power of Congress to tax and to grant tax exemption has been used to institute new program controls over

foundations. Under present law foundations are not permitted to influence the outcome of elections or to influence legislation directly except as an insubstantial part of their activities. But the proposed legislation introduces new controls and outright bans on certain specified activities. For example, a foundation would now be barred from making a direct grant to an individual except pursuant to procedures previously approved by the Internal Revenue Service and would be barred altogether from supporting voter education programs such as those of the Southern Regional Council and League of Women Voters designed to encourage citizens to exercise their democratic right to vote. This means, simply, that in areas hitherto reserved for decision by private boards of trustees government authority will now prevail.

The dangers of such an extension of government authority are manifest. What a simple matter it would be for some future Congress, guided by this precedent, to use its taxing power over private university endowment funds as a convenient weapon to limit the autonomy of these institutions. What a convenient device this could be to stifle dissent—on the campus, in the pulpit or anywhere else in the nongovernmental sector.

The freedom of private institutions is their most precious asset, and it must be jealously guarded. Erosion of the freedom of one institution normally leads to its erosion in others. History is replete with examples of societies where liberty has given way to tyranny because their peoples failed to realize that freedom is indivisible. All who value liberty should think hard about the question of how far government should be allowed to go in extending its authority over private institutions through the taxing power, for down this road can lie enormous dangers.

THE 40-YEAR DEATH SENTENCE

A fifth theme which has been evident here and there in the legislation is a kind of doctrinaire populist opposition to foundations as a matter of democratic principle. Because foundations derive from great wealth, they ipso facto must be suspect. This, of course, was a prevalent attitude toward foundations in their early days just prior to the First World War, but one would have supposed the nation had outgrown it years ago simply on the evidence that the vast majority of foundations do in fact serve the public interest. Nevertheless, the attitude persists in some quarters, and has manifested itself this year in an extraordinarily harmful decision by the Senate Finance Committee that the life of all foundations should be limited to 40 years.

Strictly speaking, of course, Congress cannot terminate the existence of a charitable corporation or trust created under state law, as this would be unconstitutional under Article I, Section 10 of the U.S. Constitution. All that Congress actually has the power to do is remove the tax-exemption of foundations after 40 years and require them to pay income taxes. Whether foundations would then choose to dissolve or to pay taxes and stay in business would depend on the level of the tax imposed.

The basic argument used to support the notion of a limited life for foundations is that through this device a wealth man may bind future generations forever to use charitable funds for the purposes he chooses. And since these purposes may become irrelevant to the later needs of society, the argument continues, it is contrary to the public interest that the donor be allowed to control the nature of the use of the funds for more than a limited period of years. However, it is implied, this death sentence should apply only to foundations, because other types of charitable organizations, such as churches, colleges, or hospitals, founded or assisted by charitable bequests are somehow different—somehow more responsive to the forces of change.

The basic flaw in this argument is revealed by consideration of the history and nature of the traditional concept of private charity. This concept goes back at least to the Roman era and probably earlier, was well understood in medieval times, was given legal definition in England in 1601 in the Statute of Charitable Uses, and has been a feature of the common law of Britain and the United States ever since. The concept involved the granting of certain privileges by the state to private citizens, or groups of citizens, in exchange for their willingness to serve the public good by performing or supporting acts of charity. These recognized acts of charity were first legally defined in the preamble to the Statute of Charitable Uses and since then have undergone varying restatements. The most recent in this country is contained in Treasury Department regulations of June 22, 1959 which define charity as:

Relief of the poor and distressed or of the underprivileged, advancement of religion; advancement of education or service; erection or maintenance of public buildings, monuments or works; lessening of the burdens of government, and promotion of social welfare by organizations designed to accomplish any of the above purposes, or (i) to lessen neighborhood tensions; (ii) to eliminate prejudice and discrimination; (iii) to defend human and civil rights secured by law; or (iv) to combat community deterioration and juvenile delinquency."

The definition is clearly an attempt to restate the meaning of the term charity to conform to the current needs of society.

The important point, however, is that there has throughout history been an evolving definition of charity that encompasses a set of activities *all* of which were considered to be in the public interest and in the interests of the state. And therefore the state has never found it necessary to discriminate between charitable purposes by granting greater privileges for one form of charitable activity than another. The concept has always been considered to be indivisible.

A second important point is that throughout the entire history of private charity, with minor deviations in some states in this country in the last century, the legal doctrines that shaped and defined the nature of charitable trusts and corporations have remained constant. Two of the most important of these doctrines have always been the right to existence in perpetuity and the possibility of the terms of a charitable bequest being altered at a later date through *cy pres* legal proceeding to adjust the intent of the donor to changed conditions.

In summary, given the assumption of public good inherent equally in all charitable purposes, and the power which future generations always have of modernizing any overly restrictive provisions of a charitable bequest through legal proceedings, it has never been considered in the public interest to place an arbitrary limit on the life of any charitable trust or corporation. If they met the test of being charitable, all were considered equally worthy and equally entitled to perpetuity.

What the Senate Finance Committee has now attempted—through the back door of removing income tax exemption—is no less than the abrogation of one of the most ancient, basic, and well-proven principles of the common law tradition, the principle of the indivisibility of the right to perpetuity of all charitable trusts and corporations. I do not have to tell you that this principle has been fundamental to the development of a vigorous voluntary sector in the common law countries and that it has been especially successful in this country in encouraging the kinds of philanthropically supported private endeavors that are an essential feature of our democratic system.

Nor, I am sure, do I have to point out to you the enormous dangers inherent in the destruction of this principle through discriminatory action taken against one form of charitable organization. It is the indivisibility—the unity—of the principle that has given it its great strength. It is the realization that the state would refrain from interposing its judgment that has encouraged private citizens to devote their efforts and their money *as they best saw fit* to charitable ends. Once this principle has been breached, it is dead. Let us be clear that in the wake of this effort to use the tax laws to place a limit on the life of foundations, if it is successful, will come opportunistic moves in the future, as time and circumstances dictate, to do the same to other classes of charitable organizations.

Another argument employed by those who favor limiting the life of foundations is to pose the question of why a donor should be allowed to create an instrumentality that ensures benefits for his descendants in perpetuity. But this argument is really a red herring. The fact is that if a charitable trust or corporation is not serving the broad interests of the public, it is not charitable, and its tax-exemption can and should be quickly removed. There are trusts intended to benefit only the descendants of the founder, but these are private trusts and the length of their life is already limited by law.

Yet another argument against the perpetuity of foundations is that they must be prevented from developing into vast concentrations of economic power. But a recent study shows that their aggregate assets are actually declining as a proportion of the total wealth of the country and indeed have never been larger than 7/10th's of one percent. The nation's true concern, therefore, should not be the assets of this vital sector of philanthropy are too large but that they are too small. And any legislation should be designed to encourage rather than discourage the establishment of new foundations.

In addition to the basic philosophical and legal arguments against setting a limit on the life of foundations there are, of course, some sound practical reasons for not doing so. In most foundations, and especially the larger ones, the charitable purposes outlined in the charter or deed of gift are so broad as to give the trustees in succeeding years almost complete discretion over how the funds shall be employed. Thus, to suggest that the right to perpetuity allows a foundation donor to prescribe forever the ways its funds will be used regardless of how these conform to society's needs, is simply untrue for the vast bulk of these funds.

In fact, in 1967, of the 6,800 foundations which controlled 98.5 percent of total foundation assets, 5,300, with 91 percent of the assets, were operating under broad general charters. And virtually all foundation charters are drawn up nowadays to conform word for word with the broad charitable purposes outlined in the Internal Revenue Code as qualifying a charitable corporation for tax exemption. Where, then, is the evidence on which the Senate Finance Committee was acting? Or was it acting simply on a doctrinaire theory unrelated to fact?

Most donors have been governed by the philosophy that they should leave maximum discretion to future trustees, but it was Andrew Carnegie who perhaps best put the idea into words. He wrote:

"No man of vision will seek to tie the endowment which he gives to a fixed cause. He will leave to the judgment of his trustees, as time goes on, the question of modifying or altogether changing the nature of the trust, so as to meet the requirements of the time. Any board of trustees is likely to become indifferent or careless or to make wrong deci-

sions. In the perpetual trust, as in all human institutions, there will be fruitful seasons and slack seasons. But as long as it exists there will come, from time to time, men into its control and management who will have vision and energy and wisdom, and the perpetual foundation will have a new birth of usefulness, and service."

A second practical reason why it is not in the public interest to limit the life of foundations is that the considerable knowledge and experience they accumulate in the course of their work is thereby needlessly sacrificed—squandered—to satisfy a purely theoretical good. If, for example, the Rockefeller Foundation had been forced out of business in 1952 after 40 years of life, it would never have carried out the great work, which developed out of its pre-1952 experience, in the dramatic improvement of wheat and rice yields. Without this "green revolution," as it has been called, many millions of people would now be suffering from malnutrition or dying of starvation.

If Carnegie Corporation had shut its doors in 1951 on turning 40, its accumulated experience and expertise in the field of education would not have been brought to bear on the pressing problems of the past two decades. If the Commonwealth Fund had ceased activity in 1958, its notable endeavors of the past decade in the strengthening of medical education, which grew out of its pre-1958 experience, would never have taken place.

These are but a few examples of the price that would have been paid by the nation and by mankind in return for someone having had the theoretical satisfaction of denying perpetuity to charitable bequests. I believe most Americans, if the issue of denying perpetuity to foundations were presented to them in this kind of pragmatic manner would consider the bargain a poor one. They would quickly see the illogicality of killing off foundations just when they were most able to serve the public interest and when they had had the time to mature into institutions imbued with a strong sense of public trust.

Finally, while it is easy to laugh off the 40 year life issue with the quip that "foundations have 39 years to get this changed," the harm of such a measure would start immediately, first in the inhibiting effect it would have on the establishment of new foundations, second, in the general negative impact it would have on the morale of existing foundations, and, third, in the confusion it would introduce in the final decade of their operations. It would, for example, be virtually impossible for them to recruit and hold able young staff members, and in the scramble at the end to dispose of their assets many unwise decisions might be made.

This extreme provision came as a shocking surprise to foundations, since it was based on no study of the total foundation record and no consideration of the harmful consequences involved. It seems only common sense for Congress to eliminate it entirely until the effect of other provisions of the legislation is tested.

LEGISLATING IN THE DARK

No doubt troubled by the implications for other types of charitable organizations inherent in the several kinds of discriminatory restrictions proposed for foundations, the framers of this legislation have sought to establish in it a distinction between what they call private foundation and publicly supported charities—educational institutions, churches, hospitals, and organizations receiving more than one third of their financial support from governmental funds or from the public.

The legislation is shot through with an assumption, which has been current in certain places in government for some years, that private foundations do not serve the public interest as much as do public charities. For example, a health agency governed by its own self-perpetuating board of trustees but collecting its income in small donations from the public would be considered to be more responsive to what the public conceived to be good than would be a private medical foundation also governed by a self-perpetuating board but getting its income from an endowment fund.

This is an assumption which fits the purpose of discriminatory legislation against foundations but is absolutely unsupported by factual evidence. No study has ever been made either outside or within the government that would justify such a conclusion. Indeed, despite the abuses in some foundation, a strong case could be made that they have on the whole been managed every bit as much in the public interest as have the so-called public charities. But no facts are available to prove that case either. So the truth of the matter is that this legislation, with all its tremendous consequences to the nation, literally rests in large part on no more than an untested hypothesis.

Indeed, the bill at large, granting that it does include some well-drawn provisions to deal with specific problems, is an almost classic example of legislating in the dark as an emotional response to the public disclosure of a limited number of abuses. That some of these abuses were particularly egregious does not alter the simple fact that very little specific reliable knowledge about foundations exists in Congress, in the Treasury or in any other arm of government on which farsighted legislation that would really serve the public good most could be based.

This in itself is a disturbing matter. But given the import of the legislation to the entire charitable organization field, to the future of private institutions in our society, and to the very nature of the American system of democracy, its broad, sweeping provisions, the fallacious concepts which inform it, and the ignorance and myth on which it is based add up to nothing less than a vast disservice to the nation.

And should this legislation be passed, its disservice will be nowhere greater than to the cause of conservatism in American life. I mean by this conservatism in the true sense of the word and of the type the great majority of Americans espouse—the conservation of a social and political order in which voluntary citizen effort, carried out through private organizations and supported by private philanthropy, has an honored and protected place as a partner and as a counterbalance to an otherwise all-encompassing government.

THE FRAGILE PRIVATE SECTOR

The case I am making to you tonight is that all of us should be deeply troubled about the broader consequences of what has so heedlessly been set in motion in the foundation part of the tax reform bill. The private nonprofit sector of our national life, with all its great importance, is only just keeping afloat. This legislation, if passed, will be a heavy body blow to it. What we desperately need today is not further discouragement to this sector but measures designed to sustain and strengthen it. In no respect has the new Administration, which put itself firmly on record during the campaign as favoring maximum governmental encouragement to the voluntary sector, had a more clear cut opportunity to give effect to its philosophy than in supporting foundations. Now is our moment of greatest need for that help as the legislative debate moves to its conclusion.

In closing, I would like to urge that a broad, national effort be made by private, charitable organizations generally, acting in concert, to reassert their basic unity and to reaffirm to the American people, to the Congress and the Executive Branch their essential role in our national life. We have too long taken it for granted that we were understood and appreciated. But we know now that there is widespread ignorance of us and a growing indifference to our welfare. That trend must be sharply reversed.

Reestablishment of public confidence in foundations is, I realize, obligatory if they are to assume their rightful place in such a united effort. We in the foundations are making this the first item on our agenda, and we have already set about it. We fully expect to be capable of being your strong allies, as we hope you will be ours, in what may be the last great opportunity private institutions have to retain their position of independence in the nation's life.

While I am by no means certain that the legislation I have been discussing as finally enacted will not have serious faults and dangers in it, the long debate in Washington has, nevertheless, demonstrated that there *are* members of both houses of Congress who *do* understand the seriousness of the issues involved, and for the longer run that is a hopeful portent. With the help of such men and with a maximum effort from private organizations and institutions I remain confident that the traditional American commitment to the private nonprofit sector can once again be made as strong as it has been in the past. But there is no guaranty that this will happen. We must work hard and work together to see that it does.

CHARLES B. PAYNE'S REMARKS ON VETERANS DAY

Mr. BENNETT. Mr. President, I have just been made aware of the remarks by Lt. Col. Charles B. Payne, a retired Army officer who currently is teaching social studies at West Springfield High School in Springfield, Va., over the school's intercom system on Veterans Day, November 11, 1969. Mr. Payne, who served with distinction in the U.S. Army before retiring and taking up his teaching duties, certainly knows the true meaning of Veterans Day and also certainly knows his history, as outlined in the remarks given to the study body on that day.

In his remarks he said:

Failure to win a just and lasting peace in Korea only encouraged a new wave of Communist aggression in South Vietnam. The enemy was different, but the tactics of World Communism remained the same. The forces of North Vietnam have sought to take over and destroy a small peace loving country by force. Once more the United States has assumed the responsibilities of a freedom loving nation and is supporting the efforts of this oppressed backward state to throw out an invading force.

This has been my position as well on the subject of the Vietnam war, and I made similar remarks in a speech I gave in the Senate in October of 1967. Two other rather poignant paragraphs also caught my eye. These are:

The Armistice Day of old is today called Veterans Day and it is fitting that we pause and pay respectful tribute to those brave men, past and present, who have given the full measure of devotion to their nation.

Let us honor them by reaffirming:

Pride in our heritage;

Pride in our country and its principles and ideals;

Pride in ourselves as Americans, and

Faith in our elected leaders.

I would like publicly to commend Mr. Payne for this fine job of patriotism and Americanism and to convey to him my

sincere thanks for these excellent comments given to the student body at West Springfield High School, which had the privilege to hear them earlier last month.

I also think that the entire speech should have the wide exposure of the CONGRESSIONAL RECORD, and I would like to ask unanimous consent that it be inserted at the end of my remarks today.

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

REMARKS BY LT. COL. CHARLES B. PAYNE, U.S. ARMY RETIRED, TO THE STUDENT BODY OF WEST SPRINGFIELD HIGH SCHOOL, SPRINGFIELD, VA., ON VETERANS' DAY, NOVEMBER 11, 1969

It was fifty-one years ago at this time, exactly eleven o'clock in the morning, that the drums of the First World War were muffled and peace and security returned for a fleeting moment to a troubled world. November 11, 1918 brought an armistice between the warring powers following a senseless struggle that left a toll of over twenty million dead and wounded on both sides. Peace had been purchased with the lives of 56,000 Americans and the blood of 200,000 others in this supreme effort to end all wars and make the world safe for freedom and democracy.

These men had answered the call to duty and unselfishly served their country to defend the heritage of freedom and liberty which their ancestors had purchased at Valley Forge, Gettysburg and San Juan Hill. These were the "Doughboys" of song and fame, who had gone "over there" and fought with valor at Chateau-Thierry, Belleau Wood and in the Argonne.

Following World War I all Americans hoped that peace purchased at such a high price would endure for all time. Unfortunately, this was not to be. The injustices of the Versailles Treaty, failure of the League of Nations, and effects of a worldwide depression created conditions which led to the rise of totalitarianism in Germany, Italy and Japan. The Nazism of Hitler in Germany, the Fascism of Mussolini in Italy and the Militarism of Hirohito and Tojo in Japan began to destroy the bulwarks of self-determination and rights of free people everywhere. By 1941 the failure of collective security, isolationism of the United States and the appeasement of aggressor states by Western Democracies led to a series of events culminating with the surprise attack on Pearl Harbor.

Again, in a new World War, America called upon her youth to make the supreme sacrifice in defense of their country. Over sixteen million men were mobilized. One out of every five hundred Americans, some 407,000 of our youth died in this conflict in order that we might be free and enjoy the advantages of the affluent life we share today.

Many of these men who fought with valor or died in glory on the Beaches of Normandy, at Monte Cassino in Italy, at Bastogne in Belgium and at Iwo Jima, Tarawa or in the Coral Sea of the Pacific region were your Fathers or relatives. They purchased our freedom at the tremendous price of over one million casualties. When the smoke of battle had cleared and sanity had returned to a troubled world, it appeared that with a world organization, the United Nations, peace would surely come at last.

This dream was shattered just five years later when Communist aggression in Korea once more committed the youth of our nation to combat; this time in defense of democracy and freedom against the Russian and Chinese backed North Koreans. This undeclared war to defend allies and friends, the South Koreans, cost us another 33,000 dead and 103,000 wounded. Once more we had temporarily stopped aggression, but it was a pyrrhic victory. Failure to win a just and lasting peace in Korea only encouraged a new wave of Communist aggression in South Vietnam. The enemy was different, but the tactics of World Communism remained the same. The forces of North Vietnam have sought to take over and destroy a small peace loving country by force. Once more the United States has assumed the responsibilities of a freedom loving nation and is supporting the efforts of this oppressed backward state to throw out an invading force.

In championing freedom in this part of the world we are seeking the same rights of self-determination which we fought for in World Wars I and II. Forty thousand of your brothers, friends and country-men have died in South Vietnam seeking to stop aggression and hoping to prevent a possible Third World War. Yes, these veterans have met the responsibilities of citizenship and duty to God and country without evasion. They have upheld the ideals upon which the foundations of our democracy have been built. This supreme sacrifice of life and blood is your heritage to honor, preserve, and keep for future generations.

The Armistice Day of old is today called Veterans Day and it is fitting that we pause and pay respectful tribute to those brave men, past and present, who have given the full measure of devotion to their nation.

Let us honor them by reaffirming:

Pride in our heritage;

Pride in our country and its principles and ideals;

Pride in ourselves as Americans, and

Faith in our elected leaders.

Will you join me now as together we pay silent tribute to the memory of Americans who have died and pray in our own way for the safe return of fathers, brothers and friends now serving the cause of freedom in Vietnam. (Pause for moment of silence.) And now fellow Americans remain standing for our National Anthem.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

TAX REFORM ACT OF 1969

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. The clerk will state the unfinished business.

The BILL CLERK. H.R. 13270, the Tax Reform Act of 1969.

The Senate resumed the consideration of the bill.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that there be a brief quorum call, the time to be equally divided by both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

The question is on agreeing to the amendments of the Senator from Illinois (Mr. PERCY), which are being considered en bloc. The time of 1 hour beginning at 10:30 o'clock a.m. has been allocated to the consideration of the amendments, the time to be divided equally between the Senator from Illinois and the Senator from Louisiana (Mr. LONG).

Who yields time?

Mr. PERCY. Mr. President, I yield myself 5 minutes.

Mr. President, I should like to explain, first, the background of my having become involved in a tax matter. I am not a member of the Finance Committee, but all Senators are deeply involved in matters affecting the raising of revenue and the taxation of our citizens.

During the course of a rather long campaign in 1966, I mentioned many times my great desire to rectify, at some point, an inequity in the tax laws, which, for over 20 years, have maintained the $600 personal exemption.

The cost of raising a child or maintaining a dependent in the intervening years has increased greatly, and for that reason it has been my hope that we could, at some appropriate point, increase that personal exemption.

I have not done anything about it for the last 2½ years while in the Senate, simply because I felt we could not do it at a time when we faced a budget deficit, and that it would be irresponsible to do it under those conditions. But now, when a tax reform bill is before us, a bill which is, as the chairman of the Committee on Finance has said, the third most important tax measure ever to be considered by Congress, it seemed to be the proper time to do it. So long as I could be assured that it could be done on an equitable and fiscally sound basis, I felt it wise to do so.

I commended, last week, the distinguished Senator from Tennessee (Mr. GORE), for his initiative and his leadership in this area, but indicated to him that his amendment was of deep concern to me; that I certainly could not support a $1,000 exemption; and that I was concerned about supporting any exemption which would have an adverse effect upon the fight against inflation.

It is for that reason that, working with experts from the Treasury Department, I have tried to develop a balanced program, and I have compared this program with the letter from the President yesterday.

The President asked that several tests be met. He asked that the legislation on tax reform be meaningful, that it be equitable and fair, that it be fiscally responsible, that it be consistent with efforts to control inflation, and that there be even-handed tax rate reductions in all income brackets, affecting all American taxpayers. It is my earnest belief that the four amendments I have offered would actually accomplish those objectives.

As I have carefully analyzed the amendment offered by the distinguished Senator from Tennessee, I feel compelled to vote against that amendment, even though I am on record as favoring an increase in the personal exemption, because of the tremendous revenue loss impact it would have in the critical years of 1970 and 1971, when we still certainly will not have won the battle against inflation.

As to whether the amendments that

I offer are meaningful, I can only turn to the tables that have been placed on the desk of each Senator, reprinted from page 36446 of yesterday's RECORD. From those tables, it certainly can be demonstrated that the committee bill and the Gore amendment—and, I trust, the Percy plan—seek in every way to provide an equitable tax reduction for all Americans. But in those areas of great need, the low-income groups, there is a slight improvement in the pending amendments I have presented. They show that 73.7 percent tax relief is provided, as against very nearly the same percentage—the difference is almost immeasurable—of 72.5 percent in those offered by the Senator from Tennessee.

Again, in the area of income of $3,000 to $5,000, there is a slightly improved tax relief position, and in the area of $5,000 to $7,000 incomes, a more considerable increase—now 3.3 percentage points—over the proposal of the distinguished Senator from Tennessee.

In the area of $7,000 to $10,000 incomes, there is even greater disparity—22.1 percentage points relief as against 16.2 in the Gore proposal, and 10.9 in the committee bill. So I believe the test of meaningfulness has been met.

I want to make it perfectly clear that I feel quite certain the administration would prefer the Finance Committee bill. It feels that this bill has been worked on very carefully, and that, without any question, it has the least inflationary impact in the first 2 years.

But if we are to have personal exemptions, then I would feel that the administration and the Treasury Department would feel that, of the two choices that might be presented to us, the amendments that I have offered are more helpful and more meaningful, in the balanced sense that the President has discussed.

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

Mr. PERCY. I am happy to yield to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. PERCY. Will the Senator make his statement on his own time?

Mr. LONG. I yield the Senator from Tennessee 1 minute for colloquy.

Mr. GORE. The distinguished senior Senator from Illinois made a statement which I am sure he will wish to correct. He stated that the amendment I have proposed would have a terrific inflationary impact in 1970. The record shows that, within the bill, there would be a balance in 1970, as nearly as one can arrive at a balance, between the additional revenue to be received as a result of reforms in the bill and the revenue decrease resulting from my amendment.

In other words, if the Senator will look on page 16 of the committee report, he will find——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GORE. I ask for 1 additional minute.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. I yield the Senator 1 minute.

Mr. GORE. He will find that in 1970 there is a revenue pickup of $3,900,000,000 from the bill. My amendment, as the Senator will see in the table prepared by the staff on page 36446 of yesterday's CONGRESSIONAL RECORD, involves a loss of revenue in 1970 of $4 billion. So that is as nearly even as one can calculate, and I hope the Senator will retract his statement.

Mr. PERCY. I have been provided with figures——

The PRESIDING OFFICER. Who yields time?

Mr. PERCY. I yield myself 2 minutes.

I have been provided figures by the Treasury Department—and they are reprinted on page 36446 of the RECORD, a reprint of which is on each Senator's desk—which show that in 1970, the net revenue effect of the committee bill is $1.7 billion, the net effect of the Percy amendments is $2.3 billion, and the net effect of the Gore amendment, $4 billion. So there is a great deal of difference between the various positions.

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

Mr. PERCY. I yield.

Mr. GORE. The Senator is misreading the table. Those are not net revenue figures. This is the gross revenue loss by the three amendments, but it is not net. To measure the net, it is necessary to compare the table with the income-producing provisions of the bill.

Mr. PERCY. I wonder if the distinguished Senator would care to give us the figures for 1971.

Mr. GORE. First let us agree about 1970. Does the Senator agree that the figures he cited as net on page 36446 are not in fact net revenues, but, on the contrary, are gross?

The PRESIDING OFFICER. Who yields time?

Mr. PERCY. I yield myself 2 additional minutes.

I see the point of the Senator from Tennessee, and there does seem to be a balancing out, in 1970, with the figures on page 16 of the committee report.

Mr. GORE. Then, before we go forward, I hope the Senator will correct his statement that my amendment will have a terrific inflationary effect in 1970. That simply is not supported by the facts.

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

Mr. PERCY. I yield 1 minute to the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, do I correctly understand that the impact of the amendment of the Senator from Tennessee concerning the revenue effect or the shortfall is similar to the impact or the shortfall in the committee bill?

Mr. GORE. As nearly as estimates can be made. The revenue increase from the bill would be $3.9 billion. The revenue loss from my amendment would be $4 billion. So there is a difference of $100 million.

Mr. RIBICOFF. I wonder if the distinguished Senator from Louisiana at this moment might yield me 3 minutes to make an inquiry of the distinguished Senator from Tennessee, so that I will not deprive the Senator from Illinois of time.

Mr. LONG. Mr. President, I yield 2 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 2 minutes.

Mr. RIBICOFF. Mr. President, the figures that we find in the table, showing the difference between the impact of the amendments of the Senator from Tennessee and the Senator from Illinois, are very confusing.

Would the Senator from Tennessee enlighten the Senate as to the differences and the impact of the actual differences in tax savings between his proposal and the proposal of the Senator from Illinois? What would they do for the average taxpayer of the country? We cannot find that information in the table.

Mr. GORE. Mr. President, the revenue effect of the Percy amendments would be an eventual revenue loss of $12.8 billion. The ultimate effect of the amendment I propose would mean a revenue loss of $8.9 billion from the tax reduction provisions.

The Senator will find that information on page 36446. In the last three figures in the second column, the Senator will see that the committee bill, the Gore substitute, and the Percy amendments are compared.

The figures are as follows: For the Percy amendments, $12.8 billion; for the Gore amendment, $8.9 billion; for the committee bill, $9 billion.

Mine is the lowest of the three. It is smaller than the committee figure by $100 million.

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

Mr. PERCY. Mr. President, I yield 1 minute to the Senator from Michigan.

Mr. GRIFFIN. Mr. President, the distinguished Senator from Tennessee has made some points which no one disputes. Over the long haul, over a 4-year period, in terms of revenue loss, I believe the estimated figures would be as stated. However, let us talk about the first 2 years, which are of particular concern to the administration at this time because of the effort to fight inflation.

Frankly, I do not fully understand the colloquy which took place a few moments ago. However, I do understand this: That in the first year there would be a revenue loss under the Gore amendment of $2.3 billion as compared with the committee bill?

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

Mr. PERCY. Mr. President, I yield myself 1 minute. I would like to try to answer that question.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 1 minute.

Mr. PERCY. Mr. President, if we took the figures for the 4-year period, the committee amendment would provide in revenue loss $24.8 billion; the Gore amendment, $29.3 billion; and the Percy amendments $29.3 billion.

So there is an equation there between the two amendments over the period of 4 years. However, the impact can be readily seen. The impact of my proposal would be mostly in 1972 and 1973, and very

little in 1970 and 1971, whereas the impact of the proposal of the distinguished Senator from Tennessee would be all in 1970 and 1971, simply because he would provide full personal exemption in those years.

I have delayed the impact of the personal exemption in my proposal, feeling that we cannot afford to do this and cannot charge against the poor of the country that kind of inflationary cost in the next 2 years.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. LONG. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 2 minutes.

Mr. LONG. Mr. President, I was under the impression last night that the amendment of the Senator from Illinois was offered as a perfecting amendment to the substitute. However, in looking at the RECORD this morning and discussing the matter with the Parliamentarian, I am dismayed to find that the amendment was offered as an amendment to the committee bill.

I have no doubt that we would have a better bill without the Gore or Percy amendments. For that reason, I must be constrained to vote against the amendments of both Senators.

The Percy amendment, in the short run, is much more responsible from the point of view of the committee. In the first 2 years, the Percy amendment would lose $900 million more than the committee bill whereas Senator GORE's amendment would lose $6.1 billion more than the committee bill. Not only that, Senator GORE's amendment can hardly be considered an improvement on the carefully constructed committee bill. This amendment strikes out the increase in the standard deduction which benefits people in the middle-income tax bracket and simplifies the law for them. In fact, there is no improvement on the bill under the amendments of either Senator.

I think the committee bill provides the desirable element of simplification that the amendments of both Senators would eliminate, at least for the immediate future. In that respect they are the same. I do not think they improve the bill.

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

Mr. LONG. I yield.

Mr. PERCY. Mr. President, I did not propose in my amendment to strike out the standard deduction. It is simply delayed and phased in later.

Mr. LONG. It would be delayed for 2 years.

Mr. PERCY. It would be delayed for 1 year. My amendment would preserve the principle but try to lighten the impact early in the period.

Mr. LONG. Mr. President, while the Percy amendment would be an improvement on the Gore amendment, in my judgment, it is not an improvement on the committee bill. In that respect, the committee bill would be better without the amendments of either Senator.

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

Mr. LONG. Mr. President, I yield myself an additional 2 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for an additional 2 minutes.

Mr. LONG. Mr. President, the Gore amendment would cost $2.3 billion more than the committee bill the first year, and $3.8 billion more than the committee bill the second year, or an excess of $6.1 billion in the first 2 years.

Looking at the situation, I would say that in any event the Government will need that money. If we do not get the revenue that the committee bill would provide, we will have to raise taxes on someone. While we can reduce taxes, it does not make much sense to reduce taxes so much that we will later have to pass a tax increase bill.

That was a mistake that was made 5 years ago. We reduced the taxes so much that we had to come in 4 years later with a big tax increase bill. It is politically very unwise to cut taxes so much in 1 year that we have to come back 2 or 3 years later with a big tax increase bill. I would have to object to the amendments of both Senators in that respect.

I might regard the Percy amendment as an improvement over the Gore amendment, but it is not being offered in that manner. It is being offered as an amendment to the committee bill. That being the case, I would feel constrained to vote against it. The Gore amendment is superior to the Percy amendment in one respect, however. The revenue shortfall is not as great as the Percy amendment over the long pull—it would cost no more than the committee bill by 1972. But the Percy amendment would cost $6.1 billion more than the committee bill by 1973. In the short run, however, the Gore amendment, as I have previously indicated, loses considerably more than the committee bill. From a revenue standpoint, both amendments have serious flaws. I should think that we would have to get that revenue back from somewhere.

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

Mr. LONG. Mr. President, I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 1 additional minute.

Mr. LONG. Mr. President, if the Percy amendment were adopted, the committee would then be required to bring before Congress a bill to increase taxes by even more, in the long run, than we would be required to do in the case of the Gore amendment. So, speaking for the committee, it seems to me that we are faced with a choice between two brands of arsenic. It does not make much difference which one be agreed to.

Either would still eliminate some or all of the desirable features contained in the bill. In speaking for the committee and for the committee bill, there is no doubt in my mind that we have a better bill, a bill that would take care of the low-income people and take them off the tax rolls, giving an across-the-board increase in the standard deduction, which helps those in the middle-income bracket very substantially, and then provides a rate reduction of at least 5 percent which would help all taxpayers.

I yield such time as he may require to the Senator from Delaware. How much time does the Senator require?

Mr. WILLIAMS of Delaware. Five minutes.

Mr. LONG. I yield 5 minutes to the Senator from Delaware.

Mr. WILLIAMS of Delaware. Mr. President, I concur in what the chairman of the committee has said. I hope the Senate will reject both proposals.

I compliment the Senators on their ability to come up with a tax suggestion in 24 hours. When I recall how our committee labored for 12 weeks, I marvel, with all respect, at the ability of my colleagues who can produce a substitute bill in 24 hours.

I point out that both these proposals are fiscally irresponsible. The Gore proposal, it is true, would result in the loss of less money after the first 2 years, but it still loses approximately $6 billion more than the committee bill in the first 2 years. Certainly we cannot afford that loss.

I placed in the RECORD yesterday a letter from the administration, indicating that it cannot accept that loss in revenue. We just do not have the money and will have to borrow the money to finance that extra tax reduction.

On the other hand, the Percy proposal would result in the loss of $900 million more than the committee bill in the first 2 years. We do not have the $900 million to lose. In addition, after it had become fully implemented 4 years from now, the Percy proposal, while it would lose less money in the first 2 years, would lose $3.7 billion annually more than the Gore amendment and more than the committee bill for an indefinite period in the future—$37 billion over 10 years. Let us project it right. Why approve a tax reduction today that is not scheduled to go into effect until 1973?

I think we are living in the "promise" land. If we can afford to cut taxes 3 or 4 years from now I have enough confidence in Senators who will be sitting at that time to believe that they will not be bashful about cutting taxes. It seems to me that it is a false promise now to tell people that we are going to cut their taxes 3 years from now. I realize that every election year is a promising year, but if this is an indication of what promises we are going to have next year I wonder where we are going. We do not have the money to cut taxes as proposed in either the Percy or the Gore amendment.

Perhaps the committee bill goes further than it should, but we are not going to improve the committee bill by expanding it. I hope that both these proposals will be defeated.

Lest there be any misunderstanding as to the administration's position, let me say that I talked to members of the administration this morning, and they are strongly opposed to both the Gore amendment and the Percy proposal.

Mr. LONG. Mr. President, will the Senator yield on my time?

Mr. WILLIAMS of Delaware. I yield.

Mr. LONG. Mr. President, I have had the experience of seeing how easy it is to reduce taxes, especially when the administration requested it, even when we have a budgetary deficit. One experience we never have had is a chance to see how easy it is to cut taxes if we have a surplus. Considering how easy it is to reduce taxes when we have a deficit, it seems to me that it would be like duck soup to reduce taxes when we have a surplus.

Mr. WILLIAMS of Delaware. I am not worrying about the ability or the willingness of Congress to cut taxes if and when we have the available revenue. I am worried about the ability or the willingness of Senators to cut expenditures so that we can then really cut taxes. I say to all my friends who are in support of cutting taxes that if they will only join some of us in cutting expenditures we will help them to give a tax reduction. Let us not get the cart before the horse because we will not go anywhere.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. CURTIS. Is it not true that either plan of tax reduction, the one proposed by the distinguished Senator from Tennessee or the one proposed by the distinguished Senator from Illinois, will have to be paid for by borrowing the money?

Mr. WILLIAMS of Delaware. That is correct. In order to finance the extra loss in revenue that is involved in raising these exemptions we will be forced to borrow the money, and at today's rates we are paying approximately 8 percent interest.

But even if we pay only 7 percent it means that we will have to pay more than $1 million a day interest on the money we borrow to finance this proposed tax reduction.

Mr. CURTIS. In this one amendment.

Mr. WILLIAMS of Delaware. In this one amendment.

The people back home are not so dumb that they think they can be given a tax reduction on borrowed money. I think they have more sense than some Members of Congress.

Mr. CURTIS. I should like to point out that a great many people in public life, Members of the Senate, and of the House, no doubt have expressed themselves back home as favoring an increase in the personal exemption. But I doubt whether any Senator has ever gone back home and said, "I am in favor of raising the personal exemptions, if we have to borrow the money to do it, and increase the national debt."

Mr. WILLIAMS of Delaware. That is the point I make. The people will not accept that. They want us to cut spending first. They recognize that as the first and most essential step.

Mr. CURTIS. As a matter of fact, the entire discussion of whether or not to reduce taxes becomes a matter of how much more debt burden will be placed on the people unless the budget is balanced.

Mr. WILLIAMS of Delaware. The Senator is correct.

I am seriously considering offering an amendment along with the Senator from Nebraska, and I think it would be a good amendment. It would provide that whatever tax reduction we approve would be effective if and when we balance the budget. Then we will see just how close we are really going to cut taxes.

Our national debt is still rising. Last year we had to increase our debt and borrow approximately $7 billion to finance the deficits. We are running an average deficit this fiscal year of $500 to $600 million per month to finance the Government. It seems to me to be fiscally irresponsible to talk about reducing taxes further at this time.

I ask that the amendments of both Senators be rejected.

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

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. JAVITS. Will the Senator yield me 1 minute?

Mr. PERCY. I yield 1 minute to the Senator from New York.

Mr. JAVITS. Mr. President, I have not participated in this particular aspect of the debate, but I do wish to record my views for the benefit of the Senate and my own constituents.

I wanted to support Senator PERCY's amendment as the lesser of two evils. My difficulty is—if it were carried—it would not be voted on again. On the fundamental proposition of tax reduction under the guise of a tax reform, I must say that the position taken by the Senator from Delaware, by other Senators, by myself and by my own constituents, makes much more sense. What we started to do was legislate tax reform and here we are legislating tax reduction—this does nothing to distribute the income tax burden more equitably among our citizens. In addition, this type of tax reduction produces far greater tax benefits for higher income taxpayers and may therefore undo what we are really trying to do—make the tax burden for all taxpayers more equitable. The Gore amendment also would work inequitable tax effects for the single taxpayer. The average married couple without children, and even the middle-income taxpayer with two children. We also have not deliberated or discussed its economic effect, and its economic effect is going to be bad.

For whatever it is worth to the Senate—I come from a highly populous State, having only two Senators but 41 Representatives—I do not think the people of my State sent me here to be foolish. I believe the people of my State understand that we cannot correct the whole inflationary situation by these votes; but I was not sent here to worsen it and the amendments we are considering would do just that. It is my profound judgment that we will seriously worsen the inflationary situation in our country, and will lose infinitely more for the very same families that we think we are going to benefit, if we at this time make a tax-reform bill into a tax-cutting bill. I hope the Senate will not do that.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield me 2 minutes?

Mr. LONG. I yield 2 minutes to the Senator from Delaware.

Mr. WILLIAMS of Delaware. I concur in what the Senator from New York has just said, but I call his attention to the fact that if the Percy amendments were offered as a substitute for the Gore amendment, the choice would be different. But the Percy amendments are offered as a substitute for the committee bill. The Percy amendments would lose an extra $900 million revenue in the first 2 years, and in the third year they would gain $300 million according to the staff study, but after that there would be a loss of $3.7 billion annually. So the Percy amendments do go much further in cutting taxes than the committee bill. The committee bill went as far as we thought we could stand, and some of us questioned the wisdom of going even that far.

Some Senators have the impression that they are voting as between the Percy amendments and the Gore amendment. That is not the choice before us. The choice is the Percy amendments or the committee bill; and then it will be the Gore amendment or the committee bill.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. JAVITS. Mr. President, I think the choice is practically political. That is what I was talking about. I do understand the parliamentary situation, and I did understand it in making my comments.

The PRESIDING OFFICER. (Mr. GRAVEL in the chair). Who yields time?

Mr. LONG. Mr. President, I yield to the Senator from Wyoming.

The PRESIDING OFFICER. How much time does the Senator yield?

Mr. LONG. I yield 2 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. HANSEN. In terms of service, I am the youngest member of the Committee on Finance, and I wish to make clear my position. I am just as eager to do something that will truly help the beleaguered taxpayers of this country as anyone else, but I cannot be so deceitful as to suggest and support a course of action that will do precisely the opposite of that which we ostensibly intend to do.

I think that to pass a tax-cutting bill on the premise that we are doing something for the people of the country, which, in effect, would further feed the fires of inflation, and lessen the value of the dollar, will have exactly the opposite effect from what has been promised and proclaimed by some supporters of the Percy amendment and the Gore amendment.

I shall vote against the amendments of both Senators because they are deceiving. They cannot deliver what they would presumably attempt to deliver. They will not bring tax relief to the people, but rather a further budgetary imbalance which will add more to the inflationary pressures that are eating away so disastrously at the purchasing power of the people of the country.

Mr. President, I would like to underscore what the Senator from New York

said. He is precisely correct. I wish to associate myself with the remarks of the distinguished Senator from Delaware and the distinguished Senator from Nebraska. If we are to be honest with ourselves, we have to recognize that we cannot cut taxes, add to inflation, and still help the people.

The PRESIDING OFFICER. Who yields time?

Mr. PERCY. Mr. President, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 4 minutes.

Mr. PERCY. Mr. President, first, I wish to explain to the distinguished Senator from Louisiana that it was my intention to offer these amendments as a substitute for the amendment offered by the Senator from Tennessee. I was frustrated in this attempt by his offering of an amendment as a substitute for his own amendment. Therefore, there was no parliamentary way in which I could proceed other than to offer perfecting amendments to the bill itself. This was not a choice of mine; it was the only means available to make certain there could be a consideration of the amendments and a vote.

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

Mr. PERCY. I yield.

Mr. LONG. Could not the Senator from Illinois have offered his proposal as an amendment to the first Gore substitute? I wish to address that question to the Chair. Is that correct? I ask the question on my time.

The PRESIDING OFFICER. The Senator from Illinois could have offered his amendment to the first amendment of the Senator from Tennessee (Mr. GORE)—to strike out and insert.

Mr. LONG. Yes.

Mr. PERCY. But I was unable to do that once the Senator from Tennessee had offered his own substitute.

Mr. LONG. Mr. President, once again I wish to address a parliamentary inquiry. Could not the Senator have offered amendments in the nature of perfecting amendments to the first Gore amendment, while the first amendment was pending, and would not the Senate have voted on the substitute in the nature of a perfecting amendment prior to voting on the substitute offered by the Senator from Tennessee?

The PRESIDING OFFICER. The Senator is correct.

Mr. PERCY. That knowledge was not available to me at the time. Of course, I would have preferred to do it that way. Faced with the emergency we had on the floor of the Senate, we did present it in the way that seemed best, with the advice we had at hand.

But as to whether or not these amendments are deceiving, I wish to say there is nothing deceiving about them. All of the schedules have been clearly laid out. The revenue cost has been clearly indicated, and the benefits to be gained have been laid out in tables, as well.

I should like to comment on the remarks by several members of the Committee on Finance that they do not consider this a tax-cutting bill. I do not see that at all, because in the table on page 36446 it is clearly indicated that the bill of the Committee on Finance provides tax relief of $24.8 billion over a period of 4 years. The Gore amendment and the Percy amendments provide tax relief of $29.3 billion. Therefore, it is a matter of degree and not of kind; there is a $4.5 billion difference.

What we clearly have done is simply to indicate that some consideration should be given, especially to families with dependents and particularly families with children; and that there should be some equitable adjustment of the personal exemption which has not been adjusted for over 20 years. This is clearly indicated by the table at the bottom of the same page, which I have already mentioned, which indicates tax relief provided by income levels, and the tax relief is provided where it is most needed, at the lower-income levels. It also takes into account families with children who, as I understand it, have for many years felt it inequitable to try to raise a child on $600 a year. It cannot be done. In this respect the Senator from Tennessee and I concur.

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

Mr. PERCY. Mr. President, I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator is recognized for 1 additional minute.

Mr. PERCY. Mr. President, the cost of $900 million in the first 2 years is not fiscally irresponsible. Many things have been done in this schedule, so we have shifted other tax relief to later years. It can be brought forward if we wish to, but the revenue impact in my amendments is felt in 1973, and if by that time we cannot recover the additional relief that has been granted to individuals, the situation always can be rectified. However, the effect on revenues by the amendment of the Senator from Tennessee cannot be rectified. That will have its impact in 1970 and 1971 and it will substantially affect those years. If ways cannot be found to cut the expense or to have other revenue come in, there would simply be a net effect on the budget that could be very difficult. Under my amendments the greatest effect would be in 1973.

I do not feel that $900 million is fiscally irresponsible. I want to stay fiscally responsible. I am not up for reelection in 1970. In a large tax bill providing overall tax relief, I am trying to fulfill a pledge to take into account families with children. They should have additional relief.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. WILLIAMS of Delaware. Let us vote.

Mr. GOLDWATER. Mr. President, will the Senator from Illinois yield, so that I may ask a question?

Mr. PERCY. I yield.

Mr. GOLDWATER. Earlier this morning, I recall that the leadership position, which I assumed to be the Republican position on the Percy amendments, was in favor. It was confusing to me. I telephoned the White House, and I was told it is not the Republican position.

Will the Senator from Delaware clarify that?

Mr. GRIFFIN. Mr. President, will the Senator from Illinois yield to me so that I may respond?

Mr. PERCY. I yield.

Mr. GRIFFIN. Mr. President, I wish to make clear to the Senator from Arizona that the message was in error. A clarifying call was made to the Senator's office a few minutes later. Perhaps the Senator did not receive the message indicating that the Senator from Pennsylvania (Mr. SCOTT) and I were going to vote for the Percy amendments, and conveying the information which the Senator from Delaware received this morning that the official position of the administration is against both the Gore amendment and the Percy amendments.

I am sorry if the Senator from Arizona did not get that clarification. The first message was not correct.

Mr. GOLDWATER. Mr. President, I thank the Senator. It was a confusing statement. It confused me, but I left my office before the second call.

Mr. PERCY. Mr. President, because the Senator was not in the Chamber at the time of my opening remarks, I made perfectly clear that the administration, I felt quite confident, would prefer to stay with the committee bill as it stood, but that as there was this personal exemption in the bill, they would have preferred, in my judgment, the Percy amendments over the Gore amendment because of its impact in early years.

Mr. WILLIAMS of Delaware. I do not know what the administration prefers here; whether they prefer to be "shot or hung." They hope that the amendments of both Senators will be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. PERCY. Mr. President, I yield myself 3 minutes to summarize the position I have taken.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 3 minutes.

Mr. PERCY. I fully concur with the administration's program of fighting inflation. I fully concur with everything that has been done to try to hold down expenses. The military cuts which have been made are meaningful. The $3 billion of expenses taken out have been hard to take out, but I have supported the administration in reducing military expenses. We still have a long way to go in rectifying national priorities and cutting back on further military expenditures. I would hope that the Vietnam expenditures could be reduced substantially over the next few years. So I feel, in presenting tax relief, the large part of which will be delayed until 1973, that we can foresee areas which can be cut out of the budget. The increased revenues can be brought in as the gross national product increases, and we can easily absorb that $3,700 million expense by 1973.

I feel that further reductions in expenses can easily be made to meet the $500 million expense of my amendment

in 1970 and the $400 million expense in 1971.

I present the amendments only on the premise that we can have not only a balanced budget but also a surplus, and show that we can fiscally manage our house in a way that can fight inflation. We have not won the battle against inflation yet, but we see indicators now that seem to indicate that the continued battle that has been waged by the administration is beginning to be won. I have supported the restraint that has been shown in public works expenditures and other areas of meaningful cuts; but I think that when we take a tax bill of this consequence, the third most important tax bill that Congress has ever considered, if we are to provide, over a period of 4 years, for some $4.8 billion in tax relief, we should then give some consideration to families with children.

The United States is one of the few countries in the world today that does not make that extra provision for families having large numbers of children.

I think that the Percy amendments will benefit every category of taxpayer. They will benefit the single person. They will benefit married people without children.

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

Mr. PERCY. I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 2 additional minutes.

Mr. PERCY. My amendments will benefit married people with children in the low-income brackets and in the middle-income brackets. I, therefore, feel they are balanced with equitable and can meet the tests which have been set by the President, tests which are absolutely sound and should be met.

This is, first, meaningful legislation. It meets all categories of need.

Second, it is equitable and fair.

Third, it is fiscally responsible.

Fourth, it is consistent with the administration's efforts to control inflation, and with that I am wholeheartedly in sympathy. It provides even-handed tax rate reduction in all income brackets.

For these reasons I present the amendments. I feel that their adoption would be to preserve all of the good work of the Finance Committee. All the major provisions which have been worked into the committee report, and into the legislation now before the Senate, are in these amendments although they will be delayed, so that their early effect will not adversely affect the balance we now have in the budget, a budget which is precarious.

Mr. DOLE. Mr. President, will the Senator from Illinois yield to me for the purpose of offering an amendment to his amendments?

Mr. PERCY. I should be very happy to yield. I do not know how we can complicate the picture any more, but possibly this will.

The PRESIDING OFFICER. The Chair would advise the Senate that the amendment can be discussed at this moment, but it cannot be offered until all time has been yielded or used by both sides.

Mr. PERCY. I yield 2 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 2 minutes.

Mr. DOLE. Mr. President, I have an amendment at the desk that I will offer at the appropriate time. My amendment provides the same relief as the so-called Percy amendments for the years 1970, 1971, and 1972. In 1973 it is the same except that it eliminates the personal exemption increase to $800 in the Percy amendment; my amendment ends with a personal exemption of $750 for 1972 and subsequent years.

My amendment has some advantages, I have listened to the debate between the Senator from Tennessee and the Senator from Illinois, recognizing that the committee bill, of course, is sound in most areas. I also recognize a deep feeling among Senators that something should be done to increase personal exemptions. Under the Percy amendments, there would be a $3.8 billion long-run loss over the committee bill. Under the amendment I shall offer, the long-run revenue loss will be $2.2 billion over the committee bill.

My amendment has several advantages over Senator GORE's amendment. Senator GORE's proposal for an increase in the personal exemption to $700 in 1970 and to $800 in 1971, combined with a low-income allowance phased out only in 1970 would produce a net revenue loss in calendar years 1970 and 1971 of approximately $6 billion compared to the committee bill; my amendment would produce a net revenue loss in calendar years 1970 and 1971 of about $1 billion as contrasted with the committee bill—a difference of $5 billion over the next 2 years. In view of our tight budgetary situation and the crucial need for fiscal restraint to combat inflation, the large short-run revenue loss of Senator GORE's amendment is not acceptable. Although my amendment has a long-run revenue loss of approximately $2.2 billion compared with the committee bill, it has reduced the long-term revenue loss of Senator PERCY's amendment by about $1.6 billion.

It is my view that the additional long-term revenue loss provided by my amendment is acceptable; the Congress will have the opportunity to review this proposal if the fiscal situation at that time has not improved, but I do not feel that given the present fiscal situation and our present inflation, a short-term revenue loss of the size which will result under the Gore amendment in the next 2 years can be tolerated.

In addition, my amendment, as does Senator PERCY's amendment, provides substantial simplification to many millions of taxpayers which will not result if the Gore amendment is adopted. Under my amendment it is estimated that about 11 million tax returns will switch to the standard deduction while only approximately 4.4 million returns will change from itemized deductions to the standard deduction under Senator GORE's amendment. My amendment will thus relieve over 6 million more taxpayers from itemizing their deductions. This will provide a substantial simplification benefit for each individual taxpayer.

Mr. MUSKIE. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. Mr. President, I yield 2 minutes to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized for 2 minutes.

Mr. MUSKIE. Mr. President, I have many questions about the Percy amendments. First of all, there will be a significant additional revenue loss of $4 billion more than the Gore amendment. More than that, that $4 billion additional loss will continue each year thereafter, at a time when I am sure we will be preoccupied with the cost of the domestic programs which we will need to rebuild our country here at home.

Second, I fear that the effect of the Percy amendments in terms of inflation may well be to stretch it out.

The assumption of the distinguished Senator from Illinois that inflation will be brought under control in the next year or two may be optimistic. If I am correct, then the projections of additional revenue losses 3 years from now, of the magnitude contained in the Percy amendment, may well stretch out inflation on the theory that the buyer who purchases today rather than tomorrow is doing so because it will cost more tomorrow.

An article published in this morning's Washington Post indicates that capital construction next year will rise over that of this year by 11 to 12 percent. This demonstrates the argument I have just made.

For these reasons, and others which I do not have time to mention—these two are preeminent—I shall vote against the Percy amendments.

Mr. GORE. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. I yield 2 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 2 minutes.

Mr. GORE. The amendments offered by the distinguished Senator from Illinois would postpone the benefits, I think unreasonably, to the low- and middle-income groups. This is how the newfound fiscal responsibility will be achieved. No rate changes would go into effect at all until 1972. And then what would be the tax reduction of a wage earner with approximately $5,000 in wages and a family of a wife and two children?

He would have an approximate tax liability of $100, and the Percy amendments would give him a reduction of one-fourth of 1 percent. That amounts to a quarter—one 25-cent piece. By 1973 and thereafter, it would be increased to half a dollar.

Mr. President, this is piddling business for the low-income brackets, and so could only serve as an excuse to cut the rates for the high brackets.

The PRESIDING OFFICER. All time on the amendments has expired.

Mr. DOLE. Mr. President, I call up an amendment to the Percy amendments.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment as follows:

On page 2, beginning with line 19, strike out all through line 21 and insert the following:

"(C) Increase to $750 for 1972 and subsequent years—effective with respect to taxable years beginning after December 31, 1971—"

On page 3, beginning with line 7, strike out all through line 19.

On page 27, line 1, strike out "in" and in lieu thereof insert "after".

On page 27, line 2, strike out "during" and in lieu thereof insert "after".

On page 27, beginning with line 4, strike out all that follows.

Mr. PERCY. Mr. President, I ask unanimous consent that my perfecting amendments be modified by incorporating the Dole amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

All time on the perfecting amendments has expired. The question is on agreeing to the perfecting amendments of the Senator from Illinois, as modified. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Arkansas (Mr. FULBRIGHT), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from Indiana (Mr. BAYH) is absent on official business.

I further announce that, if present and voting, the Senator from Arkansas (Mr. FULBRIGHT) and the Senator from Indiana (Mr. BAYH) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 23, nays 72, as follows:

[No. 164 Leg.]

YEAS—23

Aiken	Griffin	Percy
Baker	Gurney	Prouty
Bellmon	Hartke	Schweiker
Boggs	Hatfield	Scott
Dole	Mathias	Smith, Ill.
Fannin	McIntyre	Stevens
Fong	Murphy	Young, N. Dak.
Goldwater	Packwood	

NAYS—72

Allen	Gravel	Montoya
Allott	Hansen	Moss
Bennett	Harris	Muskie
Bible	Hart	Nelson
Brooke	Holland	Pastore
Burdick	Hollings	Pearson
Byrd, Va.	Hruska	Pell
Byrd, W. Va.	Hughes	Proxmire
Cannon	Inouye	Randolph
Case	Jackson	Ribicoff
Church	Javits	Russell
Cook	Jordan, N.C.	Saxbe
Cooper	Jordan, Idaho	Smith, Maine
Cotton	Kennedy	Sparkman
Cranston	Long	Spong
Curtis	Magnuson	Stennis
Dodd	Mansfield	Talmadge
Dominick	McCarthy	Thurmond
Eagleton	McClellan	Tower
Eastland	McGee	Tydings
Ellender	McGovern	Williams, N.J.
Ervin	Metcalf	Williams, Del.
Goodell	Miller	Yarborough
Gore	Mondale	Young, Ohio

NOT VOTING—5

Anderson	Fulbright	Symington
Bayh	Mundt	

So, Mr. PERCY's perfecting amendments, as modified, were rejected.

AMENDMENT NO. 342

Mr. COTTON. I send to the desk an amendment, and ask that it be printed and lie on the table.

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

AMENDMENT NO. 547

Mr. McINTYRE. Mr. President, yesterday I submitted an amendment to the pending bill, and it was received and ordered to lie on the table. I ask unanimous consent that the text of the amendment be printed in the RECORD.

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

On page 350, after the matter following line 22, insert the following new section:

"SEC. 508. DENIAL OF PERCENTAGE DEPLETION FOR FOREIGN OIL AND GAS WELLS

"(a) IN GENERAL.—Section 613(b)(1) (relating to percentage depletion rate for oil and gas wells) is amended by inserting after 'oil and gas wells' the following: 'located in the United States, in its possessions, in the Commonwealth of Puerto Rico, or on the Outer Continental Shelf (within the meaning of section 2 of the Outer Continental Shelf Lands Act, as amended and supplemented; 43 U.S.C. 1331).'

"(b) TECHNICAL AMENDMENT.—Section 613(b)(7) (relating to minerals, etc., entitled to 15 percent rate of percentage depletion) is amended—

"(1) by striking out 'or' at the end of subparagraph (A);

"(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof'; or'; and

"(3) by inserting after subparagraph (B) the following new subparagraph:

"'(C) oil and gas wells.'

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1969."

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that on December 1, 1969, the President had approved and signed the following acts:

S. 499. An act for the relief of Ludger J. Cossette;

S. 632. An act for the relief of Raymond C. Melvin; and

S. 757. An act for the relief of Yvonne Davis.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer laid before the Senate a message from the President of the United States submitting the nomination of Donald S. Lowitz, of Illinois, to be an Assistant Director of the Office of Economic Opportunity, which was referred to the Committee on Labor and Public Welfare.

TAX REFORM ACT OF 1969

The Senate continued with the consideration of the bill (H.R. 13270), the Tax Reform Act of 1969.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the amendment of the Senator from Tennessee (Mr. GORE). The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, I yield to the distinguished Senator from Iowa.

Mr. MILLER. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MILLER. Mr. President, during the debate yesterday, I indicated that I planned to offer an amendment which would incorporate a tax credit approach rather than an increase in the personal exemption.

Last evening, at the time the unanimous-consent agreement was entered into, I was not in the Chamber. Since that time I have had an opportunity to discuss this matter with the able Senator from Tennessee and Members of the leadership, they having no objection, and, I would appreciate it very much if I might have 20 minutes, 15 minutes for myself and 5 minutes for the Senator from Tennessee, to present a perfecting amendment.

Mr. MANSFIELD. I suggest that the Senator offer the amendment.

Mr. MILLER. Mr. President, I send my amendment to the desk.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Iowa? Without objection, it is so ordered. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendments.

Mr. MILLER. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

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

EXTENSION OF UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, after discussing the proposal of the Senator from Iowa with the distinguished Senator from Louisiana (Mr. LONG), the floor manager of the pending business, the distinguished Senator from Tennessee (Mr. GORE), whose amendment will be affected, and the distinguished Senator from Delaware (Mr. WILLIAMS), the ranking Republican member of the Committee on Finance, as well as with the leadership on the Republican side, I ask unanimous consent that, in addition to the previous unanimous-consent agreement, there be incorporated at this time a limitation of 20 minutes on the pending proposal of the Senator from Iowa (Mr. MILLER), the time to be divided so that he will receive 15 minutes and the Senator from Tennessee will receive 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. MILLER. Mr. President, I yield myself such time as I may require. I ask unanimous consent that the amendments be considered as read.

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

Mr. MILLER's perfecting amendment is on page 454, strike out line 5 and all that follows through page 497, and insert the following:

SEC. 801. CREDIT FOR PERSONAL EXEMPTIONS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable against tax) is amended by redesignating section 40 as section 41 and by inserting after section 39 the following new section:

"SEC. 40. PERSONAL EXEMPTIONS CONSISTING OF TAX REDUCTION

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, the exceptions provided by this section shall be allowed as a credit against the tax imposed by this chapter (other than the tax imposed by section 1201(b)(2)) for any taxable year beginning after December 31, 1970.

"(b) AMOUNT OF TAX REDUCTION.—The amount of tax reduction for each exemption shall be determined in accordance with the following table:

Taxable years beginning in—	Individuals (other than trusts)	Trusts required to distribute all income currently	Other trusts
1971	$140	$70	$23
1972 and thereafter	150	75	25

"(c) TAXPAYER AND SPOUSE.—An exemption consisting of a tax reduction for the taxpayer; and an additional exemption consisting of a tax reduction for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

"(d) ADDITIONAL EXEMPTION CONSISTING OF A TAX REDUCTION FOR TAXPAYER OR SPOUSE AGED 65 OR MORE.—

"(1) FOR TAXPAYER.—An additional exemption consisting of a tax reduction for the taxpayer if he has attained the age of 65 before the close of his taxable year.

"(2) FOR SPOUSE.—An additional exemption consisting of a tax reduction for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse has attained the age of 65 before the close of such taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

"(e) ADDITIONAL EXEMPTION CONSISTING OF A TAX REDUCTION FOR BLINDNESS OF TAXPAYER OF SPOUSE.—

"(1) FOR TAXPAYER.—An additional exemption consisting of a tax reduction for the taxpayer if he is blind (within the meaning of section 15(d)(3)) at the close of his taxable year.

"(2) FOR SPOUSE.—An additional exemption consisting of a tax reduction for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse is blind (within the meaning of section 151(d)(3)) and, for the calendar year in which the taxable year of the taxpayer begins has no gross income and is not the dependent of another taxpayer. For purposes of this paragraph, the determination of whether the spouse is blind shall be made at the time specified in section 151(d)(2).

"(f) ADDITIONAL EXEMPTION CONSISTING OF A TAX REDUCTION FOR DEPENDENTS.—

"(1) IN GENERAL.—An exemption consisting of a tax reduction for each dependent (as defined in section 152)—

"(A) whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than $600, or

"(B) who is a child of the taxpayer (within the meaning of section 151(e)(3)) and who (i) has not attained the age of 19 at the close of the calendar year in which the taxable year of the taxpayer begins, or (ii) is a student (as defined in section 151(e)(4)).

"(2) EXEMPTION CONSISTING OF A TAX REDUCTION DENIED IN CASE OF CERTAIN MARRIED DEPENDENTS.—No exemption consisting of a tax reduction shall be allowed under this subsection for any dependent who has made a joint return with his spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

(b) TERMINATION OF DEDUCTIONS FOR PERSONAL EXEMPTIONS CONSISTING OF TAX REDUCTIONS.—

(1) IN GENERAL.—Section 151(a) (relating to allowance of deductions for personal exemptions) is amended by inserting "for any taxable year beginning before January 1, 1970" after "taxable income".

(2) ESTATES AND TRUSTS.—Section 642(b) (relating to deduction for personal exemption) is amended by adding at the end thereof the following new sentence: "no deduction shall be allowed under this subsection for any taxable year beginning after December 31, 1969."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 4(a) (relating to number of exemptions) is amended by striking out "section 151 as deductions in computing taxable income" and inserting in lieu thereof "section 40 as credits against the tax imposed by this chapter".

(2) Section 37(a) (relating to retirement income) is amended by striking out "and" the last time it appears therein and by inserting ", and section 40 (relating to personal exemptions)" after "interest)".

(3) Section 46(a)(3) (relating to definition of liability for tax) is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting ", and" in lieu thereof, and by adding after subparagraph (C) the following new subparagraph:

"(D) section 40 (relating to personal exemptions)."

(4) Section 51(b) (relating to adjusted tax defined) is amended to read as follows:

"(b) ADJUSTED TAX DEFINED.—For purposes of this section, the term 'adjusted tax' means with respect to any taxable year, the tax imposed by this chapter for such taxable year—

"(1) determined without regard to—

"(A) the taxes imposed by this section, section 871(a), and section 881, and

"(B) any increases in tax under section 47(a) (relating to certain dispositions, etc. of section 38 property) or section 614(c)(4)(C) (relating to increase in tax for deductions under section 615(a) prior to aggregation); and

"(2) reduced by the sum of—

"(A) the amount of the credit allowable under section 40 (relating to personal exemptions), and

"(B) the amount of any credit which would be allowable under section 37 (relating to retirement income) if no tax were imposed by this section for such taxable year."

(5) Section 72(n)(3)(A) (relating to determination of taxable income) is amended to read as follows:

"(A) the taxable income of the recipient for the taxable year of receipt shall be treated as being not less than the aggregate of such amounts so includible in gross income; and"

(6) Section 141(c)(1) (relating to minimum standard deduction) is amended by striking out "as a deduction under section 151" and inserting "as credits against the tax imposed by this chapter under section 40" in lieu thereof.

(7) Section 154 (relating to cross references) is amended to read as follows:

"SEC. 154. CROSS REFERENCE.

"For definitions of 'husband' and 'wife', as used in section 152(b)(4), see section 7701(a)(17)."

(8) Section 170(b)(1)(C) (as amended by section 201(a)(1)(B) of this Act) is amended by adding at the end thereof the following new sentence: "In applying this subparagraph to taxable years beginning after December 31, 1969, clause (ii) shall not be taken into account."

(9) Section 172(d)(3) (relating to deduction for personal exemptions) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to taxable years beginning after December 31, 1969."

(10) Section 214 (relating to expenses for care of certain dependents) is amended—

(A) by striking out "a deduction under section 151 (relating to deduction for personal exemptions) in subsection (b)(3) and inserting in lieu thereof "a credit under section 40 (relating to personal exemptions)"; and

(B) by striking out "section 151(e)(1)" in subsection (d)(3) and inserting in lieu thereof "section 40(f)(1)".

(11) Section 443(c) (relating to adjustment in deduction for personal exemption) is amended—

(A) by striking out "Deduction" in the heading and inserting in lieu thereof "Credit"; and

(B) by striking out "deduction under section 151 (and any deduction in lieu thereof)" and inserting in lieu thereof "credit under section 40".

(12) Section 703(a)(2) is amended by striking out subparagraph (B).

(13) Subpart A of part II of subchapter N of chapter 1 (relating to nonresident alien individuals) is amended—

(A) by striking out section 873(b)(3) (relating to personal exemption); and

(B) by striking out section 874(b) (relating to tax withheld at source) and inserting in lieu thereof the following new subsection:

"(b) PERSONAL EXEMPTION CONSISTING OF A TAX REDUCTION.—

"(1) The credit for personal exemptions under section 40 shall not be allowed against the tax imposed by section 871(a).

"(2) In the case of a nonresident alien individual who is not a resident of a contiguous country, only one exemption consisting of a tax reduction shall be allowed under section 40.

"(3) The benefit of the credit for personal exemptions under section 40, may, in the discretion of the Secretary or his delegate, and under regulations prescribed by the Secretary or his delegate, be received by a nonresident alien individual entitled thereto, by filing a claim therefor with the withholding agent."

(14) Secton 891 (relating to doubling of rates of tax on citizens and corporations of certain foreign countries) is amended by striking out the second sentence and inserting in lieu thereof the following new sentence: "In no case shall this section operate to increase the taxes imposed by such sections (computed without regard to this section) to an amount in excess of the sum of 80 percent of the taxable income of the taxpayer (computed without regard to the deductions allowable under part VIII of subchapter B) and the amount of the exemptions consisting of tax reductions allowable under section 40."

(15) Section 904(c) (relating to taxable income for purpose of computing limitation) is amended to read as follows:

"(c) TAX FOR PURPOSE OF COMPUTING LIMITATION.—For purposes of computing the applicable limitation under subsection (a), the term 'the tax against which such credit is taken' shall mean the excess of the tax imposed by this chapter over the credit allowable under section 40."

(16) Section 911(a) (relating to earned income from sources without the United States) is amended by striking out in the last sentence "(other than those allowed by section 151, relating to personal exemptions)".

(17) Section 931(e) (relating to deduction for personal exemption) is amended to read as follows:

"(e) CREDIT FOR PERSONAL EXEMPTION.—A citizen of the United States entitled to the benefits of this section shall be allowed only one exemption consisting of a tax reduction under section 40."

(18) Section 933 (relating to income from sources within Puerto Rico) is amended by striking out "(other than the deduction allowed by section 151, relating to personal exemptions)" each time it appears therein.

(19) Section 1211(b) (relating to limitation on capital losses) is amended—

(A) by striking out "and without regard to the deductions provided in section 151 (relating to personal exemptions) or any deduction in lieu thereof)" in the second sentence; and

(B) by striking out "adjusted gross income" in the last sentence and inserting in lieu thereof "adjusted gross income (reduced by the deduction allowable under section 63(b)(2))".

(20) Section 1402(a) (relating to definition of net earnings from self-employment) is amended by striking out paragraph (7).

"If the taxable income is:	The tax is:
Not over $1,000	13.8% of the taxable income.
Over $1,000 but not over $2,000	$138, plus 14.8% of excess over $1,000.
Over $2,000 but not over $3,000	$286, plus 15.8% of excess over $2,000.
Over $3,000 but not over $4,000	$444, plus 16.8% of excess over $3,000.
Over $4,000 but not over $8,000	$612, plus 18.8% of excess over $4,000.
Over $8,000 but not over $12,000	$1,364, plus 21.8% of excess over $8,000.
Over $12,000 but not over $16,000	$2,236, plus 24.5% of excess over $12,000.
Over $16,000 but not over $20,000	$3,216, plus 27.8% of excess over $16,000.
Over $20,000 but not over $24,000	$4,328, plus 31.5% of excess over $20,000.
Over $24,000 but not over $28,000	$5,588, plus 35.5% of excess over $24,000.
Over $28,000 but not over $32,000	$7,008, plus 38.5% of excess over $28,000.
Over $32,000 but not over $36,000	$8,548, plus 41.5% of excess over $32,000.
Over $36,000 but not over $40,000	$10,208, plus 44.3% of excess over $36,000.
Over $40,000 but not over $44,000	$11,980, plus 47% of excess over $40,000.
Over $44,000 but not over $52,000	$13,860, plus 49.3% of excess over $48,000.
Over $52,000 but not over $64,000	$17,804, plus 52% of excess over $56,000.
Over $64,000 but not over $76,000	$24,014, plus 53.8% of excess over $64,000.
Over $76,000 but not over $88,000	$30,500, plus 56.5% of excess over $76,000.
Over $88,000 but not over $100,000	$37,280, plus 58.5% of excess over $88,000.
Over $100,000 but not over $120,000	$44,300, plus 61% of excess over $100,000.
Over $120,000 but not over $140,000	$56,500, plus 63% of excess over $120,000.
Over $140,000 but not over $160,000	$69,100, plus 64.5% of excess over $140,000.
Over $160,000 but not over $180,000	$82,000, plus 66.3% of excess over $160,000.
Over $180,000 but not over $200,000	$95,260, plus 67% of excess over $180,000.
Over $200,00 but not over $240,000	$108,660, plus 68% of excess over $200,000.
Over $240,000 but not over $300,000	$135,860, plus 68.3% of excess over $240,000.
Over $300,000 but not over $400,000	$176,840, plus 68.5% of excess over $300,000.
Over $400,000	$245,340, plus 68.8% of excess over $400,000.

(21) Section 1451(d) (relating to benefit of personal exemptions) is amended by striking out "deduction for personal exemptions provided in section 151" and inserting in lieu thereof "credit for personal exemptions provided in section 40".

(22) Section 6654(d)(4) (relating to exception from penalty for failure by individual to pay estimated income tax) is amended by striking out "section 151" and inserting in lieu thereof "section 40".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1970.

SEC. 802. TAX RATES.

(a) RATES OF TAX ON INDIVIDUALS.—Section 1 (relating to the tax imposed) is amended to read as follows:

"SECTION 1. TAX IMPOSED.

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—

"(1) TAXABLE YEARS BEGINNING IN 1971.—In the case of a taxable year beginning after December 31, 1970, and before January 1, 1972, there is hereby imposed on the taxable income of—

"(A) every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and

"(B) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $1,000	13.5% of the taxable income.
Over $1,000 but not over $2,000	$135, plus 14.5% of excess over $1,000.
Over $2,000 but not over $3,000	$280, plus 15.5% of excess over $2,000.
Over $3,000 but not over $4,000	$435, plus 16.5% of excess over $3,000.
Over $4,000 but not over $8,000	$600, plus 18.5% of excess over $4,000.
Over $8,000 but not over $12,000	$1,340, plus 21.5% of excess over $8,000.
Over $12,000 but not over $16,000	$2,200, plus 24% of excess over $12,000.
Over $16,000 but not over $20,000	$3,160, plus 27.5% of excess over $16,000.
Over $20,000 but not over $24,000	$4,260, plus 31% of excess over $20,000.
Over $24,000 but not over $28,000	$5,500, plus 35% of excess over $24,000.
Over $28,000 but not over $32,000	$6,900, plus 38% of excess over $28,000.
Over $32,000 but not over $36,000	$8,420, plus 41% of excess over $32,000.
Over $36,000 but not over $40,000	$10,060, plus 43.5% of excess over $36,000.
Over $40,000 but not over $44,000	$11,800, plus 46% of excess over $40,000.
Over $44,000 but not over $52,000	$13,640, plus 48.5% of excess over $44,000.
Over $52,000 but not over $64,000	$17,520, plus 51% of excess over $52,000.
Over $64,000 but not over $76,000	$23,640, plus 52.5% of excess over $64,000.
Over $76,000 but not over $88,000	$29,940, plus 55% of excess over $76,000.
Over $88,000 but not over $100,000	$36,540, plus 57% of excess over $88,000.
Over $100,000 but not over $120,000	$43,380, plus 60% of excess over $100,000.
Over $120,000 but not over $140,000	$55,380, plus 62% of excess over $120,000.
Over $140,000 but not over $160,000	$67,780, plus 63% of excess over $140,000.
Over $160,000 but not over $180,000	$80,380, plus 64.5% of excess over $160,000.
Over $180,000 but not over $200,000	$93,280, plus 65% of excess over $180,000.
Over $200,000 but not over $240,000	$106,280, plus 66% of excess over $200,000.
Over $240,000 but not over $300,000	$132,680, plus 66.5% of excess over $240,000.
Over $300,000 but not over $400,000	$172,580, plus 67% of excess over $300,000.
Over $400,000	$239,580, plus 67.5% of excess over $400,000.

"(b) HEADS OF HOUSEHOLDS.—

"(1) TAXABLE YEARS BEGINNING IN 1971.—In the case of a taxable year beginning after December 31, 1970, and before January 1, 1972, there is hereby imposed on the taxable income of every individual who is the head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $1,000	13.8% of the taxable income.
Over $1,000 but not over $2,000	$138, plus 15.8% of excess over $1,000.
Over $2,000 but not over $4,000	$296, plus 17.8% of excess over $2,000.
Over $4,000 but not over $6,000	$652, plus 19.8% of excess over $4,000.
Over $6,000 but not over $8,000	$1,048, plus 21.5% of excess over $6,000.
Over $8,000 but not over $10,000	$1,478, plus 24.3% of excess over $8,000.
Over $10,000 but not over $12,000	$1,964, plus 26.3% of excess over $10,000.
Over $12,000 but not over $14,000	$2,490, plus 29.5% of excess over $12,000.
Over $14,000 but not over $16,000	$3,080, plus 30.8% of excess over $14,000.
Over $16,000 but not over $18,000	$3,696, plus 33.5% of excess over $16,000.
Over $18,000 but not over $20,000	$4,366, plus 34.8% of excess over $18,000.
Over $20,000 but not over $22,000	$5,062, plus 38% of excess over $20,000.
Over $22,000 but not over $24,000	$5,822, plus 39.3% of excess over $22,000.
Over $24,000 but not over $26,000	$6,608, plus 41% of excess over $24,000.
Over $26,000 but not over $28,000	$7,428, plus 43.3% of excess over $26,000.
Over $28,000 but not over $32,000	$8,294, plus 44.5% of excess over $28,000.
Over $32,000 but not over $36,000	$10,074, plus 46.8% of excess over $32,000.
Over $36,000 but not over $38,000	$11,946, plus 48.8% of excess over $36,000.
Over $38,000 but not over $40,000	$12,922, plus 50.8% of excess over $38,000.
Over $40,000 but not over $44,000	$13,938, plus 51.5% of excess over $40,000.
Over $44,000 but not over $50,000	$16,010, plus 53.8% of excess over $44,000.

"(2) TAXABLE YEARS BEGINNING AFTER 1971.—In the case of a taxable year beginning after December 31, 1971, there is hereby imposed on the taxable income of—

"(A) every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and

"(B) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $1,000	13.5% of the taxable income.
Over $1,000 but not over $2,000	$135, plus 14.5% of excess over $1,000.
Over $2,000 but not over $3,000	$280, plus 15.5% of excess over $2,000.
Over $3,000 but not over $4,000	$435, plus 16.5% of excess over $3,000.
Over $4,000 but not over $8,000	$600, plus 18.5% of excess over $4,000.
Over $8,000 but not over $12,000	$1,340, plus 21.5% of excess over $8,000.
Over $12,000 but not over $16,000	$2,200, plus 24% of excess over $12,000.
Over $16,000 but not over $20,000	$3,160, plus 27.5% of excess over $16,000.
Over $20,000 but not over $24,000	$4,260, plus 31% of excess over $20,000.
Over $24,000 but not over $28,000	$5,500, plus 35% of excess over $24,000.
Over $28,000 but not over $32,000	$6,900, plus 38% of excess over $28,000.
Over $32,000 but not over $36,000	$8,420, plus 41% of excess over $32,000.
Over $36,000 but not over $40,000	$10,060, plus 43.5% of excess over $36,000.
Over $40,000 but not over $44,000	$11,800, plus 46% of excess over $40,000.
Over $44,000 but not over $52,000	$13,640, plus 48.5% of excess over $44,000.
Over $52,000 but not over $64,000	$17,520, plus 51% of excess over $52,000.
Over $64,000 but not over $76,000	$23,640, plus 52.5% of excess over $64,000.
Over $76,000 but not over $88,000	$29,940, plus 55% of excess over $76,000.
Over $88,000 but not over $100,000	$36,540, plus 57% of excess over $88,000.
Over $100,000 but not over $120,000	$43,380, plus 60% of excess over $100,000.
Over $120,000 but not over $140,000	$55,380, plus 62% of excess over $120,000.
Over $140,000 but not over $160,000	$67,780, plus 63% of excess over $140,000.
Over $160,000 but not over $180,000	$80,380, plus 64.5% of excess over $160,000.
Over $180,000 but not over $200,000	$93,280, plus 65% of excess over $180,000.
Over $200,000 but not over $240,000	$106,280, plus 66% of excess over $200,000.
Over $240,000 but not over $300,000	$132,680, plus 66.5% of excess over $240,000.
Over $300,000 but not over $400,000	$172,580, plus 67% of excess over $300,000.
Over $400,000	$239,580, plus 67.5% of excess over $400,000.

"If the taxable income is:	The tax is:
Over $50,000 but not over $52,000	$19,238, plus 55.5% of excess over $50,000.
Over $52,000 but not over $64,000	$20,348, plus 57% of excess over $52,000.
Over $64,000 but not over $70,000	$27,188, plus 57.3% of excess over $64,000.
Over $70,000 but not over $76,000	$30,626, plus 58% of excess over $70,000.
Over $76,000 but not over $80,000	$34,106, plus 60.3% of excess over $76,000.
Over $80,000 but not over $88,000	$36,518, plus 61.5% of excess over $80,000.
Over $88,000 but not over $100,000	$41,438, plus 62.3% of excess over $88,000.
Over $100,000 but not over $120,000	$48,914, plus 64.5% of excess over $100,000.
Over $120,000 but not over $140,000	$61,814, plus 65.8% of excess over $120,000.
Over $140,000 but not over $160,000	$74,974, plus 66.5% of excess over $140,000.
Over $160,000 but not over $180,000	$88,274, plus 67.5% of excess over $160,000.
Over $180,000 but not over $200,000	$101,774, plus 68.3% of excess over $180,000.
Over $200,000 but not over $300,000	$115,434, plus 68.5% of excess over $200,000.
Over $300,000	$183,934, plus 68.8% of excess over $300,000.

"(2) TAXABLE YEARS BEGINNING AFTER 1971.—In the case of a taxable year beginning after December 31, 1971, there is hereby imposed on the taxable income of every individual who is the head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $1,000	13.5% of the taxable income.
Over $1,000 but not over $2,000	$135, plus 15.5% of excess over $1,000.
Over $2,000 but not over $4,000	$290, plus 17.5% of excess over $2,000.
Over $4,000 but not over $6,000	$640, plus 19.5% of excess over $4,000.
Over $6,000 but not over $8,000	$1,030, plus 20.5% of excess over $6,000.
Over $8,000 but not over $10,000	$1,440, plus 22.5% of excess over $8,000.
Over $10,000 but not over $12,000	$1,890, plus 23.5% of excess over $10,000.
Over $12,000 but not over $14,000	$2,360, plus 26% of excess over $12,000.
Over $14,000 but not over $16,000	$2,880, plus 28% of excess over $14,000.
Over $16,000 but not over $18,000	$3,440, plus 29.5% of excess over $16,000.
Over $18,000 but not over $20,000	$4,030, plus 31.5% of excess over $18,000.
Over $20,000 but not over $22,000	$4,660, plus 33% of excess over $20,000.
Over $22,000 but not over $24,000	$5,320, plus 35% of excess over $22,000.
Over $24,000 but not over $26,000	$6,020, plus 37% of excess over $24,000.
Over $26,000 but not over $28,000	$6,760, plus 39% of excess over $26,000.
Over $28,000 but not over $32,000	$7,540, plus 41% of excess over $28,000.
Over $32,000 but not over $36,000	$9,180, plus 44% of excess over $32,000.
Over $36,000 but not over $38,000	$10,940, plus 46.5% of excess over $36,000.
Over $38,000 but not over $40,000	$11,870, plus 48.5% of excess over $38,000.
Over $40,000 but not over $44,000	$12,840, plus 50.5% of excess over $40,000.
Over $44,000 but not over $50,000	$14,860, plus 52.5% of excess over $44,000.
Over $50,000 but not over $52,000	$18,010, plus 54.5% of excess over $50,000.
Over $52,000 but not over $60,000	$19,100, plus 55.5% of excess over $52,000.
Over $60,000 but not over $64,000	$23,540, plus 56.5% of excess over $60,000.
Over $64,000 but not over $76,000	$25,800, plus 57.5% of excess over $64,000.
Over $76,000 but not over $80,000	$32,700, plus 50% of excess over $76,000.
Over $80,000 but not over $88,000	$35,060, plus 60% of excess over $80,000.
Over $88,000 but not over $100,000	$39,860, plus 61% of excess over $88,000.
Over $100,000 but not over $120,000	$47,180, plus 63% of excess over $100,000.
Over $120,000 but not over $140,000	$59,780, plus 64% of excess over $120,000.
Over $140,000 but not over $160,000	$72,580, plus 65% of excess over $140,000.
Over $160,000 but not over $200,000	$85,580, plus 66% of excess over $160,000.
Over $200,000 but not over $240,000	$111,980, plus 66.5% of excess over $200,000.
Over $240,000 but not over $300,000	$138,580, plus 67% of excess over $240,000.
Over $300,000	$178,780, plus 67.5% of excess over $300,000.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—

"(1) TAXABLE YEARS BEGINNING IN 1971.—In the case of a taxable year beginning after December 31, 1970, and before January 1, 1972, there is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $500	13.8% of the taxable income.
Over $500 but not over $1,000	$69, plus 14.8% of excess over $500.
Over $1,000 but not over $1,500	$143, plus 15.8% of excess over $1,000.
Over $1,500 but not over $2,000	$222, plus 16.8% of excess over $1,500.
Over $2,000 but not over $4,000	$306, plus 18.8% of excess over $2,000.
Over $4,000 but not over $6,000	$682, plus 21.5% of excess over $4,000.
Over $6,000 but not over $8,000	$1,112, plus 24.3% of excess over $6,000.
Over $8,000 but not over $10,000	$1,598, plus 27% of excess over $8,000.
Over $10,000 but not over $12,000	$2,138, plus 30.5% of excess over $10,000.
Over $12,000 but not over $14,000	$2,748, plus 34% of excess over $12,000.
Over $14,000 but not over $16,000	$3,428, plus 36.8% of excess over $14,000.
Over $16,000 but not over $18,000	$4,164, plus 39.5% of excess over $16,000.
Over $18,000 but not over $20,000	$4,954, plus 42.3% of excess over $18,000.
Over $20,000 but not over $22,000	$5,800, plus 44.8% of excess over $20,000.
Over $22,000 but not over $26,000	$6,696, plus 46.8% of excess over $22,000.
Over $26,000 but not over $32,000	$8,568, plus 50.3% of excess over $26,000.
Over $32,000 but not over $38,000	$11,586, plus 53% of excess over $32,000.
Over $38,000 but not over $44,000	$14,766, plus 56.5% of excess over $38,000.
Over $44,000 but not over $50,000	$18,156, plus 58.5% of excess over $44,000.
Over $50,000 but not over $60,000	$21,666, plus 61% of excess over $50,000.
Over $60,000 but not over $70,000	$27,766, plus 63% of excess over $60,000.
Over $70,000 but not over $80,000	$34,066, plus 64.5% of excess over $70,000.
Over $80,000 but not over $90,000	$40,516, plus 66.3% of excess over $80,000.
Over $90,000 but not over $100,000	$47,146, plus 67% of excess over $90,000.
Over $100,000 but not over $120,000	$53,846, plus 68% of excess over $100,000.
Over $120,000 but not over $150,000	$67,446, plus 68.3% of excess over $120,000.
Over $150,000 but not over $200,000	$87,936, plus 68.5% of excess over $150,000.
Over $200,000	$122,186, plus 68.8% of excess over $200,000.

"(2) TAXABLE YEARS BEGINNING AFTER 1971.—In the case of a taxable year beginning after December 31, 1971, there is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $500	13.5% of the taxable income.
Over $500 but not over $1,000	$67.50, plus 14.5% of excess over $500.
Over $1,000 but not over $1,500	$140, plus 15.5% of excess over $1,000.
Over $1,500 but not over $2,000	$217.50, plus 16.5% of excess over $1,500.
Over $2,000 but not over $4,000	$300, plus 18.5% of excess over $2,000.
Over $4,000 but not over $6,000	$670, plus 20.5% of excess over $4,000.
Over $6,000 but not over $8,000	$1,080, plus 23% of excess over $6,000.
Over $8,000 but not over $10,000	$1,540, plus 24.5% of excess over $8,000.
Over $10,000 but not over $12,000	$2,030, plus 27% of excess over $10,000.
Over $12,000 but not over $14,000	$2,570, plus 29% of excess over $12,000.
Over $14,000 but not over $16,000	$3,150, plus 31% of excess over $14,000.
Over $16,000 but not over $18,000	$3,770, plus 32.5% of excess over $16,000.
Over $18,000 but not over $20,000	$4,420, plus 34.5% of excess over $18,000.
Over $20,000 but not over $22,000	$5,110, plus 36% of excess over $20,000.
Over $22,000 but not over $26,000	$5,830, plus 38% of excess over $22,000.
Over $26,000 but not over $32,000	$7,350, plus 43.5% of excess over $26,000.
Over $32,000 but not over $38,000	$9,960, plus 48.5% of excess over $32,000.
Over $38,000 but not over $44,000	$12,870, plus 53.5% of excess over $38,000.
Over $44,000 but not over $50,000	$16,080, plus 57% of excess over $44,000.
Over $50,000 but not over $60,000	$19,500, plus 60% of excess over $50,000.
Over $60,000 but not over $70,000	$25,500, plus 62% of excess over $60,000.
Over $70,000 but not over $80,000	$31,700, plus 63% of excess over $70,000.
Over $80,000 but not over $90,000	$38,000, plus 64.5% of excess over $80,000.
Over $90,000 but not over $100,000	$44,450, plus 65% of excess over $90,000.
Over $100,000 but not over $120,000	$50,950, plus 66% of excess over $100,000.
Over $120,000 but not over $150,000	$64,250, plus 66.5% of excess over $120,000.
Over $150,000 but not over $200,000	$84,100, plus 67% of excess over $150,000.
Over $200,000	$117,600, plus 67.5% of excess over $200,000.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS; ESTATES AND TRUSTS.—

"(1) TAXABLE YEARS BEGINNING IN 1971.—In the case of a taxable year beginning after December 31, 1970, and before January 1, 1972, there is hereby imposed on the taxable income of every married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013 and every estate and trust taxable under this subsection, a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $500	13.8% of the taxable income.
Over $500 but not over $1,000	$69, plus 14.8% of excess over $500.
Over $1,000 but not over $1,500	$143, plus 15.8% of excess over $1,000.
Over $1,500 but not over $2,000	$222, plus 16.8% of excess over $1,500.
Over $2,000 but not over $4,000	$306, plus 18.8% of excess over $2,000.
Over $4,000 but not over $6,000	$682, plus 21.8% of excess over $4,000.
Over $6,000 but not over $8,000	$1,118, plus 24.5% of excess over $6,000.
Over $8,000 but not over $10,000	$1,608, plus 27.8% of excess over $8,000.
Over $10,000 but not over $12,000	$2,164, plus 31.5% of excess over $10,000.
Over $12,000 but not over $14,000	$2,794, plus 35.5% of excess over $12,000.
Over $14,000 but not over $16,000	$3,504, plus 38.5% of excess over $14,000.
Over $16,000 but not over $18,000	$4,274, plus 41.5% of excess over $16,000.
Over $18,000 but not over $20,000	$5,104, plus 44.3% of excess over $18,000.
Over $20,000 but not over $22,000	$5,990, plus 47% of excess over $20,000.
Over $22,000 but not over $26,000	$6,930, plus 49% of excess over $22,000.
Over $26,000 but not over $32,000	$8,890, plus 52% of excess over $26,000.
Over $32,000 but not over $38,000	$12,010, plus 53.8% of excess over $32,000.
Over $38,000 but not over $44,000	$15,238, plus 56.5% of excess over $38,000.
Over $44,000 but not over $50,000	$18,628, plus 58.5% of excess over $44,000.
Over $50,000 but not over $60,000	$22,138, plus 61% of excess over $50,000.
Over $60,000 but not over $70,000	$28,238, plus 63% of excess over $60,000.
Over $70,000 but not over $80,000	$34,538, plus 64.5% of excess over $70,000.
Over $80,000 but not over $90,000	$40,988, plus 66.3% of excess over $80,000.
Over $90,000 but not over $100,000	$47,618, plus 67% of excess over $90,000.
Over $100,000 but not over $120,000	$54,318, plus 68% of excess over $100,000.
Over $120,000 but not over $150,000	$67,918, plus 68.3% of excess over $120,000.
Over $150,000 but not over $200,000	$88,404, plus 68.5% of excess over $150,000.
Over $200,000	$122,658, plus 68.8% of excess over $200,000.

"(2) TAXABLE YEARS BEGINNING AFTER 1971.—In the case of a taxable year beginning after December 31, 1971, there is hereby imposed on the taxable income of every married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013, and of every estate and trust taxable under this subsection, a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $500	13.5% of the taxable income.
Over $500 but not over $1,000	$67.50, plus 14.5% of excess over $500.
Over $1,000 but not over $1,500	$140, plus 15.5% of excess over $1,000.
Over $1,500 but not over $2,000	$217.50, plus 16.5% of excess over $1,500.
Over $2,000 but not over $4,000	$300, plus 18.5% of excess over $2,000.
Over $4,000 but not over $6,000	$670, plus 21.5% of excess over $4,000.
Over $6,000 but not over $8,000	$1,100, plus 24% of excess over $6,000.
Over $8,000 but not over $10,000	$1,580, plus 27.5% of excess over $8,000.
Over $10,000 but not over $12,000	$2,130, plus 31% of excess over $10,000.
Over $12,000 but not over $14,000	$2,750, plus 35% of excess over $12,000.
Over $14,000 but not over $16,000	$3,450, plus 38% of excess over $14,000.
Over $16,000 but not over $18,000	$4,210, plus 41% of excess over $16,000.
Over $18,000 but not over $20,000	$5,030, plus 43.5% of excess over $18,000.
Over $20,000 but not over $22,000	$5,900, plus 46% of excess over $20,000.
Over $22,000 but not over $26,000	$6,820, plus 48.5% of excess over $22,000.
Over $26,000 but not over $32,000	$8,760, plus 51% of excess over $26,000.
Over $32,000 but not over $38,000	$11,820, plus 52.5% of excess over $32,000.
Over $38,000 but not over $44,000	$14,970, plus 55% of excess over $38,000.
Over $44,000 but not over $50,000	$18,270, plus 57% of excess over $44,000.
Over $50,000 but not over $60,000	$21,690, plus 60% of excess over $50,000.
Over $60,000 but not over $70,000	$27,690, plus 62% of excess over $60,000.
Over $70,000 but not over $80,000	$33,890, plus 63% of excess over $70,000.
Over $80,000 but not over $90,000	$40,190, plus 64.5% of excess over $80,000.
Over $90,000 but not over $100,000	$46,640, plus 65% of excess over $90,000.
Over $100,000 but not over $120,000	$53,140, plus 66% of excess over $100,000.
Over $120,000 but not over $150,000	$66,340, plus 66.5% of excess over $120,000.
Over $150,000 but not over $200,000	$86,290, plus 67% of excess over $150,000.
Over $200,000	$119,790, plus 67.5% of excess over $200,000."

(b) DEFINITIONS AND SPECIAL RULES.—Section 2 (relating to tax in case of joint return or return of surviving spouse) is amended to read as follows:

"SEC. 2. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITION OF SURVIVING SPOUSE.—

"(1) IN GENERAL.—For purposes of section 1, the term 'surviving spouse' means a taxpayer—

"(A) whose spouse died during either of his two taxable years immediately preceding the taxable year, and

"(B) who maintains as his home a household which constitutes for the taxable year the principal place of abode (as a member of such household) of a dependent (i) who (within the meaning of section 152) is a son, stepson, daughter, or stepdaughter of the taxpayer, and (ii) with respect to whom the taxpayer is entitled to a credit for the taxable year under section 40.

For purposes of this paragraph, an individual shall be considered as maintaining a household only if over half of the cost of maintaining the household during the taxable year is furnished by such individual.

"(2) LIMITATIONS.—Notwithstanding paragraph (1), for purposes of section 1 a taxpayer shall not be considered to be a surviving spouse—

"(A) if the taxpayer has remarried at any time before the close of the taxable years, or

"(B) unless, for the taxpayer's taxable year during which his spouse died, a joint return could have been made under the provisions of section 6013 (without regard to subsection (a)(3) thereof).

"(b) DEFINITION OF HEAD OF HOUSEHOLD.—

"(1) IN GENERAL.—For purposes of this subtitle, an individual shall be considered a head of a household if, and only if, such individual is not married at the close of his taxable year, is not a surviving spouse (as defined in subsection (a)), and either—

"(A) maintains as his home a household which constitutes for such taxable year the principal place of abode, as a member of such household, of—

"(i) a son, stepson, daughter, or stepdaughter of the taxpayer, or a descendant of a son or daughter of the taxpayer, but if such son, stepson, daughter, stepdaughter, or descendant is married at the close of the taxpayer's taxable year, only if the taxpayer is entitled to a credit for the taxable year for such person under section 40, or

"(ii) any other person who is a dependent of the taxpayer, if the taxpayer is entitled to a credit for the taxable year for such person under section 40, or

"(B) maintains a household which constitutes for such taxable year the principal place of abode of the father or mother of the taxpayer, if the taxpayer is entitled to a credit for the taxable year for such father or mother under section 40.

For purposes of this paragraph, an individual shall be considered as maintaining a household only if over half of the cost of maintaining the household during the taxable year is furnished by such individual.

"(2) DETERMINATION OF STATUS.—For poses of this subsection—

"(A) a legally adopted child of a person shall be considered a child of such person by blood;

"(B) an individual who is legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married;

"(C) a taxpayer shall be considered as not married at the close of his taxable year if at any time during the taxable year his spouse is a nonresident alien; and

"(D) a taxpayer shall be considered as married at the close of his taxable year if his spouse (other than a spouse described in subparagraph (C)) died during the taxable year.

"(3) LIMITATIONS.—Notwithstanding paragraph (1), for purposes of this subtitle a taxpayer shall not be considered to be a head of a household—

"(A) if at any time during the taxable year he is a nonresident alien; or

"(B) by reason of an individual who would not be a dependent for the taxable year but for—

"(i) paragraph (9) of section 152(a),

"(ii) paragraph (10) of section 152(a), or

"(iii) subsection (c) of section 152.

"(c) CERTAIN MARRIED INDIVIDUALS LIVING APART.—For purposes of this part, an individual who, under section 143(b), is not to be considered as married shall not be considered as married.

"(d) NONRESIDENT ALIENS.—In the case of a nonresident alien individual, the tax imposed by section 1 shall apply only as provided by section 871 or 877.

"(e) CROSS REFERENCE.—

"For definition of taxable income, see section 63."

(c) OPTIONAL TAX TABLES FOR INDIVIDUALS.—Section 3 (relating to optional tax if adjusted gross income is less than $5,000) is amended to read as follows:

"SEC. 3. OPTIONAL TAX TABLES FOR INDIVIDUALS.

"In lieu of the tax imposed by section 1, there is hereby imposed for each taxable year beginning after December 31, 1969, on the

taxable income of every individual whose adjusted gross income (reduced by the deductions allowable under section 63(b)(2) for such year is less than $7,500 (or such higher amount, less than $10,000, as may be prescribed by the Secretary or his delegate by regulations) and who has elected for such year to pay the tax imposed by this section, a tax determined under tables, applicable to such taxable year, which shall be prescribed by the Secretary or his delegate. In the tables so prescribed, the amounts of tax shall be computed on the basis of the taxable income computed under section 63(b) and on the basis of the rates prescribed by section 1."

(d) TECHNICAL, CONFORMING, AND CLERICAL AMENDMENTS.—

(1) Section 6014(a) (relating to election by taxpayer) is amended—

(A) by striking out "$5,000" in the first sentence, and inserting in lieu thereof "$7,500", and

(B) by striking out the last two sentences.

(2) Section 511(b)(1) (relating to imposition of tax on unrelated business income of charitable, etc., organizations) is amended by striking out "section 1", in the first sentence of such section, and inserting in lieu thereof "section 1(d)".

(3) Section 641 (relating to imposition of tax in respect to estates and trusts) is amended by striking out "The taxes imposed by this chapter on individuals" in subsection (a) and inserting in lieu thereof "The tax imposed by section 1(d)".

(4) Section 632 (relating to sale of oil or gas properties) is amended—

(A) by striking out "surtax" and inserting in lieu thereof "tax", and

(B) by striking out "30 percent" and inserting in lieu thereof "33 percent".

(5) Section 1347 (relating to claims against United States involving acquisition of property) is amended—

(A) by striking out "surtax" and inserting in lieu thereof "tax", and

(B) by striking out "30 percent" and inserting in lieu thereof "33 percent".

(6) Paragraphs (1) and (5) of section 5(b) (cross references) are each amended by striking out "surtax" and inserting in lieu thereof "tax".

(7) Section 6015(a)(1) (relating to declaration of estimated income tax by individuals) in amended—

(A) by striking out "section 1(b)(2)" each place it appears and inserting in lieu thereof "section 2(b)", and

(B) by striking out "section 2(b)" each place it appears and inserting in lieu thereof "section 2(a)".

(8) Section 1304(b)(1) (relating to special rules) is amended by striking out "if adjusted gross income is less than $5,000".

(9) The table of sections for part I of subchapter A of chapter 1 is amended by striking out the second and third items and inserting in lieu thereof the following:

"Sec. 2. Definitions and special rules.

"Sec. 3. Optional tax tables for individuals."

(e) Section 21(d) (relating to changes in rates during a taxable year) is amended to read as follows:

"(d) CHANGES MADE BY TAX REFORM ACT OF 1969 IN CASE OF INDIVIDUALS.—In applying subsection (a) to a taxable year of an individual which is not a calendar year, each change made by the Tax Reform Act of 1969 in part I or in the application of part IV of subchapter B for purposes of the determination of taxable income shall be treated as a change in a rate of tax."

(f) COLLECTION OF INCOME TAX AT SOURCE ON WAGES.—Notwithstanding any provision of chapter 24 of the Internal Revenue Code of 1954 (relating to collection of income tax at source on wages), every employer making payment of wages after December 31, 1969, shall deduct and withhold upon such wages a tax determined in accordance with tables prescribed by the Secretary of the Treasury or his delegate which take into account the amendments made by this title and title VII of this Act.

(g) EFFECTIVE DATES.—The amendments made by subsections (a), (b), and (d) (other than paragraphs (1) and (8)) shall apply to taxable years beginning after December 31, 1970, except that section 2(c) of the Internal Revenue Code of 1954, as amended by subsection (b), shall also apply to taxable years beginning after December 31, 1969. The amendments made by subsections (c), (d)(1), and (d)(8) shall apply to taxable years beginning after December 31, 1969.

SEC. 803. STANDARD DEDUCTION.

(a) INCREASE IN MINIMUM STANDARD DEDUCTION.—Section 141(c)(2) (relating to minimum standard deduction) is amended—

(1) by striking out "$200" in subparagraphs (A) and (B) and inserting in lieu thereof "$500"; and

(2) by striking out "$100" in subparagraph (C) and inserting in lieu thereof "$250".

(b) INCREASE IN LIMITATION.—Section 141(a) (relating to standard deduction) is amended—

(1) by striking out "$1,000" and inserting in lieu thereof "$1,200"; and

(2) by striking out "$500" and inserting in lieu thereof "$600".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1969.

SEC. 804. DEDUCTION FOR CHARITABLE CONTRIBUTION FOR INDIVIDUALS ELECTING STANDARD DEDUCTION.

(a) IN GENERAL.—Section 63(b) (relating to taxable income of individuals electing standard deduction) is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) the excess of the deduction allowed by section 170 (relating to charitable, etc., contributions and gifts) over 3 percent of adjusted gross income."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1969.

Mr. BENNETT. Mr. President, does the Senator ask for the yeas and nays?

Mr. MILLER. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MILLER. Mr. President, two points are to be made.

Mr. PASTORE. Mr. President, may we have order so that we can hear the Senator?

The PRESIDING OFFICER. The Senate will be in order.

Mr. PASTORE. Mr. President, I hope the Chair will insist on maintaining order. There is such a din in the Senate that we cannot hear the Senator.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MILLER. Mr. President, I thank the Senator from Rhode Island.

Mr. President, two very major considerations face the Senate. The first is one which we all call fiscal responsibility. This was highlighted by the Washington Post's lead editorial this morning. The title of the editorial is "Relaxing the Tax Brake on Inflation."

It reads in part:

Will Congress face the inflationary problem thus tossed into its lap? Can it forgo the political lure of substantial tax reductions for everyone in the interests of fiscal stability? It is late in the day to be calling for a tax-reform bill without loss of revenue, although that was the original objective of the tax reformers. Nevertheless, the Fiscal Policy Subcommittee has greatly clarified the problem that every Congressman must resolve for himself as the tax bill is given final shape. If the Congress is not willing to vote a substantial revenue surplus in the face of a persistent inflationary crunch, it will deal a critical blow to the concept that government can stop inflation without recession.

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

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

RELAXING THE TAX BRAKE ON INFLATION

The economic course this country is pursuing has brought a thoughtful warning from the Fiscal Policy Subcommittee of the congressional Joint Economic Committee. The legislative watchdogs on the economy find little evidence that the inflationary forces are abating. They are worried by the prospect of continued price-wage inflation along with an inadequate rate of growth. They see in the present mix of fiscal and monetary policies danger of a recession with an intolerable burden of unemployment.

Chairman Martha W. Griffiths and her colleagues are by no means soft on inflation. On the contrary, they recognize inflation as possibly a greater danger than unemployment. In the language of the subcommittee report, inflation "robs the saver of the purchasing power he or she has put aside for the future use, frustrating rational planning. It distorts financial markets and rewards financial speculators at the expense of producers, workers and innovators. It deprives the aged of the value of their retirement incomes. Generally, inflation creates imbalances out of which grow recession and/or excess unemployment."

What worries the subcommittee is the prospect that the tight money policy designed to curb inflation may cost too much in terms of unemployment and dislocations that fall with special weight upon the disadvantaged. During the past summer, the report points out, there was virtually no increase in the money supply. The consequent soaring interest rates have brought crises in the housing industry and in state and local financing and serious distortions in other segments of the economy. If the country relies too heavily on this kind of squeeze to cool its inflationary fever, the cure may be as bad as the disease.

So the committee has thrown its weight behind a change in the policy mix. It wants a relaxation of the credit squeeze, with growth of at least 2 per cent in the money supply per year, the aim being steady growth and full employment without inflation. In order to make this possible, however, other restraints must be added to the so-called policy mix. The subcommittee recommends "selective credit restraints . . . perhaps on a voluntary basis" and a sizable budgetary surplus.

The emphasis is clearly upon reduced spending and more federal revenue. The report candidly acknowledges that the loose fiscal policy from 1965 to 1968, culminating in a $25.2 billion deficit in the latter year, was the major factor in producing "a demand inflation." Now the subcommittee sees great danger in the possibility that the government may be swinging back from the current surplus to budgetary deficits again before inflation has been brought under control.

To make an easier monetary policy feasible, the subcommittee advocates a budgetary surplus (calculated on the basis of high employment) of as much as $8 billion to $10 billion in each of the fiscal years 1970 and 1971. Such a surplus will be possible only if Congress trims the tax relief that is contemplated in both the Senate and House tax-reform bills. The dominant note in the re-

port is a plea to Congress not to deprive the government of its fiscal weapon against inflation at a time when the pressures are still strong and the demands on the Treasury for important social services continue to mount.

Will Congress face the inflationary problem thus tossed into its lap? Can it forgo the political lure of substantial tax reductions for everyone in the interests of fiscal stability? It is late in the day to be calling for a tax-reform bill without loss of revenue, although that was the original objective of the tax reformers. Nevertheless, the Fiscal Policy Subcommittee has greatly clarified the problem that every Congressman must resolve for himself as the tax bill is given final shape. If the Congress is not willing to vote a substantial revenue surplus in the face of a persistent inflationary crunch, it will deal a critical blow to the concept that government can stop inflation without recession.

Mr. MILLER. Mr. President, the editorial refers to a report recently issued of the Fiscal Policy Subcommittee of the Joint Economic Committee. This was a unanimous report. Among its recommendations was the following:

We conclude therefore that—

The Congress and the administration in acting upon the budget in the weeks ahead should shape decisions so as to enlarge receipts and hold down the growth in expenditures aiming at a budget surplus larger than now estimated for fiscal 1970, achieving a high employment surplus of as much as $8 to $10 billion in each of the fiscal years 1970 and 1971.

The other recommendation is as follows:

That present revenue-losing provisions either be removed from the tax reform legislation with a commitment to reconsider them later when the budget outlook warrants, or at the very least that they be reduced, or revenue-gaining provisions added, so that the bill neither gains nor loses revenue under foreseeable conditions. It would be preferable to gain net revenue under the bill.

Mr. MILLER. Mr. President, I ask unanimous consent that appropriately marked portions of the committee report be printed in the RECORD.

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

Thus, the trends in receipts and expenditures point toward a rapid shift over the next 2 years from the present modest surplus toward a deficit of unknown dimensions.

But we do not have to look ahead to fiscal year 1971 to detect this trend. If the budget is analyzed in terms of the national income accounts (the NIA budget) it can be seen that the trend is already moving in an expansionary direction. In the first half of calendar 1969, the NIA budget showed a surplus at seasonally adjusted rate of about $11 billion per year. According to the testimony of the Chairman of the Council of Economic Advisers, Dr. Paul W. McCracken, on October 23, if the budget works out as the administration proposes, the annual rate of surplus in the NIA accounts would be about $7 billion in the second half of calendar 1969 and about $3 billion in the first half of 1970.

Thus, within the present fiscal year, the budget will have shifted from restriction toward stimulus by about $8 billion, or from $11 billion per year surplus in the first half of calendar 1969 to $3 billion per year in the first half of calendar 1970. If expenditures run higher than the total to which the President seems determined to hold, or if pending tax legislation produces lower receipts, then, obviously, the shift would be even more violently expansionary. Chairman McCracken went on to say:

"If the tax requests are not granted we will slip into a deficit at the rate of at least $5 billion in the first half of 1970."

With the surtax due to expire on June 30 and an upward jump in expenditures developing at the beginning of the next fiscal year, particularly for a Federal pay raise to maintain comparability with the private sector, we face the prospect of beginning fiscal year 1971 with an NIA budget deficit of substantial size.

We conclude therefore that—

The Congress and the administration in acting upon the budget in the weeks ahead should shape decisions so as to enlarge receipts and hold down the growth in expenditures aiming at a budget surplus larger than now estimated for fiscal 1970, achieving a high employment surplus of as much as $8 to $10 billion in each of the fiscal years 1970 and 1971.

* * * * *

It is disturbing that the proposed Tax Reform Act of 1969 does not conform to precepts for a stabilizing fiscal policy in the present circumstances. We urge consideration of the tax reduction incorporated in this proposed legislation.[8]

Whether one views tax reform from the vantage point of the House bill or the Senate proposals, by 1975 the net loss of revenue would be in the order of magnitude of about $3.5 billion estimated at present levels of prices and incomes. In the probable event that the economy continues to grow, and that inflation slows gradually, we could easily find ourselves losing double this amount, or $7 billion per year by 1975. The loss in revenue in some years between now and 1975 could be large since the proposed revenue-gaining provisions go into effect quite gradually. It seems to this committee that programing tax reductions before we have made sure that expenditures are under control, that we have conquered inflation, and that we face a period of more stable and predictable costs for Government programs, runs a grave risk of pushing the budget into a full employment deficit. This would be grossly inflationary, as recent experience has so dramatically proven.

We cannot conceive of a monetary policy that this economy could tolerate and which would produce price stability in the face of any such trend in the budget. Therefore, we recommend—

That present revenue-losing provisions either be removed from the tax reform legislation with a commitment to reconsider them later when the budget outlook warrants, or at the very least that they be reduced, or revenue-gaining provisions added, so that the bill neither gains nor loses revenue under foreseeable conditions. It would be preferable to gain net revenue under the bill.

Mr. MILLER. Mr. President, the second consideration is whether we are going to do equity in tax reform.

I have been saying that if we increase the personal exemption, we are going to give aid to the high-income taxpayer to a very large extent, and only a very small amount of aid to the low-income taxpayers.

We have before us at present a proposal to increase the personal exemption from $600 to $800. A wealthy individual in the 70-percent tax bracket would receive a $560 tax benefit for each and every exemption, and a person in the low-income tax bracket, let us say 20 percent, would receive a tax benefit amounting to only $160 per exemption.

Most Senators are in at least the 50-percent income tax bracket. If we vote for an $800 personal exemption, that means that we are voting ourselves a $400 tax break, as against a $160 tax break for the person in the 20-percent tax bracket. We would have a $400 tax benefit for our wives and each of our children. The 20-percent tax bracket person would have only $160.

I do not think that is equity. Neither do I think it behooves us, when we realize that it is not equity, to continue the personal exemption.

I have proposed a tax credit of $150 in place of the $600 exemption. That means that a taxpayer would take $150 off his tax bill. A person who is now in the 20-percent tax bracket has a tax benefit of $120 with a $600 exemption. Under my proposal, he would have a tax benefit of $150.

I have phased in the other parts of the Finance Committee bill as follows. I keep the minimum standard deduction, which is increased from $200 to $500, plus $100 for each exemption. This means, as under the Finance Committee bill, that a single individual would have no tax to pay on $1,700 of adjusted gross income. I would put that provision into effect on January 1 of next year.

I propose to increase the standard deduction from the present 10 percent up to $1,000 to 10 percent up to $1,200, with this very important addition: Every Senator has heard from charitable organizations expressing grave concern over the need for charitable contributions.

Under the present law and under the Finance Committee bill, a person who takes the optional standard deduction and makes no charitable contributions whatsoever is treated exactly the same as another person who takes the optional standard deduction and has made substantial charitable contributions.

I propose an optional standard deduction of 10 percent up to $1,200, and, in addition, to allow a further deduction for charitable contributions in excess of 3 percent of adjusted gross income. So, for example, a taxpayer with $10,000 adjusted gross income—and an optional standard deduction of $1,000 under present law—and $500 of charitable contributions would, under my proposal, have $200 over 3 percent of his adjusted gross income which he could take in addition to the $1,000 deduction.

Of course, taxpayers who do not take the optional standard deduction would continue to take all deductions for charitable contributions, as under present law.

My amendment is calculated to give a tax benefit to those people who take the optional standard deduction and who are charitably inclined. This is a very big plus for charity.

I propose a rate of reduction that is one half of that proposed under the Finance Committee bill; and this would be phased in with a $140 tax credit in 1971 and a $150 tax credit in 1972.

Here is where we come out: Taking the years 1970, 1971, and 1972, my proposal would save approximately $1 billion of revenue over the Finance Committee bill, and it would save a lot more than that when compared with the Gore and Percy proposals.

So if we are looking for fiscal responsibility, we will find it in my amendment.

Let us take a look at the benefits that would be provided by my proposal. These are calculations made by the Treasury Department.

It is very interesting when we realize that here is a proposal that is fiscally sound, compared with proposals which have been attacked because they would take too much revenue away from the Treasury, which would still provide comparable benefits to those who need them. Those people in the zero to $3,000 adjusted gross income area would have a saving of $781 million under the Finance Committee bill. Under the Gore proposal, it would be $856 million. Under my proposal, it would be $835 million—almost the same as that contained in the Gore proposal.

In the $3,000 to $5,000 adjusted gross income bracket, the Finance Committee bill would provide a saving of $1 billion. Under the Gore proposal, it would be $1,196,000,000. Under my proposal, it would be $1,160,000,000—nearly the same as that contained in the Gore proposal.

In the $5,000 to $7,000 bracket, the Finance Committee bill would provide a saving of $944 million. The Gore proposal would represent a saving of $1,268 million. And my proposal would represent a saving of $1,286 million.

In the $7,000 to $10,000 bracket, one which is especially in need of relief, the Finance Committee bill would provide a saving of $1,286 million. The Gore proposal would involve a saving of $1,888 million. My proposal would involve a saving of $2,257 million.

In the $10,000 to $15,000 bracket, the Finance Committee bill would provide a saving of $1,922 million. Under the Gore proposal, it would be $1,942 million. Under my proposal it would be $1,907 million.

It might be interesting to set forth how these proposals compare with reference to the example of a husband and wife and two children. In the $3,000 adjusted gross income area, under all the proposals, there would be no tax to pay at all. Those with $5,000 adjusted gross income would have to pay $18 under my proposal, $200 under the Finance Committee proposal, and $112 under the Gore proposal. In the $7,000 adjusted gross income bracket, under my proposal they would have to pay $481, $560 under the Finance Committee proposal, and $501 under the Gore proposal.

They are all pretty close, except that when we get up into the very high income brackets, under my proposal it would cost them more than under the Gore proposal or under the Finance Committee proposal, although my reduction in tax rates would provide some relief.

I believe this works out in a very equitable manner. It is fiscally sound, and it does equity in those brackets where equity needs to be done. Not one Senator would have to say, after voting for this proposal, that he voted for a nice, big tax cut for himself.

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

Mr. MILLER. I yield.

Mr. MUSKIE. Will the tax credit proposed by the Senator vary with the number of children in the family?

Mr. MILLER. I am glad the Senator has raised this point.

My point is this: A child, whether that child comes from a poor family or a wealthy family, ought to have the same recognition under the income tax law. Under my proposal, every child, every dependent, would have a $150 credit. So a husband and a wife and two children would have $600 off their tax bill. They would have four credits of $150 each.

Mr. MUSKIE. So the Senator's answer is that the tax credit would be given for each member of the family?

Mr. MILLER. Yes.

Mr. MUSKIE. I thank the Senator.

Mr. CURTIS. Mr. President, will the Senator yield for a question?

Mr. MILLER. I yield.

Mr. CURTIS. Is the Senator's proposal offered in lieu of some provision in the committee bill?

Mr. MILLER. Yes. My provision preserves the Finance Committee minimum standard deduction approach. It takes one-half the rate deduction provided under the Finance Committee bill. The Finance Committee bill continues the $600 exemption. In lieu of that, I provide a credit which is a much better break for most taxpayers, a much better break for all low-income taxpayers; but in order to do that, I cannot give the same tax reduction as the Finance Committee bill. There is a tradeoff here. The Finance Committee does a job for low-income people through tax-rate reduction. I do not think it does as much as it should. And the committee bill preserves the $600 exemption.

Mr. CURTIS. The Senator stated that his proposal would not cost as much loss of revenue as would the committee bill.

Mr. MILLER. That is correct. Approximately $1 billion less.

Mr. CURTIS. Over what period of years?

Mr. MILLER. Taking a look at the combined years 1970, 1971, and 1972.

Mr. CURTIS. Is it about the same each year?

Mr. MILLER. The loss of revenue?

Mr. CURTIS. The difference.

Mr. MILLER. Well, I point out these figures: In 1970, relief provisions under the Finance Committee bill would amount to $1.712 billion. Under my proposal, it would only be $1.127 billion. In 1971, under the Finance Committee bill, it would be $5.144 billion. Under my proposal, it would be $5.403 billion—a little more, not much. In 1972, relief provisions under the Finance Committee bill would amount to $8.9 billion; under my proposal it would be $8.4 billion.

Mr. CURTIS. One more question: When and if the exemptions are raised from $600 to $800, what would the Gore amendment do, in dollars, for a taxpayer who is in the 65-percent bracket, by raising the exemption $200?

Mr. MILLER. A husband and wife——

Mr. CURTIS. I said "a taxpayer."

Mr. MILLER. All right. A taxpayer over 65——

The PRESIDING OFFICER. All time of the Senator from Iowa has expired.

Mr. MILLER. Will the Senator from Tennessee yield me 1 minute?

Mr. GORE. I yield 1 minute to the Senator from Iowa.

Mr. MILLER. In response to the Senator from Nebraska, a taxpayer who has two exemptions, one for himself and one because he is over 65, would have two $800 exemptions. That would be $1,600 in exemptions. In a 70-percent-tax bracket, it can be seen how much better a tax break he would have than somebody in a 20-percent-tax bracket. That is why I said, if my proposal is adopted, nobody could ever say that Senators voted to reduce their taxes.

But I regret to say that, under the Gore proposal, well intentioned as it is, every Senator would be voting himself a substantial tax break, because we are all in at least the 50-percent bracket. Every Senator, whether or not he has a wife or children, would be voting himself a tax break.

Mr. President, I ask unanimous consent that three tables be printed at this point in the RECORD.

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

EFFECT ON INDIVIDUAL INCOME TAX LIABILITY OF PROVISIONS WHEN FULLY EFFECTIVE

Adjust gross income class (thousand dollars)	Senate Finance Committee	Gore proposal	Percy proposal	Miller proposal
0 to 3	—781	—856	—869	—835
3 to 5	—1,001	—1,196	—1,273	—1,160
5 to 7	—944	—1,268	—1,467	—1,286
7 to 10	—1,286	—1,888	—2,603	—2,257
10 to 15	—1,922	—1,943	—3,310	—1,907
15 to 20	—806	—701	—1,195	—485
20 to 50	—1,107	—794	—1,319	—226
50 to 100	—464	—179	—393	—39
100 and over	—657	—57	—376	—267
Total	—8,968	—8,883	—12,805	—8,462

MARRIED, 2 DEPENDENTS

Adjusted gross income	Miller	Present law	Finance Committee Tax [1]	Gore $800	Percy
$3,000	0	0	0	0	0
$5,000	$18	$290	$200	$112	$108
$7,000	481	687	576	501	464
$10,000	955	1,114	958	962	840
$15,000	1,960	2,062	1,846	1,886	1,927
$20,000	3,110	3,160	2,968	2,960	2,872

[1] Assumes nonbusiness deductions of 10 percent of income.

Source: Office of the Secretary of the Treasury, Office of Tax Analysis.

COMPARATIVE RELIEF PROVISION

	1970	1971	1972
Senate Finance Committee	—1,712	—5,144	—8,968
Gore	—3,963	—7,522	—8,883
Percy	—2,300	—5,495	—8,692
Miller	—1,127	—5,403	—8,462
Tax Reform under Senate Finance Committee (and repeal of investment credit)	+3,900	+4,645	+4,870
Extension of surcharge and excises	+4,270	+800	+800

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

The Senator from Tennessee has 4 minutes remaining.

Mr. GORE. Mr. President, during the time of the debate, I have tried to read what I could of the 41 pages. I have asked the committee staff and my staff to give me an estimate. I simply was unable to argue against the amendment. I do not know what it means. I am going to vote against it.

Since it is an amendment to the bill, I yield my time to the chairman of the committee.

Mr. MURPHY. Mr. President, may I ask a question?

This seems to be an extremely important amendment. I appreciate that there is a time limitation. But for the benefit of some of us who would like to listen to this, and for the proponent to explain it fully—this is an important matter—I should like to ask if it would be possible to have unanimous consent that the time be extended so that the amendment might be properly considered, properly discussed, and properly voted on by this body.

Mr. LONG. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator from Louisiana has 3 minutes remaining.

Mr. MURPHY addressed the Chair.

Mr. LONG. I insist on the regular order, Mr. President.

The PRESIDING OFFICER. The Senator declines to yield.

Mr. LONG. Mr. President, the Senator from Iowa offered amendments along this general line in the committee. As I understand, he is proposing to strike certain provisions of the bill and to substitute therefor a tax credit approach for each individual.

I do not know what is in those 40-odd pages. The Senator knows, of course, but the rest of us have no idea. The amendment involves the striking out of $8 billion of relief that is provided in the committee bill. On this short notice, we do not know what the amendment would do. There is no way the Senator could apprise us of that. He has been working on an approach of this sort and it was offered in committee at a time when we had more opportunity to think about it and discuss it, and I think only three or four Senators out of 17 voted for it. At that time it involved a tax increase over present law for most persons with incomes over $20,000. Apparently the amendment overcomes this problem but still gives even less relief in the area than the exemption intended.

The committee believed that this would greatly complicate the tax law. If a taxpayer in the lower rate brackets would be confronted with a personal exemption and a low income allowance and then would be confronted with a tax credit as well, it would be very confusing for him. We do not know how the withholding tax would apply to it. There is no way we could understand it in the time available to us. I am sorry that we have a time limitation, but even if the Senate gave us an hour or two to discuss this matter, neither the staff nor I nor a considerable number of the members of the committee could hope to work out all of the details involved in the amendment.

Frankly, if the amendment were agreed to, under present circumstances, I probably would vote for the Gore amendment, because I would not know what I was defending so far as the committee bill is concerned. I hope the Senate will not agree to this amendment. If, at some later date, the Senator wants to work out his amendment and finds a parliamentary situation in which it can be explained, so that we can better understand it and so that our staff can look at it, we might consider it. But on this short notice, with the Senate having no more than one half hour to look at an amendment involving $8 billion, and approximately 40 pages, there is no way that any Senator, including the Senator from Iowa, could tell what he had voted for.

The PRESIDING OFFICER (Mr. CRANSTON in the chair). All time has expired. The question is on agreeing to the amendment of the Senator from Iowa. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Arkansas (Mr. FULBRIGHT) and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from Indiana (Mr. BAYH) is absent on official business.

I further announce that, if present and voting, the Senator from Arkansas (Mr. FULBRIGHT) and the Senator from Indiana (Mr. BAYH) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 25, nays 70, as follows:

[No. 165 Leg.]

YEAS—25

Aiken	Griffin	Nelson
Baker	Gurney	Packwood
Boggs	Hart	Prouty
Curtis	Hartke	Smith, Ill.
Dodd	Hatfield	Stevens
Dole	Hughes	Thurmond
Dominick	Jordan, Idaho	Young, N. Dak.
Fannin	Miller	
Goldwater	Murphy	

NAYS—70

Allen	Hansen	Pastore
Allott	Harris	Pearson
Bellmon	Holland	Pell
Bennett	Hollings	Percy
Bible	Hruska	Proxmire
Brooke	Inouye	Randolph
Burdick	Jackson	Ribicoff
Byrd, Va.	Javits	Russell
Byrd, W. Va.	Jordan, N.C.	Saxbe
Cannon	Kennedy	Schweiker
Case	Long	Scott
Church	Magnuson	Smith, Maine
Cook	Mansfield	Sparkman
Cooper	Mathias	Spong
Cotton	McCarthy	Stennis
Cranston	McClellan	Talmadge
Eagleton	McGee	Tower
Eastland	McGovern	Tydings
Ellender	McIntyre	Williams, N.J.
Ervin	Metcalf	Williams, Del.
Fong	Mondale	Yarborough
Goodell	Montoya	Young, Ohio
Gore	Moss	
Gravel	Muskie	

NOT VOTING—5

Anderson	Fulbright	Symington
Bayh	Mundt	

So Mr. MILLER'S amendment was rejected.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consider the Gore amendment. On that amendment, 20 minutes of debate will be equally divided between the opponents and the proponents. Who yields time?

Mr. LONG. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Louisiana will state it.

Mr. LONG. Do I correctly understand that there will be no time on the Gore amendment after the vote on the amendment to the amendment?

The PRESIDING OFFICER. Immediately following the vote on this amendment, the Senate will vote on the earlier Gore amendment, as amended or not amended.

Mr. LONG. Without debate?

The PRESIDING OFFICER. Without debate.

Mr. LONG. Do I correctly understand, then, that if one wishes to discuss the pending Gore amendment, the amendment to the amendment, or the amendment, he must do so now because no time will be left after the next vote?

The PRESIDING OFFICER. All discussion must come within the next 20 minutes. Who yields time?

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Kansas will state it.

Mr. DOLE. Do I correctly understand that we are now considering the Gore substitute?

The PRESIDING OFFICER. That is correct. The Gore substitute is the pending matter.

Mr. DOLE. The Gore substitute is not subject to further amendment?

The PRESIDING OFFICER. That is correct.

Mr. DOLE. If the Gore substitute should be agreed to, would the Gore amendment be subject to amendment?

The PRESIDING OFFICER. No further amendment would be in order.

Mr. DOLE. If the Gore substitute should fail, would the original Gore amendment then be subject to amendment?

The PRESIDING OFFICER. The unanimous-consent agreement shuts out further amendment.

Mr. DOLE. To either amendment?

The PRESIDING OFFICER. That is correct.

Mr. DOLE. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. GORE. Mr. President——

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. GORE. Mr. President, I wish to read the list of cosponsors of the pending amendment:

Senators BURDICK, CANNON, HARTKE, KENNEDY, MCCLELLAN, MONDALE, MONTOYA, MOSS, PASTORE, PROXMIRE, RIBICOFF, YARBOROUGH, and YOUNG of Ohio.

Mr. President, I ask unanimous consent that the following Senators be listed as cosponsors: The Senator from Oklahoma (Mr. HARRIS), the Senator from Idaho (Mr. CHURCH), the Senator from West Virginia (Mr. RANDOLPH), the distinguished Presiding Officer now occupy-

ing the chair, the Senator from California (Mr. CRANSTON), the Senator from Maryland (Mr. TYDINGS), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from South Carolina (Mr. HOLLINGS).

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

Mr. GORE. Mr. President, perhaps it will not be necessary to have a rollcall on this amendment. [Laughter.]

Let me take this moment to express my gratitude for the patience and tolerance of the Senate in hearing me on this issue. I am grateful that something on which I have worked for a long time is now receiving the careful attention of the Senate. I apologize for having overtaxed the patience of Senators; but, Mr. President, this is a fundamental matter. The principle of having in the tax law a personal exemption of an amount sufficiently free of Federal tax to enable the taxpayer to have a minimum living is as old as the 16th amendment to the Constitution.

In 1913, Congress, upon adoption of the 16th amendment, passed the first modern U.S. income tax law. In that first bill, an exemption from income tax was established at $3,000. The requirements for revenue since then have been pressing. The level of personal exemption has changed from time to time. During World War II, because of the scarcity of goods, Congress lowered the exemption to $500 for each person and dependent, not that Congress thought—I have reviewed those debates—that this was adequate, but it was lowered in order to squeeze purchasing power when too many dollars were chasing scarce goods.

In 1948, under the leadership of Senator MCCLELLAN and former Senator George, it was raised to $600. Since then, the cost of living has more than doubled.

We are now considering the largest tax reform bill in the history of the country. It is, likewise, one of the largest tax relief bills in history.

The bill is composed of two large principal parts. Tax reform is one, by which some $6.6 billion of additional revenue will be brought into the Treasury. Tax relief is the other, by which approximately this same amount of tax relief is provided to taxpayers in the form of personal or individual tax relief. That tax relief in the bill is principally by changes in the tax rates—a change in the bottom rate of only 1 percentage point, and running to as high as 8 percentage points at the top.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Two minutes remain to the Senator from Tennessee.

Mr. GORE. I desist, and yield 2 minutes to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I insist that the Senator proceed.

Mr. GORE. Oh no.

Mr. STENNIS. I shall be brief.

Mr. President, I have cast a lot of hard votes on tax bills since I have been in the Senate. I have generally voted against tax reductions because I thought the Treasury ought to be protected. I have voted usually with the committee on all major votes ever since I have been here. I do not particularly like the idea of departing now, but, Mr. President, the $600 figure is outmoded and left by time that, when we are taxing so many little people who work to earn their money, when we are taking money from them and giving it to people who are unemployed because they want to be unemployed and will not try to get a job to make a living, I hope we can adopt the amendment and make the vote so overwhelming that it will have a splendid chance to stand up in conference.

Mr. GORE. Mr. President, I yield my remaining time to the Senator from Utah (Mr. Moss).

Mr. MOSS. Mr. President, I commend the Senator from Tennessee for his great fight for the amendment on which we are about to vote. Obviously, the votes that have gone on today before this one have all resulted in turning back changes that were different from this change.

The Gore amendment should be adopted. I think it will give relief to our people in a place where they will understand that relief. It will give relief to the taxpayer who has an average income. It will give relief to those who have large families.

If it is indeed to be a tax reform bill, I think we must shift the burden away from the low income and middle income taxpayer and make up that revenue from others. I am afraid the bill does not do that as much as it should, but certainly the Gore amendment is a step in the right direction, and I am glad to associate myself with it.

Mr. President, during the last year we have heard a lot of rhetoric about tax relief for the average taxpayer, but now when Senator GORE'S amendment offers us a chance to do something about it, we suddenly begin to hear all sorts of excuses why it cannot be done. But these excuses look pretty lame when exposed to the facts.

In 1948, the personal exemption was fixed at $600. Since then the cost of living has risen almost 50 percent. And those costs related mostly to supporting dependents, such as higher education, food, and clothing, have gone up even more than 50 percent. On the basis of these statistics alone, an increase to $800 over a 2-year period is really not enough. A personal exemption of $800 will not even restore the status quo of 1948, and the American standard of living has not stood still since 1948.

At $600 per dependent, a father is expected to be able to feed, clothe, house, and educate his family. But who can do that on $50 a month? Anyone who thinks it can be done has not been near a store in years. Again, I remind the Senate that even $800 is not really enough.

Not only does the committee bill fail to provide adequate relief for the average taxpayer, but it also squanders what relief it does give on the wrong people. The rate changes in the committee bill grants 40 percent of the total tax relief to taxpayers with incomes over $20,000. The Gore amendment would grant only 11 percent of the relief to these high income brackets.

When the effects of the committee bill and the Gore amendment are laid side by side, the contrast is quite revealing. Both versions would provide substantial relief to the lowest incomes, although the Gore amendment would remove more of our poor taxpayers from the tax rolls than the committee bill.

But it is the middle-income groups—the great majority of this Nation's taxpayers—to whom, under the committee bill, the promise of tax relief will be the biggest joke.

Only about one-third of the relief under the committee bill would go to people with incomes between $7,000 and $15,000. Under the Gore amendment over 50 percent of the relief goes to this group.

These figures have even greater meaning when individual examples are compared. A typical taxpayer with a wife and two children earning $7,500 would be given a tax reduction of only $36, but under the Gore amendment the reduction would be $134. Or if his income were $10,000, the respective relief would be $56 versus $152.

For those with incomes over $20,000, the Gore amendment offers less relief than the committee bill, and for incomes over $100,000, the tax liability is actually increased. But this is as it should be. A progressive tax structure is supposed to be based on the ability to pay.

The more objective opponents to this amendment will concede that it is more progressive and that it grants more relief to middle-income taxpayers. They will concede this, but then they will say that we cannot afford it. Fiscal responsibility is their catchword.

But where was the fiscal responsibility when the ABM and other unnecessary military hardware provision was pushed through the Senate without regard to cost? Who is being fiscally responsible when thousands of troops are kept in Europe and billions spent in Vietnam?

But even if these wasteful expenditures are left unchecked, the extra cost of the Gore amendment can be met by closing more of the loopholes. Although the committee bill is a remarkable achievement compared with past attempts at closing loopholes, there are still plenty of leaks left in the tax code. Restoration of the House bill provisions on foreign tax credits, capital gains, and financial institutions would be a good beginning. The Senate should also repeal all accelerated depreciation except for moderate- and low-income housing, institute a stiff minimum income tax, and come to grips with the tax-exempt bond dilemma.

Those who are really serious about fiscal responsibility ought first to look at these glaring loopholes instead of denying relief to those who need it most—the average taxpayers.

To plagiarize from Frost, "tax reform still has many miles to go and many promises to keep."

Mr. GRIFFIN. Mr. President, I delegate to the Senator from Louisana the time allotted to the minority leader under the unanimous-consent agreement.

Mr. LONG. Mr. President, I regret that many Senators do not understand the basis upon which the committee bill was

adopted. I ask that certain tables be placed on the easel at the rear of the Chamber.

In prior years certain persons believed that the best way to help those in the lower income brackets was to increase the personal exemption. It was organized labor, though, that first came up with the idea that if only a certain amount of revenue were available to reduce taxes, such as $2 billion or $3 billion, those in the lower income brackets could more effectively be helped by increasing the minimum standard deduction, because if the personal exemption were increased, most of those benefits would go to those in the higher brackets. A minimum standard deduction, in effect, gives the working man in the lower income tax brackets benefits which those in the higher brackets do not get.

The low-income allowance or minimum standard deduction in the committee bill exempts from tax those who are regarded as being in the poverty level, which is indicated by the green line on the chart at the rear of the Chamber—about $1,700 for a single person, $2,300 for two, and so on up as family size increases. For income above these levels the tax rates apply, although they are reduced under the bill.

Tax reform and tax simplification are further provided under the committee bill by increasing the standard deduction from 10 to 15 percent and raising the limit from $1,000 to $2,000. These increases would provide substantial benefits to the middle income taxpayers, particularly those in the lower middle income brackets. The higher standard deduction would be stricken by the Gore amendment. The standard deduction does not benefit those in the high income tax brackets, because their itemized deductions are generally larger than the standard deduction. But it very much affects the middle-income taxpayer, and it would provide substantial simplification by increasing the proportion of taxpayers who use the standard deduction from 58 to 74 percent. Thus, about three-quarters of the taxpayers would be using the standard deduction, and there would be fewer complaints, less fuming, and less irritation. If the provisions of the Gore amendment are adopted, most of the tax simplification would be removed from the bill.

Furthermore, the Gore amendment would eliminate from the bill the principle of tax equity concerning the relative tax burdens of single people, married couples, married couples with one child, and couples with more children. Under the committee bill it would work out that, at the $12,500 level, there would be a 14-percent reduction for all of family sizes beyond a single person.

The Gore amendment would change this reduction so that there would be at the $12,500 income level, only about an 8-percent reduction for single people, a 5-percent reduction for married couples, an 11-percent reduction for couples with 1 child, and a 17 percent reduction for couples with 4 children. So it would tend to move the tax reduction from those with small families to the benefit of those with large families.

A study by the Department of Health, Education, and Welfare of how much money people need to subsist showed that one person needs more than $800 income to subsist on; he needs $1,700.

If we are to think about tax equity as among single people, married couples, married couples with one child, and married couples with five, six, or eight children, based on what they need, a more justifiable and equitable way would be that arrived at by the committee in the bill it reported to the Senate. The committee bill approach exempts from tax those below the poverty level, which depends on family size, and then provides a higher standard deduction and rate reduction to all taxpayers, as well as a new rate schedule for single persons to reduce the tax difference resulting from income splitting used by joint returns.

The Senator argues that there should not be tax relief in the upper tax brackets by the reduction of the rates. However, if we are to have tax reform, if we are to increase revenues by almost $7 billion, as now proposed, by putting heavier taxes on corporations and persons receiving $25,000 and more, to the point where we are saying that one man who now pays little or nothing will pay substantially, then, in fairness we should have some reduction in tax rates so as to encourage those who are in the high tax brackets—who are actually paying 70 percent of their income in taxes—to invest their money in ways that are productive, instead of spending their time trying to find ways to keep their tax liability low.

I do not think much money will be lost if we reduce the upper tax rates because if people are encouraged to invest their money in productive ways, rather than encouraged to try to evade taxes, that will result in benefits to the economy and the Nation, and whatever reduction is made in taxes will be more than made up as a result of the investment of their money and effort in constructive ways.

So on balance, Mr. President, we have a better bill. It is better structured to achieve tax equity, tax simplification, tax reduction for every taxpayer who is entitled to expect some tax reduction, and tax increases for those who have thus far been getting by with paying very little in taxes.

Furthermore, as I have indicated, the Gore amendment has a very bad fiscal impact. It would increase the amount of revenue lost by this bill, which is very much needed for Government financing, by $2.3 billion in 1970 and by $3.8 billion in 1971 or $6.1 billion in these 2 years when the Government very much needs the revenue if it is to try to balance the budget and resist inflation.

Several Senators addressed the Chair.

Mr. LONG. I have promised to yield to the Senator from Massachusetts. I yield 2 minutes to the Senator from Massachusetts.

Mr. BROOKE. Mr. President, in the Senate's action on the proposal by the Senator from Tennessee (Mr. GORE), we reach a crucial test of our responsibilities to the American people and to the American economy. As yesterday's Department of Commerce report indicated, projected investment decisions for early 1970 show another startling and inflationary jump. If this one indicator is matched in other areas, unacceptable inflation may well continue for many months.

Under the circumstances, any increase in personal exemptions will, in fact, be illusory, especially because such an increase is bound to fuel the very inflation that destroys the benefits it offers. The only durable tax relief, the only relief that survives inflation, is likely to be adjustment in tax rates themselves. When such relief through the tax rates is matched by adequate tax reform to close loopholes and maintain Government revenues, I believe the result is more equitable and less damaging to the economy.

However appealing a simple increase in personal exemption is, we cannot sacrifice our judgment on the vital needs of the economy to such an illusory change.

I certainly commend Senator PERCY, Senator GORE, and all other Senators who have been seeking a compromise on this difficult issue.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. LONG. I yield the Senator 1 additional minute.

Mr. BROOKE. However, for the reasons I have just stated briefly, I have concluded that the wisest course, the course which best supports our efforts to curb inflation and to maintain revenues to undertake the essential programs of social construction, lies in rejecting any change in personal exemptions at this time. The sound course, in my judgment, is to follow the general lines of the House bill and of the committee bill. Millions of low-income families will be removed from the tax rolls, and all taxpayers will benefit from direct tax rate reductions. Let us not undermine these real advances by a self-defeating increase in personal exemptions which will only prolong the economic crisis which is now reducing the buying power of every American family. Mr. President, I urge the Senate to reject the Gore amendment.

Mr. LONG. Mr. President, I ask unanimous consent that the time for both sides on the pending amendment be extended 5 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. LONG. I yield 2 minutes to the Senator from Delaware.

Mr. WILLIAMS of Delaware. Mr. President, the Senator from Louisiana and the Senator from Massachusetts have eloquently outlined the reasons why the Gore amendment should be rejected. Notwithstanding and how desirable it might be, if we were to raise the exemptions by adopting the Gore amendment we would be providing an additional tax reduction of $6.1 billion in the next 2 years, at a time when we do not have the money. The only way we could pay for that reduction would be by borrowing money and paying interest on it. That would only contribute further toward inflation. I ask unanimous consent to have printed in the RECORD an article entitled "Key Indicator Stirs Fear of Inflation Rise," written by Hobart Rowen, and published in today's Washington Post.

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

[From the Washington Post, Dec. 3, 1969]

KEY INDICATOR STIRS FEAR OF INFLATION RISE

(By Hobart Rowen)

The business investment boom—a major symptom and symbol of inflaton—will accelerate even further in 1970, the Nixon administration reported last night.

According to the eagerly awaited survey by the Department of Commerce and the Securities and Exchange Commission, business expansion expenditures will rocket to an annual rate of $77.5 billion in the first half of 1970, up 11 per cent from the comparable period this year, and up 6 per cent from the second six months of 1969.

The administration was hoping for—and predicting—a less exuberant result.

"Anyone in my position," Economic Council Chairman Paul W. McCracken told The Washington Post, "would have been hoping to see a more modest projected increase."

Estimated expenditures for this calendar year were placed at $71.2 billion in the new survey, a gain of 11 per cent over the full year 1968. Projected spending for the fourth quarter has been boosted 1.5 per cent since a survey this past summer.

For 1970, the outlook as presented by the government now suggests an even bigger inflationary thrust than indications of a 7 to 9 per cent increase given in recent private surveys. (Government estimates for the full year ahead will not be available until early in 1970.)

Earlier, government officials had scoffed at these private estimates, suggesting that they were probably too high. But the government yesterday not only confirmed the direction of the unofficial estimates, but showed that, if anything, they were too low.

For one thing, McCracken noted, it means that the outlook for any significant reduction in record-high interest rates is "not encouraging." It also suggests, he added, that the government will have to continue with its rigorous policy of fiscal and monetary restraints even longer than it had thought earlier.

Business outlays for new plants and additions, and the equipment that goes in them are considered "high-powered" dollars, with a great stimulative impact on the economy.

To the extent that business borrows money to finance such expansion, it puts a strain on capital markets, hence interest rates; and the construction effort itself strains the supply of skilled manpower and of some materials.

McCracken pointed to some alleviating circumstances. First, he noted that plant and equipment expenditures are not a "leading indicator;" hence any slowing down of the economy would not show up here first.

Then, the Commerce-SEC figures show that the biggest surge in projected outlays is in the non-manufacturing sector, which could mean that the manufacturing sector (focus of many inflationary pressures) may be cooling off "a little."

Other officials noted that projections for spending are not always matched by results; thus the latest calculation for 1969 (an 11 per cent gain) is modestly lower than a 14 per cent figure projected in February.

Another consideration is that "real" plant expansion reflects a less dramatic increase, once adjusted for average price increases of perhaps 5 per cent.

But after making all such allowances, the picture presented by the figures yesterday means that more inflationary pressures are still working through the economy than were anticipated in the Nixon "game plan."

"I wouldn't pretend that this is just what we expected," McCracken said. "It's a very strong picture for capital expenditures."

Mr. WILLIAMS of Delaware. Mr. President, the article states that the big business boom is still growing and that projections of business spending for 1970 indicate that inflation is still far from being under control.

We should remember that as we reduce taxes and further fan the fires of inflation—and there is no question that the amendent would do that by pouring this additional $6 billion into the economy—we shall only be contributing to increasing the cost of living; and every time the cost of living increases 1 percentage point the cost to the American consumers is more than $5 billion. So we would be giving false relief. As for the argument that we can provide tax relief in the low brackets and charge it against the upper brackets I placed in the RECORD yesterday a statistical report prepared by the staff which shows that even if we put a 100 percent tax rate on all incomes in America in excess of $50,000 we would provide additional revenue of only $1.1 billion. So we have already gone far down that road. I think the committee bill is evenly balanced, and I hope the Gore amendment will be rejected.

Mr. LONG. I yield 2 minutes to the Senator from Nebraska.

Mr. CURTIS. Mr. President, I commend the chairman of the Committee on Finance (Mr. LONG) for the clarity of his statement, and commend also the distinguished Senator from Massachusetts and the distinguished Senator from Delaware.

Any way we figure it, the adoption of the Gore amendment would add, in the first 2 years, about $6 billion to the national debt. Where is the Senator who promised his constituents that he would vote to increase the personal exemption if we had to borrow money to do it?

At present borrowing rates, it would cost $400 million a year in interest to carry the burden of the increased debt occasioned by the Gore amendment for the first 2 years; and that burden of interest will go on and on, until the people of the United States elect a Congress that will start paying off the national debt.

Of course, we are all for tax reduction, but are we for tax reduction if we have to borrow the money and go into debt for it?

AMENDMENT NO. 343

Mr. President, on November 25 I submitted amendment No. 302. I find that it needs minor corrections, and I am resubmitting it today as amendment No. 343. I ask that the RECORD show I am abandoning amendment No. 302, and shall offer, instead, amendment No. 343. I ask unanimous consent to withdraw amendment No. 302.

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

Mr. LONG. I yield 1 minute to the Senator from Colorado.

Mr. ALLOTT. Mr. President, no one can fail to feel the appeal of the proposal before us. Following the passage of the tax bill in the House, my office was deluged with letters from those in the middle-income group of taxpayers who were simply fed up with shouldering overburdening tax responsibilities. I think it can be truly said that the middle-income people have been in the vanguard of those Americans who are demanding tax justice and who have prompted this tax reform.

I read with considerable interest the colloquy which developed between the distinguished senior Senator from Tennessee and the chairman of the Committee on Finance on November 26, beginning at page 35929 and continuing to 35937 of the CONGRESSIONAL RECORD. There is tremedous emotional pull in the comments of the Senator from Tennessee that the fellow he is concerned about is the man "trying to get off the bottom, with a big mortgage on a little house and a family of children, the man who pays more than he can bear."

Mr. President, I think it can be fairly said that this part of the tax reform package is subject to the same kind of emoting as we often find here in Congress when we discuss social security legislation. Each time we increase benefits we must be exceedingly circumspect to assure the financial consequences of increased benefits does not lead to disastrous consequences on the actuarial soundness of the social security trust funds. We endeavor to be fiscally responsible in those decisions.

The Senator from Tennessee recognized the ramifications of his proposals, I believe, when he discussed the financial consequences of his initial proposal on November 26 at page 35935 of the RECORD.

Of course, one could argue, as does the senior Senator from Tennessee, that there will be a "fiscal dividend" once the Vietnam war comes to a conclusion. But we all recognize that there are many Senators who have already looked for ways to spend that money when and if it ever becomes available for other measures which have particular concern to them.

Mr. President, the Finance Committee, in the bill before us, proposes four different provisions which will provide equitable relief for the great majority of American taxpayers who have not been afforded equitable tax treatment. In essence, they provided a low-income allowance, about which I shall speak in a moment, a new rate structure for single taxpayers, an across-the-board tax-rate reduction for everyone, and an increase in the standard deduction up to 15 percent, not to exceed $2,000. The impact of these provisions of the tax bill, reported out by the Finance Committee, results in about a $9 billion loss in Federal revenue.

One of the most expensive parts in this area of the bill is the low-income allowance which works with the personal exemption. According to the distinguished chairman of the Senate Finance Committee, in colloquy on the Allen amendment on page 35501 of the November 24 RECORD, HEW has estimated that a person who is making $1,700 a year or less is in the poverty bracket. In effect, the committee bill when finally implemented, provides that a person with the low-income allowance of $1,100 and a $600 personal exemption, would pay no income tax on up to $1,700 of income. Beyond that point, for a couple, the $600

exemption is added for the second exemption and as a result they would have exempt income of $2,300. A married couple with two children would have $3,500 in nontaxable income, which is almost $900 per person.

In addition to increasing the standard deduction and providing equitable relief for single taxpayers, the Senate Finance Committee bill contains a reduction in the tax rate which benefits all taxpayers. The impact of this rate reduction is found on page 4 of the committee report and is as follows:

Percentage tax increase or decrease from committee amendments

[In thousands]

Adjusted gross income:	
$0 to $3	−66.1
$3 to $5	−30.3
$5 to $7	−17.0
$7 to $10	−10.9
$10 to $15	−10.3
$15 to $20	−8.6
$20 to $50	−7.2
$50 to $100	−4.8
$100 and over	+2.6
Total	−10.1

Mr. President, the Gore substitute, as I understand it, would result in a revenue loss of $4.8 billion in addition to the $9 billion loss in the Finance Committee bill.

Because I believe the Finance Committee bill equitably provides for those in the lower- and middle-income brackets, and because I recognize that there is a $9 billion cost of the tax relief program in this bill, I feel constrained to vote against the proposal now pending before us. I must give consideration to current budget restrictions and the vital need for fiscal moderation to combat the inflationary spiral that everyone in this Nation is facing. Responsibility requires this. We will not benefit the average man by increasing the onerous tax exacted by inflation.

The PRESIDING OFFICER. The Senator from Tennessee has 5 minutes remaining.

Mr. GORE. Mr. President, I yield 1 minute to the Senator from West Virginia.

Mr. BYRD of West Virginia. Mr. President, I do not require a minute. I ask unanimous consent that my name and the name of the able Senator from South Dakota (Mr. McGOVERN) be added as cosponsors of amendment No. 337, the Gore substitute.

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

Mr. GORE. Mr. President, the speeches to which we have just listened must have been written before I offered, together with several other Senators, the substitute amendment, because the pending substitute amendment, if adopted, will cost less in the long run than the committee bill.

I am not sure this is a virtue. I still think we should increase the exemption to $1,000; but I yielded to the advice of the leadership of my party and to senior and more conservative Senators on our side, in order that we might be both unified and sure of success on this amendment.

The amendment is now being offered as an increase, not to $1,000, but to $800. So speeches to which we have just listened do not apply.

Compared with the revenue loss of the bill from rate changes, my amendment, or our amendment, would lose less revenue by $100 million per year, in the long run, than the committee bill.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. GORE. I yield.

Mr. LONG. Mr. President, what the Senator said is correct as to the long-run effect. However, in 1970 and 1971 the Senator's amendment would result in a loss of more than $6 billion.

Mr. GORE. The Senator, I respectfully suggest, is in error.

What the Senator has just said applies to the $1,000 exemption, not to the $800 personal exemption. The $800 personal exemption will approximately even up in 1970 with the committee bill.

It would cost something more, but nothing like $4 billion or $5 billion, in 1971; and in the long run it would cost less. Mr. President, I cite the letter of the Assistant Secretary of the Treasury, contained on page 36264 of the RECORD of December 1, 1969, in which he complained of the long-range effect of the $1,000 exemption. However, when we change it to $800, then our measure is less expensive in the long run than the committee bill.

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

Mr. GORE. I yield.

Mr. LONG. Mr. President, I am advised by the staffs of both the joint committee and the Finance Committee that there is really very little difference in the Senator's amendment, for the first 2 years, between the $1,000 and the $800 personal exemption because under the $1,000 exemption amendment the exemption was increased to $700 in 1970 and $800 in 1971, as is the case with his substitute amendment.

There is still a loss compared to the committee bill in the first 2 years of $6.1 billion, although that is phased out over the next 2 years when compared with the committee bill.

Mr. GORE. Mr. President, I call the attention of the Senate to the letter from Assistant Secretary of the Treasury Edwin S. Cohen, printed in the RECORD on Monday, December 1, on page 36264. I also call attention to the RECORD of yesterday, the concluding pages of the session, when the committee staff itself caused to have printed in the RECORD tables which show both the short-range effect and the long-range effect.

I submit that the tables show that the substitute amendment will have a long-range effect of $100 million less loss of revenue than the committee bill.

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

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

Mr. LONG. Mr. President, I yield first to the ranking committee member on the minority side.

Mr. WILLIAMS of Delaware. Mr. President, I think there is an error here. The immediate loss in the next 2 years, the short-term loss, based upon the information given by the committee staff would be about $6 billion more than under the committee bill. The letter that I had printed in the RECORD yesterday from the President confirms that.

Mr. INOUYE. Mr. President, tax reform and relief from inequitable tax burdens are indistinguishable and identical. Over the years a number of inequities have crept into the Federal tax program. There is probably no greater anachronism than the standard $600 exemption. Tax laws must keep current with the times and with changes in income and with how that income is derived and spent.

First instituted in 1948 it has remained unchanged despite the decline in the value of the dollar. Imposed at a time when the income of many families did not exceed $600 per member, it has remained at that figure despite a 50-percent increase in the cost of living and almost a tripling of average income.

In 1948 medium family income in the United States was approximately $3,100. In 1967 this had increased almost to $8,000 and today it is close to $9,000. This is a measure of our inflation and of the changes which have occurred.

But we have had no change in the personal exemption. An increase is long overdue.

In no State is an increase in the personal exemption more important than in my State of Hawaii, which has the highest cost of living in any State in the Nation. This increase in personal exemptions is essential to keep our tax laws current with the times.

The Gore amendment will provide relief for every taxpayer. It will merely recognize what should be apparent to all, the declining value of the dollar and the value of the present personal exemption.

If we leave that exemption at its current level we will in effect increase taxes with every increase in inflation at a rate in excess of the inflationary increase.

This is a most elementary and necessary reform and it is for this reason that I give it my enthusiastic support.

Mr. BYRD of West Virginia. Mr. President, I cosponsored the Gore amendment to increase the personal income tax exemption to $800. The $600 exemption has not been increased since it was enacted 21 years ago, and in the meantime, the cost of living has skyrocketed.

There is no question but that raising the exemption to $800 will cause a temporary loss of tax revenue. But the Government has wasted too much money on questionable programs of little or no merit. It should cut back on wasteful spending.

As far as I am concerned, a platoon of spacemen on the moon is not as important as a $200 tax break for the low- and middle-income American.

I think it is time to consider the average citizen who has been paying the bills.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment of the Senator from Tennessee. On this question the yeas and

nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Arkansas (Mr. FULBRIGHT), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from Indiana (Mr. BAYH) is absent on official business.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. FULBRIGHT), and the Senator from Missouri (Mr. SYMINGTON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 58, nays 37, as follows:

[No. 166 Leg.]

YEAS—58

Aiken	Hartke	Nelson
Allen	Hatfield	Pastore
Baker	Hollings	Pell
Bellmon	Hughes	Prouty
Bible	Inouye	Proxmire
Burdick	Jackson	Randolph
Byrd, W. Va.	Jordan, N.C.	Ribicoff
Cannon	Kennedy	Schweiker
Church	Magnuson	Sparkman
Cook	Mansfield	Spong
Cranston	McCarthy	Stennis
Dodd	McClellan	Stevens
Eagleton	McGee	Talmadge
Eastland	McGovern	Tydings
Ervin	McIntyre	Williams, N.J.
Fong	Metcalf	Yarborough
Gore	Mondale	Young, N. Dak.
Gravel	Montoya	Young, Ohio
Harris	Moss	
Hart	Muskie	

NAYS—37

Allott	Goldwater	Packwood
Bennett	Goodell	Pearson
Boggs	Griffin	Percy
Brooke	Gurney	Russell
Byrd, Va.	Hansen	Saxbe
Case	Holland	Scott
Cooper	Hruska	Smith, Maine
Cotton	Javits	Smith, Ill.
Curtis	Jordan, Idaho	Thurmond
Dole	Long	Tower
Dominick	Mathias	Williams, Del.
Ellender	Miller	
Fannin	Murphy	

NOT VOTING—5

Anderson	Fulbright	Symington
Bayh	Mundt	

So Mr. GORE's substitute amendment was agreed to.

TIME FOR TAX REFORM

Mr. HART subsequently said: Mr. President, today the Senate voted to amend the Federal income tax law by increasing personal exemptions from $600 to $800 and upping the minimum standard deduction to $1,000. The personal exemption would be increased to $700 next year and to $800 in 1971.

I supported this amendment, proposed by Senator GORE, of Tennessee.

The Gore approach to tax relief was, on balance, a more equitable way of distributing tax relief than the committee proposal.

By combining increases in the personal exemption and the standard deduction, the relief would go primarily to those who deserve it most—middle- and low-income families.

To make my point, let me cite a few figures from a table placed in the CONGRESSIONAL RECORD yesterday. The figures are for a family of four in 1971, when the full increase in personal deductions would be effective.

Adjust gross income	Tax saving committee bill	Tax saving Senate bill
$7,500	$36	$134
$15,000	96	176
$20,000	152	200
$100,000	2,256	464

Put another way, the tax bite on a family of four with a gross income of $7,500 would be reduced 24.3 percent under the Gore proposal and only 6.7 percent under the committee proposal; on a family of four with an income of $15,000, 10.2 percent under the Gore amendment; 5.5 percent under the committee recommendation.

Families of four with incomes of $4,000 now pay $112 in income tax. The committee recommendation would have such families pay $65. Under the Gore plan, such families with incomes of $4,000 or under would pay no tax.

Of course, tax relief, no matter what its form, means loss of Federal revenues.

It is my understanding that in the long run, the amount of revenue lost through the Gore plan would be the same as lost through the committee recommendation. It is also my understanding that in the second year, loss from the Gore proposal will exceed the loss from the committee plan.

However, under either plan, revenue loss in the long run, will exceed revenues to be gained through tax reforms proposed by the committee.

Without getting into exact figures, the Senate, now that it has voted tax relief totaling about $8.9 billion in 1971, should set about closing enough loopholes to at least offset that loss. If my mathematics is correct, that means the Senate will have to pick up from $4 to $5 million through tax reforms in addition to these recommended by the committee.

There are ample loopholes untouched by the committee bill to more than make up that total.

The time has come for the Senate to face up to tax reform, just as it did in rejecting a proposal to increase the personal exemption to $1,200. Such an increase would not only have given a disproportionate share of relief to the upper incomes, but it would have meant a revenue loss of $18 billion. A reduction of that amount would have meant the Nation could not do what it should to fight pollution, rebuild cities, eliminate hunger, develop parks, and to act on the many other domestic problems facing the Nation.

SENATOR RANDOLPH SUPPORTS PERSONAL EXEMPTION INCREASE

Mr. RANDOLPH. Mr. President, I commend the able Senator from Tennessee (Mr. GORE) for his successful advocacy of the increase in the personal exemption as reflected in the 58 to 37 rollcall. It was my privilege to cosponsor his amendment and to counsel with my colleagues as a supporter of this well-reasoned approach to an improved tax structure.

It is worthy of repeating that the present $600 personal exemption has been in the law since 1948. The benefits then intended have been erased through the years by the increased cost of living.

It is my hope that the House will concur with the increase to $800. I am convinced that we have acted responsibly in this tax reform measure by a reasonable lessening of the burden which the great body of our people, especially those with families, have borne for too long.

Realistic tax increases and the closing of loopholes in the present law and the elimination of inequities now existing bring to the Members of this body a challenge to act constructively. I believe that we are meeting this challenge, in part, by our action today.

It is also appropriate to congratulate the knowledgeable chairman of the Finance Committee, Mr. LONG, who day after day presents so ably arguments for the general purposes of the complex bill now pending.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the yeas and nays on the next vote be rescinded, in view of the fact that it would be a mere repetition of the previous vote.

The PRESIDING OFFICER. Is there objection?

Mr. SCOTT. Mr. President, reserving the right to object—and I shall not object; I simply take the time in case someone wishes to object—to my mind, it would be a repetition of the previous vote, and I have no objection.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The question is on agreeing to the amendment of the Senator from Tennessee, as amended.

The amendment, as amended, was agreed to.

Mr. SCOTT. Mr. President, the outcome of these votes points up something that I, at least, would like to have the RECORD show.

The amendment offered by the Senator from Illinois, which I supported, was offered in a very earnest and sincere attempt to provide some additional relief for the taxpayer, particularly the low-income taxpayer. It was also offered with the hope that it would be acceptable to the Senate in lieu of the proposal of the Senator from Tennessee (Mr. GORE). The Percy proposal would have cost the Treasury in the first 2 years no more than $600 million. The Gore proposal in the same period involves the Treasury in a loss of revenue of approximately $6 billion.

I am one of those who had hoped that the Treasury Department would understand what we were getting at. What we were trying to do in offering the Percy amendment was to minimize the loss to the Treasury but at the same time present an equitable amendment in such form as to give some added relief to the very heavily burdened taxpayer, particularly in the lower- and middle-income brackets.

The Treasury found itself unable to support either amendment. I suggest that there is an important lesson here to be learned by the Treasury Department, and that is that it is better to support an amendment which will save the

Treasury money, rather than to risk the passage of an amendment, as has just occurred, which will cost the Treasury a great deal more money.

We in Congress think we know our business; I think I know mine as the Republican leader. In that capacity, I was trying to achieve for the Treasury a substantial savings, but rather than accept the opportunity to make this savings, the Treasury has gone down to a resounding, and I suppose, glorious defeat. I do not know how many pyrrhic victories of this kind the Treasury wishes to risk, but I do hope that the responsible people in the Treasury, in my own administration, will listen the next time we try to advise them that legislatively we understand more about tactics and strategy than they do. If they do not listen I may have to accept the opportunity to go down to some glorious defeats with them, or I may not.

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

The PRESIDING OFFICER (Mr. EAGLETON in the chair). Does the Senator yield?

Mr. SCOTT. I am delighted to yield to the Senator from Illinois.

Mr. PERCY. Mr. President, when I attended the University of Chicago, Robert Maynard Hutchins would always send a congratulatory telegram, even if we had been defeated by a score of 88 to nothing by Michigan State, and it always said the same thing: It was a great moral victory.

I will have to look for the moral in this victory, if I can, but I do very much appreciate the minority leader's cooperation, support, and help. The assistant minority leader, as well, was magnificent in working with us the past few days to find a very responsible position we could live with.

The final vote on the amendment we were voting on would have cost only $600 million more than the committee bill over a period of 3 years. We could have found $200 million a year for 3 years to cut out someplace else. We could have acted responsibly, it would have been fiscally sound and it would have provided all the reforms and benefits in the committee bill. I anticipate that in conference we will end up with something close to this.

In addition, the Senator from Kansas (Mr. DOLE) was extremely helpful in his amendment which would have cut off the last year, 1973. I had maintained that we had plenty of time to change if economic circumstances would have required it. However, by cutting off that large bulge in 1973 at this time I think he made a major contribution to the amendment we voted on.

I wish to commend the staff of the Department of the Treasury. The group working under the leadership of Ed Cohen worked constantly, at great sacrifice, in providing technical assistance and suggestions that went far beyond the call of duty. They were making suggestions that were truly helpful to us in arriving at responsible legislation.

Mr. SCOTT. I wish to add that the assistance of Assistant Secretary Cohen and Under Secretary Walker, and all the technicians on the staff were helpful in the advice they furnished on this amendment.

What I have had to say is directed to matters of strategy where my obligation includes, among other things, an obligation to try to carry out the administration's desires wherever possible and also to try to save the bill as close to the committee recommendation as we can. The members of the committee on our side of the aisle might not necessarily agree with my point of view, and I say that in all fairness.

Mr. PERCY. I would like to add regarding the description of strategy and tactics in trying to attain our objective, we simply "blew it." We can only hope that the bill which comes back from the conference will be satisfactory.

The PRESIDING OFFICER. The Senator from Indiana has the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. HARTKE. Mr. President, I ask unanimous consent that I may yield to the Senator from Tennessee so that he may make comments on the matters which have just preceded without losing my right to the floor.

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

Mr. BAKER. Mr. President, I rise to make some remarks in response to those of the distinguished minority leader about the situation with which the Senate has just contended in regard to the Percy amendment, the Gore amendment, the Miller amendment, and other amendments dealing with the personal exemption.

I hesitate to make some of these remarks because I feel they may sound as if they are creating an appearance of divisiveness within our party. It is not so meant. I say that because it may sound that I am in some respect in disagreement with the distinguished minority leader, and in some respects I am. However, this is said only in the spirit of cooperation and as a constructive effort to see that this vote will result in a contribution to the efforts of this body.

We begin with the first proposition that the Republican Party lost, if we consider that the Percy amendment was the Republican position. It was not necessarily the Republican position and it was not necessarily the position of the administration.

I am not aware that the administration, as such, adopted a line of one specific tactic or strategy, other than the principles and guidelines laid down by the President in the letter transmitted to the Senate yesterday.

The important point I think we must keep in mind is this. Whether we won or lost depends on whether or not there was a unified Republican position on this particular issue. There was not. Whether the administration won or lost depends on whether there was an administration position on strategy or tactics. I am not aware that there was. It seems to me that the clear, plain polarization of sentiment of the Senate was expressed on the one hand in the recommendation of the Committee on Finance for the $600 exemption plus a readjustment of rates, the low-income allowance, and the adjustment of the standard deduction, as compared with the Gore proposal for a $1,000 exemption and other adjustments on the other hand. This was the confrontation. The issue here joined in this manner. The strategy or tactic adopted presumably was for the Senator from Tennessee (Mr. GORE) to offer a substitute for his own amendment reducing it from $1,000 to $800, which was his privilege, and the determination by the distinguished senior Senator from Illinois (Mr. PERCY) to offer an amendment at $800, with a somewhat different application over a period of years.

At that point, Mr. President, we lost what I believe is the natural momentum of a recommendation of a standing committee, the Committee on Finance, because there was a proposal to recede from the proposals of the Committee on Finance and to take a brand new third position, but that third position did not vary substantially in terms from the position of the Senator from Tennessee. They were both $800.

The most that can be said is that it was a highly confused situation. If it was a strategy, it was not discernible to me. I do not believe that anyone has suffered a defeat or a victory, but rather, after excruciating pain and effort, the Senate has come to a consensus, a viewpoint, and an opinion on what the personal exemption should be.

I do not believe, therefore, that we are in good grace in trying to assign the blame to the Treasury, the administration, to my colleague (Mr. GORE), to the Senator from Illinois (Mr. PERCY), or to anyone else.

The Senate has simply worked its will and will continue to do so.

Mr. SCOTT. Mr. President, will the Senator from Tennessee yield briefly to me?

Mr. HARTKE. I am glad to yield to the Senator from Pennsylvania with the understanding that I do not lose my right to the floor.

Mr. SCOTT. I thank the Senator from Indiana. Mr. President, I appreciate the contribution of the Senator from Tennessee (Mr. BAKER). It is possible that I have not made clear the point which I think does need to be made; namely, that the offering of the amendment of the distinguished Senator from Illinois was for step increases ending at $750, as modified by the suggestion of the distinguished Senator from Kansas (Mr. DOLE).

A letter from the President to me indicated opposition to proposals to increase the dependency allowances on exemptions from the present $600 to either $800 or $1,000.

I repeat, that the purpose of the Percy amendment was twofold. Therefore, to that extent, it was a strategy and to that extent I think it was justified.

The purpose was either to secure passage of the $750 which was less than the amounts mentioned in the Pres-

ident's letter to me and to other Members of the leadership, or, if this did not succeed, to persuade the Senator from Tennessee (Mr. GORE) that it would be better for him not to press his motion for $1,000 which would have involved a $9.3 billion deficit in 1973.

In my judgment, the strategy in that area worked, because when the Senator from Illinois (Mr. PERCY) was seeking the floor to offer his amendment, the Senator from Tennessee (Mr. GORE) gained the floor ahead of him and promptly dropped the amount of his original amendment, from $1,000 to $800, an action which, in my judgment, served to save the Treasury about half the amount it was worried about.

When that happened, when the Senator from Tennessee (Mr. GORE) sounded the bugle call of semiretreat, he then closely approached the Percy proposal.

In doing that, the point I am making is the strategy which I supported was to a degree successful—not that it failed and I was expressing the hope that the Treasury would, in the future, consult us as to these matters of strategy, so that we might be sure we are all pursuing the same course; namely, an attempt to preserve for the most part the committee bill and ultimately to save as much as can be saved where those of us are convinced that further expenditures would not be justified at this time.

Further, that this is what I conceive to be a strategy. To the extent which the Senator from Tennessee (Mr. GORE) retreated, it was successful. To the extent which he did not retreat, which represents the difference between $750 and $800, plus certain other elements in the amendment, then the other side of the coin appears.

I do thank the Senator from Indiana (Mr. HARTKE) very much for yielding to me.

AMENDMENT NO. 324

Mr. HARTKE. Mr. President, it is my intention at this time to discuss amendment No. 324 which is now at the desk, and I ask unanimous consent that it be printed in full for the purposes of discussion.

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

The text of the amendment No. 324 is as follows:

AMENDMENT NO. 324

Page 407, lines 11 and 12, strike out "; termination of investment credit".

Page 412, beginning with line 15, strike out all through line 3, page 432 (section 703 of the committee amendment), and renumber succeeding sections.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator from Indiana yield?

Mr. HARTKE. I yield for a question.

Mr. WILLIAMS of Delaware. Is this the amendment which would strike from the bill the proposal to repeal the 7-percent investment credit?

Mr. HARTKE. Yes.

Mr. WILLIAMS of Delaware. Does the Senator want to vote on it?

Mr. HARTKE. No. I am just going to explain it because I want to discuss the amendment but I do not intend to offer it for a vote at this time. I intend to ask for a vote for a modification of the amendment.

Mr. WILLIAMS of Delaware. If the Senator wants the yeas and nays, we can get them, but if he just wants to make a speech, there is no objection.

Mr. JAVITS. Mr. President, will the Senator from Indiana yield?

Mr. HARTKE. I yield.

Mr. JAVITS. The Senator knows that I have been identified with the position he is about to explain, especially because the depreciation schedule concept has become obsolescent in American business. I now have a letter from the Treasury Department which promises a report on a complete revision of the depreciation schedules for early next year. Sometime in connection with the debate with the Senator's discussion, I will put it in the RECORD and make some comments.

Mr. HARTKE. I am sure they will be very helpful.

Mr. President, the amendment at the desk which I wish to discuss for the benefit of the Senate, is the question of the investment tax credit which has been stricken from the bill as a result of action by the House of Representatives and as a result of action by the Senate Finance Committee.

The amendment at the desk is for the purpose of reestablishing this basic tax principle. Investment tax credit was established in 1962 because the U.S. expansion and modernization of its plants and equipment were totally inadequate. It was enacted after months of intense debate on what should be done to increase this Nation's sluggard productivity, strengthen the economy, and enhance our products' competitiveness here and abroad. For years before 1962 economists had discussed the need for depreciation reform to encourage modernization of our industrial plants. Modernization had been hindered by rising replacement costs and made urgently necessary by the much more liberal depreciation practices of most other industrial nations. These conditions that necessitated the tax credit continue to exist today.

I might point out that the failure of the Senate to debate this issue and to cover it in the bill does not settle the issue. It is not really being met, it is being pushed aside.

The investment tax credit was conceived and enacted as a permanent incentive to capital spending deemed necessary for the growth and vigor of our economy.

This was made quite clear by Secretary of the Treasury Douglas Dillon, who stated:

I consider our program of depreciation reform—including the investment credit—a central part of our economic policy * * *. It is my conviction that depreciation guidelines and investment credit are not only the best way to bring about a higher investment level but are absolutely necessary if we are to grow at a more rapid rate and maintain a widespread international confidence in our currency.

Assistant Secretary of the Treasury Stanley S. Surrey stated in a speech on March 12, 1962:

The fact that the investment credit was suggested at a time when we were in a recession period and the fact that it is being adopted in a period of recovery does not mean that it is to be regarded as a countercyclical tool. Rather it is intended to be a permanent part of our basic tax law.

Two points should be clear: first, the investment tax credit was not a response to a temporary recession and was not considered a tool to manipulate the economy. The Council of Economic Advisers stated in 1961 before the Joint Economic Committee:

Measures to stimulate business investment directly will contribute to our recovery from the present recession, but that is not their main purpose. All who have confidence in the American economy must look ahead to the day when the slack will be taken up and high levels of output and employment will again be the rule. The full benefit of our decision to supplement increases in consumer demand now with a higher rate of capital expansion and modernization will then be realized.

Secondly, the investment tax credit was adopted as a permanent solution to the longstanding and long-term problems of productivity.

Secretary Dillon stated to the Senate Finance Committee in 1962 that the tax credit "must be a permanent part of our tax code as opposed to all temporary remedies for recession."

American industries made many long-term investment plans based on these assurances of the permanency of the credit. This reliance in official government statements did not seem entirely unwise. As late as March of this year, Secretary of the Treasury Kennedy publicly stated:

We have no plans for tinkering with the investment tax credit. Congress intended the credit to be part of the regular tax system and not a device for stimulating or slowing the economy.

Less than a month later on April 18, the administration proposed the total repeal of the credit. Improvisation is not a wise method of reaching economic decisions. Reacting solely to conditions at any particular moment is a form of economic reflex having only a trickster's chance of being correct. The investment tax credit is the result of sound economic thinking, and it or some comparable alternative should be continued.

The repeal of the investment tax credit is justified in part as being necessary to curb inflation. The impact of the removal of the credit, however, cannot possibly take effect until the last quarters of 1970 and early 1971. Projects on which there are firm commitments will go on regardless of the repeal of the credit. Also, there is a technical lag of at least 12 months on the average between the time an investment decision is made and the equipment is produced. By that time, repeal will not be needed or will be hopelessly inadequate to control inflation.

Viewing repeal of the credit as anti-inflationary results from a one-sided concentration on demand, disregarding the importance of supply in any economy. The classic answer to rising prices for goods and services has been to increase the supply sufficiently to bring prices down. Repeal of the investment tax credit will decrease the ability of industry to add to the supply.

The most significant causative factor

for our present inflation was the unanticipated and unplanned cost of the Vietnam war, resulting in bloated budgetary deficits.

The credit has not been and is not a significant factor in causing inflation.

For example, in manufacturing as a whole, prices of both durable and nondurable goods have risen much less than overall consumer prices over the same period. Also, prices of manufactured goods have risen only about a third as much as hourly wage rates over the same period. The lower rise in prices for manufactured goods was made possible by substantial investments in new equipment since 1962.

Overall expenditures for capital investment are not inflationary. Pierre Rinfret, a noted economist and advisor to President Nixon during the campaign, estimates that in real noninflationary terms, our private capital investment did not rise from 1966 to 1968, and the real rise in 1969 is going to be small. At the beginning of this year, it was estimated that capital expenditures for new investment would be 14 percent higher than last year. Today it is quite obvious that capital expenditures will be much less, perhaps only 7 to 8 percent higher. It should be remembered that inflated prices distort these figures. In terms of constant dollars, the present expectation for an increase in capital expenditures this year will probably be no more than 4 percent. A 4-percent increase in expenditures for plant and equipment is neither inflationary, nor even adequate for our inevitably growing economy.

Of course, in our presently tight economy any increase in spending is to some extent "inflationary." Unlike most other forms of spending, however, spending to expand productivity offers the hope of breaking the present cost-push inflationary cycle. In our present tight economy, with no attempt by the Administration to influence prices or wages, the continuing improvement of our industrial capacity by the introduction of cost-cutting productive equipment would seem to be the only factor driving costs and prices down. Are we to stop inflation by increasing unemployment or by increasing productivity?

Clearly, in the long run the investment tax credit is anti-inflationary. Our Nation has always been, compared with other countries, a higher labor cost economy. Our standard of living is the marvel of the world, but it rests on a foundation of productivity. If our productivity contracts or is sluggish, our standard of living will inevitably fall.

Expenditure on capital equipment not only expands productivity, but also eases pressure on costs and prices. As Mr. John O'Riley wrote in the Wall Street Journal, May 12, 1969, the Outlook Column:

> Over the long pull, no force on earth has done more to hold down the prices of things people buy than has capital spending.

Finally, retention of the investment tax credit is fully consistent with our social goals and sense of national priorities. In the last year, 2 million Americans were lifted from poverty. While unquestionably many Government and private efforts helped, it was reported that the expanding economy was primarily responsible for lifting these Americans from poverty. In the view of Dr. Arthur Burns, the real growth of the economy has done more for employing and raising the living standards of the American poor than all the Government poverty programs put together.

Isolationism is no more appropriate for economic decisions than it is for political decisions. Before the tax credit was adopted, extensive studies revealed that the capital investment of most industrial countries far exceeded that of the United States.

Advocates of repeal of the tax credit refer only infrequently to foreign competition and submit no evidence that the problem which seemed so urgent in 1962 has disappeared in 1969. In fact, the problem that existed in 1962 has grown more pronounced in 1969. A recent study by McGraw-Hill, Inc., indicates that the United States today has the highest percentage of overage, obsolescent production facilities of any leading industrial country. Also, a study of U.S. investment from 1960 to 1968 revealed that the United States continues to have the lowest ratio of capital investment to gross national product of any of the major industrial nations. Specifically, our average over this 8-year period was 16 percent while that of Japan was 33 percent and West Germany was 25 percent. Also, many of our foreign competitors continue to have much more favorable tax policies and incentives for capital investment. The disparity between foreign capital investment and U.S. investment continues.

Pierre Rinfret prepared the following chart of capital expenditures for 1969 over 1968, and I ask unanimous consent to have it printed in the RECORD.

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

CAPITAL EXPENDITURES GAINS—1969 OVER 1968—SURVEY RELEASE

[In percent]

	Late 1968 or early 1969	Most recent
Western Germany	+10	+25
France	+14	+19
United Kingdom	+10	+15
United States	+14	+13

Mr. HARTKE. Mr. President, it is obvious that while we decrease our capital investment, our foreign competitors increase theirs. Such a pattern offers little hope of improving our steadily declining balance of trade.

It is reported that Japan, the world's fastest growing economy, is deferring approximately one-third of its potential consumption in order to invest in increased capacity and lower cost production facilities. There is an obvious connection between Japan's capital investment and the increasing success of its exports in the United States.

Japan's export of automobiles to the United States rose from 70,000 units in 1967 to 170,000 units in 1968 and will probably exceed 250,000 units this year. Japan's steel exports to the United States increased from 4,700,000 tons in 1967 to 7,500,000 tons in 1968. By 1971 the Japanese steel industry will be producing in excess of 100 million tons of steel. They will have at least four individual mills capable of producing 11 million tons of steel. The United States will not have a single similar mill by 1971.

Obviously, something must be done about such competition. Everyone talks about free trade, but few seem willing to implement measures that will make free trade possible. With our high standard of living and high labor cost, does anyone believe we can compete with foreign producers in labor costs? If the United States is to compete in the world markets, we must have higher productivity, made possible by the most modern techniques and equipment.

The investment credit is one of the very few measures assisting American industry to remain competitive with foreign producers. Free trade will not be achieved by passionate prayer.

The future necessity for a high level of capital spending was recognized by President Nixon when he stated on April 21, "A vigorous plan of capital formation will certainly continue to be needed."

I agree with this conclusion. An expanding population, a shortage of skilled manpower, and continued exposure to world trade makes the investment credit as necessary for the future as it was for the past. To consider just one demand that will be made on our economy, it has been estimated that an average of 1.4 million new jobs will be required annually during the 1970's. In the coming decade, 14 million new jobs must be created. These jobs can only be created by a rapidly expanding economy.

Economic forecasts have frequently underestimated this Nation's potential growth. Failure to provide an adequate industrial capacity will create a situation of short supply, high-cost production, and higher prices. We must adopt sound economic policies enhancing productivity that will allow us to view the future as an opportunity, not as a problem.

Mr. President, I have a rather extensive study of excerpts from the legislative history on the investment credit, and I ask unanimous consent that it be printed in the RECORD at this point.

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

INVESTMENT TAX CREDIT—EXCERPTS FROM LEGISLATIVE HISTORY

When the investment tax credit was enacted in 1962, and during the subsequent considerations of the credit by the Congress in 1964 and 1966, various Treasury officials, and other witnesses, testifying before the congressional committees, and members of Congress either at the hearings or on the floor of the Congress, made certain statements regarding the underlying purposes to be achieved by the investment tax credit, and the fact that the credit was to be viewed as a permanent addition to the tax law.

Immediately following is a compilation of some of these statements and of excerpts from congressional committee reports, together with an index thereto.

REVENUE ACT OF 1962: HOUSE DEBATES

Statements made during the House debates on H.R. 10650 (the Revenue Act of 1962) regarding the investment credit as a permanent part of the tax law:

Mr. Baker: "When this investment credit was first proposed to the committee, I assumed that it would be a temporary shot in the arm—perhaps of 1 or 2 years' duration—and was somewhat intrigued by the idea, but that is not the case. *It is the announced policy of the administration that the investment credit is to be a part of our permanent tax structure and that has been the history of our hodgepodge tax laws.* Once a provision becomes a part of the tax structure, it remains almost as immutable as the law of the Medes and the Persians. I strongly recommend that section 2 of the bill be eliminated at a saving of $1½ billion to our overburdened taxpayers before it becomes even a temporary part of our already too complex and inequitable tax structure." [Italic added.] (CONGRESSIONAL RECORD, vol. 108, pt. 4, p. 5309.)

Mr. Harsha: "While a tax credit as suggested in this bill would be a *long-term answer* to these problems, this method of encouraging business expansion has been termed by some as a windfall to some industries and a loss of revenue to the Treasury, unbalancing the budget. Call it what you will it does no more to unbalance the budget than the $0.6 billion for public works and the $0.5 billion for area redevelopment. But the important feature that seems to be overlooked is that by this tax credit incentive new business would be created, existing business would be encouraged to expand thereby providing new jobs, enhancing the economy on a long-term basis. I repeat, Mr. Chairman, *on a long-term permanent basis not just a temporary shot* in the arm manner to boost the economy for the time being." [Italic added.] (CONGRESSIONAL RECORD, vol. 108, pt. 4, p. 5405.)

Mr. Derounian: "This is particularly true for the big cure-all. Those of you who have some special reasons, good or bad, for favoring the investment credit need not expect to find it continued in effect very long if it ever is enacted into law. *I predict that if the investment credit becomes operative the consequent revenue loss will be such as to cause Treasury to urge its repeal more urgently than it advocated its enactment.*" [Italic added.] (CONGRESSIONAL RECORD, vol. 108, pt. 4, p. 5407.)

HEARINGS, FINANCE COMMITTEE

Statements made during the hearings before the Senate Finance Committee on H.R. 10650 (the Revenue Act of 1962) regarding the investment credit as a permanent part of the tax law:

In testimony on April 2, 1962, Secretary of the Treasury, Douglas Dillon, urged the enactment of an 8% tax credit for investment in depreciable machinery and equipment retroactive to January 1, 1962, in the following terms:

". . . *It* [the investment tax credit] *will stimulate investment in modernization and expansion of our industrial capacity, strengthen our whole economy, contribute to economic growth, and substantially increase the competitiveness of American products in markets at home and abroad.*

"American industry must compete in a world of diminishing trade barriers, in which the advantages of a vast market, so long enjoyed here in the United States, are now being or are about to be realized by many of our foreign competitors. Our balance of payments position, as well as our standard of living in the long run, can be improved or even maintained only if we can increase our efficiency and productivity at a rate at least equal to that of *other leading industrialized nations.* These nations have now largely achieved the conditions needed to attract massive investment in productive facilities—including external currency convertibility, price stability, and political stability—and they *are providing effective tax incentives designed to accelerate investment and growth.* We cannot, therefore, afford to stand by and do nothing, or put off affirmative action to a later day. We need to increase our investment in machinery and equipment now—delay can only place greater strains on our international payments position and put off the achievement of the rate of growth we must achieve if we are to meet our domestic and international commitments and provide jobs for our ever-increasing labor force.

"Machinery and equipment expenditures—the type of business capital expenditure which is basic to the creation of new products and which also makes the most direct contribution to cost-cutting, productivity, and efficiency—constitute a smaller percentage of the gross national product in the United States than in any major industrial nation of the world. In recent years we have devoted less than 6 percent of our GNP (less than 5 percent in 1961) to this type of vital capital outlay, only half the proportion devoted to this purpose by West Germany, only three-fourths that of the United Kingdom, and about 60 percent as much as the combined average of the European members of the OECD. Perhaps even more significant is the fact that in the United States this percentage has recently been declining steadily, whereas it has been increasing in these other nations.

". . .

"Another criticism which was heard frequently last year was based on a misunderstanding. This was the thought that the credit is a temporary remedy for recession or that it would be somehow offset by more restrictive administration of depreciation. *The arguments I have made for the credit clearly reveal that such legislation must be a permanent part of our tax code* if we are to meet foreign competition, and our administrative action in the textile field is a harbinger of what is being prepared for other fields—more liberal rather than more restrictive administration action.

". . .

"I should like to make a few concluding comments on the investment credit proposal before passing on to other aspects of the bill. Throughout our economy there will be thousands of investment decisions involving billions of dollars during the remainder of this year and in succeeding years which may hinge on the outcome of this legislation. There is often a thin line between a yes and no decision in the investment area. With the credit we will have affirmative actions where there would otherwise be none.

"This matter has top priority in the agenda for tax reform. As chief financial officer of the Nation, I do not lightly regard tax abatements on the scale proposed here. I urge this legislation because it will make a real addition to growth consistent with the principles of a free economy; because it will provide substantial help in alleviating our balance-of-payments problem, both by substantially increasing the relative attractiveness of domestic as compared with foreign investment and by helping to improve the competitive position of American industry in markets at home and abroad; and because, far from adding to the forces responsible for alternative recessions and recoveries, it will be of major assistance in strengthening our present recovery and enabling us to attain a higher rate of growth and sustained full employment. Early action will resolve uncertainty or hesitancy and begin at once a strong and lasting incentive for modernization of the productive facilities of our national economy." [Italic added.] (Hearings before the Committee on Finance, United States Senate, 87th Congress, Second Session on H.R. 10650, April 2, 1962, pages 80, 85, and 87.)

In answer to a question asked by Senator McCarthy as to whether it was intended to continue the investment credit "as a permanent part of the tax structure", Secretary Dillon stated:

"We do feel *it should be a permanent part of the tax structure* to promote growth in investment, so we can gradually develop a better ratio of investment to GNP, and also, and very important, so that we can stay competitive with all the other industrial countries of the world, all of which give investment incentives of one form or another. We think this is the cheapest and the best and the most equitable way, and the least disturbing to general price levels." [Italic added.] (Hearings, *supra,* May 10, 1962, page 4379.)

Statements made during the hearings before the Senate Finance Committee on H.R. 10650 (the Revenue Act of 1962) regarding the effect of the investment tax credit on steel companies.

Senator Byrd, Chairman of the Senate Finance Committee, asked Secretary of the Treasury Dillon a number of questions during the course of the Secretary's testimony on April 2, 1962, before the Committee on H.R. 10650 (the Revenue Act of 1962) with regard to the effect on United States steel companies of the investment tax credit proposal under consideration by the Committee. (Page references below are to the Hearings before the Committee on Finance, United States Senate, 87th Congress, 2nd Session on H.R. 10650.)

Question. The Chairman: "Has the steel industry indicated to you that they desire this special incentive?"

Answer. Secretary Dillon: "Most certainly and aggressively, too." (Page 372.)

Question. The Chairman: "If you increased the production of steel, where will you sell it?"

Answer. Secretary Dillon: "This does not necessarily increase the production. It just means that they have a profitable incentive to modernize their steel facilities so they can produce steel at a cheaper price and do not have to increase the price of steel. That would probably be the most important fact." (Pages 380–381.)

Question. The Chairman: "As I see it, you are simply creating another dependence upon the Federal Treasury for manufacturing plants to do what they should do themselves and for which they have the money. I do not know the total cost of the assets of these companies, maybe you do, but it runs into billions of dollars, and the rich companies will have the same reduction in this incentive plan as the poorer ones, will they not?"

Answer. Secretary Dillon: "I can give an example of what I mean in the case of a very strong industry where this would probably have a decisive effect. I think maybe it is easier to consider this in the case of an example. Take the steel industry. (Pages 382–383.)

"We have a need in the steel industry to have iron ore, and there have to be additional sources. The steel industry is faced with a consideration of whether they will put new taconite mining facilities in the depressed area of northern Minnesota or whether they will go abroad to Labrador and put more facilities there to get the higher grade ores that come from there.

"A very essential element in their decision, in fact the only element in their decision, is going to be the costs. And if they can have this type of credit, the chances are very strong that that investment will go into a depressed area, will help American industry, and will not go to Canada; that is the case of a very wealthy industry. So it is not a question of whether they have the money or not. It is a question of where they are going to spend the money."

Question. The Chairman: "Suppose a company is up in Labrador. Do they get a tax credit up there?"

Answer. Secretary Dillon: "They do not."

Question. The Chairman: "In other words, if an American company has a branch in Labrador?"

Answer. Secretary Dillon: "It is just limited to the United States."

Secretary Dillon returned to testify further on May 10, 1962, and during the course of his questioning by Senator Williams regarding the revenue effects of the investment tax credit the Secretary made the following statement:

". . . you can take the answer, for instance, of the United States Steel Co., which said that every penny they got in extra money they would immediately use to invest in further modernization, and that is certainly true in many businesses.

"So I think a great part of this would immediately and very rapidly go back into the business flow. Whether it would this calendar [sic] year or not may be questionable, because the further along we get in the year the less likely there is to be time or companies to change their plans and to make orders and to get those orders delivered.

"So I think you are quite right in thinking that probably there would be less reduction in revenue cost than we thought originally." (Page 4388.)

In a statement by Senator Harry F. Byrd prepared for delivery on the floor of the Senate Monday, May 21, 1962 (Hearings at pages 4400 to 4409, inclusive) Mr. Byrd made the following references to the United States Steel Corporation:

"The investment credit is also wrong in principle because it is discriminatory. For example, the United States Steel Corp. advises me that their maximum credit for 1962 would be no more than $5 or $6 million, while the American Telephone & Telegraph Co., on a 7-percent rate, would receive in 1 year $350 million. . . .

". . .

"Another factor apparently overlooked by the administration is that investments made now will not be eligible for the investment credit in many cases for a period of 2 to 3 years. Mr. R. C. Tyson, chairman of the Finance Committee of the United States Steel Corp., for example, indicated in a letter to me that in the case of the steel industry a period from 24 to 30 months on the average will elapse between the date the project is begun and the date the expenditures are eligible for the credit." (Page 4408.)

SENATE DEBATES

Statements made during the Senate debates on H.R. 10650 (the Revenue Act of 1962) regarding the investment credit as a permanent part of the tax law:

Mr. Proxmire: "Probably the strongest argument against the investment credit is the fact that it is not needed. What we need is increased demand.

"The fact is that today throughout our country firms are not running close to capacity. The McGraw-Hill survey, which I shall cite in a few moments, shows that firms are now running at something like 85 percent of capacity. Very few firms are close to 90 percent of capacity.

"Some industries, like the steel industry, are operating well below the 85 percent of capacity. So long as firms are operating below capacity, there is no reason why they should buy more equipment.

". . . .

"Rather than expanding plant and equipment to produce more goods and then lowering prices in order to sell the additional goods, some firms have been content to maintain prices and sell lesser quantities that require lesser amounts of plant and equipment.

"A classic example is steel, which now has a breakeven point of 40 percent of capacity, and makes a very good profit at 70 percent of capacity, and is in a position where this kind of incentive would be of almost no value, or almost minimal value. In fact, steel officials admitted this to McGraw-Hill interrogators.

"Almost every economist who testified at the hearing agreed that this would have very little stimulating effect on steel. Yet it is interesting that the one industry which the Secretary of the Treasury said is really watering at the mouth for this privilege is the steel industry. The steel industry wants it, but it will not have any favorable economic effect upon the country through what the steel industry will do with it, because there is no argument, there is no question that steel will use it for anything except to increase its after-tax income to capacity.

"The tax stimuli to investment, therefore, reflect themselves merely in higher after-tax profits at constant price levels, rather than in greater production at lower price levels.

". . .

"The iron and steel industry is pressing hard for the investment credit. But the percent increase that they said the investment credit would increase their investment would be zero. In the non-ferrous metals it would be 1 percent. In electrical machinery, it would be 1 percent. In autos, trucks, and parts, it would be zero." [Italics added.] (Volume 108, Part 13, pages 17610, 17612, and 17620, Congressional Record, August 25, 1962.)

Mr. BYRD. "For the first time in my 30 years of membership on the Senate Finance Committee I have found it necessary to present a minority statement on a bill reported by the committee. The committee adopted the investment credit provisions by a vote of 10 to 7. In the minority views I was joined by the Senator from Tennessee [Mr. GORE], the Senator from Delaware [Mr. WILLIAMS], and the Senator from Nebraska [Mr. CURTIS]. By reason of that I have submitted individual views I felt it was appropriate for me to request the very able ranking Democratic member of the Senate Finance Committee, the Senator from Oklahoma [Mr. KERR] to report the bill to the Senate, which he has done.

". . .

"If the investment credit provisions of section 2 remain in the bill and the measure is enacted, they will become permanent in the law. For this reason it is appropriate for the Senate to examine the long-range budgetary effects." [Italics added.] Volume 108, Part 13, page 17741, Congressional Record, August 27, 1962.)

Mr. KERR. "The main provision of the bill—the investment credit—will, I am convinced in years to come, be viewed as the most important single measure to strengthen and revitalize the American economy enacted by the 87th Congress. It will provide American producers with the stimulus they need both to modernize to meet foreign competition and to accelerate expansion of our domestic economy . . ." (Volume 108, Part 14, page 18734, Congressional Record, September 6, 1962.)

Mr. HUMPHREY. "By providing business with a direct incentive to investment in productive equipment, it will stimulate growth directly as increased orders for machinery and equipment create additional jobs and larger payrolls. But the major thrust of the credit will be longer term.

"The credit will encourage the modernization of our factories and farms, the development of new technology and its rapid incorporation in the production process. The resulting gain in productive efficiency will bring important direct benefits." (Volume 108, Part 14, page 18738, Congressional Record, September 6, 1962.)

COMMITTEE REPORTS—H.R. 10650 (THE REVENUE ACT OF 1962)

Ways and Means Committee report

. . . It is believed that the investment credit, coupled with the liberalized depreciation, will provide *a strong and lasting stimulus to a high rate of economic growth* and will provide an incentive to invest comparable to those available elsewhere in the rapidly growing industrial nations of the free world." [Italics added.] (H. Report No. 1447, 87th Congress, 2nd Session, p. 8 (1962).)

Senate Finance Committee report

The Committee on Finance of the United States Senate quoted with approval language by Secretary Dillon to the same effect as that of the Ways and Means Committee Report, *supra.* (S. Report No. 1881, 87th Congress, 2nd Session, p. 11 (1962).)

Conference report

The Conference Report recognized the long-range objectives of the investment tax credit in the following terms:

"It is the understanding of the conferees on the part of both the House and the Senate that the purpose of the credit for investment in certain depreciable property, in the case of both regulated and non-regulated industries, is to encourage modernization and expansion of the Nation's productive facilities and to improve its economic potential by reducing the net cost of acquiring new equipment, thereby increasing the earnings of the new facilities over their productive lives." (Conference Report, H. Report No. 2508, 87th Congress, 2nd Session, p. 14 (1962).)

REVENUE ACT OF 1964: HOUSE DEBATE

Statements made during the House debates on H.R. 8363 (the Revenue Act of 1964) indicating that the investment credit is a permanent part of the tax law:

Mr. Keough, in supporting the repeal of the reduction-in-basis provision (the so-called Long amendment), stated:

"Mr. Chairman, nothing could be clearer than that the intention of the Committee on Ways and Means and the Congress in enacting the investment credit was to increase incentive for American business for investment. The so-called Long amendment was not a part of the investment credit in the form in which that provision passed this body, as I stated, but was added in the other body and was accepted in conference over the strong objections of a number of the House conferees. It was maintained then by some of your House conferees, including myself, that the *Long amendment would be restrictive in nature and would indeed dull the stimulus which was envisioned by the investment credit provision itself.*

"Mr. Chairman, experience has indeed borne out not only the prediction of the Committee on Ways and Means with respect to what the investment credit would accomplish, but it has also borne out the prediction which some of us made with respect to the restrictive nature of the reduction-in-basis amendment.

"However, it might well be said that the success of the investment credit occurred despite the fact that its full incentive effect is impaired by the reduction-in-basis amendment. Therefore, the repeal of this reduction-in-basis restrictive amendment, as provided in the pending bill, will make the investment credit even more effective in reaching its desired objective. *This change will almost double the impact of the credit and the added incentive provided by the repeal will give a substantial boost to modernization of obsolete facilities, thereby enabling our business to compete more favorably in world markets, which is so urgently needed now.*" [Emphasis added.] (Page 16995, Congressional Record, September 24, 1963.)

HEARINGS, FINANCE COMMITTEE

Some statements made during the hearings before the Senate Finance Committee

on H.R. 8363 (the Revenue Act of 1964) regarding the investment tax credit:

Secretary Dillon, in support of the repeal of the requirement that basis of property be reduced by the amount of the 7% investment credit, stated:

"As a result of legislation approved by the Congress last year, tax liabilities of business firms in general are reduced by an amount equal to 7 percent of their outlays for new equipment. Annual tax savings for each firm may amount to as much as the first $25,000 of tax liabilities plus 25 percent of the excess. However, the business must reduce the depreciation basis of the assets required by the amount of the credit. This requirement has led to a number of unforseen accounting and administrative difficulties for both taxpayers and the Internal Revenue Service. *The effectiveness of the credit has also been substantially reduced by the basis adjustment requirement.*

"H.R. 8363 eliminates the reduction in basis *so that the benefits of the investment credit would not be reduced in the future, and so that the impairment already encountered would be recouped.* The bill repeals the reduction in basis requirement for assets placed in use after June 30, 1963. It also provides that the amounts deducted from basis before July 1, 1963, may be added back to basis as of the beginning of the first taxable year of the taxpayer which begins after June 30, 1963.

"This provision is appropriately included in this bill, which is directed at improving the performance of the economy. *The investment credit stimulates investment by reducing the net cost of acquiring depreciable assets, thereby increasing the all-important rate of profitability on a given investment outlay.* The requirement that the basis for depreciation of assets be reduced by the amount of the credit taken cuts the inducement to new investment provided by the credit almost in half. When an investor appraises the profit potential of a new investment, he views taxes on income as a cost which reduces the net return. Whereas the tax credit reduces this tax cost and increases profitability, the resulting reduction in the depreciation base partially offsets the effect of the credit by reducing the amount of the depreciation which may be taken and thereby increasing the taxable income from the investment.

"At corporate tax rates of 48 percent, repeal of the basis reduction provision will almost double the incentive provided by the present tax credit. By reducing business taxes it will increase the profitability of new investment and encourage the more rapid expansion and modernization of existing facilities. It will thereby give an important stimulus to economic growth.

"Repeal of the reduction-in-basis provision will also eliminate a number of administrative problems and bookkeeping details which have burdened so many taxpayers, especially small businesses. For example, in most States taxpayers are not required to reduce their depreciation basis to reflect the investment tax credit when computing income for State tax purposes. Consequently, taxpayers in these States are now required to keep two different sets of accounts in which their various assets have different bases. In addition, the basis reduction complicates the computation of earnings and profits, the pricing of defense contracts, and the bookkeeping requirements of regulated companies. Finally, the fact that the basis reduction immediately reduces depreciation even in those cases where the taxpayer is not able to use the credit can result in a net detriment to the taxpayer until he can use the credit.

"It is estimated that this provision will result in decreased tax liabilities of $145 million in calendar year 1964 and $185 million in calendar year 1965. Estimated reductions in fiscal year receipts are $15 million in 1964 and $145 million in 1965." [Emphasis added.] (Hearings, Committee on Finance, United States Senate, 88th Congress, 1st Session, on H.R. 8363, October 15, 1963, Part 1, page 146.)

Secretary Dillon's written response to questions asked by Senator Gore:

"Question 13. Has the ostensible lag in plant and equipment expenditures in recent years been caused by a lack of readily available investment capital?

"Answer. I take it that this question in referring to 'readily available investment capital' refers to the availability of cash funds to corporations to finance investment. In this sense there clearly is no overall lack of such funds at the present time although *a few major industries such as steel and railroads have been held back in their investment plans by a lack of readily available cash.* But, on an overall basis, I do not think that this has been the principal problem holding back investment during recent years. At the preesnt time it is our view that the more important problems are those related to the prospective rate of profit on additional investment, and the problem arising from inadequate markets. Both of these problems are dealt with in the tax bill." [Emphasis added.] (Hearings, *supra,* October 17, 1963, Part 1, page 368.)

Secretary Dillon, in response to Senator Curtis as to what portions of the bill will be incentives for investment, stated:

"There are incentives for investment by business and incentives for investment, risk taking, by individuals.

"I think that reduction of the rate structure will mean that individuals will be more inclined to put a larger proportion of their assets in risk-taking ventures rather than possibly in tax free bonds, things of that nature.

"I think that as far as business is concerned, that one element in the bill that is most particularly directed at that is the provision which modifies the investment credit so as to remove the present requirement for a reduction in basis.

"The other major element is of course the reduction in the corporate tax itself, which will mean that profitability of any investment will be increased by something over 8 percent."

(Hearings, *supra,* October 18, 1963, Part 1, page 436.)

Joel Barlow, speaking for the U.S. Chamber of Commerce regarding the investment credit, stated:

"As this committee knows, the chamber raised a question in its testimony in 1962 and 1963 as to the propriety of using tax credits to accomplish economic and social reforms. We do not like subsidies in the tax structure for business or anyone else. We favored measurable deductions such as an initial allowance which enter into the computation of cost and the established pattern determining net income. At that time we supported the basis adjustment only because it was the kind of provision that would fit the credit more nearly into the Revenue Code's existing concepts and pattern of capital recovery.

"However, since the administration and the Congress have decided upon the credit instead of an increased deduction or initial allowance as the best method to make our investment writeoffs more comparable to those allowed by other nations it must stay in the law; and the basis adjustment should be eliminated so as not to diminish the already inadequate allowance by trying to fit it into the conventional depreciation pattern.

"Increasing corporate rate reduction by an additional 1 percent would not justify repealing the credit. If a 1-percent rate reduction were substituted for the investment credit, corporations investing only a small portion of earnings in new plant and equipment would be benefited at the expense of those corporations making substantial new investments. The many small unincorporated businesses would be unfairly discriminated against.

"The chamber believes that, despite its drawbacks, the investment credit has been a significant factor in encouraging investment in new plant and equipment. It will, of course, take several years before its incentive effect will fully be reflected in corporate investment policies. If it is repealed only 1 or 2 years after its enactment, the business community will be unwilling to pursue long-run investment programs for fear that another shift in tax policy 2 years hence will again upset reasonably developed expectations. Moreover, the business community will begin to question whether the Government is genuinely interested in encouraging capital investment.

"The major criticism of the investment credit, as I have said, is the complex basis adjustment provision. By providing for the repeal of the basis reduction requirement of the credit, the House bill removes one of the complex features and, at the same time, augments its incentive effect. For these reasons, the chamber actively supports the repeal of the basis reduction requirement. There is no doubt that many more businesses would avail themselves of the credit if this requirement were repealed.

"The chamber also supports the other proposals for modifying the investment credit which are contained in the House bill. We would like to call particular attention to the provision declaring that it is Congress' intention that regulatory agencies shall not 'flow through' the investment credit to a utility's customers. As written, this provision would not bar the Renegotiation Board or the Department of Defense from deeming corporations to have higher profit levels because of the investemnt credit. We believe that a 'flow through' in Government contract negotiations would be as antagonistic to the purposes of the credit as it is in the area of public utilities. The statement of congressional intent as to the ban on 'flow through' should be expanded to include Government procurement and renegotiation." (Hearings, Committee on Finance, United States Senate, 88th Congress, 1st Session, on H.R. 8363, October 21, 1963, Part 2, page 478.)

Joel Barlow, in response to a question by Senator Gore regarding repeal of basis adjustment for investment credit, stated:

"Senator Gore: On this availability, let me read this to you. The McGraw-Hill organization made an investment survey and they reported that business executives— 'attribute $1,200 million or about 40 percent of the planned increase in outlays on plant and equipment this year to the 7-percent investment credit, and the liberalized depreciation privileges put into effect last year.'

"I call this up, Mr. Chairman, because we were told last year, as you will recall, by the Secretary of the Treasury, that the most effective way to stimulate investment in the tax law was to give investment credit.

"The Congress passed this bill. Liberalized depreciations were given. We see here that the promise has greatly exceeded the performance.

"Now after we have done the two things which the Treasury said was most effective and would be most effective in stimulating investment, we find only $1.2 billion attributed to the investment credit and depreciation changes. And we are asked then to give a general tax reduction of $11 billion on the same basis, even though we were told last year that the most effective way to stimulate investment was investment credit and depreciation liberalization.

"Mr. Barlow: Senator, might I comment on that?

"Senator Gore: Sure.

"Mr. Barlow: The proposal of the Treasury last year on the 7-percent investment credit was to stimulate investment in machinery and equipment, facilities to reduce cost.

"Senator Gore: Plant and equipment.

"Mr. Barlow: That is right, plant and equipment. When you are talking about that kind of investment you are talking about a a little different kind of investment than overall investment from savings in stocks and bonds and that type of investment.

"I think it is clear from the McGraw-Hill study to which you refer that the 7-percent credit has been a very effective stimulant to investment in plant and equipment. But I would say to you that one of the reasons that you don't have higher figures is because of the Long amendment, which is repealed in H.R. 8363, and also because the Treasury put a reserve ratio test, as I testified earlier, into the guidelines. There has been some drawback on the part of the business community in investing in plant and equipment because of those two provisions.

"That is one of the reasons I think the Ways and Means Committee was very wise in eliminating the basis adjustment provision. But the figures on overall investment that Senator Bennett gave you are not the same kind of investment that is contemplated by the 7-percent investment-credit stimulus." (Hearings, Committee on Finance, United States Senate, 88th Congress, 1st Session, on H.R. 8363, October 21, 1963, Part 2, page 532.)

Statements made during the Senate debates on H.R. 8363 (the Revenue Act of 1964) indicating that the investment credit is a permanent part of the tax law:

Senator Long, speaking in favor of the repeal of the so-called "Long Amendment" to the investment credit provision of the Revenue Act of 1962, stated:

"Section 203(a) would repeal the Long amendment of 2 years ago. That was my amendment. That was an amendment to depreciate the 7 points of investment credit which had been allowed under the law. Section 203(a) would repeal the Long amendment that would permit depreciation which from one point of view was something never really paid for, that is, to make investment credit even more attractive than it is now. I believe it will be a big incentive to business to go even further toward providing more modernization and better services." (Page 2064, Congressional Record, February 5, 1964.)

COMMITTEE REPORTS—H.R. 8363 (THE REVENUE ACT OF 1964)

Ways and Means Committee Report

"To remove the recordkeeping and accounting problems which have arisen in connection with the basis adjustment provision and also to *provide a greater stimulus* with respect to the investment credit, your committee's bill repeals this basis adjustment provision with respect to property placed in service after June 30, 1963. It also provides a means whereby over a period of time taxpayers may recoup their basis adjustments already made. The repeal of this provision restores the investment credit to the position taken by the House in 1962 with respect to this credit." [Underscoring added.] (H. Report No. 749, 88th Congress, 1st Session, pages 34, 35 (1963).)

Senate Finance Committee Report

"To remove the recordkeeping and accounting problems which have arisen in connection with the basis adjustment provision and also to *provide a greater stimulus* with respect to the investment credit, the bill, both as passed by the House and as reported by your committee, repeals this basis adjustment provision. It also provides a means whereby over a period of time taxpayers may recoup their basis adjustments already made." [Underscoring added.] (S. Report No. 830, 88th Congress, 2nd Session, page 41 (1964).)

TAX ADJUSTMENT ACT OF 1966: HEARINGS, WAYS AND MEANS COMMITTEE

Some of the testimony regarding the investment credit presented during the hearings on the 1966 Tax Proposals of the President (subsequently introduced as H.R. 12752, and enacted as the Tax Adjustment Act of 1966) before the Ways and Means Committee, House of Representatives, 89th Congress, 2nd Session, January 19, 27, and February 1, 1966. (References set forth below are to those hearings:)

Secretary Fowler replies to Mr. Byrnes' question regarding the repeal of the investment credit (Hearings, *supra*, January 19, 1966, pages 59–61):

Mr. BYRNES. These proposals are largely designed to reduce inflationary pressures, to lessen economic stimulations that can produce inflationary consequences. Why, then, ask for increases in taxes that we reduced only last year? Why wasn't some consideration given to repealing the 7-percent investment credit that was enacted to stimulate the economy?

Secretary FOWLER. Congressman Byrnes, I think it is fair to say that consideration was given to a broad range of measures, including the 7-percent investment credit, raising of individual rates and corporate rates, and others that could be mentioned. We tried to canvas the entire area. With regard to the investment credit, let me make a few comments without going into detail, although we did study it very carefully.

Mr. BYRNES. The reason I raise this question is because that's the one important provision in our tax code that is designed to produce a substantial stimulative effect on the economy; business is subsidized, not because of equities of tax law, but to encourage capital expenditures to stimulate the economy.

Secretary FOWLER. First, let me say the same thing is true of the reduction in the corporate rate. The first observation I would want to make is that one of the great advantages that we have now, and we will have in the period ahead, is the continued expansion of this Nation's productive capacity and a continued modernization of existing capacity and capacity that may be added. Therefore, I think we want to be very chary of restraining or holding back the enlargement of this productive capacity to meet growing requirements, whether they be for defense or for civilian use.

Secondly, tinkering with the investment credit, unless there was some very compelling reason for it, which I don't think exists today, would create uncertainties and would impair its long-range effectiveness. Moreover, if it were withdrawn from projects that were underway, this committee and the Congress would be confronted with questions of good faith with respect to companies that had projected new projects.

If, on the other hand, you went a long way toward avoiding removing the credit from projects underway and tried to have it hit sometime later, its impact might come in late 1967 or 1968 in view of the long-term nature of corporate expenditure planning. In this event, the effect might come just at the wrong time.

I could go into this in considerable detail in view of the nature of the problem, but just let me say that we were confronted by three options, as set forth in the President's letter. One was to let the deficit stand at between $6 and $7 billion. Another was to change corporate rates and individual rates or impose new taxes, which would involve the committee in a good deal of discussion about who should finance the increased costs of military operations in Vietnam and how the burden should be distributed. The option we chose was to take advantage of policies that had already been fairly well established by legislation on the books or had been thought of as being desirable structural changes. Frankly, we admit it is a one-shot operation, but that was one of the very features that we felt was attractive about it.

Mr. BYRNES. There is nothing one shot about an increase in excise taxes. You can always repeal it.

Secretary FOWLER. As far as that one is concerned, I want to make a specific comment. The Congress had already adopted a policy of graduated removal of the passenger car and the local and long-distance telephone tax. Therefore, it didn't seem to us to be a very substantial departure from that principle of a graduated removal to stretch out the graduation, so to speak, for a specified 2-year span. We tried to bring up a package of proposals that would frankly, involve this committee in the minimum of difficulty to get the changes made as quicky as possible and have the revenue and economic effects, whatever they were, to begin to work as soon as we could.

Mr. BYRNES. Do I understand then that it is your idea and that of the Treasury that the investment credit should be a fixed part of the tax law? Anyone who makes a capital investment is automatically going to be permitted to depreciate the full cost of that equipment, and also receive an additional subsidy of 7 percent?

Secretary FOWLER. Yes, I think, Congressman Byrnes that certainly would be my own attitude. I realize that none of the provisions in the law are unchangeable, like the laws of the Medes and Persians. They are all subject to change. But my own response would be that I hope we could meet the problems that we have now, and the problems with which we may be confronted by temporary changes of a passing nature that will be coincident with the hostilities in Vietnam, without tinkering with the long-term structure of our tax laws.

Mr. BYRNES. I am not suggesting that you tinker at any time. I merely suggest that when we start worrying about an overstimulation of the economy that some consideration should be given to a tax provision that was put on for stimulation purposes. I don't know that I appreciate the idea that this suggestion represents tinkering.

Secretary FOWLER. I think that in addition to the stimulation effect, which was one of the considerations, there was another, and perhaps a more basic consideration, that attaches to the investment credit. From a long-term structural standpoint, wholly apart from cyclical considerations, it was desirable to have a feature of our tax law which encouraged additions to productive capacity and continuing modernization of industrial capacity in view of the problems of international competition and in view of the fact that the existing setup had been marked by a rather, you might say, stalled industrial capacity. Plant and equipment expenditures had been pretty well stalled at a given level for a number of years. It was felt that this was a structural condition and that something ought to be done of a permanent and enduring nature that would encourage the results that I think we have achieved.

Mr. BYRNES. I think a review of some of the arguments that were presented to this committee by the then Secretary of the Treasury, Mr. Dillon, and the existing economic conditions upon which he based his support of the 7-percent credit, will demonstrate that these indicate those conditions have changed materially. The need to encourage modernization and economic stimulation, and the other factors that led the committee to adopt the proposal, are not paralleled in the current economic picture.

Secretary Fowler replies to Mr. Curtis regarding the understanding of Mr. Curtis that

the investment credit was not to be a permanent part of the tax law (Hearings, *supra*, January 19, 1966, pages 73–75):

Mr. CURTIS. One final area. Mr. Byrnes brought up this problem of the investment tax credit and why this shouldn't be the area to remove, and you gave an answer, and I will have to review it myself, but I would like us all to review the basis on which this innovation was presented.

As I understood it, it was not on the basis of permanent tax policy. It was more along the line that many of the economists and the President's economists have been arguing there needed to be flexible fiscal policy. Here was an area, they argued, to exercise it in a period of a recession where there had been not the kind of capital investment necessary, that this indicated that investment should be stimulated.

If my understanding of the history of this is right, it would certainly seem that the administration ought to pay a great deal more attention than it has to the possibility of removing that stimulus to the economy.

Secretary FOWLER. Like many other matters, Congressman Curtis, involving history, there are different recollections.

My own recollection is that Secretary Dillon, before this committee, advanced the program as a permanent feature of our tax structure which he felt was necessary. Indeed, one of the concerns that existed at the time in the private community was that this might be just a temporary measure. In order to allay that concern and to give recognition to what we felt was a fundamental disadvantage in dealing with the problem of efficiency and competitiveness as, say, compared to the Western European countries and Japan, that the Treasury and Secretary Dillon consistently took, I believe, the position that this should be a permanent long-range feature of the system. That is my recollection of it.

Mr. CURTIS. I say I have to review it myself because I could have a misconception, but in light of this, if this is permanent tax law, and I very honestly felt that it was bad economics and bad tax law, and still do for that matter, but if we maintain this policy, I would do a little lobbying here to urge you to adopt its counterpart in the human investment field, capital investment in the training and retraining of human beings. Human beings are in competition with machines, and to equalize this preference given to machines and to put further emphasis on this great need of training and retraining by our corporations, by our industries, and most importantly in the private rather than the governmental sector, I introduced such a bill and am promoting it. I am very hopeful that your Department will look at it and have a report early to this committee.

Secretary FOWLER. May I just say that where various proposals, however meritorious and constructive they may be for the long term—and I don't want to get into a judgment on any particular proposals at this time—involving tax reductions in large amounts are before the committee this year, the Secretary of the Treasury is more than likely going to be strongly opposed.

Mr. CURTIS. Yes. I can see that, and that is why I am urging you to at least consider repeating the thing that is for the benefit of machines.

Secretary FOWLER. Benefit of who?

Mr. CURTIS. To repeal that which is for the benefit of machines. The tax credit is given for putting money into new machines. If you are not prepared at this time to do the similar thing in the amount of money put into capital investment of human beings, you should urge the repeal of the former.

Secretary FOWLER. I think that neither the Secretary of the Treasury nor the administration have any differences in view about the importance of providing money for the training of human beings. You and I have been on the same side of that question for quite a long time, going back over a period of years. I think our differences, if there are any, will come as to the timing and the method of that particular provision.

Mr. CURTIS. I think that is a fair statement of most of our differences, and I wish the people of this country would fully understand our differences and my differences with the administration and that of the Republicans isn't that we don't love human beings, because we do. We are trying to figure out how we best move forward to assist in developing our social structures in their behalf.

Thank you, Mr. Chairman.

Secretary Fowler replies to Mr. Battin's comment as to the long-range basis of the investment credit (Hearings, *supra*, January 19, 1966, page 84):

Mr. BATTIN. Mr. Secretary, in response to Congressman Byrnes' question on the investment credit of 7 percent, you made the point in your recollection that it might be considered breaking faith with the industrial community if this were not on a long-range basis.

Secretary FOWLER. I didn't mean to state with the entire industrial community. My point was that with those companies that had started projects the investment credit becomes available when the project is completed, not when it is initiated. Where decisions have been taken, commitments made, and work started, if then Congress said, "Well, now, you are not going to get the investment credit when you complete the project," there would be, I think, a feeling that they had been misled somewhat in initiating the project.

Statements made during the Senate debates on H.R. 12752 (the Tax Adjustment Act of 1966) regarding the investment credit:

Senator Long, speaking in opposition to Senator Gore's amendment which would have suspended the investment credit, stated:

"Suspension of the investment credit as a substitute for title II of the bill

"Mr. LONG of Louisiana. Mr. President, I wish to speak to the amendment submitted by the distinguished Senator from Tennessee [Mr. GORE].

"The Senator from Tennessee presented his proposal to the Secretary of Treasury in hearings before the Finance Committee. The Secretary indicated that the Treasury prefers the approach adopted in this bill to the one proposed by the Senator. A majority of the Finance Committee, which have careful consideration to the Senator's proposal, also indicated a preference for the bill as it stands. There are good reasons for the position taken by the Secretary and the majority of the committee.

"There is virtually no difference in the revenue effects of the two proposals. The excise tax provisions of the bill will add $35 million to revenues in fiscal 1966 while suspension of the investment credit on March 1 would add $80 million to revenues. The excise proposals will add $1.2 billion to revenues in fiscal 1967, the same amount as suspension of the credit will produce under the terms of the Senator's amendment. Because there is no difference in revenue impact, such as relation effectiveness as an inflation preventative.

"Prevention of inflation

"H.R. 12752 provides a balanced program to prevent inflation. The most important provision from a revenue standpoint is the acceleration of corporate estimated tax payments. This provision will restrain investment by the Nation's 16,000 largest corporations. Graduated withholding and the excise-tax proposals will affect consumers, restraining consumption expenditures. The bill as it now stands, therefore, will moderate both private investment spending and private consumption spending.

"In contrast to this balanced approach, the Senator's proposal would shift virtually the entire weight of the bill on to investment. Investment would be restrained both by the acceleration of corporate tax payments feature and by the 2-year suspension of the investment credit. Consumption, on the other hand, would be restrained only by the effect of graduated withholding, which may largely disappear in 1967, when the withholding allowance procedure goes into full effect.

"Inflation is the problem of too much purchasing power chasing too few goods. We can prevent inflation by either holding down purchasing power or by making sure that the volume of goods produced increases in proportion to the increase in purchasing power. While at times it is necessary to put a little restraint on purchasing power, clearly it is better to prevent inflation by producing more rather than by spending less. That is why this is not the time to suspend the investment credit. We need to increase capacity to provide for the defense needs in Vietnam and to provide for a prosperous domestic economy. Some restraint on investment is probably called for to make sure that investment does not become too exuberant. But the Senator's proposal, coming on top of the acceleration of corporate tax payments, might apply too much restraint on investment.

"While both the excise-tax proposals in this bill and suspension of the investment credit would tend to moderate private spending, the effect of the excise-tax proposals will be felt sooner. The effect of suspending the credit would be delayed, since it wouldn't apply to goods on order at the time the suspension becomes effective. The lag between order and delivery would delay the effect of suspending the credit until late in this year or early next year. The restraining impact of the excise-tax proposals will be felt as soon as the bill is passed or very shortly thereafter.

"The balance of payments

"The investment credit is very important to our balance of payments. In the first place, the credit encourages the modernization of American machinery and equipment. Such modernization makes our exports more competitive in world markets.

"The credit has a second important effect on the balance of payments. It tends to make investment opportunities at home more attractive relative to investment opportunities abroad. If the credit were suspended, the pressures leading to an outflow of U.S. capital to take advantage of foreign investment opportunities would become even stronger. As Senators know, the outflow of American capital has been one of the most difficult aspects of the problem faced by the President and the Congress in the effort to eliminate balance-of-payments deficits.

"Equity and administration

"When we consider the effects of the Senators' proposal, we must look at the entire bill and not confine ourselves to a comparison to the excise tax proposals and a suspension of the credit. The bill as reported by your committee spreads the burden of the added revenues needed to fight the war in Vietnam broadly and equitably over the population. The Nation's largest corporations, as is only fair, carry a heavy share of the burden. Both wage earners and self-employed persons are affected. Finally, the excise tax proposals themselves affect as broad a cross section of consumers as any two excises that I know.

"The Senator's proposal would shift more of the burden of this bill on to business firms. His proposal, in other words, would make one sector of the economy carry most of the load. In this regard, we must remember that corporations are already in the midst of accelerating their tax payments. Under the terms of the Revenue Act of 1964, the acceleration of corporate payments would add $1.8 billion to corporate tax payments in 1966 and $2.1 billion in 1967.

"This bill will step up the acceleration, producing a total increase in corporate tax payments of $2.8 billion in 1966 and $5.3 billion in 1967. The Senator's proposal would place the further burden of a reduction in the investment credit on business firms, primarily corporations.

"While it might appear that it would be easy from an administrative standpoint to suspend the investment credit, there would be problems. Under the terms of the Senator's amendment, the credit cannot be taken with respect to property acquired after the date of enactment of the bill unless a binding commitment to purchase it existed before that date and installation is completed within 1 year after that date.

"This rule will open up difficult areas of dispute between the Internal Revenue Service and business firms over what constitutes a binding commitment. I doubt if any mechanical rule can be followed here. Each case will have to be examined on its own merits.

"If we try to avoid this problem by suspending the credit on all equipment installed after the date of enactment of the bill, we will treat unfairly the many businessmen who have made plans and committed themselves to the purchase of the equipment which cannot be installed until after that date. On the other hand, if we move the effective date back to take account of this, taxpayers will be encouraged to crowd their investments into the period before the credit is suspended. This effect would not stabilize the economy, it would destabilize it.

"Conclusion

"In conclusion I would also like to point out that suspension of the investment credit would be a major change in tax policy. As the Secretary of the Treasury pointed out, the credit is viewed by the Treasury and the business community as a permanent feature of the tax law.

"It is also a very significant feature of the tax law as far as liabilities are concerned. Under the circumstances, we should not alter the credit until public hearings are held and representatives of the public have had a chance to present their views and the Members of Congress have had an opportunity to consider those views carefully.

". . ." (Congressional Record, volume 112, part 4, pages 5181–5182.)

Senator Carlson, speaking in opposition to Senator Gore's amendment which would suspend the investment credit, stated:

"This investment credit was enacted as a part of the Revenue Act of 1962. It was enacted with the thought that it would increase business investment—an important factor in achieving *long-term growth* and full employment." [Emphasis added.] (Congressional Record, volume 112, part 4, page 5183.)

Senator Smathers, speaking in opposition to Senator Gore's amendment which would suspend the investment credit, stated:

"Let us review a little of the legislative history. When the credit was under discussion in 1962, some said: Why use such a measure now when there is still slack in the economy? They argued that such a device could not be useful in encouraging investment and modernization as long as our capacity utilization rates were well below preferred levels. Supporters of the credit had to point out then that the fact that the investment credit was suggested at a time when we were in a recession period and that it was being adopted in a period of recovery did not mean that it was to be regarded as a countercyclical tool. *Rather it was pointed out very clearly that it was intended to be a permanent part of the basic tax law in the sense that it was to become part of the underlying tax structure designed to invigorate the environment for investment.* The major impact of the credit, it was recognized, would be felt as we moved along in our recovery to full employment and increased growth thereafter.

"If we accepted the reasoning of the critics in 1962, we could not have had the credit since we were then in a recession period, and if we accept the views of the critics today, we would not have a credit because we are now in a period of strength and full utilization of capacity. In short, in the view of these critics we would not have an investment credit at any time.

"No one can look around the world today and fail to recognize that tax policies designed to encourage growth and modernization are an integral part of the world scene. These tax systems all have basic structural measures which create an environment favorable to the growth and modernization of industrial capacity.

"If the idea is implanted that the investment credit is such a temporary on-and-off device, its future usefulness will be gravely impaired. If it cannot be counted on in the continuous forward planning of investment, it will cease to be a real source of strength. If business had to plan around temporary swings of such a control instrument, the credit would certainly have erratic and undesired effects. Investment would be speeded up by business artificially to try to get under the wire when it looked as though the credit was to be reduced. Investment would be slowed down to an unwarranted degree during temporary suspensions in the hope of getting the benefit of the credit at some later date.

"The disruptive effects of an on-again off-again policy would be bad for business and bad for the economy.

"For a number of reasons, *the investment credit is not suitable as a short-range restraining measure.*

"For one thing, cash flow or revenue effects of the credit are delayed. The credit becomes available as the investment project is completed. As a matter of good faith and fairness, a suspension has to provide an exception for projects already underway or contracted for prior to the effective date. The amendment it is understood, excepts prior commitments, provided the equipment is installed within a year. This might well produce a disorderly rush to complete installations before the 1-year cutoff.

"It is obvious that this would aggravate an already difficult situation. I am encouraged that those business executives who probably have not counted on expansion right away will make contracts for them right away. We would already see that otherwise the shortage of carpenters, electricians, plumbers, and others which we now have would grow even shorter and, consequently, the inflationary fires would begin to build up and take effect." [Emphasis added.] (Congressional Record, volume 112, part 4, page 5192.)

Senator Proxmire, who opposed the investment credit in 1962, in speaking in opposition to Senator Gore's amendment which would suspend the investment credit, stated:

"I believe that one element which President Johnson rightly recognized is the importance of certainty to American business. Uncertainty seriously disturbs business. *If Congress should now suspend or repeal this investment credit, the confusion, the concern about whether it would be reinstituted and when would have a long-term, adverse effect on business.*" [Emphasis added.] (Congressional Record, volume 112, part 4, page 5192.)

Senator McCarthy, stating that it was time for the Senate to take another look at the investment credit, stated as follows:

"I am not of the opinion that this credit should be a permanent part of the tax structure, but it serves temporary ends and temporary objectives, and it should be subject to periodic reexamination. We should consider alternatives, other forms of tax reduction—excise taxes, perhaps, or reductions in the general corporate rate so that the managers of corporations can make their own decisions." (Congressional Record, volume 112, part 4, page 5472.)

Senator Douglas, speaking in favor of his proposal to limit the amount of investment income against which the credit can apply, stated:

". . . This proposal would leave intact the investment credit at a structural part of our tax system. Personally, I do not believe it should be a part of the system, but evidently the vast majority of this body believe at the moment, that it should be, although I hope and believe that with the passage of time they will change their point of view." (Congressional Record, volume 112, part 4, page 5481.)

HEARINGS, FINANCE COMMITTEE

Some of the testimony regarding the investment credit presented during the hearings on H.R. 12752 (the Tax Adjustment Act of 1966) before the Senate Finance Committee, 89th Congress, 2nd Session, February 25, 28, and March 1, 1966. (References set forth below are to those hearings:)

Secretary Fowler replies to Senator Smathers' question as to why the Treasury had not recommended the elimination of the investment credit (Hearings, *supra*, February 25, 1966, pages 92–93):

Senator SMATHERS. In this matter of meeting the twin problems of inflation on the one hand and paying for the increased expenditures in Vietnam on the other, why didn't you consider recommending the elimination of the investment tax credit?

Secretary FOWLER. We did consider the question of the investment tax credit at some length back in December. As a matter of fact, we considered the whole range of tax measures that might have been employed under the circumstances to raise revenues. This question of the investment credit came up in the House Ways and Means Committee hearings and I dealt with it at length there. I will try to deal with it in a summary fashion here.

There were three principal reasons why we rejected suspension or repeal of the investment credit.

First, we feel the investment credit is a sound, long-range measure in that its basic purpose was to produce an incentive to increase productive capacity. An increase of productive capacity, and an increase in supply, is one of the best answers to increased demand or inflationary tendencies.

Secondly, we felt the investment credit will induce more efficient processes resulting in an increase in the rate of productivity. This will not only produce overall efficiency to the system, but it will also enable us to provide regular wage increases that are characteristic of our system without inducing price increases that might undermine our competitive position in dealing with our balance of payments.

For those two long-range reasons, we felt a retention of the investment credit was desirable.

Looking at the investment credit on a short-term basis, we felt that suspension or repeal of it was not particularly useful as a short-term restraint. The credit, as you will remember, becomes available when a project is completed. Therefore, if Congress moved to suspend or eliminate it, in good faith and fairness it would have to make some exception for projects that have been initiated in reliance of the availability of the investment credit.

Therefore, the impact in terms of revenue, assuming provision would be made to exempt those projects already underway, would be very much delayed. Moreover, the impact in terms of current activity would not be nearly as great as one would anticipate and it would probably hit us some time next year or so rather than today.

Secretary Fowler replies to Senator Gore's comment regarding suspension of the in-

vestment credit (Hearings, *supra*, February 25, 1966, pages 102–103):

Senator GORE. Mr. Chairman, I will forgo the privilege of interrogating the Secretary, but I would like to inform the committee that I expect to offer in executive session, and hope to obtain adoption by the committee—if not successful in the committee, then I will make a determined effort on the floor of the Senate—of an amendment to substitute a 2-year suspension of the investment tax credit for the excise tax increases on automobiles and telephone service.

The investment credit was recommended on the basis that it was needed to stimulate the economy. I know of nothing that is less needed now than artificial stimulation of the economy. The investment credit was of dubious validity, even when offered. It is downright inflationary and harmful now.

Suspension or repeal of the investment credit would produce revenue of $2 billion per year. The revenue is needed, the investment credit is not needed—indeed it is harmful now.

So instead of a regressive tax on the workingman who must buy an automobile to earn a living, and on telephone service which everybody in the country must use, I propose a suspension of the investment credit for an equal period.

Now, the Secretary has given in advance reasons, both long range and short range, as to why this should not be done. I will demonstrate later that in both respects the Secretary's position is ill founded in both philosophy and fact.

Thank you.

Senator LONG. Well, might I ask the Secretary's response—he's the witness. What's the position of your Department on that, Mr. Secretary? Frankly, I find some appeal to it.

Secretary FOWLER. I have covered it as fully as needed today in answer to a question by Senator Smathers. I know it is a controversial question. I don't believe I have anything to add to my answer to Senator Smathers' question.

Secretary Fowler replies to question by Senator Smathers as to how soon would any money come into the Treasury if the investment credit were repealed (Hearings, *supra*, February 28, 1966, pages 171–174):

Senator SMATHERS. Mr. Secretary, with respect to the reasons why you took this approach to meet the increasing demands of the cost of the war in Vietnam rather than the investment credit repeal, can I ask you this question? If you had followed the investment credit repeal rather than this particular approach, how soon would any money have come into the Treasury for the purposes, we will say, of financing the war in Vietnam?

Secretary FOWLER. It would depend upon the way in which the suspension or repeal were enacted. I believe, in fairness to those who had initiated expansion plans, placed orders, and commenced projects in reliance on the investment credit which is available to them when they complete the project, that Congress would provide an exception for projects which are underway. Assuming that that would be the judgment of Congress, we would not reap any revenue benefits from the suspension of the investment credit of any general magnitude during this fiscal year under the formula of Senator Gore's amendment. According to our calculations, in the next fiscal year we might receive benefits of about a billion dollars.

Senator SMATHERS. So, then, the answer is that if we followed the repeal of the investment tax credit, there would not be any, in your judgment, additional revenue to the Government this year.

Secretary FOWLER. For fiscal 1966 gain would be zero on the repeal as provided in Senator Gore's bill. We may be a little high on our estimate for 1967. We are recalculating it now.

Senator SMATHERS. Now, when you decided to make this recommendation to the Congress was one of the conditions, upon which you based this judgment, that this particular recommendation would lessen the demand for goods which apparently are now going into short supply? In other words, was your purpose also one of dampening what you might say was the beginning of the fires of inflation?

Secretary FOWLER. The general bill as a whole had two rationales. The primary rationale, and the one on which I think there is the most emphasis, is that we need this money in order to finance the costs of the war in Vietnam.

Senator SMATHERS. Right.

Secretary FOWLER. A secondary consideration is that the consequences of the bill will, and I make no contention that it is a harsh measure, will be that in a moderate way it will tend to restrain the growth of demand. The drawing out of revenues from private purchasing power, which under this bill in the calendar year 1966 will be in the order of magnitude of about $2.7 billion, will have some restraining effect on the economy.

Senator SMATHERS. Now, the third and last question. Was it your belief, and it is your belief as I understand it, that the investment tax credit actually is an incentive for the building of more capacity so that there will be a greater supply of goods which would mean that there would be less pressure for increased prices, and less likelihood of inflation?

Secretary FOWLER. That is very definitely one of the reasons why we did not choose the investment credit approach. We also have to keep in mind as an important consideration that our balance of payments is still a continuing problem. As I just indicated in response to questions by Senator Talmadge, it will continue to be a long-term problem.

Therefore, we want to keep our economy as efficient and as competitive with other economies as possible. As you will recall, one of the original purposes for enactment of the investment credit was to encourage investment in facilities and machinery that would increase productivity and maintain at a very high rate.

Senator SMATHERS. In the United States?

Secretary FOWLER. In the United States.

I would like also to observe in connection with this, just as a general comment, that when you have an expansion in demand, the best way to meet it is to expand supply, which means expanding facilities. As you will recall, during World War II and the Korean war, in order to expand many of the facilities that you might say are induced by the investment credit, Congress made special emergency tax amortization processes available.

In my response to your inquiry, Senator Smathers, on Friday as to desirability of suspending the investment credit, I indicated some of the reasons why we considered such a suspension to be unwise. I would like now to recapitulate and supplement the points made in our previous discussion.

1. The investment credit is a sound, long-range measure which provides incentives for expansion and modernization of our productive capacity.

2. The credit encourages technological advance and the introduction of more efficient processes, which increase our productivity and enable the economy to deal with the periodic wage increases which are characteristic of our economy without price increases.

3. In this way, as well as by making investment here more attractive, the credit helps to deal with our balance of payments.

4. The investment credit is not suitable as a short-range straining measure—cash flow or revenue effects are delayed. The credit becomes available as the investment project is completed. As a matter of good faith and fairness, a suspension would have to provide an exception for projects already underway or contracted for prior to the effective date. The impact of the suspension in terms of both raising revenue and restraining the cash flow to investing business would therefore be delayed by a considerable period, reflecting the leadtime involved in most investment activity. The real impact of the suspension might not hit us for a year or so following the effective date of the suspension.

5. Leadtime in modern investment involves more than contractual commitments: In this connection, I would point out that in taking action to suspend the credit, even if prior "orders" or contractual commitments were excepted, considerable injustice and disruption would be caused to businesses which have already gone ahead with "in-house design" and other preparatory activities for making new investments. Leadtime, viewed realistically, often involves various steps including extensive plant design carried out by the investing business itself. Suspending the credit on projects on which extensive preparatory work has been done may involve about the same losses or penalties to taxpayers as cancellation of an outstanding contract. For obvious reasons, however, it would be difficult to draft a suspension provision which would take care of investment already started in the sense described here.

6. Problem of unused credit carryovers: Businesses are allowed a 3-year carryback and a 5-year carryforward of unused credits—denied currently by the 25 percent of tax and related limitations. Substantial unused credits have accumulated, possibly at the rate of $300 million a year. It would be harsh to deny the use of the unused credit carryover if the current credit were suspended. Removing the credit currently would increase the availability of substantial amounts of credit carryover. The exact amount of this effect is difficult to estimate, but it could potentially cancel a considerable part of the revenue effect of a temporary suspension.

7. Suspending the investment credit may hit the small plants hardest: The available evidence indicates that the investment leadtime, including design and procurement, varies directly with the size of the plant. Productive facilities for equipping small plants can be designed and completed in a fraction of the time required for large facilities. Temporary suspension of the credit would thus hit small plant construction soonest and hardest. The equipping of large plants already contracted for could go on for a longer time, still receiving the credit on completion, and large plants could be started after the effective date of the suspension, looking forward to completion after the date the credit is restored.

8. Return of uneconomic "repair and maintenance" of outmoded equipment: The credit has apparently been helpful in discouraging previous practices of repairing antiquated equipment to eke out its industrial life. Prior to the credit, taxpayers often preferred to spend money keeping the old machine going, partly because they felt they could get current tax deductions for these outlays. The investment credit tipped the balance in favor of getting modern equipment. Suspension of the credit may send many businesses back to the uneconomic repair and maintenance practices so that their expenditures can be expensed for tax purposes. This would not only be bad for our technological progress but also would involve demands on the economy and revenue decreases which would offset both the economic restraint and revenue contribution of suspending the credit.

9. Suspension of the credit might prove to be most effective in curtailing the type of investment that makes the most anti-inflationary contribution: Suspension of the credit would operate most promptly and

effectively on equipment which has a short leadtime between order and delivery and which bunches its contribution to production within a short period of time (that is, has a relatively short useful life). This type of equipment would help round out productive capacity in the next year or two. On the other hand, the long leadtime equipment with a long useful life would be much less affected by suspension of the credit because completion could be scheduled 2 years or so hence, when the credit was to be restored.

10. Suspension of the credit would create imbalance in the 1966 revenue program and apply too severe a restraint on investment: The program provided in the bill before the committee relies heavily on restraint of corporate cash flow and liquidity to apply a moderate restraining factor on the economy. Of the $4.8 billion revenue total for the fiscal year 1967, $3.2 billion, or about two-thirds, is derived from the acceleration of corporate tax payments. This in itself will provide a moderate and salutary restraint on investment. The other increases in revenue affecting purchasing power generally will also operate to moderate expansive investment activity. If a suspension of the investment credit is added to the program, it will concentrate too much on the business sector and run the risk of slamming on the brakes too hard.

Senator SMATHERS. I want to yield to the distinguished acting chairman at this point.

Senator DOUGLAS. I would merely like to remark that there is an ironical paradox and contradiction between the monetary policy of the Federal Reserve Board and the Government on the one hand, and the tax policy of the administration on the other. The effect, of course, of increasing the interest rate initiated by the Federal Reserve Board but now acquiesced in and approved by the Treasury, is to restrain investment, and that was certainly one of its purposes, to restrain investment by increasing the cost of long term borrowing.

But on the other hand, now the Treasury defends the investment credit refund on the ground that it stimulates investment.

Secretary FOWLER. Once——

Senator DOUGLAS. Just a minute. I think I have got a bon mot here coming that I don't want to cut myself off. It reminds me of the character in Stephen Leacock's story, who mounted his horse and rode off in all directions. The front legs of the horse restraining investment, the rear legs of the horse stimulating investment, and the horse itself being torn in two by these conflicting forces.

Secretary FOWLER. If I could put a slightly different version on this, Senator, it would be this. We accept the fact that the corporate acceleration will cause a review of marginal investment projects on the part of the 16,000 companies affected, and may result in some modest or moderate reevaluation of whether or not they should be carried through. This is an incidental result of the corporate acceleration. The purposeful result of the corporate acceleration was to acquire the additional revenue in a very substantial amount to help bring the budget into more approximate balance.

Secretary Fowler replies to Senator Hartke's questions and comments regarding the investment credit (Hearings, *supra*, February 28, 1966, pages 175–183):

Senator DOUGLAS. The Senator from Indiana.

Senator HARTKE. I think the Senator from Illinois has put his finger on what I was eventually going to come back to, and it is all right with me that he has done it very quickly, and that is the fact that there seems to be a lack of communications here. I want to find out when we can't put that back together and have people start talking to each other in the administration so that we have the corporate acceleration holding back investment, we have the increase in the interest rate by the Federal Reserve Board holding back investment, and here we have the retention of the investment credit to increase investment.

I just wonder if these policies are discussed or whether there is some explanation which I have missed.

Secretary FOWLER. They have been discussed a great deal. As you know, from the colloquy last Friday, we do not always see eye to eye. This is not because of a failure of communication or because of a failure or lack of discussion. It is just that insofar as the action of December 6 is concerned, there was a difference of opinion.

Senator HARTKE. Let me ask you, then, an obvious question, I think, and that a lot of talk again, and it seems that some of these conversations in the press, and so forth, do have a way of sometimes becoming policy, a lot of discussions in banking circles, some which I talked to quite honestly say that they anticipate another increase by the Federal Reserve Board in the discount rate. What is going to be the policy of the Treasury, since Bureau of the Budget is not here and Federal Treasury if within the very near future there is another proposal to increase the interest rate? I know we have a new member of the Federal Reserve Board. Maybe we can make him the swing vote, have a little influence on him, more influence than we had in the past, since it was a 4-to-3 decision.

Secretary FOWLER. All I can say on that subject now, Senator Hartke, is as I have stated on February 3, to the Joint Economic Committee, that as I see it now, given all the new factors that are present in the situation, the wise course of balance and moderation in pursuing continued growth, a high rate of employment, and relative price stability, would seem to call for determining how the economy reacts to the new mix of relatively moderate restraints before adopting far harsher measures which would include, of course, tighter monetary policy.

Mr. Chairman, since the question has been raised by various Senators as to what the position of the Treasury is on why we do not advocate more action now, I would like to make my statement to the Joint Economic Committee a part of the record in order that our position may be completely understood.

Senator DOUGLAS. Without objection, that will be done.

(See p. 160.)

Senator DOUGLAS. The Senator from Indiana.

Senator HARTKE. Let's go back and I will try to pick up again where we left off when the Senator from Delaware was questioning. I thought his question was very appropriate and I was going to ask basically the same question. But I would like to come back to the question raised by the Senator from Florida.

On this investment credit, as I understand the answer from the Treasury was that you could not hope to reap any benefits in this year but in the neighborhood of about $1 billion next year; is that correct?

Secretary FOWLER. We are making a further study of the revenue constants and that figure may turn out to be high. But in any event there will be a substantially delayed revenue benefit from it.

Senator HARTKE. So there is no misunderstanding about this, it is fair, in executive session, if I report the testimony of the Treasury that on the investment credit, that if it were repealed or suspended at this time, say for a period of 2 years, which in effect would be a temporary repeal, if it were repealed or suspended, there would be no revenue come to the Treasury this year.

Secretary FOWLER. Senator Hartke, my whole answer was prefaced on the assumption that Congress would include in any suspension or repeal a provision exempting those projects which were underway or which had been undertaken in reliance upon the existence of the investment credit. Given that kind of provision in the law, the figures are as I indicated.

Senator HARTKE. The amount would, according to the best estimates you have, be in the neighborhood of that.

Secretary FOWLER. That is right. We will have refined figures for the executive session, but I think they will be at that level or lower.

Senator HARTKE. I might say to you if you are going to have them for the executive session, the acting chairman has just informed me that the chairman wants to act upon the Senator from Tennessee's proposal at 12 o'clock noon, so you have got 25 minutes to get those additional figures in here.

Secretary FOWLER. We will stand on the figures I gave you.

Senator HARTKE. You will stand on the figures, then. All right.

Now, one element which is just a side element for the moment, that is this: In this regard you feel that the Congress must act fairly with its taxpayers and therefore would probably exempt that portion of their investment policy which already has been acted upon in reliance——

Secretary FOWLER. Action in reliance, that is correct.

Senator HARTKE. Of course, we are not doing that in the case of the acceleration, are we?

Secretary FOWLER. No, sir.

Senator HARTKE. We are telling them on acceleration that even though we passed a law last year which provided that acceleration should be extended over several years, that we have now changed our policy which the Government has a right to do, that we are now recommending that the acceleration be speeded up and—an escalated acceleration; is that right?

Secretary FOWLER. That is right.

Senator HARTKE. All right. And therefore, if they have relied upon this and it causes any difficulty in these corporations what relief do you suggest that we in Congress give to them?

Secretary FOWLER. None.

Senator HARTKE. None.

Secretary FOWLER. I think they are two entirely different cases, and the order of magnitude——

Senator HARTKE. No question they are different cases. They just affect different taxpayers.

Secretary FOWLER. I think the effect and difficulty involved in taking care of the cash flow problems that are a consequence of corporate acceleration are entirely different from the withdrawal of a tax credit which really changes the liability of the taxpayer—not the speed or time of payment.

Senator HARTKE. Well, on the cash flow element of that, this will affect him in regard to his cash flow—what if he doesn't, what if he hasn't made allowances for this? I know that your answer is that it doesn't present a serious problem, but what if they have to go out and borrow this money? Isn't this going to be an added expense to them in this business this year?

Secretary FOWLER. Yes, indeed. This is a consequence of the incidence of acceleration.

Senator HARTKE. In fact, what he is going to have to do is borrow money to pay the taxes which he ordinarily, last fall, based upon the action of Congress, would not have anticipated he would have to pay.

Secretary FOWLER. I think the general practice, at least most of the corporate practice that I know anything about, is that you accrue funds to meet these taxes. You keep them. You put them in bills, in commercial paper, or something of that nature, but you accrue the funds to meet your taxes as a current matter.

Senator HARTKE. This is a bookkeeping entry.

Secretary FOWLER. There may be some companies that don't follow that practice, but that certainly is the standard practice.

Senator HARTKE. But when they figure out their whole balance, when they make their determination for their operations for the year, they go ahead and anticipate this is going to be paid not in March, say, of 1965, but, for example, generally speaking, the figure is going to be paid in April of—April of 1965—in April of 1966. Isn't that true?

Secretary FOWLER. Undoubtedly the funds which they presumably have accrued and have invested in bills or commercial paper will have to be called on in larger amounts in April and in June of this year than was contemplated. Instead of paying 9 percent of their estimated tax, 12 percent will have to be paid.

Senator HARTKE. I think that we agree with that.

Now, the point, though, remains that you anticipate that the Congress is going to be fair to the taxpayer on one aspect, but you say that you are going to have to go ahead and take advantage of him on this other aspect. Isn't that true, now, really?

Secretary FOWLER. If you would include the fact that one would be a change in what you owe the Government. This is a much different question than the rate at which you have to pay the Government. Congress has on many occasions changed the timing and scale of collections, and it has had different consequences for different taxpayers.

Senator HARTKE. In the same field, the excise tax field, there is a change, too. Certain places have acted upon the basis of the actions of Congress, I mean these telephone companies, for example, have notified their consumers they have had to change all their procedures, too, isn't that correct?

Secretary FOWLER. I don't think they had to change their procedures in any substantial way. They still have to send a bill. They simply changed the calculation of the tax from a 10-percent rate to a 3-percent rate. They will have to reset the computers to bill the tax at a different rate.

Senator HARTKE. Now, I am not an expert in these computers, but the point is, IBM informs me there is an expense involved in this, and for the small companies it is small, but proportionately very large, that for the large companies, of course, it is a larger amount, but proportionately very small, is that true?

Secretary FOWLER. I would like Mr. Surrey to speak to this in detail. This change will not cause substantial administrative hardship.

Senator HARTKE. Let's come back to that in a moment. What I am trying to get in this little side excursion is the fact that we have now established a principle which we anticipate we will act on in order to protect the taxpayer in one field upon his anticipation, the tax consequences as a result of change in tax policy, but in the other case we are not, isn't that true?

Secretary FOWLER. We looked at these two different situations and one is more serious than the other.

Senator HARTKE. Only a question of degree.

Let's come back to the whole problem again. Back to the tax credit, which the Senator from Florida has raised. I have not raised this question. The Senator from Tennessee raised this question.

Isn't it true that no matter when you make that change on investment credit, if you make it now, next June after you have had a reassessment, next May, as most people have indicated when you will be back, I don't know—these people seem to have some special psychic approach.

Secretary FOWLER. They have psychic approaches, Senator, I don't understand?

Senator HARTKE. Whenever they come back, if you are going to change the investment credit at that time, the same leadtime would be involved, same action involved, and then you would be dealing with whatever period is in the future before you would have any substantial reaping of results to the Treasury.

Secretary FOWLER. That is correct.

Senator HARTKE. So no matter what you do in this field, there is a delayed reaction.

Secretary FOWLER. That is right.

Senator HARTKE. So if this is going to be the policy, if the Congress wanted to take this, they would probably be better advised to do it at their earliest possible moment rather than at the latest moment, if they wanted to have the least possible number of cases which they would have to create an exception for.

Secretary FOWLER. If all of the reasons that have been advanced as to why it was unwise to do it are overborne by the Congress, then I think Congress should look at the revenue requirements as it sees them. As you say, the same time problem will be present whenever the Congress deals with this particular tax credit.

Senator HARTKE. In regard to investment tax credit, as I understand, the Senator from Florida indicated that this would create a greater capacity and greater supply of goods which therefore would result in less likelihood for inflation. Is that—and the Secretary answered that in the affirmative.

Secretary FOWLER. I agree with that statement.

Senator HARTKE. As I understand also, in answer to another question, the purpose of this bill, as I think you used the word, the consequences, the secondary consequences, were moderately intended to restrain the growth of demand. Is that true?

Secretary FOWLER. That is a secondary consideration. The primary consideration is to raise the funds to finance the war.

Senator HARTKE. I am just taking these two points. In other words, this was in answer to questions from the Senator from Florida, that we have on the one hand the rationale, the secondary consequences of this bill, moderately tend to restrain the growth of demand. And on the other hand we have investment tax policy which is intended to create an increase in the supply of goods.

Now, if that is true, how are we—we have an increase in the supply of goods and restraint on the demand—who is going to buy this increased supply of goods?

Secretary FOWLER. As my statement of February 3 indicated, in looking at the problem of whether inflationary pressures require certain actions, I think it would be wise policy, as I have said before, to see how the economy responds to the new combination of measures, which include this particular bill, before going, as many are advocating today, into much harsher measures.

Senator HARTKE. Let me ask you this as an alternate.

Secretary FOWLER. I think this is another element of moderate restraint. As I say, you can capsulize it by saying that if this bill is adopted by March 15, it would withdraw from private purchasing power an additional $2.7 billion during the calendar year 1966. That is a measure of its restraint.

Senator HARTKE. All right. Now, what if the Congress on the investment credit, instead of completely suspending its operation or repealing it, would provide for its temporary suspension and give to the President the authority to make the determination into which field investment credit was desirable? Now, we have the so-called guidelines in front of us in which the President is making under his Council of Economic Advisers the determination as to whether or not the price increases are within the guidelines or whether it is justified and the wage increases, whether they are justified.

What would be wrong with providing the President with the authority to make up his mind as to whether or not we should have increased production of automobiles and increased production of pinball machines and bowling alley equipment, and items of this sort, and whether or not the investment should be permitted in the field of those items which are necessary for the prosecution of this war?

Secretary FOWLER. Senator Hartke, given a situation comparable to World War II or to the magnitude of the buildup in the Korean war, I think such a selective use of tax amortization or tax advantages would perhaps be desirable. I do not believe it would be desirable at this time to modify the generalized treatment of the taxation of new machinery and equipment and place in the Treasury or some other department of the Government the determination of what expansion was particularly related to the military effort, as we had to do during these two previous wars, and then grant or deny tax amortization certificates to individual companies who applied in connection with it. It would completely change the character and nature of the investment tax credit. Unless the situation developed to be far more different from the situation today, I think it would be a mistake for Congress to do that.

Senator HARTKE. If we head into a 3- to 7-year war, that would be a considerably different approach than what we are heading into today; isn't that true?

Secretary FOWLER. I think it depends not only on the duration of the conflict, but the magnitude of the effort involved. We must keep in front of us the fact that the percentage of our gross national product which is today devoted to the entire defense operation is in the order of magnitude of 7.6 percent. Of that, the war in Vietnam, according to the budget figures, takes about $10.5 billion in fiscal 1967. The relationship of this $10.5 billion, the cost of the conflict, to a gross national product of over $700 million, is an entirely different order of economic magnitude from the situation we had during the Korean conflict.

Therefore, it is not only the question of duration, but it is a question of how limited or how extensive the demand on our economy is. This $10.5 billion is about 20 to 25 percent of the annual accretion to our gross national product.

Senator DOUGLAS. I wonder if the Senator from Indiana and the Secretary would permit the acting chairman to make an observation and a plea. We all recognize how essential these hearings are and how important it is for the rest of the people to question administrative officials.

On the other hand, we are faced with the need for a certain amount of celerity in action and the Secretary, like the Secretary of Defense, is a heavily burdened man, and I have a good deal of sympathy for the members of the Cabinet and the pressures that they have to do their work under and at the same time meet the demands of the congressional committees.

Without trying to shut anybody off, I would like to express the hope that we can finish with the Secretary of the Treasury today, and I hope that we could meet in executive session, but if that is not possible, I hope that we could conclude the examination of the Secretary today and then go on to executive session tomorrow.

Now, I have no power to shut any member of the committee off and I do not intend to do so, but I do wish to preach the gospel of restraint as well as examination.

Senator WILLIAMS. Mr. Chairman, if the Senator will yield, I, too, would like to see this hearing expedited, but I was here 4 hours last Friday, and the minority took exactly 10 minutes on this side of the table with the Secretary. I was here at 9 o'clock this morning, and I think we had 28 minutes discussion. I have some questions very pertinent to this bill which I do want to ask. If we can complete the hearings today, fine, but if we do

not complete the hearings I think it is well enough to come back here tomorrow morning.

I realize the desire of the administration for rapid action on this bill, and I am going to cooperate with them, but I remind all concerned that we are in this situation because the administration passed an ill-advised tax cut last year at a time when in my opinion the whole country and the administration knew we were in a war, knew we had a deficit of $8 billion.

Senator HARTKE. I recall—the chairman will notice that I was here when these hearings began, too. I had a total of 10 minutes. Quite frankly it was a very abbreviated 10 minutes. It was right on the nose. I do not mind telling you I know some of the other members of this committee were given time beyond that. I did not complain. I did not complain this morning. I am willing to yield to anybody else, but I recall that the acting chairman indicated the other day that he did not want to be cut off and made the request in front of this committee. He said, I want it thoroughly understood, as I recall, that I have a right to pursue some of my questions. I think that in all fairness the mere fact that I sit down at this end of the table should not be a reason why you should not have a chance to go into some of these matters which I think are very important like the Senator from Delaware has indicated, most of these items are one-shot operations and I think it is important that this country, if we are going to be asked to finance a war, that we get down to the business of financing it, tell the people what we have to do. We may have to tighten our belts and have more taxes. I think the American people are willing to face up to it. I think they have a right to know exactly what is going to be involved.

Senator SMATHERS. Mr. Chairman, will the gentleman yield there that I might ask a question? I wonder if it is possible for the Senator from Indiana to advise the committee and the Secretary how much longer he expects to take?

Senator HARTKE. If you will check the hearings, you will find out that the questions asked by the Senator from Indiana have been extremely short. The replies have been extremely long and I am not complaining but I just want you to know if there has been any violation of time, it certainly has not been on the part of this Senator. I am not complaining. I am glad to hear it. We had one interjection. We went all the way from the answer to the question to the question of the pay increase and other matters which I asked nothing about whatsoever. But I went back and I said what I was trying to establish is one simple fact, this question of communication between the members of the Cabinet. Now we are faced with another question of communications as to what is going to happen in the future.

Senator SMATHERS. Will the Senator yield?

Senator HARTKE. I yielded to the Senator a while ago.

Senator SMATHERS. He did not answer my question.

Senator HARTKE. I offered to yield to the Senator from Florida. I said I would wait and let him go ahead if he wanted to. He took a new line of approach which I had not intended to pursue whatsoever, but I thought the record ought to be clarified, and I am glad that the Senator from Illinois joined in that participation. I just want you to know that this is a question of the suspension of the investment credit. I had no questions on this matter but since it was raised, I thought it should be clarified that we did have, as the Senator from Illinois so aptly described, the horse going in two directions, but I would like to find out and I think this makes it appropriate, whether or not we are dealing with a short-term, one-shot operation, whether we are going to face up to the fact that we have a serious war on our hands, and somebody is going to have to pay the bill.

Senator SMATHERS. Will the Senator yield? If I may just ask a very friendly question to help everybody?

Senator HARTKE. I will be glad to.

Senator SMATHERS. I am not fussing, Senator. I am just merely asking him does he think he will be able to conclude his line of questioning so that the Senator from Delaware might be able to finish by 1 o'clock and that the Secretary might know what plans he can make.

Senator HARTKE. If the Senator from Florida can tell me what the answers to my questions are going to be, I probably would be in better shape to give him an answer to that question.

Senator SMATHERS. In other words, you do not know.

Senator HARTKE. I do not know.

Senator SMATHERS. Go ahead, then, Vance.

Senator HARTKE. As I understand, then, now on the question of the selective—you used the word "selective". Selective sacrifice, which is more appropriate than the term you used. This selective sacrifice approach which the President could make up his mind on which one he needed to sacrifice and which one he needed to help, the bowling alley people or people manufacturing automobiles, or whether he is going to help the people in the Defense Department. It depends on the cost of the war.

Secretary FOWLER. That is right.

Senator HARTKE. You are talking about finance. But if this occurred, that this is a solution which would probably receive very high priority in the Treasury, is that true?

Secretary FOWLER. No. I did not want to pass any judgment, Senator, on this measure as to where it would stand in the hierarchy of choices. I only tried to say that as of now I do not think replacing the investment credit with a selective tax amortization system like we had during World War II and the Korean war would be advisable.

Senator HARTKE. All right. Do you think it is going to be advisable at any time that we do anything in the field of the so-called tax credit or do you think that this should be considered, as I have read from some of your statements, as a permanent part of our tax policy?

Secretary FOWLER. I do.

Senator HARTKE. You feel that it should be a permanent part of our tax policy.

Secretary FOWLER. Yes.

Senator HARTKE. And without regard to whether or not there is an acceleration of the financial cost of the war, that it should be retained.

Secretary FOWLER. Of course, Senator Hartke, all of these matters would be open to reconsideration when and if it is necessary to come in for additional revenues.

We do not make any advance judgments about this particular provision or that particular provision. I am simply saying that, as of now, I think the investment tax credit is very desirable and should be a permanent piece of our tax machinery. I think it would be inadvisable to modify or suspend it as a part of this legislation.

COMMITTEE REPORTS—H.R. 12752 (THE TAX ADJUSTMENT ACT OF 1966)

Senate Finance Committee report

Senator Gore set forth in part VII of the Committee Report his supplemental views on H.R. 12752 and stated that the suspension of the investment credit should be substituted for the increases in excise taxes on automobiles and telephone service:

(S. Report No. 1010, 89th Congress, 2nd Session, pages 43–45 (1966).)

VII. SUPPLEMENTAL VIEWS OF SENATOR ALBERT GORE

This bill, H.R. 12752, is designed to help finance the increasing costs of Government during the next 2 years. By raising additional revenue it will decrease the budget deficit and lessen the amount by which the public debt would otherwise be increased. Some assistance in controlling an ascent inflation should be provided.

Although several provisions of the bill are meritorious, it is poorly designed in certain respects and in all likelihood will prove quite inadequate. Some reenforcement of fiscal policy ought to be provided now, by raising more revenue than this bill will provide, and by placing the increased revenue burden where it will do the most to dampen demand in areas where such demand most clearly threatens price stability.

Oddly, the two most important provisions of the bill, from a revenue standpoint, represent in one instance a speedup of a schedule already adopted by the Congress—for getting corporation tax payments more nearly current—and in the other a complete reversal of a previously adopted congressional schedule for ridding the consumer of two onerous excises. I support the previously established congressional policy in both instances, to place corporation taxes on a current basis, and to eliminate excise taxes. I oppose the proposed reversal of congressional policy with respect to excises.

Since more revenue is needed, and since an increase in excise taxes is regressive in nature, Congress should raise more revenue and do so in a more equitable manner. Suspension of the investment tax credit as a substitute for the proposed excise tax increases would serve both purposes. This would have the additional advantage of selectively dampening demand in an area which seriously threatens to create inflationary pressures.

Suspension of the investment credit, together with a modification of the use of existing carryovers, will produce as much revenue as would the reimposition of the excise taxes on automobiles and on telephone service. Suspension of the credit would add $80 million to revenues in the current fiscal year, while raising excises to their pre-January level would produce only an additional $65 million. In fiscal 1967, it is estimated that $1.2 billion would be raised by either procedure, while in fiscal 1968 the investment credit suspension would add $1.9 billion and the excises only $1.5 billion.

So long as the revenues are this close, then, the choice would hinge on the overall economic effects, as well as on equity considerations.

The present outlook for expenditures on fixed investment clearly raises the threat of inflationary pressures in that sector of the economy. Fixed investment in 1965 was 10.3 percent of gross national product, about the same as it was during the investment boom of 1956 and 1957. The rate of investment at that time could not be sustained and neither can the current rate.

In 1965, investment in plant and equipment increased 15.4 percent over 1964. Recent surveys show an expected increase in 1966 of 15 percent or more over 1965, and surveys taken at this time of year generally underestimate final expenditures. Extending these projections into 1966, we will have by the end of this calendar year a fixed investment expenditure amounting to some 11 percent of gross national product. This is well above the noninflationary level of 10 percent for a full employment economy.

Obviously, in the interest of orderly growth and to avoid inflationary pressures in an important sector of the economy, expenditures for fixed investment should be slowed. Expenditures should not be halted, but marginal projects should be postponed. Suspension of the credit will not halt projects clearly warranted by demand. It would remove this element of artificial stimulation in our economy.

The Finance Committee report on the 1962 Revenue Act, when the investment credit was instituted, gave three specific reasons for the credit:

1. The investment credit would "stimulate investment * * * by reducing the net cost of acquiring depreciable assets, which in turn increases the rate of return after taxes arising from their acquisition."

2. The investment credit "by increasing the flow of cash available for investment, will stimulate investment."

3. The investment credit "can be expected to stimulate investments through a reduction in the 'payoff' period for investment in a particular asset."

The same arguments—in reverse—could now be used to justify suspending the investment credit.

Given current conditions, the artificial stimulation to expenditures for fixed investment should be cut off. The investment credit should be suspended until such time as conditions warrant a return to stimulation.

Another fact which is particularly pertinent today is that production of equipment for fixed investment competes with production of hard goods for defense purposes. This is particularly true with respect to highly skilled manpower, in which there is already a shortage. Continued artificial stimulation of plant and equipment expenditures can only result in bidding up the price of scarce materials, facilities, and manpower needed for defense production, thus setting off a ripple of inflation which might well become a powerful wave carrying all before it.

Looking at restraints already at work through Government action, one is struck by the tight money policy enforced by the Federal Reserve Board. However one may view this monetary policy, fiscal policy must work with and not against it. In this instance, the suspension of the investment credit will reenforce the tight money policy of the Federal Reserve Board. On the other hand, a tax policy which works counter to it, will but give an excuse to the money managers to tighten the screws even harder, thus giving rise to further undesirable distortions which we have witnessed in the past when monetary policy was misguided.

Little need be said here to support the substitution of this credit suspension for the increase in excises on automobiles and telephone service from the standpoint of equity. The excises bear directly on the consumer and is recognized as a regressive tax. Furthermore, the excise tax increases in this bill affect only one commodity and one service. It is difficult to justify singling them out, particularly when they are virtual necessities. Suspension of the investment credit will work no hardship on any particular group and its effects will be spread broadly, particularly across the corporate sector.

Responsible economists are now expressing concern about the possibility of inflation. It is felt by many that substantial tax increases are needed, and now. In the absence of a general tax increase now, selective tax changes in areas where both economic and equity objectives can be furthered would certainly be in order. Suspension of the investment credit is surely one of the most obvious places to begin.

OTHER DOCUMENTS: 1966 JOINT ECONOMIC COMMITTEE REPORT

Investment tax credit

The following is from the Supplementary Views of Senator Proxmire to the Report of the Joint Economic Committee, Congress of the United States, on the January 1966 Economic Report of the President (House Report No. 1334, 89th Congress, 2d Session):

"While concurring in the committee's report, I find it necessary to supplement it with comments on two counts: One is the proposal for suspending the investment tax credit, and the other is what I consider to be a failure to recognize fully the value of the wage-price guidelines.

"Although I opposed the investment tax credit when it came before the Senate in 1962 and again in 1964 I opposed the liberalization of the terms on which the credit is granted, I think it would be a serious mistake to withdraw it now, for the following reasons:

"1. *Investment credit is a sound long-range measure.*—The investment credit was adopted to provide a long-range incentive for growth and modernization of our productive capacity. It has been successful. Certainly it has proven itself as a major cause of the remarkable growth of the economy since its passage. The added capacity and efficiency that have resulted from the operation of the credit, along with the new depreciation guidelines since 1962, are of tremendous value to our economy and our defense effort now.

"Such growth in capacity is the ultimate weapon against inflation. The suspension of the credit would discourage new long-range orders and commitments and this in turn would result in a cutback in investment and capacity at a later period.

"That result may be entirely inappropriate at that time—for we will want a high level of investment in the years ahead after Vietnam is in back of us.

"2. *Leadtime between order and delivery of productive equipment.*—A period of 18 months is sometimes cited as the average leadtime between contractual commitment and completion of capital projects in American industry. This rule of thumb includes both plant and equipment, a broader category than section 38 property. There are of course wide differences among investments. Many items such as office equipment and certain standard types of production machinery can normally be delivered within a few months. On the other hand, such investments as large aircraft, large electric generating plants, blast furnaces, heavy production equipment, and chemical processing equipment systems, may take 2 or 3 years or more to complete and place in service following the initial contract.

"The design of specialized equipment requires considerable time, and the trend toward increasing use of specialized equipment makes this an increasingly important factor in the leadtime for capital projects.

"Against this background, it has been estimated that some 40 percent of equipment subject to the credit has an order-to-delivery time of not more than one or two quarters, another 40 percent has a delivery time of three or four quarters, and another 20 percent has delivery times ranging between 1 year and 3½ years with an average of about 2 years. Some additional time would elapse between delivery and actual installation or placement in use in some cases.

"The overall weighted average time between contract and placement in use of productive equipment eligible for the investment credit is therefore estimated at between three quarters and a year. If some allowance is made for necessary advance scheduling of equipment purchases to be installed as building construction is completed, the overall average leadtime may be somewhat longer.

"3. *Suspension of investment credit not suitable as short-term restraining factor for these reasons.*—Because there is a considerable 'leadtime' in carrying out investment projects; because the investment credit becomes available when assets are put in service and hence present contracts are being undertaken in reliance on the availability of the credit when the project is completed; because suspension of the credit would have to provide an exception for projects already under commitment, but which will be completed in the future; it follows that suspension of the investment credit would generally not alter investment expenditures or tax revenues for a substantial period of time.

"4. *Current situation does not require changes in final income tax liabilities.*—As the President has stated, it is not necessary or desirable to change individual or corporate final tax liabilities at this time in response to the current economic situation associated with Vietnam expenditures. Since the investment credit is a component of final income tax liabilities, it follows that the current situation does not require a suspension of the investment credit.

"5. *Balance of payments.*—The investment credit helps the balance of payments in two direct ways: (1) it makes investment here in the United States more attractive, and (2) it encourages modernization and cost cutting to strengthen our export position (including our defensive position vis-a-vis imports). Suspension or reduction of the investment credit in a world in which investment incentives are widely used in foreign tax systems under which our friendly international competitors operate would weaken our international competitive position."

HEARINGS, SUBCOMMITTEE ON FISCAL POLICY, JOINT ECONOMIC COMMITTEE

Testimony by Stanley S. Surrey, Assistant Secretary, Department of the Treasury, on March 30, 1966, regarding the investment credit at the hearings before the Subcommittee on Fiscal Policy of the Joint Economic Committee, 89th Congress, 2d Session, pages 242, 243:

Turning now to the investment credit, the possibility of changes in the investment credit received considerable attention during these hearings. Some economists have stated that investment demand may be reaching excessive levels, either because it strains our capacity for producing more plant and equipment or because it generates a capacity for producing final goods in excess of the economy's long-term needs.

These economists have contended that the very factors that made the investment credit a particularly successful stimulus to investment now recommend its modification or suspension in order to moderate an overly buoyant investment demand. A temporary suspension could, they argue, have especially favorable effects in encouraging business firms to defer investments to a period when they might be more appropriate to the state of the economy.

Without entering the argument of whether the present level of investment demand is excessive, I would like to indicate that there are structural and other aspects of the investment credit which need to be considered in evaluating its possible countercyclical use.

I would like to point out first that, in the recent debate in the Senate over suspension of the credit, those who advocated suspension felt required, and understandably so, to still allow the credit with respect to machinery and equipment already on order. This would remove a large area of current and future expenditures from the scope of the suspension and thereby reduce its current economic and revenue effect. At the other end, the fact that the credit is earned when the equipment is installed—and not when the equipment is ordered or when expenditures for it are made—would always leave the credit still applicable to orders entered during the suspension period for equipment whose leadtime would place the installation after the suspension was over.

This also reduces the scope of the suspension. Moreover, the equipment left to be affected by the suspension—that both ordered and installed in the suspension period—in large part would be the sort of machinery and equipment, that, in coming onstream, would be helpful in meeting shortages.

Actually, I think people who have advocated suspension of the credit really have an image of its operation that would have it turn on orders rather than installations as it now does. This possibility was explored at the time the credit was originally set up and found not to be feasibile.

Many advocates of suspension of the credit have also thought of the suspension as part

of a program that would include both individual and corporate tax increases. In such a program, to the extent the suspension of the credit would be effective, the question would have to be considered whether this action, taken together with the rest of the program, would provide too much restraint on investment.

Also, it must be kept in mind that the investment credit has a long-run purpose of stimulating modernization and expansion of machinery and equipment. This is necessary to give us the industrial structure needed to meet our domestic growth needs, to fulfill our international obligation, and to maintain the strong competitive position required for our balance-of-payments goals.

Indeed, countries such as the United Kingdom and France with their own problems of inflationary pressures are currently moving to provide incentives to business investment.

So far I have discussed the counterinflationary aspects of a change in the credit. But there are analogous questions with respect to temporary increases in the credit to counterdeflationary forces. A temporary increase in the investment credit rate, say, from 7 to 10 percent would result in an unexpected windfall on outstanding commitments which had been made in expectation of the existing 7-percent credit but which would receive an additional 3 percent. As a result, the increase would, in effect, be retroactive, particularly with respect to the portion of the costs of assets placed in service during the increase period which represented expenditures or cost allocable to a prior period. At the same time, the retroactive feature of such an increase would be necessary and desirable to assure that the prospect of getting a higher credit in a depressed period would not lead to delays in investment and slowdowns of projects already underway at a time when some increase in the credit might be expected.

A temporary increase in the credit would stimulate chiefly short lead-time items which could be completed with some confidence in the increase period. Apart from its contribution to corporate cash flow, the increase would not effectively stimulate investments, completion of which would take some time, leading to an installation after the credit had reverted to its normal level.

The way a credit increase would help to combat recession would be primarily to hasten to completion projects already underway and to stimulate demand for individual standard pieces of equipment, such as trucks, fixtures, and office equipment. Any use of a temporary increase in the investment credit as a counterrecessionary measure would depend upon the development of sufficient retroactivity to insure that the prospect of an increase would not add to uncertainties during periods of economic hesitancy and would not slow down investment in such a way as to aggravate depressed conditions of investment demand.

In considering countercyclical variations in the investment credit, it is important to recognize that investment demand will be influenced by corporate tax changes and—indirectly but possibly even more significantly—by variations in individual income tax rates. These effects would cover a wider range of investment—including inventories and accounts receivable—than would a change in the investment credit. Changes in the investment credit would concentrate on machinery and equipment acquisitions. The proportion of total corporate plant and equipment outlays eligible for the credit in 1963 was about 60 percent, and a share of this was subject to only the 3 percent rate of credit applicable to certain public utilities.

In general, decisions in this area must involve the question of whether the concentration on a particular sector of business outlays or whether a comprehensive approach to influencing business outlays would be more effective in serving the needs of economic stabilization.

Mr. HARTKE. Also, the Library of Congress has prepared for me studies on practically every country in the world concerning the investment provisions of their laws, and analyses of their tax laws, dealing especially with the subjects of depreciation, amortization, accelerated depreciation, and deferred charges, and how they are similar to the investment tax credit of the United States. I wish to express my deep gratitude for these extensive studies and I ask unanimous consent to have printed in the RECORD at this point studies for Argentina, Mexico, and Venezuela; a study of private investments in Nigeria, the Cameroon, and the Ivory Coast; and studies of major European countries covering France, Germany, Italy, and Sweden.

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

[From the Library of Congress Law Library, Hispanic Law Division]

INVESTMENT TAX CREDIT MEASURES IN HISPANIC JURISDICTIONS

(Prepared by Mrs. Helen L. Clagett)

The Latin American nations, whose legal collections come under the jurisdiction of the Hispanic Law Division, cannot be qualified as major industrial countries for purposes of this inquiry. These republics range from weak to stronger, but are generally classed as "relatively less developed" jurisdictions in economic matters. They are generally capital and investment-importing nations.

A search through their tax legislation, however, reveals that the matter of tax credit for investment in business and industry has been treated in varying forms. Some laws grant credit to a firm or company who ploughs back, or reinvests its profits in its own business for improvements, expansion, or directly related to its operations. Other measures take the form of allowances for amortization, depreciation, depletion and accelerated depreciation benefiting industrial taxpayers, and generally including both real and movable property.

For this report, three of the more advanced Latin American nations have been selected, and the measures in their tax legislation concerning deductions for amortization and depreciation as related to machinery, equipment, patents, trademarks, and even to buildings and expansion of constructions are analyzed in the following pages.

ARGENTINA

Over the years, Argentina has adopted varying approaches to the subject of tax exemptions or deductions to permit commerce and industry to benefit from a credit for investment in the form of improvements, expansion, replacement of old machinery and equipment, or purchase of new materials. For example, over a ten-year period between 1945 and 1955, the tax legislation permitted credits when company profits were ploughed back into the business as reinvestment; between 1955 and 1959, the legislators aimed at reducing rates for business as an incentive for increased production. This included installation of machinery, and also permitted accelerated depreciation in some fields. Then a return was made in 1960–1962 to the earlier concept of accentuating the importance of investment and reinvestment, particularly when concerning production of essential commodities. The most recent legislation in point, enacted in 1967 and 1968, some of it amending the 1962 tax laws, is to be found in Law 17.330 of June 30, 1967 [*Boletín Oficial*, July 10, 1967] Law 17.335 of July 10, 1967 [*Boletín Oficial*, July 18, 1967]; and Law 18,032 of December 30, 1968 [*Boletín Oficial*, January 13, 1969].

I. The first of these pieces of legislation, Law 17.330, purported to amend provisions of law on various categories of taxes, including the income tax. Among the provisions pertinent to this report are: (1) A section added to Article 19 of the Income Tax Law 11.682 to the effect of tax exemption on interests for foreign loans, when used for the purpose of installing industrial equipment; (2) Amendment to Article 81 of the basic Income Tax law, later expanded by Law 17.588 of 1968. This now reads as follows:

Article 81 [as amended through 1968]. Enterprises and businesses indicated below which make investments related to their operations during the period comprised between July 19, 1967 and December 31, 1968, inclusive, may deduct the following from their income:

(a) Manufacturing or transformation industries: 100% of the amounts invested in machinery, equipment and installations used directly in their industrial processes;

(b) [Concerns agricultural and livestock industry]

(c) [Concerns wine industry]

(d) Mining operations in their stages of research and exploration, extraction, preparation, milling and concentration of mineral substances:

(1) One hundred percent (100%) of amounts invested in machinery, equipment and installations, traction and carrier elements, and elements for communication, generation and transportation of energy;

(2) One hundred percent (100%) of amounts invested in constructions and installations for mining exploitation; in housing for owners of the mines and their families, and housing for work personnel and their families, constructed on the place, and any extensions of same, provided these are adjusted to the type of construction permitted by regulations; equipment of rail transportation on public railways; those (equipment and machinery) used for road construction, railroad spurs, and their installation, as approved by the Secretary of Energy and Mines as to amount of the investment and the need for the works;

(3) One hundred percent (100%) on amounts invested in direct expenses for exploration. The above provisions shall govern investments made during the period between June 1, 1967 and December 31, 1970, both inclusive.

(e) For shipping enterprises—one hundred percent (100%) of funds invested in ship construction for the national fleet and for conversion or modernization of national flag vessels, and fifty percent (50%) of funds invested in equipment, installation and accessories for loading and unloading of cargo, for docks, or feright sheds, dredges, drydocks or other floating artefacts.

The deductions allowed are in order provided that investments are made in domestically produced goods, and for exclusively commercial purposes. . . .

The deductions allowed in Sections (a) and (b) and in the second (2) paragraph of (d) shall apply exclusively to new goods of national production. The investments contemplated in the first (1) paragraph of Section (d) shall be allowed on new equipment, whatever its origin.

The total deductions which may be affected in the above cases, may not exceed 60% of the tax base of the enterprise prior to computing the deduction. Any accumulation exceeding this percentage may be carried over into the next two tax years, but also limited to 60%.

11. The second piece of modern legislation aforementioned, Law 17.335 of 1967, is a more comprehensive law dealing with

procedure and and rates to effect a reassessment upwards, or re-evaluation of assets in commerce and industry, for both tax and accounting purposes. As justified by the congressional report accompanying the bill when forwarded to the President, the basis for the increased values was to make them more realistic and adjusted to actual values as presently affected by inflation and high living costs. These new values are to be assessed pursuant to a scale of coefficients attached to the law, commencing with 1944 and coming up through 1968. Amortization and depreciation rates are to be adjusted to the new evaluations, thus permitting total amortization in a shorter time, and enabling the more prompt replacement of old and unusable machinery and equipment upon expiration of the estimated "life of usefulness."

The Law includes all types of business organizations in general, but the process of reassessment of the assets is optionable. However, if undertaken, it must cover all property and goods of similar nature, and no longer be selective. It also covers both real and personal property. Article 3 sets forth rules for computing the new values for personal or movable property on the basis of their "residual value," which is based on multiplying this by the coefficient corresponding to it on the schedule for the year of its acquisition or production. Article 4 covers the cases of equipment and machinery and other goods, the original value being proportioned to the number of years still lacking to complete the estimated "life of usefulness," as established by law. The balance of the revaluation shall be the difference between the residual value as computed above and its tax value immediately prior to the revaluation. This tax value is computed by finding the difference between the original cost or value of the goods and adding the amortization periods corresponding to it under the income tax legislation (Article 6). Future amortization on these revaluated goods (Article 7) shall observe the following rules: The tax value immediately preceding the revaluation of the assets shall continue to be amortized pursuant to the provisions of the income tax law; the balance of the revaluation under the present law shall be amortized in 10 years, at an annual 10%. Article 13 provides that the new increases in revaluated balances shall be exempt from income tax, as well as from emergency and capital gains taxes, but a special tax is imposed up to 50% of the amount, payable under a scale of rates contained in this article. The table of coefficients for computing the revaluation of assets opens with a maximum figure of 147 for goods acquired, produced or installed in 1944 or earlier, and decreases through annual installments, reaching a coefficient of 1.0 for the years 1967 and 1968.

III. Law 18.032 of 1968 appears to be an omnibus law on reforms in different categories of taxes, including the income tax. Concerning reforms on the point of acquisition of capital goods, the legislature felt it necessary to adopt a permanent system of incentives to aid national production, rather than resort again to the former transitional systems which had varying durations ending at the end of specific calendar years, the last through 31 December 1968. The lack of permanency apparently failed to encourage industry sufficiently to take advantage of deductions in proportion to the amount of investments which was desirable. The present law reform is intended to shorten the amortization periods provided that acquired goods are nationally produced and not imported, and to fix depreciation coefficients commencing with the first year of "useful life" of the machinery or equipment, rather than upon the completion of that year. It was believed that a system of accelerated amortization for industry would contribute to its ability to finance investments by substantially reducing tax life of the property, as well as by permitting deferred tax payments. This accelerated amortization was to include also the tourist industry, insofar as concerned construction, expansion and equipment of hotels, restaurants and other real property. Article 79 of Law 11.682, which is the original Income Tax Law of 1962, as amended through 1968, was affected partially by the present reform of Law 18.032 to read as follows:

Article 17. Article 79 [of Income Tax Law] shall be amended by the addition of the following provisions: Likewise, enterprises and operations of the nature indicated below, which, as of January 1, 1969, have made investments in the goods specified in each case, may compute taxable income on the basis of accelerated amortization, instead of regular amortization periods provided in Article 69, as follows:

(1) Manufacturing or transformation industries:—on the amounts invested by them in machinery, equipment and installations used directly in their industrial processes;

(2) Agricultural and stockraising industries:—on the amounts invested in agricultural machinery, including also that used in stockraising and that required to complete the agrarian production cycles; in tractors and combines used for agriculture; in fire equipment; in refrigeration, electricity and artificial insemination equipment; in dredges, silos, dryers and field elevators; in cattle pens, loading platforms, cattle dips, corrals, and weighing platform scales; in watering stations, mills, vats, water troughs, dams, wells and elements for irrigation and water supply; in pipes and systems for irrigation; in pumps and motors for water extraction; in permanent pasturelands comprised within cultivation of the soil for planting; in alfalfa and perennial crops, and in pedigreed male reproductive cattle or cross breeds;

(3) [Concerns wine industry]

(4) [Concerns tourist industry]

The amortization allowable under Paragraphs 1, 2 and 4 will affect exclusively new goods which are nationally produced.

A "Table for Accelerated Amortization" is included in the text of this Law, indicating vertically the number of years, and horizontally the potential "life of usefulness." Excluded from the benefits of this accelerated amortization are any goods or property subject to special legislation or systems.

IV. Argentina has occasionally adopted special legal measures of incentive nature, covering specific industry or for limited duration, in which tax holidays are an essential part to attract investment, and to equip or expand new and existing industries.

MEXICO

The Mexican Congress has generally issued a "revised" text of the Income Tax Law periodically, which generally constitutes the basic law provisions with incorporation in the proper places of those amendments and additions adopted in December of each year. Present legislation was adopted on December 31, 1962, and a 1968 text was consulted in connection with the present report. The Executive Regulations, which serve to implement provisions of the Income Tax Law, have not been currently revised, but a 1956 text and subsequent amendents have been consulted. In addition, there are also departmental rulings, circulars and orders which affect the basic articles of both the Law and its Regulation.

Article 20 of the current Income Tax Law text defines various categories of deductions which are available to the taxpayers, including in its Section III "Depreciation of tangible fixed assets, and amortization of intangible fixed assets, and deferred charges." In general, only the straight-line method is employed, with some exceptions, such as the mining industries. Article 21 is devoted to the particular topic of depreciation and amortization, and is given below in full, and translated into English for your convenience.

Article 21. Depreciation of tangible fixed assets, and the amortization of intangible fixed assets and deferred charges, shall comply with the following rules:

1. Annual rates for depreciation and amortization shall be computed on the basis of original cost or value of the asset, or on the amount of the deferred charge, but not to exceed the following percentages:

a. 5% for amortization on intangible fixed assets and deferred charges;

b. 5% for depreciation of buildings and other constructions;

c. 10% for depreciation of machinery, equipment and other tangible or personal property, not above included;

d. 20% for depreciation of vehicles, rolling stock, vessels, aircraft, construction machinery and containers (barrels, vats) used in the wine and distillery business.

2. The depreciation and amortization rates which the taxpayer may select shall be fixed, constant and compulsory. They may be altered only with authorization in advance from the Secretariat of Finance and Public Credit. The deductions may be claimed for tax purposes and not for book or ledger purposes. Moreover, different rates may be selected for tax and accounting purposes, except for Section 3, below.

3. The Secretariat of Finance and Public Credit may authorize higher depreciation and amortization rates than those provided in this Law. In such cases, the book depreciation and amortization rates may not be recorded at a lower rate than those used for the tax purpose.

4. As an economic incentive, the Secretariat of Finance and Public Credit may authorize enterprises engaged in industry, agriculture, stockraising and fishing, to employ accelerated depreciation methods with respect to the machinery and equipment used, subject to the following rules:

a. This authorization shall be incorporated in Rulings of general application, indicating the categories of business that may take advantage of the benefit, as well as fixing the criteria to be followed, the duration of the benefit, and the requirements with which they must comply.

b. The authorization shall spell out the maximum percentages on the value of the assets to which accelerated depreciation may be applied, and the term during which it must be completed.

c. Accelerated depreciation shall only apply to those investments made subsequent to the issuance of the corresponding Ruling by the tax authorities.

d. In order to employ accelerated depreciation rates, the tax authorities must give their specific approval.

5. Annual amortization of discounts, premiums, commissions and other expenses incurred in the issuance of obligations must be proportionate to the obligations paid in the particular tax year.

6. Leasehold improvements, permanent installations or constructions which, pursuant to the lease contract, will become the property of the landowner or lessor, and improvements to tangible fixed assets used by the taxpayer under governmental concessions, must be amortized over the term of the particular lease or concession. If the term is indefinite under the lease or concession contract, the improvements must be amortized over a period of five years unless otherwise authorized by the Secretariat of Finance and Public Credit.

7. Amortization of terminal or severance pay is allowed, provided the employee separation is due to reduction in force caused by reorganization of a business. This deduction may be distributed equally over a five-year period, commencing with the year in which the payment was made.

8. The depreciation and amortization deductions, at the election of the taxpayer, may commence in the tax year in which the asset was first used, or in the subsequent tax year. The taxpayer may elect to postpone his claim for deduction for tax purposes. In such cases, he may do so later but shall lose his right to deduct the corresponding installments for the already elapsed fiscal years, to be computed by application of the percentages above indicated in Section 1.

9. Operations effected in foreign currency involving fixed assets, expenses and deferred charges must be recorded in domestic currency at the prevailing exchange rate of the time of transacting the operation, regardless of a different payment date.

10. Repairs and adjustments made to installations may be depreciated, provided they constitute additions or improvements to fixed assets.

11. Amortization of the cost of a cinema film produced in the country may be made by the producer by applying it to the total amount of income obtained by its exhibition. If the cost has not been amortized within the three years following its release for exhibition, the remainder may be amortized in equal parts over the next two years.

12. Any expenses which are not deductible pursuant to this Law cannot be subject to amortization.

The Income Tax Law, in its Article 22, sets forth rules under which business operation losses may also be amortized, including losses recorded in both aspects of accounting and tax purposes, when these are identical; otherwise the lower of the two figures shall be used as the basis. The right to claim the loss is limited to the taxpayer alone, and some types of losses may not be deductible, such as when these occurred during operations to eliminate competitors, or in writing off bad debts, or funding the creation or enlargement of employee pension reserves when these are not required by law or under the respective labor contracts.

Special attention is given in the Mexican law to the mining industry. Article 29 concerns the aspect of exhaustion through depletion, and the right to claim deductions of this category in addition to the above described depreciation and amortization allowances for industry in general. Deductions of the cost of any property used, and expenses incurred in direct relation to mining operations or as a result thereof, shall be determined by dividing the total cost of the exploration and development activities by the total volume of minerals (ore) recovered at the time of these operations. Each year's deduction should equal the cost of one ton multiplied by the total number of tons produced during the year, until the total of the deductions has redeemed the total of the deferred costs. Other depreciable assets in the mining operations shall be depreciated on the method of unit production. All other assets may be depreciated under the general rules above.

Article 51 of the Income Tax Law permits deductions from the income of taxpayers who are professionals and independent contractors, other than corporate. The annual rates permitted them for amortization and depreciation on original investment costs include 5% for amortization of intangible assets and deferred charges, 5% for depreciation of buildings and other structures, 10% for depreciation of machinery, equipment and other movable property, and 20% for depreciation of motor vehicles and other transportation equipment. These deductions are permissible, provided they can be proved to be customary and necessary to the taxpayer's business, and reasonable in proportion to his operations.

Among the so-called "Transitional Rules" at the end of the text of the Law, provision is made to the effect that once the taxpayer has been authorized by the Tax Authorities to change the rates or terms with respect to depreciation and amortization, he need not renew his application in the following years.

In its implementation of the Income Tax Law, the Executive Regulations repeat many provisions of the Law, but in more detail, and accompanied by definitions, interpretations, guidelines, etc. Of interest to the present study, note is made of some of the Regulation's provisions which are not merely repetitious of the Law. Regulation Article 32 describes the documents which must accompany the tax returns of taxpayers in the commercial and industrial "Schedules," including thereunder: "IV. A classified summary, arranged in sections and by year, concerning investments and expenses which are subject to amortization or depreciation," and containing the following data:

a. Date of acquisition of the assets;

b. Cost of the acquisition in that corresponding tax year;

c. Amount of deduction that has been recorded in each fiscal year;

d. Amount of amortization or depreciation accumulated in previous tax years;

e. Amount of amortization or depreciation deducted for the present fiscal year; and

f. The balance yet to be amortized or depreciated.

The rules which must be observed by those taxpayers have a right to claim deductions based on amortization or depreciation under the Law are incorporated in Articles 87 *et seq.* of this Regulation. Because of its interest to this report, the text of Article 87, as amended, has been translated in full as follows:

For tax purposes, amortization shall be understood to signify the gradual absorption of the cost of an investment in intangible fixed assets, or of an expense incurred, benefiting several business years, by the income of a specified number of tax years subsequent to that in which the investment was made, or the expense incurred.

In order to exercise the right to deduct through amortization, as conceded by the Law [Articles specified], the taxpayers comprised under Schedule II [Business enterprises] shall record in their ledgers those investments and expenses directly related to their business operations, which constitute investments in intangible fixed assets, or deferred expenses and charges.

The following shall be considered as included in the above-mentioned expenses and investments:

1. Those incurred in establishing a corporation, in organizing and reorganizing enterprises, and in the installation of business;

2. Payments made for purchase of commercial credit;

3. Acquisition of concessions, invention patents, trademarks and copyrights;

4. The execution of construction work and permanent and necessary improvements to tangible fixed assets not owned by the taxpayer, and which works pursuant to the respective lease contract or concession, will enure to the benefit of the owner of the assets;

5. Construction of furnaces, reservoirs, conduits, dikes and water systems on land not owned by the taxpayer; and

6. Discounts, premiums, commissions and other expenses related to the issue of obligations.

Article 88 affects only motion picture producers, while Article 89 enumerates the procedures that taxpayers in commerce and industry must follow in order to qualify their claims to deductions based on depreciation. These rules are similar to those given above on amortization, including proper recording in accounting ledgers of the acquisition dates and original cost of investments in fixed assets, depreciable through use, action of time, or labor, including buildings, constructions, and any permanent improvements to same; rural lands of those enterprises working with resources, which may be exhausted through depletion, such as forests, sand and asphalt pits and clay strata; machinery and installation expenses; motor vehicles; scientific apparatus and instruments; railways, posts and cables; storage tanks; piping to carry liquids or gas; and furniture, fixtures and equipment.

Article 89 defines depreciation as the gradual absorption of the acquisition costs of tangible fixed assets, whose physical or functional value diminishes through use or passage of time, by income of a fixed number of fiscal periods subsequent to that on which the investment was made. According to Article 91 of the Regulation, amortization and depreciation may not be claimed by taxpayers who use property which, although amortizable or depreciable, is not owned by them. Article 92 provides for similar recording and inventory of assets as may be subject to depreciation as those set forth above for amortization purposes. Investments in assets subject to amortization and depreciation must be grouped by similar units, subject to the same percentages of amortization or depreciation. If the taxpayer does not select the proper rates, this may be done for him by the Secretariat of Finance [Article 94].

The rule found in Article 95 of the Regulation states that investments in assets and expenses which were amortizable and depreciable shall be considered as "redeemed" for tax purposes, within the term set for the application of the fixed percentages. Subsequently, in determining taxable income, the taxpayers may not claim further reductions through amortization or depreciation on these investments, expenses or property which, taxwise, have been totally redeemed.

Article 96, as amended in 1956, reads:

The Secretariat of Finance and Public Credit may authorize the amortization or depreciation of the total value for redemption purposes of any investment asset, provided the taxpayer can prove in advance that said investment has lost its usefulness for purposes of the operations.

The Regulation also covers matters on determination of rates, application of rules on amortization and depreciation to specific types of industry, such as agriculture, cattle-raising, mining and others.

In addition to the tax legislation, Mexico has also granted tax credits of more extensive category in its legislation to develop "new and essential business" of interest to its national economy. Tax forgiveness in various categories, subsidies or a tax holiday for a specific duration of time, generally 10 years, is available to applicants who qualify. The Law was adopted on December 31, 1954, and its Regulation on November 30, 1955, and apparently these are still in force. The individual approvals are given in the form of Executive Rulings, after applications have been considered, in which the benefits granted are enumerated for the particular business. The form of such benefits, insofar as concern income tax, generally exempts the business from payments up to 40% on the income, but also gives it the advantages of claiming amortization and depreciation of assets with regard to the 60% of the income not favored by the tax forgiveness.

VENEZUELA

The income tax legislation in force in Venezuela at the present time consists of the Law of December 9, 1966, effective January 1, 1967 [*Gaceta Oficial,* Extr. Issue of December 23, 1966], and its implementary Regulation, adopted by Decree 1062 of February 21, 1968 [*Graceta Oficial,* Extr. Issue of February 22, 1968].

On the particular aspects of investment tax credit, depreciation and amortization relating to capital assets, the earlier income tax legislation of 1956 had permitted industry within the country to deduct the entire value

of new buildings and equipment from their income tax where the business of the plant was production of commodities of essential importance to the nation, or processing raw materials of domestic character. By 1958, this was changed to a process of amortization of new investment as being a method of greater benefit to the taxpayer, although no specific rates were set. Taxpayers were permitted to deduct "a reasonable amount to cover depreciation of fixed assets and other investments used in production of income," subject to review of the tax authorities. This same method has apparently been maintained in the current legislation of 1968, but more detail is given as to rules contained in both the Law and its Regulation.

Article 15 of the new Income Tax Law enumerates the deductions that may be claimed by business and industry taxpayers in the preparation of income tax returns, including in its Section 4 "A reasonable amount to meet depreciation of permanent assets, and the amortization of other elements devoted to income production, when such assets or property are located within the country." Because of the importance of the oil and mining industries to the nation, Venezuelan tax legislation always accords special treatment to these individually while grouping other types of industry together for application of its provisions. The order of subject coverage in the Regulation, although in much more detail, generally follows that of the Law.

In the text of the Law, Article 35 concerns itself with the subject of amortization of capital investments in oil and mining industry, allowing a "reasonable amount" to be claimed for those capitalized prior to the present law, or which are to be capitalized pursuant to the law. Investments to be capitalized are discussed in Article 36, including the "cost of concessions which include the price of acquisition and related expenses, or the initial amount of taxes paid to acquire concession for the exploitation and exploration." A system of exhaustion is employed for amortization of these capitalized expenses, and details are included as to the bases for such expenses, such as for exploration, accounting, drilling and other elements.

Article 67 of the Law reads:

"Taxpayers on income . . . deriving from manufacture of industrial products, from the generation and distribution of electric power, from agriculture, stock raising, fishing or transportation, shall have the right to a tax credit equivalent to 15% of the amount of their investments in the country during the fiscal year, if this is invested in fixed assets related to the production of their income. An additional deduction of 5% is granted for investment by companies engaged in agriculture, stockraising and fishing."

The five sections of the same Article following the above concern determination of investments in the categories of industry and exceptions made to the benefits, and other matters. To arrive at the annual investment figure, this may be computed by deducting from the cost of the new fixed assets acquired during the year any depreciation claimed as an expense in the year of their acquisition, as well as the cost of any assets acquired during the year which may have been retired or disposed of in the year acquired. Businesses which merely assemble or pack products not manufactured by them are not entitled to the 15% reduction of annual investment, unless at least 75% of their product is represented by national products or raw materials.

There is also provision in the industries of cattle raising, agriculture and fishing, if the taxpayer's gross income is 80% derived therefrom, to permit him a tax reduction of 20% of annual investment in fixed assets. If taxpayers in these same categories derive 75% of their gross income, they may also be allowed a 20% reduction, provided they reinvest at least 50% of their net income in new assets.

Articles 68 *et seq.* treat the special fields of petroleum and mining industries, commencing by granting an overall tax credit of 8% of the amount of new investments made during the fiscal period, represented in the form of fixed assets for income production in these fields. This figure is to be determined by deducting from the cost of the new fixed assets, the amortization and depreciation allowances for the fiscal period in which they were acquired and 2% of the average fixed assets of the previous year, based on balance sheets of the beginning and the end of the year.

In these same industries, an additional tax reduction of 4% is allowed on the total cost of new investments made for: (a) exploration, drilling and installations related to aspects of transportation, production and storage up to the embarkation port of refinery within the country; (b) secondary recovery of hydrocarbons; (c) the utilization, conservation and storage of gas, including liquid gas; and (d) assessment processes for hydrocarbons and minerals, including research.

The costs of concession, expenses for exploration, drilling expenses and others are permitted by the law to be capitalized by the oil and mining corporations, and recovered through depletion. Concession costs include the purchase price of the concession, costs of exploitation, taxes paid out to initiate exploration and exploitation, and other direct costs related to acquisition of the concession.

Article 69 of the Law covers additional reductions offered as incentives for increasing production and exports over previous totals, but according to Article 70, a limitation is to be placed on the total percentage of reductions for matters covered in Articles 68 and 69, which is set at 2% of the taxpayers global net income in any one fiscal period, but permitting him the privilege of carry-over of any excess deductions to be applied on the following three tax years.

The Regulation implementary of the above Law, repeats much of the above, although in more detail as to definitions, rates, schedules and procedures than is found in the provisions of the Law. In the Regulation, Articles 59–64 cover amortization and depreciation allowances generally, while those for the principal Venezuelan industries of petroleum and mining are treated in Articles 102–115 and 118–128. Article 59 defines what is meant by depreciation of permanent assets, and Article 63 defines amortization. Article 60 provides that industry may choose to use the "straight line" method of amortization, or unit grouping of similar assets, depending on the type of business, but that after a choice has been made, no alteration in the method is permissible unless authorized in advance by the tax authorities. The deductions must be claimed in the year to which they correspond, or they are subject to forfeiture. No accumulations are permissible for claiming in subsequent tax years.

REPORT ON INVESTMENT TAX CREDIT IN THE NEAR EASTERN AND AFRICAN COUNTRIES

A thorough search has been conducted by the legal specialists of this Division in charge of the Middle East, the French-speaking countries of Africa and the English-speaking countries of Africa. Similar laws were found among the countries of common legal systems. We have attached selected laws which were found to be most representative of the legal system.

EGYPT

Law No. 21, 1958, promulgated by the U.A.R. Presidential Decree concerning industrial organization and encouragement in Egypt, dated April 28, 1958.[1]

Chapter 1—Industrial Encouragement

* * * * *

Article 18: The Ministry of Industry provides to specialized scientific or technical associations and foundations assistance, grants or financial aid designated by a decision of the Minister of Industry in return for the said associations and foundations to perform research or conduct experimental work related to spreading industry or raising its level in general.

Article 19: The proper authorities in agreement with the Ministry of Industry may lease limited areas of government-owned property or of property owned by public establishments for a nominal rent or may sell such lands at a reduced price or by installments with the condition that the purpose from such leasing or selling is to erect industrial buildings or installations on the said lands.

Article 20: The proper governmental authorities shall provide, in agreement with the Ministry of Industry, the necessary help facilitating matters for the erection of buildings for industrial establishments.

SYRIA

Law on encouragement of industry[2]

Article 1: Newly established industrial enterprises, as well as those which will be established in the future, will enjoy the exemptions and the privileges according to the conditions mentioned in the present decree.

Article 2: All establishments meant for industrial productivity are considered as industrial establishments in the sense of the present legislative decree.

Article 3: Industrial establishments registered by the Directorate of Industry may only benefit from exemptions and privileges provided for by the present legislative decree.

Article 4: (1) All machines, tools, equipment and material for construction imported by an industrial establishment for the need of that industrial enterprise are exempted from custom duties.

(2) Type of industry, materials to be imported and the amount of their cost which will benefit from the provisions of the preceding paragraphs should be determined by a presidential decree upon the proposal of the Minister of Industry and Minister of the Treasury.[3]

Article 5: (1) All income from all kinds of movable and immovable properties owned by the industrial establishments are exempted from tax for a period of six years, provided that:

(a) The new buildings should be erected as factories, mills and centers of management, as well as residences for the employees and laborers, and should be part of the main construction with their location in the district accorded to them in the license given for that purpose;

(b) All machines and industrial equipment which are part of the construction mentioned in the preceding paragraph, will be taken into consideration when assessing the value of the income of the industrial properties.

(2) This exemption is subject to the conditions and provisions mentioned in the law of taxation on properties income and to those of provisional exemptions. The cumulation of benefits from this exemption and from provisional exemption provided by the said law is forbidden.

(3) Mills and factories which are under construction, as well as those already existing during the publication of the present legislative decree, are temporarily exempted from the tax on property income. Machines and industrial tools benefit also from the exemption provided for by the present article,

[1] Hasan al-Fakahani (comp.), *al-Mawsu' ah al-Tash-ri'iyah al-Hadithah*, v. XV [see "Sina'ah"], (Cairo, U.A.R., n.d.), p. 17.

[2] Legislative Decree No. 103 of September 27, 1952. *Recueil des Lois Syriennes et de la Legislation Financiere*, No. 9, (Damascus, Syria, 1952), pp. 68–72.

[3] As amended by Law No. 71 of March 1, 1960. *Recueil des Lois Syriennes et de la Legislation Financiere*, No. 3, (Damascus, Syria, 1960), p. 3.

until the end of the period of six years mentioned above.

Article 6: (1) Industrial establishments are exempted from income tax on the benefits of their reserve funds and because of enlargement of the industrial enterprise in accordance with the law regulating industries and according to the following conditions:

(a) Funds do not exceed 10% of the total annual profits after the defalcation of the general expenses, and before any other reserve has been levied.

(b) Funds should be invested for the enlargement of the industrial enterprise within two years counting the date of their realization.

(2) If the reserve funds are not partly or totally utilized for the purpose referred to within the prescribed period, they shall be subject to income tax after being added to the profit of the year which follows.

Article 7: (1) Mills and factories established after the publication of the present legislative decree are exempted from income tax for a period of six years counting the date of their production.

(2) The provisions of preceding paragraphs apply also to the enlargement of mills and factories already established or to be established after the publication of the present legislative decree.

Article 8: (1) Industrial establishments are exempted from income tax for a period of three years from the date of their production, according to the provisions of the Legislative Decree No. 85 of May 1949 related to income tax.

(2) Industries needed by the country or industries which did not exist in the country and which are established after the publication of the present legislative decree benefit from the same exemptions.

Article 9: Exemptions mentioned in Articles 6, 7 and 8 of the present legislative decree will be applied for the imposition year of 1953.

Article 10: (1) The owner of an industrial establishment who wishes to construct a building for industrial productivity can rent for a perod of five years, with the promise of sale, a public land not more than 25,000 square meters, according to the conditions determined by the Directorate of Public Land, provided that the land will be used only for industrial purposes.

(2) The Directorate of Public Land has the right to take back the land if the industrial constructions or their annexes are not established within five years.

Article 11: The owners of industrial establishments or their representatives must:

(a) Furnish complete information on actual conditions of their industrial enterprises;

(b) Utilize only for their industrial enterprises the machines, tools, equipment and material which enjoy the exemption;

(c) Stock the materials that enjoy the exemption in order to facilitate control of the special registers;

(d) Utilize the public land which is rented with a promise of sale for the industrial enterprise for the period of rent mentioned in Article 10 of the present decree;

(e) Authorize the officers in charge to enforce the provisions of the present legislative decree by allowing them to enter the industrial enterprise, to control the registers and related documents, and to give account for the correctness of the information required in preceding paragraphs.

Article 12: It is the duty of the officers of the Ministry of National Economy and Finance and of the local representatives of the General Directorate of Customs, who are qualified as judiciary police, to draw up the report in case of contravention to the provisions of the present legislative decree.

Article 13: (1) Officers in charge of the enforcement of the provisions of the present legislative decree are authorized to enter the premises of the industrial enterprises. As for the place of habitation and in case of refusal, the officers should provide for a warrant from the court which has that jurisdiction.

(2) The officers can ask for police assistance, and they must comply with the request.

Article 14: Reports prepared by the officers mentioned in Article 12 of the present legislative decree should be addressed by way of hierarchy to the superior, who will ask the attorney general to bring action in the competent court of the area where the industrial enterprise is established, and will ask for the implementation of the punishments mentioned in Articles 15 and 16.

Article 15: (a) The owners of industrial establishments or their representatives who contravene the obligations provided for in the paragraphs of Article 11 of the present legislative decree shall be punished by a fine of 500 to 25,000 Syrian Liras.

(2) Those who contravene the provisions of the paragraphs (b) and (c) of the Article 11 without prejudice to the punishment mentioned in preceding paragraphs shall be punished by a fine which will not be less than five times the exempted custom duty and five times the value of the rented public land, but should not exceed 10 times the custom duty and the value of the land.

(3) Industrial establishments lose the exemptions and the privileges provided for by the present decree if they suspend their activities for a period of time not exceeding one and a half years without an excuse acceptable by the Ministry of National Economy.

(4) Those who contravene the provisions of the present legislative decree shall lose the benefits of exemptions and privileges provided for by the present legislative decree.

Article 16: Punishments provided for by the present legislative decree do not prevent the application of the Syrian Penal Code if the committee acts constitute crimes punishable by the provisions of the Penal Code with heavier punishments.

Article 17: Present legislative decree shall become effective after its publication.[4]

IRAQ

Law No. 31 of 1961, for the industrial development[5]

After perusal of the Interim Constitution, pursuant to the proposal of the Minister of Industry and with the approval of the Council of Ministers, we promulgate the following Law:

Article 1: The expressions contained in this Law are intended to imply the meanings shown against each:

The Minister—The Minister of Industry.

The Director—The Director General of the Development of National Industries.

The Committee—The Industrial Development Committee.

The Project—The establishment whose main purpose is to turn raw materials into semi-manufactured or fully manufactured products, or the turning of semi-manufactured products into fully manufactured products, or the production of motive power, provided that the main factory is run by mechanical power, and this includes the "assembly industry".

Article 2: The Committee shall be constituted under the chairmanship of the Director, with five members, three of whom representing the Ministries of Commerce: Finance and Industry, one member representing the Federation of Industries and a member to be chosen from amongst persons with experience in industrial affairs, both these members shall be appointed by the Minister, provided they are not chosen from the ranks of factory owners. Each Committee member shall be granted reasonable remuneration, the amount of which shall be fixed by the Ministry of Industry with the approval of the Finance Ministry.

Article 3: (1) Applications for the establishment of a project and for the exemptions, shall be submitted to the Directorate General of the Development of National Industries, accompanied by all the necessary technical and economic details relating thereto.

(2) The Director shall refer the application to the Committee together with his own recommendations within a period not exceeding thirty days from date of submission of the application which shall fully cover all the necessary requirements.

(3) The Committee is required to give its decision on the application within 15 days, and the Minister may ask the Committee to reconsider its decision, when necessary.

Article 4: (1) No project may be established or expanded, its industrial aim, or its headquarter changed, except by permission from the Minister, on recommendation of the Committee, provided that by the grant of such a permission the country's needs and its potentialities and the limitations set forth in the Industrial development Programmes, are fully taken into consideration.

(2) The terms underlying the grant of any permit for the establishment of any project shall be defined by instructions issued by the Minister, and these shall be fully prescribed in the "Permit Form".

Article 5: All projects existing prior to the execution of the provisions of this Law, are required to apply to the Directorate General of National Industries Development, for obtaining a "Permit of Establishment" within one year from date of its enforcement, unless such projects had already obtained such a permit in accordance with the provisions of the "Law Organising the Industrial Projects No. 18 of 1957".

Article 6: The provisions of Articles 4 and 5 of this Law shall not apply upon the project the value of its machinery, equipments and instruments (excluding the power generating equipment), being less than three thousand Dinars.

Article 7: (1) The Minister, may upon the recommendation of the Committee, cancel the Permit issued, in the following cases:

(a) If its holder does not start work within six months from date of its issue, without offering any reasons acceptable to the Committee.

(b) If its holder fails without any satisfactory reason, to complete the establishment of the project or its expansion or to change its industrial aim in the manner prescribed in his permit within the allowed period.

(c) If he contravenes the terms contained therein.

(2) A new "Permit" may be issued whenever the necessary conditions are fulfilled, even though its holder had been fined through the cancellation of his previous permit.

(3) The cancellation of any permit implies the suspension of work in the project until a new permit is granted.

Article 8: Projects fulfilling the conditions stipulated in Article 9 of this Law, and whose owner had obtained full "exemptions Certificate" shall enjoy the following advantages:

(1) Exemption of the project's profits from payment of Income Tax, provided that the following principles are adhered to:

(a) Profits not exceeding 10% of the project's actually paid up capital shall be exempted for a period of 5 years, with effect from the year in which the first profit of the project is realized.

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[4] *al-Jaridah al-Rasmiyah* (Official Gazette), No. 59 of October 9, 1952, (Damascus, Syria: Government Printer, 1952), pp. 4237–4239.

[5] *The Weekly Gazette of the Republic of Iraq*, No. 36, September 6, 1961 (Baghdad: Ministry of Guidance, 1961), pp. 709–714.

(b) Profits not exceeding 5% of the project's actually paid up capital shall be exempted during the following five years.

(c) The years of exemption enjoyed by the project in accordance with the provision of previous laws, shall be reckoned as being included in the exemption period referred to in the two above mentioned paras.

(2) Exemption from Income Tax of the reserve funds allocated by the project out of its profits, to be spent on improvements and expansions, provided that such amounts do not exceed 25% of the total annual profits and that such amounts are actually spent for the above purposes within a period not exceeding five years. If, however the amounts in question are not utilised for the purpose referred to above within the prescribed period, they shall be liable to the payment of Income Tax, after their addition to the profits of the year which follows the expiry of the five years period referred to above.

(3) Exemptions from payment of Estates Tax, in the case of properties owned by the project and utilized for its operations or for the storage of its materials and products, for a period of ten years from date of the issue of the "Provisional Exemption Certificate" provided that the number of years of exemptions enjoyed by the project in accordance with the provisions of previous laws, shall be deducted from the above period.

(4) Exemption from stamp duties for all the transactions of the project, including those relating to the increase of its capital.

(5) Exemption from customs duties of all materials shown below which are imported by the project for the realization of its industrial purposes, and which could not be acquired locally:

(a) Machinery with its parts, equipments as well as spare and auxiliary parts, laboratory, constructional and other materials required for the project.

(b) Raw materials as well as packing materials which the Committee allocates annually for the requirements of the project after obtaining the consent of the Ministries of Industry and Finance.

(6) To hire Miri (State) lands which the project needs, at reasonable rent for a period not exceeding ten years, after the lapse of which such lands could be owned by the project at a price equal to their market value, in accordance with instructions issued by the Ministry of Finance, after due consultation with the Ministry of Industry.

Article 9: The project which is entitled to enjoy the privileges prescribed in Article 8 of this Law, is that fulfilling the following conditions:

(1) That the ratio of its non-Iraqi labourers and employees do not exceed 10% of the total number of such labourers and employees, with the exception of technicians whose employment is regarded as being essential.

(2) That at least 60% of the project's nominal and paid up capital is Iraquian.

(3) That the value of its plants and its necessary equipments, supplies (with the exception of power generating plants and equipments) is not less than three thousand Dinars.

Article 10: The new units added to the project for the purpose of its expansion, and the additional factory established for the purpose of improving the project's own products, shall be considered as a supplementary part of the original project, unless its accounts are operated separately.

Article 11: The Minister shall grant a "Provisional exemption Certificate" for the project which is under construction, and a "full exemption Certificate" for the project which has already been duly established after the issue of the Committee's decision that the necessary requirements with regard to the project have been fulfilled.

Article 12: (1) The holder of the provisional exemption certificate shall enjoy all the privileges stipulated in Paras (3,4,5a and 6) of Article 8 of this Law.

(2) Provisional Exemption Certificate may be granted for a period not exceeding three years and the Minister may, at the recommendation of the Committee, extend the above mentioned period if the project is not completed within the prescribed period, provided that the committee's recommendations are based on "force majeur" circumstances.

Article 13: Regulations and instructions may be issued for the purpose of regulating the methods of obtaining "Permits of Establishment" as well as "Exemption Certificate" and annual exemptions for raw and packing materials.

Article 14: Regulations may be issued upon the proposal of the Minister of Industry, based on a decision of the Finance Committee, for the exemption of certain kinds of machinery equipments, supplies and raw materials, from payment of Customs duties, if this is considered necessary for the encouragement of the national industry.

Article 15: Owner of any project has the right to object against any decision, affecting him, and passed in accordance with the provisions of this Law, before the Council of Ministers, within thirty days from date of his notification of the decision in question, in writing.

Article 16: The Minister may, at the recommendation of the Committee, cancel the Exemption Certificate of the project concerned, suspend its operations, unless such stoppage has been caused by unavoidable circumstances.

Article 17: In the event of the project becoming in a position which would not justify the further enjoyment of exemptions, the Council of Ministers may decide to stop such exemptions.

Article 18: (1) The Minister may, at the recommendation of the Committee, take any of the measures mentioned below, which may be deemed advisable, against any person who contravenes any of the exemption stipulations contained in this Law.

(a) Suspend the exemptions enjoyed by the project for a given period.

(b) Impose on the project owner an indemnity not exceeding twice the amount of exemptions enjoyed by him.

(c) Suspend work in the project for a nominated period.

(2) The project owner may object against any such decision passed against him, in accordance with para (1) of this Article, before the Court of First Instance concerned, within 2 months from date of his notification.

Article 19: A project owner or his representative is required to carry out the following:

(1) Provide all true and correct informations and statements with regard to the project, submit all the necessary documents, confirming such statements whenever required by the Minister, or any person authorised by him.

(2) Notify the Minister within a period of one month, in the event of his selling his project or leasing it, or forfeiting his rights thereto, either partially or fully or in case of stopping work in the project, giving the necessary reasons for such action.

(3) Submit annual budget containing the operation accounts, and profits and losses, within a period not exceeding six months from the expiry of each financial year, if the project's capital exceeds 10 thousand Dinars, provided that such budget is duly scrutinised and passed by a chartered or an authorised accountant, if the project's actual capital exceeds fifteen thousand Dinars.

(4) Store the raw and packing materials as well as such other materials covered by exemptions, in a manner which would allow easy inspection, and that special registers relating thereto are duly kept.

(5) Keep regular books and registers based on comercial methods for controlling the project's accounts.

Article 20: Any person to whom a project has been either partially or completely transferred, should submit an application for the transfer of the project's permit, and the exemption certificate into his name, within two months from the date of the transfer of such ownership. The permit and the certificate shall both be cancelled if he fails to comply with the above within the prescribed period and all exemptions granted later in accordance with Article 8, shall be duly recovered.

Article 21: (1) Any person contravening the provisions of Articles 4 and 5 of this Law, and any person whose permit has been cancelled in accordance with Article 7 of this Law, shall be liable to pay a fine not exceeding one thousand Dinars.

(2) Any person contravening the provisions of Article 19 of this Law, shall be liable to pay a fine not exceeding one hundred Dinars.

(3) Any person using materials covered by exemptions, for purposes other than those of the project, shall be liable to a fine not less than five times and not exceeding 10 times the Customs duties fixed for such materials.

Article 22: Necessary regulations may be issued for the purpose of facilitating the execution of this law.

Article 23: The Industrial Projects Encouragement Law No. 72 of 1955 and its amendments, as well as the Law Regulating the Establishment of Industrial Projects No. 18 of 1957, are hereby cancelled, while the regulations, instructions, Notifications, and decisions issued in accordance thereto, shall remain in force, until they are either cancelled or amended, except in so far as they contradict the provisions of this Law.

Article 24: This Law shall come into force after the lapse of 30 days from date of its publication in the Official Gazette.

Article 25: The Ministers of the State are charged with the execution of this Law.

EXCERPT FROM INDUSTRIAL DEVELOPMENT—INCOME TAX RELIEF

CHAPTER 87—INDUSTRIAL DEVELOPMENT (INCOME TAX RELIEF) (FEDERATION)

Arrangement of sections

Part I.—Preliminary

Section
1. Short title and construction.
2. Interpretation.

Part II.—Pioneer Conditions

3. Powers and procedure for declaring an industry and a product a pioneer industry and product.
4. Procedure and power for applying for and giving a pioneer certificate.
5. Power and procedure for amending a pioneer certificate by adding an additional pioneer product.
6. Provision for case where pioneer certificate operates retrospectively.
7. Fixing of dates of production day and amount of qualifying capital expenditure.
8. Cancellation and amendment of pioneer certificates.
9. Publication of pioneer certificate, etc., prohibited except at instance of pioneer company.
10. Forms.

Part III.—Income Tax Relief

11. Tax relief period.
12. Provisions governing old and new trades or businesses.
13. Restrictions on trading prior to end of tax relief period.
14. Power to direct in certain events.
15. Capital allowances and losses.
16. Returns of income.
17. Profits exempted from income tax.
18. Certain dividends exempted from income tax.

19. Dividend and loan restrictions during a tax relief period.
20. Exclusion of small companies relief.
21. Provisions for plantation industry.
22. Repeal, savings and transitional provisions.

An Ordinance to make further provision whereby the establishment and development in Nigeria of commercial enterprises may be encouraged by way of relief from income tax and for purposes connected therewith. [24*th April*, 1958.]

Part I—Preliminary

1. This Ordinance may be cited as the Industrial Development (Income Tax Relief) Ordinance, and shall be construed as one with the Income Tax Ordinance (hereinafter referred to as the principal Ordinance).

2. In this Ordinance, unless the context otherwise requires—

"Accounting period" means a period for which accounts have been made up in accordance with paragraph (iii) of section 12;

"Company" means a company (other than a private company) limited by shares and incorporated in Nigeria under the Companies Ordinance and resident in Nigeria;

"Minister" means the member of the Council of Ministers charged with responsibility for matters relating to industrial development;

"New trade or business" means the trade or business of a pioneer company deemed under the provisions of section 12 to have been set up and commenced on the day following the end of its tax relief period;

"Old trade or business" means the trade or business of a pioneer company carried on by it in its tax relief period in accordance with the provisions of section 12, and which either ceases within or is deemed, under those provisions, to cease at the end of that period;

"Permissible by-product" means any goods or services so described in any certificate given under section 4 being goods or services necessarily or ordinarily produced in the course of producing a pioneer product;

"Pioneer certificate" means a certificate given under section 4, certifying, *inter alia*, a company to be a pioneer company, or any such certificate as amended under section 5 or 8;

"Pioneer company" means a company certified by any pioneer certificate to be a pioneer company;

"Pioneer enterprise", in relation to a pioneer company, means the production and sale of its relevant pioneer product or products;

"Pioneer industry" means a particular kind of trade or business declared by an order made under section 3 to be a pioneer industry;

"Pioneer product" means any goods or service declared by any order made under section 3 to be a pioneer product;

"Production day" means the day on which the trade or business of a pioneer company commences for the purposes of the principal Ordinance;

"Qualifying capital expenditure" means capital expenditure of such a nature as to rank as qualifying expenditure for the purposes of the Fourth Schedule to the principal Ordinance;

"Relevant pioneer product", in relation to any pioneer company, means the pioneer product or products and the permissible by-product specified in its pioneer certificate;

"Tax relief period", in relation to a pioneer company, means the period ascertained in accordance with the provisions of subsection (1) of section 11 and any extension of that period made under that section.

Part II—Pioneer conditions

3. (1) Where it is represented to the Minister that—

(*a*) any industry is not being carried on in Nigeria on a scale suitable to the economic requirements of Nigeria or at all, or there are favourable prospects of further development of any industry; and

(*b*) it is expedient in the public interest to encourage the development or establishment of the industry in Nigeria by the making of an order declaring the industry to be a pioneer industry and any product or products of such industry to be a pioneer product or products,

the Minister shall cause to be published in the Gazette a notice—

(i) stating that a representation has been received and setting out the industry and the products which it is sought to have declared a pioneer industry and pioneer products, either as the same have been described in the representation made to the Minister or with such variations therefrom as the Minister may think expedient; and

(ii) requiring any person who may object to the making of the suggested declaration to give notice in writing of his objection, and of the grounds on which he relies in support thereof, to the Minister not later than thirty days after the publication of the notice.

(2) As soon as may be after the period of thirty days referred to in paragraph (ii) of subsection (1) has expired, the Minister shall submit the representations made to him, together with any objections of which he has received notice, to the Governor-General in Council, who may, if he considers it in the public interest to do so having regard, *inter alia*, to the probable effect on existing businesses engaged in the same industry in Nigeria and on other industries in Nigeria, make an order declaring the industry to be a pioneer industry and its products to be pioneer products: Provided that before so submitting a representation to which notice of objection has been given the Minister may, if he considers it necessary, call for further particulars of the grounds of any such objection.

(3) An order made under subsection (2)—

(*a*) may describe the industry and its products in the way in which they were described in the notice published in the Gazette in accordance with subsection (1) or may vary that description in such manner as the Governor-General in Council may think fit;

(*b*) may contain such conditions and restrictions as the Governor-General in Council may think fit to impose; and

(*c*) may be expressed to take effect from an earlier date than that on which it is published in the Gazette, not being earlier than the date on which the representation in consequence of which the order was made was received by the Minister.

(4) An order made under subsection (2) may be amended from time to time by adding to the product or products, declared in such order to be pioneer products, any further product or products or otherwise as may appear necessary: Provided that before making an amending order, and in making any such order under this subsection, the principles and procedure laid down in subsections (1), (2) and (3) shall be applied, *mutatis mutandis*, and any reference in this Ordinance to an order shall, wherever necessary, include a reference to that order as amended.

(5) Any representation made in accordance with subsection (1) by a member of the public (including a company or a body of persons) shall be accompanied by a deposit of fifty pounds, which shall be returned to the person making the deposit unless the Minister is of opinion that the representation is frivolous, in which event such deposit shall be forfeited to the general revenue of the Federation.

4. (1) Any company, or body of persons proposing to register a company being desirous of establishing or participating in any pioneer industry or industries for the purpose of producing any pioneer product or products may make an application in writing to the Minister for a pioneer certificate to be given, certifying the company to be a pioneer company in relation to such industry or industries and product or products.

(2) In any such application the applicant shall—

(*a*) give particulars of the assets on which qualifying capital expenditure will be incurred, including their source and estimated cost

(i) on or before production day; and

(ii) during a period of two years following production day;

(*b*) specify the place in which the assets on which qualifying capital expenditure will be incurred will be situated;

(*c*) estimate the date of production day of the company or proposed company, such estimate being expressed, if the applicant so wishes, as at the expiration of a stated period after the date of issue of the certificate;

(*d*) specify the proposed products and by-products (not being pioneer products) which will be produced and provide an estimate of the quantities and value of each during a period of one year from production day;

(*e*) give particulars of the loan and share capital or the proposed loan and share capital of the company or proposed company including the amount and date of each issue or proposed issue, and the sources from which the capital is to be or has been raised; and

(*f*) give the names and addresses of the persons promoting the company or, if it is already incorporated, of the directors thereof together with the number of shares held or proposed to be held by each such director or promoter whether directly or through any nominee.

(3) Every application for a pioneer certificate other than one made as provided in subsection (4) shall be accompanied by a deposit of fifty pounds, which shall be returned to the applicant unless the Minister is of opinion that the application is frivolous, in which event such deposit shall be forfeited to the general revenue of the Federation.

(4) Where a company, or body of persons proposing to register a company, makes a representation in accordance with subsection (1) of section 3, it may at the same time apply in the manner provided in subsection (1) of this section for a pioneer certificate certifying the company to be a pioneer company in relation to any industry and any product or products which may be declared a pioneer industry and a pioneer product or products by an order made in consequence of that representation, and, if an order is so made, a pioneer certificate granted in consequence of such an application may be expressed to be effective from a date not earlier than the date on which the representation was received by the Minister, or the date on which the company was registered, whichever is the later.

(5) At any time after a notice has been published in the Gazette in accordance with subsection (1) of section 3 any company, or body of persons proposing to register a company, may notify the Minister that it proposes to apply for a pioneer certificate certifying the company to be a pioneer company in relation to any industry and any product or products which may be declared a pioneer industry and a pioneer product or products by an order made in consequence of the representation referred to in the notice, and if any order is so made and such company or body of persons makes an application in due form to the Minister for such a pioneer certificate not more than three months after the publication of such order, a pioneer certificate granted in consequence of such an application may be expressed to be effective from a date not

earlier than the date on which the notification referred to in this subsection was received by the Minister, or the date on which the company was registered, whichever is the later.

(6) For the purposes of subsections (4) and (5)—

(*a*) an order shall be deemed to have been made in consequence of a representation if the pioneer industry and the pioneer product or products named in the order are substantially the same as those with respect to which the representation was made to the Minister; and

(*b*) if two or more similar representations have been made to the Minister before the publication of the notice in accordance with subsection (1) of section 3, an order may be treated as having been made in consequence of each of those two or more representations.

(7) Upon receipt of an application submitted under this section the Minister may call for any further particulars from the applicant which he may consider necessary, and shall cause such application, with any such particulars, to be laid before the Governor-General in Council for consideration and if the Governor-General in Council is satisfied that it is expedient in the public interest so to do and in particular having regard—

(*a*) to the number of pioneer companies already established or about to be established for the production of the product or products mentioned in such application;

(*b*) to the production or anticipated production of such pioneer companies, and of other businesses established or about to be established in the industry or industries;

he may give a pioneer certificate, or decide not to give any such certificate: Provided that where any such application is made by persons proposing to register a company in connection with that application, and in consequence thereof the Governor-General in Council decides to give a pioneer certificate under this section, following the registration of such company, his decision may be expressed to be subject to such conditions as he may specify, and the Minister shall give notice in writing of such decision and of any such conditions to those persons and, if the company is registered within three months of the date of such notice and the Governor-General in Council is satisfied that such conditions, if any, have been or will be complied with, such certificate shall be given accordingly.

(8) A pioneer certificate shall be in the terms of the application, subject to such variations thereof as the Governor-General in Council may think fit and in addition thereto—

(*a*) shall state the permissible by-products which may be produced in addition to the pioneer product or products and may limit the proportion of the permissible byproducts in relation to the pioneer product or products either in quantity or in value or in both; and

(*b*) notwithstanding the provisions of section 11, may prescribe a maximum tax relief period enjoyable by the pioneer company by virtue of that pioneer certificate in any case where the pioneer company has acquired or proposes to acquire assets from any company to which a pioneer certificate has been given under this Ordinance, or under the Aid to Pioneer Industries Ordinance, 1952, or to take over the whole assets of any other existing company.

5. (1) At any time during its tax relief period a pioneer company may make an application in writing to the Minister to amend its pioneer certificate by adding an additional pioneer product to the pioneer product or products specified in such certificate.

(2) Such application shall specify the additional pioneer product and the reasons for the application.

(3) The provisions of subsection (7) of section 4, except the proviso to that subsection, shall apply, *mutatis mutandis,* to any application under this section.

6. Subject to the provisions of this Ordinance relating to the cancellation of pioneer certificates, where, by virtue of subsection (4) or (5) of section 4 a certificate is to be operative from a retrospective date, then any act or thing which has been done or which has happened, for the purposes of the principal Ordinance, since that date which would not have been done or happened if that certificate had been in force at that date, shall, whenever necessary for the purposes of this and the principal Ordinance, be treated as not having been done or not having happened, and if the act consists of the payment of any tax by a company certified to be a pioneer company, that tax shall be repaid in the manner provided in the principal Ordinance, as soon as may be after the expiration of three months from the production day of that company.

7. (1) In this section "the material date" means—

(*a*) in relation to a pioneer company engaged in a manufacturing, processing, mining or agricultural pioneer industry, the date on which the company begins to produce a pioneer product in marketable quantities; and

(*b*) in relation to a pioneer company engaged in a pioneer industry consisting of the provision of services, the date on which the company is ready to provide such services on a commercial scale.

(2) Not later than one month after the material date a pioneer company shall make an application in writing to the Commissioner to certify the date of its production day and shall propose a date to be so certified and give reasons for proposing that date.

(3) Not later than one month after its production day has been finally determined and certified or within such extended time as the Commissioner may allow, a pioneer company shall make an application in writing to the Commissioner to certify the amount of its qualifying capital expenditure incurred prior to production day and shall supply full particulars of its capital expenditure so incurred.

(4) After considering any application made under subsection (2) or (3), together with such further information as he may call for, the Commissioner shall issue a certificate to the company certifying the date of its production day or the amount of its qualifying capital expenditure, as the case may be, and the provisions of Parts XI and XII of the principal Ordinance (relating to objections and appeals), and of any rules made thereunder, shall apply, *mutatis mutandis,* as if such certificate were a notice of assessment given under such provisions.

(5) The Commissioner shall notify the Minister of the date of the production day of the company and of the amount of its qualifying capital expenditure incurred prior to that date when the same have been finally determined and certified, and on the receipt of such notification the Minister shall require the company to declare, within a period not exceeding thirty days, in what respects the proposals and estimates made in its application for a pioneer certificate, or any conditions contained in its pioneer certificate, have not been fulfilled.

8. (1) Where a certificate issued under section 7 certifies that a pioneer company has incurred qualifying capital expenditure to an amount less than £5,000 prior to production day, the Minister shall cancel the company's pioneer certificate.

(2) Where a certificate issued under section 7 certifies that the date of the production day of a pioneer company is more than one year later than the estimate thereof given in the company's application for a pioneer certificate, the Minister shall cancel the company's pioneer certificate unless he is satisfied that the delay is due to causes outside the control of the company, or to other good and sufficient cause.

(3) Where, in any case in which the provisions of subsections (1) and (2) do not apply, the Minister is of the opinion that a pioneer company has contravened any provision of this Ordinance, or has failed to fulfill any estimate or proposal made in its application for a pioneer certificate or any conditions contained in its pioneer certificate, he shall report the circumstances to the Governor-General in Council, who may either cancel the company's pioneer certificate or direct that the company's tax relief shall be restricted to such period as may be appropriate notwithstanding the provisions of section 11.

(4) Where a pioneer company makes application to the Minister for its pioneer certificate to be cancelled, the Minister shall cancel such certificate.

(5) Where any pioneer certificate is cancelled under this section the certificate shall be deemed never to have had any effect in relation to such company.

9. The contents of any application made or of any certificate given under this Part with respect to a pioneer company shall not, except at the instance of such company, be published in the Gazette or in any other manner: Provided that the Minister shall cause to be published by notice in the Gazette and in the Regional Gazettes the name of any company—

(i) to whom a pioneer certificate has been given, or

(ii) whose pioneer certificate has been cancelled.

10. The Minister may from time to time specify the forms of application to be made under this Part.

Part III—Income tax relief

11. (1) The tax relief period of a pioneer company shall commence on the date of the production day of such company and, subject to anything prescribed under paragraph (*b*) of subsection (8) of section 4 or to any direction given under subsection (3) of section 8, shall continue for two years and thereafter for such further period or periods as may be authorised under the subsequent provisions of this section.

(2) Upon the issue by the Commissioner of a certificate certifying that a pioneer company has incurred, by the end of two years from the commencement of its tax relief period, qualifying capital expenditure of not less than any one of the following amounts, its tax relief period shall *ipso facto* be extended by the period herein set out after that amount—

(*a*) £15,000, one year;

(*b*) £50,000, two years;

(*c*) £100,000, three years.

(3) Where the tax relief period of a pioneer company has been extended by one year under subsection (2) and the Commissioner certifies that the pioneer company has incurred, by the end of that one year, qualifying capital expenditure of not less than £50,000, or of not less than £100,000, its tax relief period shall *ipso facto* be further extended by one or two years, as the case may require, from the end of the first extension.

(4) Where the tax relief period of a pioneer company has been extended by two years under subsection (2), or by one year under subsection (2) and by a further one year under subsection (3), and the Commissioner certifies that the company has incurred, by the end of those two years, qualifying capital expenditure of not less than £100,000, its tax relief period shall *ipso facto* be further extended by one year from the end of those two years.

(5) A pioneer company wishing to obtain a certificate for the purposes of the foregoing provisions of this section shall make an ap-

plication in writing to the Commissioner not later than one month after the date on which its tax relief period, or any extension thereof, ends, or within such further period as the Commissioner may allow, and such application shall contain particulars of all expenditure incurred by the company by the requisite date which the company claims should be accepted as qualifying capital expenditure.

(6) After considering any application under subsection (5), together with such further information as he may call for, the Commissioner shall issue a certificate to the company, certifying the amount of the qualifying capital expenditure incurred by the company by the requisite date.

(7) Where the Commissioner is satisfied that a company has incurred a loss in any accounting period falling within a tax relief period ascertained under the foregoing provisions of this section he shall issue a certificate to the company to that effect, and to the tax relief period finally ascertained under the foregoing provisions of this section there shall be added a further period of relief equivalent to the aggregate of all accounting periods for which such certificates have been issued to the company.

(8) The provisions of Parts XI and XII of the principal Ordinance (relating to objections and appeals) and any rule made thereunder shall apply, *mutatis mutandis*, as if any certificate given by the Commissioner under the provisions of this section or notice of refusal to give a certificate under subsection (7) of this section were a notice of assessment given under the provisions of that Ordinance.

12. If the trade or business of a pioneer company is carried on by it before and after the end of its tax relief period, then for the purposes of the principal Ordinance and this Ordinance—

(i) that trade or business shall be deemed to have permanently ceased at the end of the tax relief period of the pioneer company;

(ii) in respect of that trade or business, the pioneer company shall be deemed to have set up and commenced a new trade or business on the day following the end of its tax relief period;

(iii) the pioneer company shall make up accounts of its old trade or business for a period not exceeding one year commencing on its production day, for successive periods of one year thereafter, for the period not exceeding one year ending at the date when its tax relief period determined under subsections (1), (2), (3) and (4) of section 11 ends, and, where the tax relief period has been extended under subsection (7) of section 11, in similar manner as though the first day of such extension were the production day of the pioneer company; and

(iv) in making up the first accounts of its new trade or business the pioneer company shall take as the opening figures for those accounts the closing figures in respect of its assets and liabilities as shown in its last accounts in respect of its tax relief period, and its next accounts of its new trade or business shall be made up by reference to the closing figures in such first accounts and any subsequent accounts shall be similarly made up by reference to the closing figures of the preceding accounts of its new trade or business.

13. Prior to the expiration of its tax relief period, a pioneer company shall not carry on any trade or business other than a trade or business the whole of the profits of which are derived from its pioneer enterprise.

14. (1) For the purposes of the principal Ordinance and this Ordinance, the Commissioner may direct that—

(i) any sums payable to a pioneer company in any accounting period which, but for the provisions of this Ordinance, might reasonably and properly have been expected to have been payable, in the normal course of business, after the end of that period shall be treated as not having been payable in that period but as having been payable on such date after that period as the Commissioner thinks fit, and where such date is after the end of the tax relief period of the pioneer company as having been so payable on that date as a sum payable in respect of its new trade or business; and

(ii) any expense incurred by a pioneer company within one year after the end of its tax relief period which, but for the provisions of this Ordinance, might reasonably and properly have been expected to have been incurred, in the normal course of business, during its tax relief period, shall be treated as not having been incurred within that year but as having been incurred for the purposes of its old trade or business and on such date during its tax relief period as the Commissioner thinks fit.

(2) Where a direction has been made under this section with respect to a pioneer company and thereafter the length of the tax relief period of the pioneer company is varied under any of the provisions of this Ordinance, the Commissioner may amend such direction accordingly.

(3) In determining whether a loss has been made in an accounting period for the purpose of subsection (7) of section 11 of this Ordinance, and for that purpose only, the Commissioner may in his absolute discretion exclude any sum which may be in excess of an amount which appears to the Commissioner to be just and reasonable paid or payable by the company in respect of

(i) remuneration to directors of the company;

(ii) interest, service, agency or other similar charges made by a person who is or is controlled by a shareholder of the company.

15. (1) The income of a pioneer company in respect of its old trade or business falling to be ascertained in accordance with the provisions of the principal Ordinance for any accounting period, shall be so ascertained (after making any necessary adjustments in consequence of a direction under section 14) without any regard to the provisions of section 20 of the principal Ordinance.

(2) Where an asset is used for purposes of the new trade or business of a pioneer company, any capital expenditure incurred by the pioneer company in respect of such asset before the end of its tax relief period shall, for the purposes of the Fourth Schedule to the principal Ordinance, be deemed to have been incurred on the day following the end of its tax relief period: Provided that where such expenditure gives rise to an initial allowance under the provisions of the said Schedule, and the tax relief period of the pioneer company has been extended under subsection (7) of section 11 of this Ordinance (on account of a loss in one or more accounting periods) the rate at which such initial allowances shall be computed shall be the appropriate rate *per cent* determined from the First Table to the said Schedule reduced at the rate of one-fifth for each year comprised in the total period of such extension.

(3) Where a pioneer company incurs a loss during an accounting period in its old trade or business that loss will be deemed for the purpose of computing total income but not income to have been incurred by the company on the day on which its new trade or business commences. For the purposes of this subsection a loss shall be computed in the same manner as income is computed under the provisions of subsection (1) of this section and without regard to the provisions of subsection (3) of section 14 of this Ordinance.

(4) For each accounting period the Commissioner shall issue to the pioneer company a statement showing the amount of income ascertained for the purpose of subsection (1) or loss computed for the purpose of subsection (3) and the provisions of Parts XI and XII of the principal Ordinance (relating to objections and appeals) and of any rules made thereunder, shall apply, *mutatis mutandis*, as if such statement were a notice of assessment given under such provisions.

16. So much of the provisions of Part X of the principal Ordinance as are applicable in the case of a company, shall apply in all respects as if the income of a pioneer company in respect of its old trade or business was chargeable to tax.

17. Subject to the provisions of subsection (6) of section 18, including the effect of a cancellation as therein mentioned, where any statement issued under subsection (4) of section 15 has become final and conclusive, the amount of the income shown by such statement shall not form part of the assessable income, total income or chargeable income of the pioneer company for any year of assessment and shall be exempt from tax under the principal Ordinance: Provided that the Commissioner may, in his absolute discretion and before such a statement has become final and conclusive, declare that the whole or a specified part of the amount of such income is not in dispute and such undisputed amount of income shall be exempt from tax under the principal Ordinance, pending such a statement becoming final and conclusive.

18. (1) As soon as any amount of income of a pioneer company has become exempted under section 17, that amount shall be credited to an account to be kept by the pioneer company for the purposes of this section.

(2) Where at the date of payment of any dividends by the pioneer company such account is in credit, those dividends, or so much of those dividends where (after the end of its tax relief period) the amount thereof exceeds such credit as equals the amount of such credit, shall be debited to such account.

(3) So much of the amount of any dividends so debited to such account as are received by a shareholder in the pioneer company shall, if the Commissioner is satisfied with the entries in such account, be exempt from tax under the principal Ordinance in the hands of that shareholder and shall for the purposes of the principal Ordinance be deemed to be paid out of income on which tax is not paid or payable.

(4) Any dividends debited to such account shall be treated as having been distributed to the shareholders or any particular class of shareholders of the pioneer company in the same proportions as those shareholders were entitled to payment of the dividends giving rise to the debit.

(5) The pioneer company shall deliver to the Commissioner a copy of such account, made up to a date specified by him, whenever called upon so to do by notice in writing sent by him to its registered office, until such time as he is satisfied that there is no further need for maintaining such account.

(6) Notwithstanding the foregoing provisions of section 17 and this section, where it appears to the Commissioner that any amount of exempted income of a pioneer company, or any dividend exempted in the hands of a shareholder, ought not to have been exempted by reason of—

(i) a direction under section 14 having been made with respect to a pioneer company, after any income of such company has been exempted under the provisions of section 17, or

(ii) the cancellation of a pioneer certificate,

the Commissioner may at any time within six years of the date of any such direction or cancellation make such additional assessments upon the pioneer company or any shareholder as may appear to be necessary in order to counteract any benefit obtained from any such amount which ought not to

have been exempted, or direct such company to debit its account kept in accordance with subsection (1) with such amount as the circumstances require, and the provisions of Parts XI and XII of the principal Ordinance (relating to objections and appeals), and of any rules made thereunder, shall apply, *mutatis mutandis*, as if such direction were a notice of assessment given under such provisions.

19. During its tax relief period a pioneer company shall not—

(*a*) make any distribution to its shareholders, by way of dividend or bonus, in excess of the amount by which the account, to be kept by such company under section 18, is in credit at the date of any such distribution; or

(*b*) grant any loan without first obtaining the consent of the Minister, whose consent shall only be given if he is satisfied that the pioneer company is obtaining adequate security and reasonable rate of interest for any such loan.

20. A pioneer company shall not be entitled to any relief under section 28 of the principal Ordinance.

21. For the purpose of the principal Ordinance and this Ordinance the trade of a company which operates a plantation and to which a pioneer certificate has been granted shall be deemed to have commenced on the date when planting first reaches maturity, and any expenditure incurred on the maintenance of a planted area up to that date shall be deemed to have brought into existence an asset and be qualifying plantation expenditure for the purposes of the Fourth Schedule to the principal Ordinance.

22. (1) The Aid to Pioneer Industries Ordinance, 1952 (hereinafter in this section referred to as the former Ordinance) is repealed: Provided that subject to the provisions of this section, the former Ordinance shall continue to apply in relation to any company to which a pioneer certificate has been given under the former Ordinance before the date on which this Ordinance comes into operation.

(2) Any representation, application or objection made under the former Ordinance shall be deemed to have been made under this Ordinance.

(3) Any industry declared to be a pioneer industry under the former Ordinance and any products so declared to be pioneer products shall be deemed to have been declared to be a pioneer industry, or pioneer products, under this Ordinance.

(4) Any company to which a pioneer certificate has been given under the former Ordinance may, at any time within one year after the date on which this Ordinance comes into operation, elect to be treated as though it had received a pioneer certificate under this Ordinance and not under the former Ordinance: Provided that—

(a) Where the tax relief period of any company so electing has begun before it so elects, the date of commencement of that period under the former Ordinance shall be accepted as the date of commencement of the company's tax relief under this Ordinance;

(b) Any direction given under section 12 of the former Ordinance shall be effective for determining the length of the company's tax relief period for the purposes of this Ordinance.

CHAPTER 88—INDUSTRIAL LOANS (LAGOS AND FEDERATION) (FEDERATION)

Arrangement of sections

Section

An Ordinance to provide for the establishment and functions of a Federal Loans Board, to promote industrial development in and around Lagos, and in respect of projects of a major nature to promote industrial development throughout the Federation, and for purposes connected therewith. [*3rd May*, 1956]

1. This Ordinance may be cited as the Industrial Loans (Lagos and Federation) Ordinance.

2. In this Ordinance unless the context otherwise requires—

"Minister" means the Minister charged under section 98 of the Nigeria (Constitution) Order in Council, 1954, with responsibility for industrial development.

3. (1) So soon as may be after the commencement of this Ordinance there shall be established a board to be called the Federal Loans Board (hereinafter referred to as the Board).

(2) The Board shall be a body corporate and shall have perpetual succession and a common seal, and may sue and be sued in it own name.

4. (1) The members of the Board shall be appointed by the Minister and shall consist of a Chairman and not more than ten other members of whom—

(*a*) two members shall be officers in the public service of the Federation;

(*b*) one shall be appointed with the consent of the Lagos Executive Development Board and shall be an officer of that Board engaged under section 7 of the Lagos Town Planning Ordinance;

(*c*) one shall be a representative of the Lagos Chamber of Commerce selected by the Minister from a panel submitted by that Chamber;

(*d*) one shall be a representative of the Lagos Town Council selected by the Minister from a panel submitted by that Council;

(*e*) the remainder shall be persons who are not officers in the public service of the Federation.

(2) No person who is an officer in the public service of the Federation or of a Region shall be appointed to the Board without the consent of the Governor-General or of the Governor of that Region respectively.

(3) The Board shall pay to its members such remuneration, fees and allowances for expenses as the Minister may authorise: Provided that no such remuneration, fees or allowances other than such allowances as may be expressly authorised by the Governor-General in Council shall be paid under this subsection to any person who holds an office of profit under the Crown otherwise than as a member of the Board or as a member of a body corporate incorporated directly by a law enacted by any legislature in Nigeria.

(4) The provisions contained in the Schedule shall have effect with respect to the constitution and proceedings of the Board and otherwise in relation thereto.

5. The Minister shall appoint a secretary to the Board: Provided that no officer in the public service of the Federation or of a Region shall be appointed to be secretary except with the consent of the Governor-General or of the Governor of that Region respectively.

6. The Board may, with the approval of the Minister—

(*a*) from time to time, upon such salaries, terms and conditions as it may think fit, appoint such officers and employees as may be necessary for the proper and efficient conduct of its operations;

(*b*) by rules make provision for pensions, gratuities or retiring allowances to any officer or employee, and may require officers and employees to contribute to any pensions fund, provident fund or contributory scheme.

7. The funds and resources of the Board shall consist of—

(*a*) such moneys as may be appropriated from time to time to the Board by any vote or resolution of the House of Representatives;

(*b*) all moneys and other assets vested in the Board pursuant to the provisions of section 8;

(*c*) all investments or other property acquired by or vested in the Board, and all moneys earned or arising therefrom;

(*d*) all moneys from time to time received by or falling due to the Board in respect of the repayment of any loan made by the Board or by the Colony Development Board referred to in section 8, or the interest payable in respect of any such loan;

(*e*) all other moneys or other property which may in any manner become payable to or vested in the Board in respect of any matter incidental to its powers and duties.

8. (1) In this section—

"Appointed day" means a date* to be appointed for the purpose of this section by the Governor-General by notification in the Gazette;

"Colony Development Board" means the Colony Development Board established by section 3 of the Regional Development Boards Ordinance, 1949;

"Transfer schedule" has the meaning assigned to it by subsection (2).

(2) It shall be lawful for the Governor-General in Council, after consultation with the Government of the Western Region, to cause to be prepared a schedule of the assets of the Colony Development Board which in his opinion relate, or which in his opinion can more conveniently be related, to the area of the Federal Territory of Lagos, as distinct from the area of the Colony excluding such Federal Territory, and to cause the schedule to be authenticated under the hand of the Secretary to the Council of Ministers and deposited with the secretary of the Board. Such schedule shall be known as the transfer schedule and shall be made available by the secretary of the Board for inspection upon the request of any person considered by him to have any right in or any claim against or in respect of any asset included in such schedule.

(3) With effect from the appointed day all the assets included in the transfer schedule shall vest in the Board by virtue of this section and without further assurance, and the Board shall in respect of such assets have all the rights and be subject to all the liabilities which the Colony Development Board had or to which the Colony Development Board was subject immediately before the appointed day.

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*1st July, 1956, appointed (L.N. 44 of 1957).

(4) Every agreement relating to assets included in the transfer schedule to which the Colony Development Board was a party shall have effect as from the appointed day as if the Board had been a party to the agreement and as if for any reference to the Colony Development Board there were substituted a reference to the Board in respect of anything falling to be done on or after the appointed day.

(5) Where by operation of any of the foregoing provisions of this section any right or liability becomes a right or liability of the Board, the Board and all other persons shall as from the appointed day have the same rights, powers and remedies (and in particular the same rights and powers as to the taking or resisting of legal proceedings) for ascertaining, perfecting or enforcing that right or liability as they would have had if it had at all times been a right or liability of the Board, and any legal proceedings pending on the appointed day by or against the Colony Development Board shall be continued by or against the Board.

9. (1) The Board may make loans to any persons for projects designed to further the industrial development of the Federal territory of Lagos or its environs or the industrial development of the Federation of Nigeria: Provided that—

(a) a loan in excess of three thousand pounds shall require the approval of the Minister;

(b) a loan of less than thirty thousand pounds shall be made only for a project of which the principal place of operation is intended to be in the Federal territory of Lagos, or within ten miles of its boundaries;

(c) a loan of thirty thousand pounds or more shall require the approval of the Governor-General in Council; and

(d) no loan in excess of fifty thousand pounds shall be made.

(2) The Board, with the approval of the Minister (which approval may be given generally or in relation to a particular loan), either in lieu of a loan or as part of a loan may make purchases of plant, equipment or materials or acquire land or erect buildings or carry out any other works on behalf of the applicant for a loan, and in respect of the cost thereof subsection (1) of this section and the remaining provisions of this Ordinance shall apply as fully as though such cost were a loan, or (as the case may be) part of a loan, to the applicant.

10. Loans made by the Board of amounts not exceeding three thousand pounds shall not, except with the approval of the Minister, exceed a total of twenty thousand pounds in any one financial year.

11. Before considering any application for a loan the Board shall refer the application to the Director of Commerce and Industries, who shall thereupon cause the application to be fully investigated, and shall furnish the Board with full particulars of the result of the investigation.

12. (1) When making a loan the Board may charge such rate of interest as it may deem fit in any particular case, and may require and accept such security for the loan as it may think fit, or, with the approval of the Minister, may make the loan without requiring any security.

(2) In relation to any loan made by it the Board shall have power to accept payment of the whole or any part of the principal and interest of the loan before the time when such payment is due, upon such terms and conditions as the Board may deem fit, and shall have power, with the approval in each case of the Minister—

(a) to postpone upon such terms and conditions as the Board may deem fit the payment of any sum due for principal or interest for any time not exceeding five years;

(b) to extend from time to time the period for the repayment of any loan, or compound or release any loan or any part thereof upon such terms and conditions as the Board may deem fit;

(c) to reduce the rate of interest payable in respect of any loan.

(3) Where any property mortgaged as security for a loan is sold for the purpose of the enforcement of the security, the Board may buy such property and may either manage and hold such property or sell or otherwise dispose of it as the Board may think fit.

13. Where a loan is made by the Board on the security of a mortgage of any property, whether with or without any other security, the property shall from and after the date of the mortgage be charged with the payment of such loan and interest as in the mortgage mentioned, in priority, save so far as is otherwise specified in the mortgage, over every other debt, mortgage or charge whatsoever affecting the property, except any loan due to any creditor not assenting to such priority which has been made in good faith before the loan made by the Board and which has been secured by a duly registered mortgage of the property executed to a person who is entitled as a *bona fide* creditor to the repayment thereof with interest: Provided that if there is more than one such creditor and not less than four-fifths in value of such creditors consent in writing that the said charge shall have priority over the loans and mortgages of all such creditors, then the loans and mortgages of all such creditors, as well those who have not agreed as those who have agreed, shall be postponed to the loan made by the Board and to the security for the same.

14. (1) When the Board has made a loan of money, the Board may from time to time make or cause to be made such examination as may be necessary to ensure that the loan is being or has been applied to the purposes for which it was made.

(2) The Board may appoint any of its officers, or any other person authorised in writing by the Board, to make such examination, and the person who received the loan shall produce to such officer or person all the relevant books, documents and other matters and things necessary for the purposes of the examination.

15. Where, upon any examination made under the provisions of section 14, it appears to the Board that any sum being the whole or any part of the loan made by the Board, has not been applied for the purposes for which the loan was made, the Board may order that such sum be repaid to the Board within the time mentioned in the order, and any sum so ordered to be repaid to the Board shall thereupon become a debt due to the Board.

16. If in the opinion of the Board a loan made under the provisions of this Ordinance has been misapplied, the Board may, in addition to or in lieu of any other proceedings, where such loan has been secured by mortgage or otherwise, by notice in writing addressed to the borrower recall the said loan or any part thereof, and may require the loan or that part to be repaid on the date specified in the notice, and any security given for the purpose of the loan may be realised accordingly.

17. If any applicant for a loan under this Ordinance—

(a) knowingly makes to the Board any statement which is false in a material particular; or

(b) with intent to defraud fails to disclose to the Board any material information within his knowledge;

he shall be guilty of an offence and shall be liable to imprisonment for one year or to a fine of one hundred pounds, or to both such imprisonment and such fine.

18. (1) If any member or servant of the Board corruptly accepts or agrees to accept or obtains from any person any property or benefit of any kind for himself or for any other person in respect of or in connection with a loan or an application therefor under this Ordinance, he shall be guilty of an offence and shall be liable on conviction to imprisonment for two years or to a fine of five hundred pounds, or to both such imprisonment and such fine.

(2) If any person corruptly gives or promises or offers to give any property or benefit of any kind to a member or servant of the Board in respect of or in connection with any loan under this Ordinance or any application therefor he shall be guilty of an offence and liable on conviction to imprisonment for two years or to a fine of five hundred pounds, or to both such imprisonment and such fine.

19. The Board may from time to time invest moneys standings to its credit—

(a) in securities approved either generally or specifically by the Minister; or

(b) in any scheme or project approved by the Minister as suitable for the investment of the Board's moneys, and my from time to time vary such investments.

20. The Board may with the approval of the Minister purchase, lease, hold, manage and dispose of any property or any right or interest in property whatsoever, whether real or personal and whether by way of investment or otherwise.

21. (1) The Board may enter into such contracts as may be necessary or expedient for the carrying out of its functions under this Ordinance.

(2) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal may be entered into or executed on behalf of the Board by any person generally or specially authorised by the Board for that purpose.

(3) Any document purporting to be a document duly executed or issued under the seal of the Board or on behalf of the Board shall, unless the contrary is proved, be deemed to be a document so executed or issued, as the case may be.

22. Service upon the Board of any notice, order or other document may be effected by delivering the same to, or by sending it by registered post addressed to, the secretary of the Board.

23. Stamp duties, and registration fees under the provisions of the Land Registration Ordinance, shall not be payable in the Federal Territory of Lagos in respect of a mortgage or other document securing a loan made by the Board or a document discharging any such mortgage or security.

24. In any proceedings in a court for the recovery of a debt due to the Board the same fees of court (if any) shall be payable by the Board as if the debt were due to the Government of the Federation.

25. The Board, with the approval of the Minister (which approval may be given generally or in relation to any particular matter) may from its funds and resources make payment for any expense, cost or expenditure properly incurred or accepted by the Board in pursuance of its purposes under the provisions of this Ordinance.

26. (1) The Board shall keep accounts of its transactions to the satisfaction of the Minister and the accounts for each financial year shall be audited by a qualified accountant approved by the Minister.

(2) The financial year of the Board shall be such as the Board may decide. In the absence of a decision of the Board to the contrary it shall be the period of twelve months terminating on the 31st day of March in each year, and the period from the commencement of this Ordinance to the 31st day of March, 1957, shall be deemed to be the first financial year.

27. The Board may, with the approval of the Governor-General in Council, write off bad debts.

28. (1) The Board shall within six months after the end of each financial year submit to the Minister a report in respect of the previous financial year containing—

(*a*) an account of its transactions throughout such year with such particulars thereof as the Minister may direct; and

(*b*) a statement of the accounts of the Board duly audited in accordance with the provisions of section 26.

(2) A copy of the report, together with a copy of the report of the auditor, shall be printed and laid before the House of Representatives.

29. (1) The Minister may, after consultation with the Board, give it directions of a general character as to the exercise and performance of its functions under this Ordinance.

(2) The Board shall furnish the Minister with such information and returns relating to the activities or proposed activities of the Board as the Minister may from time to time require.

30. Where the Board ceases for any reason to exercise its functions under this Ordinance, whether by reason of the repeal of this Ordinance or otherwise, the funds of the Board shall be disposed of in such manner as the House of Representatives may by resolution direct.

31. From time to time the Governor-General in Council may direct that the Board shall pay all or any part of its revenue or funds into the general revenue or other funds of the Federation, and thereupon the Board shall forthwith pay such sum into the general revenue or other funds of the Federation, as the case may be, and the Board shall lose all right, title and interest in such sum, which shall thereupon form part of the general revenue or other funds of the Federation.

Schedule—Constitution and proceedings of the Board

1. (1) The Chairman of the Board shall, subject to the other provisions of this Schedule, hold office for five years from the date of his appointment.

(2) The members of the Board, other than the Chairman, shall, subject to the other provisions of this Schedule, hold office for such period not exceeding three years as may be determined by the Minister at the time of of their respective appointments.

(3) The Chairman and other members shall be eligible for reappointment at the conclusion of their respective terms of office.

2. A member of the Board, other than a person who is a public officer, may at any time resign by sending his resignation in writing to the Minister.

3. (1) The Governor-General in Council may at any time terminate the appointment of a member of the Board.

(2) If the Minister is satisfied that a member of the Board, other than a person who is a public officer—

(*a*) has been absent from two consecutive meetings of the Board without the permission of the Chairman; or

(*b*) has made an arrangement with his creditors; or

(*c*) is incapacitated by physical or mental illness; or

(*d*) is otherwise unable or unfit to discharge the functions of a member,

the Minister may declare the office of such member to be vacant and shall notify the declaration in such manner as the Minister thinks fit, and upon such notification being made the office shall become vacant.

4. The validity of any act or proceedings of the Board shall not be affected by any vacancy among its members or by any defect in the appointment of any member or by reason that some person who was not entitled to do so took part therein.

5. Where the Chairman or other member of the Board is temporarily incapacitated by illness or temporarily absent from Nigeria, the Minister may appoint any person to hold temporarily the office held by such incapacitated or absent member during the period of such incapacity or absence, and all the powers and duties of the Chairman or member, as the case may be, under the Ordinance shall devolve upon the person so temporarily appointed.

6. Where upon any special occasion the Board desires to obtain the advice of any person on any particular matter, the Board may co-opt such person to be a member for such meeting or meetings as may be required, and such person whilst co-opted shall have all the rights and privileges of a member save that he shall not be entitled to vote on any question.

7. (1) The Board may examine any person willing to be examined on any matters connected with the execution of this Ordinance, and may for that purpose or otherwise for the purpose of the execution of the Ordinance administer an oath and take evidence by affidavit or declaration.

(2) Any person who, when examined by the Board under the provisions of the Ordinance, wilfully gives false evidence, or who, for the purpose of obtaining a loan from the Board wilfully gives information to the Board which is false in a material particular, shall be guilty of an offence, and may be tried and punished in the same manner as if he had given false evidence in a judicial proceeding.

8. The Chairman or other member presiding and four other members shall form a quorum at any meeting of the Board.

9. Subject as aforesaid, the Board may make standing orders—

(*a*) for the proceedings of the Board, the manner of transaction of its business and the method of voting and for the appointment of and transaction of business by committees of the Board;

(*b*) for the appointment of a person to preside at any meeting whereat neither the Chairman nor a person duly appointed as temporary Chairman is present;

(*c*) for the custody and use of the common seal and, subject to the provisions of section 21, the manner in which documents, cheques and instruments of any description shall be signed on behalf of the Board.

CAMEROUN INVESTMENT CODE—LAW NO. 60–64 OF 27 JUNE 1960

Considering the Constitution of March 1960;

The National Assembly has debated and adopted;

The President of the Republic hereby promulgates the following Law:

TITLE I

ARTICLE 1. Any new undertaking or industrial or agricultural establishment, under whatever legal form it may be constituted, may be regarded as being of special importance to the economic development of Cameroun and may, with the concurrence of the Investments Commission established by article 2 below, be treated as a priority establishment enjoying the advantages conferred by one of the schedules in Title II below.

ARTICLE 2. The Investments Commission which reviews applications by enterprises wishing to be treated in accordance with one of the schedules in

Title II below shall be constituted as follows:

The Minister for the Plan (Chairman).

Members: The Minister of National Economy (or his representative).

The Minister of Finance (or his representative).

The Minister of Labor and Social Legislation (or his representative).

Any Minister concerned by the activity of the applicant firm (or his representative).

Two members of the National Assembly.

The Director of the Plan.

The Director of Customs.

The Director of the Central Bank of Cameroun.

The Director of the Credit du Cameroun.

Two representatives of the Chamber of Commerce and Industry.

Two representatives of GICAM.

One representative of the Study Group for the Development of Cameroun.

Two representatives of the Economical Council.

The Investments Commission may co-opt in a consultative capacity any person qualified by specialized knowledge.

ARTICLE 3. The procedure for approval calls for the submission of an application to the Minister of National Economy. This application, receipt of which shall be acknowledged forthwith, must state which of the priority schedules is applied for, and give reasons in support of the request.

The Commission, having heard the applicant, shall give its decision within thirty days.

ARTICLE 4. Approval of the application, which shall take the form of a decree of the Council of Ministers, shall entitle the applicant to the benefits provided by the present Code. The approval shall take effect sixty days following the announcement thereof, which shall be published in the Journal Official of the Republic of Cameroun.

ARTICLE 5. If the application is rejected by the Commission, the Minister of National Economy shall notify the applicant accordingly. The latter may then appeal, within thirty days following the date of such notification, to an inter-ministerial Committee consisting of the Prime Minister as Chairman and the Ministers of Finance, National Economy and the Plan, and any Minister concerned by the activities of the applicant firm. This Committee shall give its decisions within fifteen days; they shall be without appeal.

TITLE II

Priority schedules

ARTICLE 6. Firms and establishments may apply to be treated as provided by any one of the four schedules enumerated below:

Section I—Schedule A

ARTICLE 7. Firms and establishments approved under Schedule A shall be exempt, on the conditions set forth in article 8, from import duties and taxes:

(a) On equipment, materials, machinery and tools directly required for the production and processing of articles;

(b) On the raw materials and products of which the articles manufactured or processed are wholly or partly composed;

(c) On raw materials or products which, while not being manufacturing equipment and not forming part of the articles manufactured or processed, are destroyed or lose their essential nature during manufacturing operations;

(d) On raw materials and products used for the conditioning of manufactured or processed articles or for packing them in non-reusable packages.

ARTICLE 8. Firms and establishments benefitting under article 7 shall be treated in accordance with the "usine exercee" system, as defined by existing legislation.

ARTICLE 9. Prepared, manufactured or processed articles exported by approved firms may attract a reduced rate of export duty, to be specified in the decree of approval, with the concurrence of the Minister of Finance.

ARTICLE 10. A manufactured or processed article sold in the Republic of Cameroun and not listed in the schedule of rates for the tax on consumption shall be subject to that tax, at the rate of 5%, or to a specific duty, as may be applicable. Approved firms shall nevertheless be exempt from such duty for the first five years of their operation. This period of exemption shall run from the date of the first sale or delivery.

ARTICLE 11. Where a manufactured or processed article sold in Cameroun is listed in the

schedule of rates for the tax on internal consumption, approved undertakings shall be exempt from that tax only on the following conditions:

(a) If the article is not, or is no longer, manufactured or processed in Cameroun, the approved firm shall be exempt from duty, the exemption to run from the date of first sale or delivery;

(b) If the article is already manufactured, processed and sold in Cameroun, the approved firm's tax exemption shall not continue beyond the date on which the firm already manufacturing, processing and selling the article in Cameroun becomes liable to the tax.

ARTICLE 12. Firms approved under Schedule A shall not become liable to any new import, export or internal consumption tax before 31 December 1980.

Section II—Schedule B

ARTICLE 13. Firms approved under Schedule B shall reecive all the benefits of Schedule A, on the condiitons and with the reservations set forth in article 11. They shall also enjoy the following concessions:

(a) They shall be exempt from the tax on industrial and commercial profits for the first five years of their operation. The first year of such exemption shall be that year during which the first sale or delivery was made, whether inside Cameroun or for export.

Normal amortization as shown in the accounts for the first five years may be set off against taxation for the three years following, on the express authorization of the Minister of Finance;

(b) They shall be exempt, during the same period and on the same conditions, from business license fees (*patente*) and from land, mining and forestry taxes.

ARTICLE 14. No law or regulation taking effect subsequent to the approval of a concern under Schedule A and B in application of the present Law shall derogate from any of the provisions set forth above. Moreover, any more favorable provisions which may be adopted in Cameroun tax legislation shall apply also to firms approved under Schedules A and B.

The present provisions shall remain in force until 31 December 1980.

Section III—Schedule C

Special status

ARTICLE 15. Certain firms of particular importance, which assist the execution of the economic and social development plan and engage in what is considered to be a priority productive activity, may apply for approval as provided under Title I, with the object of concluding an establishment agreement with the Government of Cameroun, on the following conditions:

ARTICLE 16. The establishment agreement shall run for a fixed term of not less than twenty years. The Government must have legislative authority to conclude such agreement.

ARTICLE 17. Parent companies and stockholding companies of the undertakings referred to above may also be parties to such an agreement, in so far as their activities in Cameroun are concerned.

ARTICLE 18. The establishment agreement shall specify, *inter alia:*

(a) The general conditions of operation, the minimum equipment and production program, the obligations on the firm as regards professional training or social works as provided by the program, and any other obligations accepted by the two parties;

(b) Government guarantees, especially:

Guarantees of legal, economic and financial stability, and of stable conditions for financial transfers and the marketing of goods;

Guarantees that workers shall be able to reach their workplaces and move about freely, freedom of employment, and free choice of suppliers of materials and services;

Guarantees of renewal of forest and mining operating permits;

Where applicable, facilities for the use of hydraulic, electric and other resources required for operations; facilities for conveying products to the place of shipment and the use of installations, whether already existing or built by or for the firm, at the place of shipment.

(c) The procedure for terminating the agreement and the circumstances which will entail cancellation of the agreement or the forfeiture of all rights originating outside the agreement, and the procedure for ensuring that both parties fulfill their obligations;

(d) The grant, in whole or in part, of any of the tax concessions provided by Schedule B.

ARTICLE 19. Any dispute concerning the validity, interpretation or application of the articles of the agreement, and the assessment of any penalty for failure to fulfill the obligation assumed, shall be settled as provided by Title IV.

ARTICLE 20. Nothing in the establishment agreement shall constitute any undertaking by the State to compensate the firm for losses in debts or deficiencies arising through technical developments, economic circumstances or factors inherent in the firm itself.

Section IV—Schedule D

Long-term tax schedule

ARTICLE 21. Agreements as described in Section III above concluded with undertakings which are of prime importance to national economic development and which make large investments may include provision for tax stabilization, as described below.

ARTICLE 22. Tax stabilization may also apply to the taxes payable in Cameroun by the parent or stockholding companies referred to in article 17.

ARTICLE 23. A tax system set up pursuant to the present section shall remain in force for a period not exceeding twenty-five years, to which may be added the normal period of time required for installation. This shall in general not exceed five years, except in the case of projects requiring an exceptionally long installation period.

ARTICLE 24. Any establishment agreement, or supplementary clause to an existing agreement, granting tax stability to any firm approved under the present Section shall be sanctioned by legislative action, which shall also determine the starting date for such period of tax stability.

ARTICLE 25. During the period of tax stability the assessment, rate and method of collection of all taxes, duties and fiscal taxes and dues of whatsoever nature shall continue to be those which were in force on the first day of that period.

ARTICLE 26. No legislation or regulation which would nullify the provisions of the foregoing article shall apply, during the period of tax stability, to any firm enjoying the benefits conferred by the present Section.

ARTICLE 27. Any firm operating on a tax stability system may request that it receive the benefit of any changes which may be introduced in the normal taxation system. It may also ask to revert to the normal system.

The agreement shall indicate the procedure for the application of the provisions of the present article.

TITLE III

Miscellaneous provisions

ARTICLE 28. Any special taxation system approved prior to the promulgation of the present law, whether by special agreement or under the "special plant" (*usine exerces*) system, for a firm which was already operating in Cameroun, shall specifically remain in effect.

Furthermore, firstly: Such system shall remain in force for a period of twenty years, to which may be added the installation period, which shall run from the date set by the instrument whereby the tax concession was established. This provision shall not apply to tax systems established by special agreement and such agreements shall expire on the dates initially provided.

Nevertheless, firms with special tax systems may apply for approval under Schedule C, Section III, Title II either on the expiry of the agreement between them and the Republic of Cameroun or immediately on the entry into force of the present Law.

Secondly, firms with special tax systems may apply for approval under one of the Schedules of Title II. The Investments Commission shall be competent to pronounce on such requests, unless the request is one for approval under a higher schedule.

Thirdly, if the special tax system previously in force included provisions for tax stabilization, the form to which it applies shall be treated as provided by Schedule C, Section III, Title II, and an agreement shall be drawn up as provided by that Section. The provision for tax stabilization shall be incorporated with, and form an integral part of, such agreement.

ARTICLE 29. The provisions of the general tax code regarding tax exemption on reinvested profits shall remain in effect until 31 December 1980 and shall apply, in particular, to firms approved under one of the Schedules provided by the present Code.

ARTICLE 30. Firms approved under Schedules A and B may not be deprived of such approval except by decree as provided in article 4, with the concurrence of the Investments Commission and after having heard the firm concerned.

No decision to withdraw approval shall be taken unless serious deficiencies have been duly noted, the Minister of National Economy has served notice for their abatement and such notice has remained without effect for sixty days.

TITLE IV

Arbitration procedure

ARTICLE 31. Disputes concerning the interpretation or application of the clauses of the agreement provided for by Sections 3 and 4 of Title II, or concerning the calculation of any penalty for non-fulfillment, shall be settled by arbitration in accordance with a procedure to be established by each agreement. The procedure shall cover the following points:

(a) The nomination of an arbitrator by each of the parties;

(b) The designation of a third arbitrator by agreement between the parties or, in default thereof, by a competent authority to be named in the agreement;

(c) The fact that the majority decision of the panel of arbitrators, who shall determine their own procedure and decide cases in equity shall be final and binding.

ARTICLE 32. The present Law shall take effect from the date of its publication in the Journal Officiel of the Republic of Cameroun and shall be executed as a Law of the Republic.

Done at Yaounde, 27 June 1960.

AHMADOU AHIDJO,
President of the Republic.
CHARLES ASSALE,
Prime Minister.
GERMAIN TSALLA,
Minister for National Economy.

PRIVATE INVESTMENTS IN THE REPUBLIC OF IVORY COAST

ANALYSIS OF THE LAW

Law No. 59–134 of September 3, 1959, determining the code for private investments in the Republic of Ivory Coast.

Law n° 59/134 of September 3, 1959, fixing the regulations concerning private investment in the Republic of Ivory Coast, is intended to define the term priority-status firm, and to state the conditions necessary for the recognition of a firm as such. At the

same time, the ruling provides for: on the one hand, large measures of tax reduction and exemption for all priority-status firms without distinction; and on the other hand, in the case of certain such firms, a long-term tax regime guaranteeing for periods of up to twenty five years, the stability of the taxation to which they are subject. Establishment agreements, signed between the government of Ivory Coast and these same firms, have been expressly provided for by the law, in order to lay down conditions for the formation and working of firms thus benefiting from the long-term tax regime.

Text of the law

The Legislative Assembly has adopted and the Prime Minister promulgated the law, the text of which is as follows:

Article 1.—The investment code set forth in Ivory Coast shall be determined by the following provisions which confirm and complete the measures enacted or recommended by:

Deliberation n° 33–58 AT and resolution n° 35–58 AT of April 11, 1958, of the Territorial Assembly;

Deliberations n° 270–58 AC, 271–58 AC and 272–58 AC of January 23, 1959, and resolution 273–58 AC, of the Constituant Assembly.

Title I. Priority Enterprises

Article 2.—The following categories of enterprises shall be considered as having priority status in the Republic of Ivory Coast:

1° Real estate enterprises;

2° Enterprises concerned with industrial crops and related processing industries (oleaginous plants, rubber, sugar cane, etc.);

3° Industrial enterprises for the preparation and mechanical or chemical transformation of local animal and vegetable products (coffee, cocoa, oils, rubber, cotton, sugar cane, etc.);

4° Industries for the manufacture and assembling of articles for mass consumption (textiles, construction materials, metal products, vehicles, tools, or plant equipment and hardware, fertilizer, chemical and pharmaceutical products, pulp, paper, cardboard and cardboard products, plastic products, etc.);

5° Industries for mining extraction, concentration or transformation of mineral substances and enterprises connected with handling and transport as well as enterprises for petroleum prospecting;

6° Enterprises for the production of electric power.

Article 3.—Enterprises belonging to one of the above categories may, by decree passed by the Council of Ministers, be considered as priority when they fulfill the following conditions:

a. Take part in the execution of plans for economic and social development under the conditions set forth in the decree conferring priority status;

b. Effect investments of particular importance for the development of the country;

c. Have been organized after April 11, 1958, or have undertaken important extensions after that date, but only insofar as these extensions are concerned.

Article 4.—In case of a grave default by a priority enterprise with respect to the obligations set down in the decree conferring priority status, the withdrawal of such status shall be pronounced by decree of the Council of Ministers, if formal notice regarding the default is not followed by corrective action. In this case, the enterprise shall be subject, as of the date of the aforesaid decree, to general legislation.

Article 5.—All enterprises approved as priority without exception shall benefit from measures for fiscal exemptions or relief. Those deemed of particular importance may, by special authorization granted by law, receive the benefit of the long-term tax arrangements defined below and conclude "establishment" conventions with the Government under the conditions set forth below.

The law referred to in the preceding paragraph will fix the period of application of the long-term tax arrangements as well as the duration and the general provisions of the convention of establishment, the other provisions being determined by decree of the Council of Ministers.

Title II. Long-term tax arrangements

Article 6.—Long-term tax arrangements are intended to guarantee to enterprises accorded priority status, the stability of all or part of the tax charges incumbent upon them, during a period of a maximum of 25 years, to be extended, should the occasion arise, by the amount of the normal delays of installation, up to a maximum of 5 years.

Article 7.—During the period of application of long-term tax arrangements, no modification can be made in the rules of assessment and of collection or of the tax levies provided by this regime in favor of the enterprise.

During the same period, the benefiting enterprise may not be subjected to duties, taxes, and charges of any type which might be instituted by a law passed after the date of application of the long-term tax arrangements.

Article 8.—In case of modification of the ordinary tax system, every enterprise benefiting from long-term tax arrangements may request the benefit of the aforesaid modifications. Such requests may be complied with by decree taken in the Council of Ministers.

Every benefiting enterprise may request to be replaced under the system of general legislation as of the date which will be fixed by decree taken in the Council of Ministers.

Title III. Establishment conventions

Article 9.—Establishment conventions shall set forth and guarantee the conditions of the establishment and the functioning of the priority enterprise permitted to benefit by it.

The convention may be entered into only by an enterprise benefiting from long-term fiscal arrangements and its duration may not exceed that of the said arrangements.

The convention may not entail an agreement on the part of the state to grant relief to the benefiting enterprise with respect to its losses or failure to make profits owing to the evolution of the economic situation or to factors within the enterprise itself.

Article 10.—The settlement of disputes resulting from the application of the dispositions of the convention of establishment and the eventual determination of the indemnity owed by reason of failure to comply with the commitments made will be subject to arbitration proceedings, the terms of which will be fixed by each convention.

Title IV. Taxation

Article 11.—Measures for tax remission and alleviation from which all enterprises approved as priority benefit may include:

Certain duties and taxes levied on imported merchandise and products entering the territory of the Republic: customs duty, entry tax, a standard tax in lieu of the transaction tax.

Certain duties, charges, and taxes incident to internal activities of production or transaction, a tax on industrial and commercial profits, real estate taxes, tax on mortmain holdings, tax for licenses, registration and stamp taxes, and mining taxes.

Certain dutes and taxes collected on leaving the territory of the Republic: Fiscal exit tax, standard tax (taxe forfaitaire) on exportations in lieu of a transaction tax.

The list of these taxes is set forth in the present law and the measures went into effect April 1, 1959, with regard to the duties and taxes provided in paragraph 2 of the present article. Those dealt with in paragraphs 3 and 4 of the present article shall be effective as of April 2, 1958.

Title V.

Article 12.—Decrees passed by the Council of Ministers shall define the terms of application of the present law which shall be published in the Official Journal of the Republic of the Ivory Coast and executed as the law of the land.

Abidjan, September 3rd, 1959.

FÉLIX HOUPHOUET-BOIGNY.

APPENDIX TO THE LAW: SCHEDULE OF TAX REMISSIONS AND ALLEVIATIONS

Duties and taxes collected on imports at the border of the territory of the Republic

A.—Customs Duties

Temporary exemption. All priority enterprises

All enterprises approved as priority shall be granted for a period of 10 years an exemption from duties applicable:

a. To foreign goods indispensable for the establishment of these enterprises;

b. To raw materials of foreign origin entering into the composition of the finished products of the aforesaid enterprises.

B.—Entry Tax

1. Temporary exemption. All priority enterprises

All enterprises approved as priority shall be granted for a period of 10 years an exemption from the entry tax applicable:

a. To goods of all origins indispensable for the establishment of these enterprises;

b. To raw materials of all origins entering into the composition of the finished product of the aforementioned enterprises.

2. Refunds from the increase of the fiscal entry tax collected on diesel-oil and from local taxes incident to the said increase: Priority enterprises engaged in industrial crop production

Enterprises engaged in the production of industrial crops and approved as priority shall benefit from the reimbursement of amounts corresponding to an increase of the fiscal entry tax collected on diesel-oil and of local taxes incident to such increase, for the quantities of diesel-oil actually consumed in the preparation and clearing of soils and plantations.

C.—Standard Tax (Taxe Fortfaitaire) in Lieu of the Transaction Tax (Taxe de Transaction)

1. Temporary exemption. All priority enterprises

All enterprises approved as priority shall be granted for a period of 10 years an exemption from the standard tax in lieu of the transaction tax applicable:

a. To materials of all origins indispensable to the establishment of these enterprises;

b. To raw materials of all origins entering into the composition of the finished products of the aforementioned enterprises;

c. In pursuance of article 5 of decree n° 20 FAEP/P1 of January 14, 1960, the temporary exemption from standard tax provided for in p. C above is applicable to the special import duty made to replace the said standard tax by article 13 of law n° 59–250 of December 31, 1959, as well as the tax on added value established by article 15 of this law when it is levied on imports.

2. Refund of an increase of the standard tax replacing the transaction tax collected on diesel-oil and of local taxes incident to this increase: Priority enterprises engaged in production of industrial crops

Enterprises engaged in the production of industrial crops and approved as priority shall be granted a reimbursement of amounts corresponding to an increase of the standard tax replacing the transaction tax collected on diesel-oil and from local taxes incident to this increase, for the quantities of diesel-oil

actually used for the preparation and clearing of soils and plantations.

Direct and indirect duties and taxes on internal production or trade

A.—Taxes on Industrial and Commercial Profits

1. Permanent exemptions

Associations constructing buildings for sale by apartments shall be permanently exempted from taxes on increments of value brought about by exclusive assignment and in fee simple to the members of the group, in all cases where the buildings are actually constructed by the association and fall within the range of activities set forth in its charter.

2. Temporary exemptions

a. Priority real estate companies.

Real estate enterprises enjoying priority status shall be granted for 25 years, an exemption from the tax on dwellings with respect to the buildings which they have constructed and which they rent out.

b. Other priority enterprises.

Other enterprises approved as priority benefit from exemption from this tax for a period of 5 years. A decree shall fix for each enterprise the date when this exemption shall begin.

c. All enterprises.

1. New factories and extensions of factories.—New factories and extensions of old factories shall be granted exemption from the tax for the 5 years which follow that of the actual beginning of operations.

2. Exploitation of mineral deposits.—These exploitations shall be granted an exemption from the tax until the end of the fifth operating year following that of the actual beginning of operations; the first sale or exportation of marketable goods from the exploitation is considered as constituting the actual starting of operations.

3. Deduction in computing taxes

a. Deduction from the profit on which the tax is calculated, intended to avoid double income taxation. The following are deductible:

The net revenue from the buildings and land constituting a part of the real estate assets of the enterprise.

The net revenue of the holdings and securities in the assets of the enterprise and which are already taxable under the income tax on securities, together with a deduction of a percentage of the expenses and charges which are fixed uniformly at 30 percent or 10 percent depending on whether the investment entails a balance sheet showing titles, shares and credits as representing more or less than half of the firm's capital.

4. Reduction of taxes

Reduction of taxation on investments

1. Investments effected by taxpayers under the form of:

Construction, improvements or extension of buildings;

Creation or development of industrial establishment or installations;

Acquisitions of land intended for the constructions mentioned above are subject to a reduction of taxable income the amount of which is equal to no more, at a maximum, than one-half of the amount paid within the limit of 50 percent of the profits of each fiscal year's operations over a period of 4 years beginning with the fiscal year during which the program of stated investments had been registered.

2. Investments effected by the same taxpayers under the form of bonds or stocks issued by the real estate companies under joint public and private ownership and the offices for low cost public housing installed in the Ivory Coast are subject to a reduction of taxable income whose amount may equal 100 percent of the taxable profits.

3. Investments effected by enterprises in the form of construction of buildings for use as dwellings intended exclusively for the lodging of their personnel, on condition that the cost price of each dwelling does not exceed 1, 5 million francs (CFA) are subject to a reduction of taxable income the rate of which is equal to the total of the sums paid.

5. Accelerated amortization

An accelerated amortization of 40 percent of the cost price of the buildings allocated for the housing of personnel undertaken between January 1, 1958, and January 1, 1960, built in accordance with health regulations, at a price less than 3 million francs (CFA), based on the Dakar price series of January 1, 1950. The accelerated amortization is effected at the close of the first year following the date of the completion of the buildings and the amortization of the residual amount is effected in the normal way.

B.—Real Estate Taxes on Improved Property

Temporary Exemptions

1. Priority real estate companies

Real estate companies approved as priority shall benefit for 25 years by an exemption from taxes with respect to the buildings destined for habitation which they have built and which they let.

2. All priority enterprises

All enterprises approved as priority shall, for a period of 5 years, have the benefit of an exemption from taxation for buildings constructed for the purpose of their operations.

The date of completion of the aforesaid buildings is considered as the date when this exemption begins.

3. Installations and structures in the private warehouse zone at the Port of Abidjan

Installations and structures situated in the private bonded warehouse zone at the Port of Abidjan shall be exempted from taxes for 21 years beginning with the year of their completion.

C.—Mainmorte Taxes

1. Permanent exemption

General partnerships and limited partnerships

Private companies (general partnerships) and limited partnerships are permanently exempted from this tax.

2. Temporary exemptions. Priority construction companies

Real estate companies approved as priority shall, for 25 years, be exempted from this tax for buildings used for habitation which they have built and which they let.

All Priority Enterprises

For buildings constructed for their own operations, all enterprises approved as priority shall be exempt from the tax for 5 years. This exemption is to begin as of the date of the completion of the aforementioned buildings.

D.—Patent Tax

1. Permanent exemption

a. Holders of concessions for mines and quarries.

Holders of concessions for mines and quarries shall have the benefit of a permanent exemption from taxation but this shall apply only to the extraction and the sale by them of the material extracted.

b. Partners of general or limited partnerships or corporations.

Partners of general partnerships, limited partnerships or corporations are permanently exempted from the tax.

2. Temporary exemptions

a. Priority enterprises other than real estate companies.

Enterprises approved as priority, other than real estate companies, shall be exempted from the tax for a period of 5 years.

A decree will determine for each enterprise the date when this exemption is effective.

b. Other enterprises.

The following categories of firms are exempted from payment of the trading tax for the first year of operation and for the four subsequent years:

Acetylene or oxygen-producing plants;
Laundries;
Rope and string manufacturers;
Printers;
Brewers;
Husking and shelling plants;
Forestry firms;
Mechanical saw-mills;
Flour mills, coffee and rice-husking plants;
Oil-processing plants;
Spinning mills;
Manufacturers of looms for cotton-wearing;
Forestry firms selling timber;
Soap manufacturers;
Installations or premises situated in the bonded warehouse zone of the port of Abidjan.

E.—Stamp and Registration Fees (Companies)

1. Fees on initial shares

When the proportional taxes provided for in the regulations in force exceed 5 million francs, they may be paid off in three equal installments. The first payment is made at the time of registration, the others, annually thereafter.

2. Deeds of formation and prorogation

These deeds, if they contain neither debentures nor receipts, purchases or sales, nor transfer of personal property or real estate, shall benefit from the scale of rates below:

Taxable value of	*Percent*
0 to 2.500.000.000 (CFA francs)	1.0
2.500.000.000 to 5.000.000.000	.5
5.000.000.000 or more	.1

F. Tax on Extraction of Materials

Temporary exemption

Priority enterprises other than real estate companies.

Enterprises granted priority status, other than real estate companies are exempted from the tax for 5 years.

A decree will determine in the case of each enterprise the date when this exemption becomes effective.

Fees and taxes collected upon departure from the territory

Reduction. Priority enterprises

Enterprises granted priority status whose products are intended for exportation shall be granted, for a period of 10 years, a reduction up to a maximum of 50 percent of the exit tax and standard export tax in lieu of the transaction tax, with the exception of products a list of which will be set forth in a subsequent law.

[From the Library of Congress, Law Library, European Law Division]

LEGISLATION ON INVESTMENT TAX CREDIT IN FRANCE, GERMANY, ITALY, AND SWEDEN, SEPTEMBER 1969, WASHINGTON, D.C.

(By members of the staff)

FRANCE

In order to encourage, by fiscal means, the modernization of industry, on October 9, 1968, France enacted Law No. 68–877 on Investment Aid and on December 12, 1968, issued Decree No. 68–1115, on Fiscal Deductions for Investment Establishing the Conditions for the Application of Law No. 68–877 of October 9, 1968 (see attached translations). These legislative measures constitute, to a great extent, the renewal of the previous deductions established by Law No. 66–307 of May 18, 1966, and Decree No. 66–334 of May 31, 1966, Establishing the Conditions for the Application of Law No. 66–307 of May 18, 1966, on Fiscal Deductions for Investments.

The previous legislation in this field was described by Martin Norr and Pierre Kerlan as follows:[1]

Footnotes at end of article.

b. *Initial Allowance.* Under a 1954 amendment to the Tax Code (CGI art. 39 *septies*), taxpayers could deduct from income, in the year of acquisition, 10 percent of the cost of certain new machinery acquired after 1 January 1954 for modernization of the purchaser's enterprise. The 10 percent allowance was given in addition to normal or other depreciation deductions that might be available. If the 10 percent initial allowance was taken, other deductions were computed on the basis of 90 percent of cost.

Not all machinery was eligible for the initial allowance; it was available only for assets designated by the Ministry of Finance and the National Planning Commission (½.12). The list as first promulgated (185) did not include ordinary machine tools, but was limited to office equipment other than typewriters and to equipment for water and air purification, production of heat, steam, and energy, industrial security, handling of materials, and scientific research.

In order to encourage the purchase of machine tools and similar equipment during a recession in the French machine tool industry, the administration in May 1959 temporarily extended eligibility for the 10 percent initial allowance to five additional categories of equipment, provided that orders for the equipment were placed between 29 May 1959 and 1 January 1960. (186) The new categories were (1) machine tools for metalworking and other specified industries, regardless of the normal useful life of the tools, (2) machine tools, having a normal useful life of at least five years, for use in the food, rubber, plastics, ceramic, textile, paper, and other industries, (3) equipment, having a normal useful life of at least five years, used by building contractors, (4) trucks weighing five or more tons and (5) various types of electrical and radiological equipment.

The 1959 *arrêté* that extended eligibility to these five categories limited the allowance to equipment manufactured in metropolitan France. (187) Other Common Market countries objected that this limitation represented an illegal discrimination in violation of the treaty establishing the European Economic Community. (188) The Commission of the Community agreed and decided that the French government should eliminate the rules limiting the benefit of the depreciation allowance to equipment manufactured in France. The French government complied. By an *arrêté* of 27 November 1959, eligibility for the 10 percent initial allowance was extended to goods of the five specified categories, whatever the date of delivery and whether manufactured in France or in a foreign country. (189) The Commission of the Community announced that the French action had been taken at the suggestion of the Commission. (190) This is the first case in which a supranational authority compelled a change in a national tax law. (191)

c. *Double Deduction in First Year.* Under a 1951 amendment to the Tax Code, (192) machinery and equipment acquired after 31 December 1950 and used in industry for manufacture, transformation, handling, or transportation was eligible for accelerated or "exceptional" depreciation, in the form of a double deduction in the first year. The annual depreciation deduction for the year was calculated under the normal straight-line procedure (7/3.2), the firm took two annual deductions in the first year, and the period over which depreciation could be claimed was reduced by one year. If a firm acquired an eligible piece of machinery with a 10-year life, for example, and thus was entitled to a depreciation deduction of 10 percent per year, it could take two deductions of 10 percent in the first year and then continue at the normal 10 percent rate until the end of the ninth year. At that point, 100 percent of the cost would have been recovered.

Only new machinery with an anticipated useful life of at least five years was eligible (CGI Ann. I, art. 03), and then only if destined for the specified industrial uses. Goods for use in commerce were not eligible. (193) If machinery was already entitled to depreciation at rates exceeding normal rates, as a consequence of agreements between the tax administration and business groups (7.3.2e), the taxpayer was ordinarily not permitted to use both regimes but had to choose between them. (194) A firm entitled to the 10 percent initial allowance and to the doubling of the first year's deduction could claim both the deduction and the allowance, however.

The Law of May 18, 1966, provided for a deduction of 10 percent for certain machine tools ordered in 1966. The new Law of 1968 covers orders made after April 30, 1968, and delivered between September 1, 1968, and December 31, 1969, and for materials ordered between May 1, 1968, and May 31, 1969, whose delivery requires more than seven months under the condition that their delivery would be made not later than December 31, 1970. Thus, it established a longer period during which its provisions for the benefit of enterprises specified in the Law were to remain in effect. The list of goods for which the deduction was also extended includes trucks and specialized materials for the textile industry.

According to the commentaries in another source: [2]

The basic innovation consists, however, in the possibility given to enterprises to choose between two bases for the granting of credit for the deduction, and two rates: either crediting under the conditions established in 1966, i.e., at the rate of ten percent on the amount of the tax on the income of physical persons (including the additional tax) of the tax on companies or of the adjustable deductions taken beforehand (*précompte mobilier*), or crediting after exercise of the option on the value added tax at the rate of five percent.

This measure seeks to prevent the penalizing of enterprises which, because of an increase in their charges and prolonged interruption of their activities, show a temporary balance deficit.

The option must be exercised at the time of the first request for credit; it is comprehensive and irrevocable.

It must be pointed out that in order not to put enterprises which uses *crédit-bail* (leasing with option to purchase) [3] for the financing of their investment at a disadvantage, Article 5 of the Law makes it possible for the *credit-bail* enterprises to transfer the benefit of the deduction to the enterprises holding leases on goods providing for the right.

Appendix—Translation of the President Law and Decree

Law No. 68–877 of October 9, 1969, on Investment Aid [4]

Art. 1. A temporary deduction for investment in favor of industrial, commercial and handicraft enterprises shall be established.

Subject to the provisions of the articles below, this deduction shall be granted to the enterprises under the same conditions as the deduction specified in Article 244 *quinquies* of the General Tax Code.

Art. 2. The deduction specified in Article 1 shall be granted to enterprises for materials for which a firm order has been placed after April 30, 1968, under the condition that these materials be delivered between September 1, 1968, and December 31, 1969.

For materials whose delivery requires more than seven months, the date of delivery shall be extended from December 31, 1969, to December 31, 1970, under the condition that the firm orders have been placed for these materials between May 1, 1968, and May 31, 1969.

Footnotes at end of article.

Materials complying with the conditions specified in the preceding paragraph and which are not delivered until December 31, 1970, nevertheless entitle one to a deduction; the basis of this deduction, however, shall be limited to the amount of partial payments made on December 31, 1970, on the basis of commitments regularly made at the time of ordering.

Art. 3. The new materials specified below shall give the right to the deduction for investment under the conditions specified in Articles 1 and 2:

1. Materials likely to be admitted for degressive depreciation according to Article 39 A–1 of the General Tax Code, when the duration of use of these materials serving as the basis for the calculation of fiscal depreciation is at least equal to eight years.

2. Specialized materials for the textile industry and machine tools, the list of which shall be established by decree;

3. Trucks whose total authorized maximum weight shall be between two and one half and thirteen tons and road tractors made from trucks.

Art. 4. The enterprises are entitled to opt for the application of the deduction to the value added tax for which they are liable.

In this case, the rate of the deduction shall be five percent.

The option shall be irrevocable and comprehensive.

Art. 5. The conditions and methods of application of the preceding provisions shall be established by a decree. This decree shall especially establish the conditions for the use of the right of option specified in Article 4 and the ways of crediting the deduction to the value added tax as well as the conditions under which the enterprises of *crédit-bail* established by Law No. 66–455 of July 2, 1966, shall be permitted to transfer the benefit of the deduction to the enterprises holding leases on goods providing for the right.

Decree No. 68–1115 of December 12, 1968, Establishing the Conditions and the Methods of Application of Law No. 68–877 of October 9, 1968, on a Fiscal Deduction for Investment [5]

Art. 1. The methods of application of Law No. 68–877 of October 9, 1968, shall be regulated by Articles 2 and 4–10 of Decree No. 66–334 of May 31, 1966, codified under Articles 2 B *nonies*, 49 *undecies*, 383 *quater*, 383 *quinquies*, 383 *sexies*, 383 *septies*, 406A 16 *bis*, and 446 *quater* of Appendix III of the General Tax Code, subject, on the one hand, to the provisions established in the Articles below, and, on the other hand, to the modifications made by Article 2 of the said Law within the dates of the order and delivery of the goods giving the right to a deduction.

Art. 2. For the application of Article 2 of the above-mentioned Law of October 9, 1968, machine tools and specialized material for the textile industry cover the new materials designated below:

1. The machine tools mentioned under the headings of 84–45, 84–46, and 84–47 of the tables attached to the orders of June 28 and July 3, 1968.

2. Specialized materials for the textile industry mentioned under the headings of ex 84–16 (calenders for the textile industry), 84–36, 84–37, 84–38, ex 84–39 (other machines for the manufacturing and finishing of felt), 84–40, and ex 84–41 (sewing machines) of the tables attached to the above-mentioned orders of June 20 and July 3, 1968, with the exception of those materials which are amortized in less than three years.

Art. 3. Enterprises of *crédit-bail* regulated by Law No. 66–455 of July 2, 1966, shall be authorized to transfer the deduction for investment to the enterprises holding leases on goods providing for the right.

The transfer of that deduction shall be done jointly with the making out of a certificate, corresponding to a form issued by the

administration, and including especially the renunciation by *the crédit-bail* enterprise of any use of the transferred deduction.

The certificate mentioned in the preceding paragraph shall be attached to the declaration and to the supporting documents specified in Article 49 *undecies* of Appendix III of the General Tax Code.

The amounts of the deductions applied by the transferee enterprise shall be subject to the rules of in value short term increase counting from the [time of the] exercise of the application.

Art. 4. The option for the crediting of the deduction for investment on the value added tax shall be exercised mandatorily on the first request for the crediting and shall be expressly mentioned in the declaration specified in Article 49 *undecies* of Appendix III of the General Tax Code.

When this option is exercised by a legal entity or an organization whose profits are taxed under conditions established by Article 8 of the General Tax Code, the provisions of Article 383 *quinquies* of Appendix III of the said Code shall not be applicable and the crediting may be made only oy the legal entity or organization concerned.

Art. 5. The crediting established in Article 4 of the above-mentioned Law of October 9, 1968, shall be applied to the value added tax to which the enterprise is liable after the deductions to which they are entitled in accordance with the provisions adopted for the application of Articles 271 and 273 of the General Tax Code have been made.

In order to benefit from this crediting, the enterprises must attach to the declaration specified in Article 287–I of the above-mentioned Code a special request for crediting corresponding to the form issued by the administration.

Art. 6. The Minister of Economy and Finances and the Secretary of State to the Economy and Finances shall be charged, etc.

FEDERAL REPUBLIC OF GERMANY

Industrial investments in the Federal Republic of Germany have been supported by the Federal Government in several different ways since the end of World War II, and especially, since the Basic Law for the Federal Republic of Germany (generally known as the Bonn Constitution) was adopted and entered into force in 1949. Most of these measures either expired or were discontinued as the new German economic policy went into effect.

However, certain measures were retained and are still in use, and new incentives have been introduced to support certain investments by private industry, as well as corporations and entities under public ownership. With few exceptions—which will be dealt with later—these incentives do not appear in the form of tax credits, tax deductions, or more rapid depreciation allowances for tax purposes.

One of the earliest forms of government support extended to German industry was the European Recovery Program (Marshall Plan), which was financed by the United States. The amounts put at the disposal of the German Government for this program were managed as a separate fund (*Sondervermögen*) of the Federation. From this fund loans were granted for certain industrial investments.[6] The Federal Minister managing the Special Fund of the European Recovery Program was authorized by the Diet to underwrite securities and guarantees to further the financing of needed investments, which would not have been possible otherwise.[7]

Similar authorizations had been granted to the Federal Government several times before, but the underwriting affected only the liability of the general funds of the Federation, not the ERP—Special Fund.

Similar authorizations had been granted to the Federal Government several times before, but the underwriting affected only the liability of the general funds of the Federation, not the ERP—Special Fund.

In 1967, the German legislature authorized the Federal Minister of Finances "to execute investment programs in order to stimulate investment activities and to assure a steady growth of the economy to provide credits in the fiscal year 1967, the amount of which must not exceed two and one half million German marks." [8] Although most of the goals for which credits could be granted were within the public domain, even these promoted private industry, because the services for public corporations (postal service, railroads, etc.) were performed by the private sector of the economy.

In the same year another law was adopted by the German Diet on the promotion of the stability and growth of the economy.[9]

This Law provides that:

"The Federation and the lender shall take into consideration the requirements for the equilibrium of the entire economy in [deciding on] their measures of economic and fiscal policy. The measures must be so coordinated that in the framework of the order of the market economy they will contribute equally to the stability of the price level, to a high measure of employment, and to a balance in foreign trade amidst a steady and proportionate growth of the economy.[10]"

Under this Law the Federal Government must submit an annual economic report and proposals, as well as long-range planning measures. This Law also amends several existing statutes enabling the Federal Government to react more quickly to the needs of the economy. One of these amendments authorizes the Federal Government to issue decrees which may permit:

"In case of the procurement or production of depreciating movable goods, or the production of depreciating immovable goods of the capital assets, a deduction to be granted upon request from the corporation taxes for the taxable period of the procurement or production of up to the amount of seven and one half per cent of the costs of procurement or production of these goods.[11]"

It should be mentioned that no statute has been found which makes use of this authorization.

The German Government has always put considerable emphasis on the economic development of West Berlin. This policy led to the adoption of several statutes on promoting and supporting investments there. The most important of these measures are the following: [12]

"Individual taxpayers (and corporations other than banks or investment houses) who make loans for industrial investments in West Berlin may deduct 10 percent of the loan from the amount due on their income or corporate tax for the year in which the loan was made.

"Individual taxpayers who make loans for the construction of housing, or for alterations, extensions, modernization and maintenance of housing in West Berlin, may deduct 20 percent of the total amount of the loan from the amount due on their income or corporate tax for the year in which the loan was made.

"When an enterprise in West Berlin acquires movable and fixed income-producing assets that are subject to wear and tear, up to 75 percent of the purchase or manufacturing cost may be written off for depreciation, either in its entirety during the first taxable fiscal year, or during any of the first three years following such acquisition. . . . These depreciation allowances may be written off irrespective of whether they result in a balancing of the books, or in a book loss to be carried forward. They may also be applied to down payments against the eventual purchase price or eventual manufacturing costs of such assets. These increased write-offs have the effect of reducing the taxable base of the business tax.

"In addition to the increased and accelerated depreciation allowances, investment allowances are granted for the acquisition or manufacture by an enterprise in West Berlin of new movable income-producing assets that are subject to depreciation. The amount of this allowance is 10 percent of the purchase of or manufacturing costs of such movable assets. Such allowances are not deemed to constitute taxable income under prevailing income or corporation tax regulations.

* * * * *

"Investment loans out of European Recovery Program Special Funds at an interest rate of as low as 4 percent per annum are available for the establishment of expansion of industrial facilities, small businesses or crafts, commerce and other enterprises which create or expand the Berlin economy, improve efficiency, or enhance productivity. Such loans are repayable in up to ten years.

* * * * *

"In the event that loans to be obtained from banks require more security than is available to the borrower, those applying for loans for investment and working capital purposes (the latter for production facilities only) may benefit from public guarantees covering up to 90 percent of the possible loss to be incurred by the lending institutions.

"Financing for the erection of commercial and office structures can be assisted by low interest-bearing loans out of European Recovery Program Special Funds to the extent of 30 percent of the building costs. The remaining 70 percent must be provided by the builder out of capital, or by borrowing from other than public funds.

"West German purchasers of capital goods and inventory manufactured in West Berlin, may obtain loans with which to finance orders for the promotion of sales. Loans are extended up to 50 percent of the purchase price. The interest rate is 5 percent per annum. The duration of the loan may be up to ten years. Such loans are made available by the Kreditanstalt fuer Wiederaufbau (Credit Institute for Reconstruction), in Frankfurt/Main, to the banks where the borrower maintains an account."

ITALY

The Library of Congress holdings of pertinent source material disclose that Italy has not enacted any law granting an investment tax credit comparable to that of the United States and of a few Western European countries. However, a bill was recently introduced in the Italian Parliament dealing with the reform of the Italian fiscal system in general and with direct taxation in particular which provides, among other things, for the enactment of such a measure in Italy.

The reason behind this investment tax credit [*detrazione per investimenti*] is to strengthen the productive capacity of enterprises and to establish investment deductions [*deduzioni di investimento*] for all new investments in productive plants, stock and supply refurbishing, and for all investments having a social character such as housing for workers, buildings for recreation centers, and so forth.[13]

In official and unofficial commentary and justification in support of such an investment tax credit, the legislation of the U.S.A. and that of the Netherlands, which gives a credit in the amount of 16%, are especially considered and held up as worthy examples.

It must be pointed out that since World War II, especially in the period 1947–48, Italy has undertaken a series of actions for the purpose of encouraging the industrial and commercial development of southern Italy and of the Italian islands. Several legislative enactments of various forms of assistance

Footnotes at end of article.

were adopted. They go from providing desirable locations for new plants, providing water and power and transportation facilities, granting various kinds of concessions, to granting mining and drilling privileges in certain specific areas. Low-cost loans are also offered to firms and corporations that start new industrial ventures, but probably the most generous contributions in this particular field are represented by the many and substantial tax exemptions. With regard to the income tax, for instance, complete tax exemptions were granted for ten years on the profits of new, expanded, or modernized industrial plants. These exemptions were subject to the condition that the new or converted plants started operations before June 1965. This date was postponed by later decrees up to, and including 1969.[14]

Moreover, under these measures firms, individuals and corporations operating outside the special southern area may obtain an income tax exemption on 50% of their net profits for five years if such 50% is invested in southern Italy for farming development or improvement, or for building, expanding or renovating industrial plants, provided, however, that the investment does not exceed 50% of the total enterprise investment and provided also that the authorities recognize that such measures fit into the programs and frame for the orderly development of the southern areas of Italy.

When a corporation obtains an exemption from income taxes for ten years under the above-stated conditions, it also enjoys a 40% reduction of the 15% excess profits tax. In other words, the excess profits tax on the profits exceeding 6% of the taxable capital is reduced to 9%. Also with regard to the general turnover tax there is a 50% reduction applying to machinery, equipment and material installed permanently in industrial plants operating in the southern area. When this material, equipment and machinery are imported from abroad they are also free from custom duties.

Important reductions are provided with regard to registration taxes, stamp duties, mortgage fees in connection with new plants, and similar new undertakings in the southern area. Furthermore, the two semi-autonomous regions of Sicily and Sardinia offer help and sizable reductions in local rates and charges. All the cities and towns of southern Italy and the islands were specifically authorized to grant exemptions until the end of 1967 to the firms and corporations that constructed, extended, or remodeled the industrial plants within their jurisdictions.[15] In the last three years the privileged treatment reserved for the southern area has been extended to the so-called depressed or underdeveloped areas of certain districts of central and northern Italy.[16]

According to the most recent studies in this field the sweeping fiscal relief measures heretofore in force which had been granted to certain areas of Italy for at least 20 years may, in part, come to an end if the new fiscal reform is enacted and an investment tax credit is made part of such reform.

SWEDEN

Government incentives to spur the economy by means of legislative and other acts in Sweden are extensively discussed in *World Tax Series. Taxation in Sweden* (Boston, Toronto, Harvard Law School, International Programs in Taxation, 1959),[17] in which the information is complete up to 1959. However, during the last decade a few minor changes have been made in the Decree of May 27, 1955, on investment reserves for economic stabilization through Royal Decrees of April 3, 1959, June 5, 1963 and December 3, 1965.[18]

A special one-time "investment allowance" was made available for the income years 1964 and 1968.[19] Ten percent of the cost of machinery ordered or delivered in those years was deductible for purposes of determining the income subject to the national income tax.

Machinery eligible for the allowance was limited to new equipment which was required to have a useful life expectancy of more than three years. An allowance could be obtained only by persons with the required knowledge of bookkeeping. The allowance could not be made if the costs of the investments were not more than 5,000 crowns during 1964 and 1968. On the other hand there was no limit to the amount of the allowance.

The extra allowance was designed to stimulate investment in machinery for industrial use; it was not available to retailers or other commercial enterprises. The basis for depreciation of machinery eligible for the allowance was not reduced by the amount of the allowance; the actual cost continued to be the depreciation basis. New decrees on extra allowances during a certain period may be enacted when the situation on the labor market so requires.

REFERENCES

(185) Arr. 15 January 1955, codified in CGI Ann. IV, art. 4 D.

(186) Arr. 28 May 1959, codified in CGI Ann. IV, art. 4 D.

(187) The French machine tool industry had been especially concerned about the impact of Common Market competition. "Au seuil de l'an IV de la C.E.E. en France," *La Vive Française,* 13 January 1961, p. 20. The temporary depreciation allowance was designed especially to encourage orders for machine tools. Note 979, 1 December 1959.

(188) See, for example, Written Question No. 34, 24 July 1959, from a member of the European Parliamentary Assembly to the Commission of the European Community, and Response, 21 September 1959. *Journal Officiel des Communautés Européennes,* no. 51, 1033/59, 1034/59.

(189) Arr. 27 November 1959, codified in CGI Ann. IV, art. 4 D.

(190) *Journal Officiel des Communautés Européennes,* no. 67, 1324–59.

(191) Norr, "Depreciation Reform in France," 39 *Taxes* 391, 394 (1961).

(192) D. 51–307, 8 March 1951, codified in CGI Ann. I, arts. 01–03.

(193) Circ. 2,272, 29 December 1951, art. 10.

(194) Circ. 2,272, 29 December 1951, art. 16.

FOOTNOTES

[1] *World Tax Series, Taxation in France.* Harvard Law School International Tax Program. Chicago, Commerce Clearing House, Inc., 1966. p. 418–420.

[2] *Bulletin de documentation pratique des impôts directs et des droits d'enregistrement.* January 1969, No. 1, p. 22.

[3] Transactions of the type designated as *crédit-bail* are defined in Article 1 of Law No. 66–455 of July 2, 1966 as follows:

Art. 1. The transactions of the type designated as *crédit-bail* type specified in the present Law, shall be considered to be transactions involving the lease of equipment goods, tool materials, or realty for professional use, especially purchased in view of the leasing by enterprises which remain their owners, when these transactions, irrespective of their name, give the leaseholder the right to acquire all or parts of the leased goods, at the price agreed upon, taking into account, at least for a part, the payments made for rent.

[4] *Journal officiel,* Oct. 10, 1968. p. 9563.

[5] *Journal officiel,* Dec. 13, 1968. p. 11677.

[6] Law on the Management of the ERP—Special Fund of August 31, 1953. (*Bundesgesetzblatt* I, p. 1312).

[7] Law of December 6, 1954, on the Underwriting of Securities and Guarantees to Support the German Economy (*Bundesgesetzblatt* I, p. 365), and Law of May 17, 1957, to supplement the aforementioned law (*Bundesgesetzblatt* I, p. 517).

[8] Law of April 11, 1967, on Providing Credits to Stimulate the Investment Activities and to Assure the Steady Growth of the Economy in Fiscal Year 1967. (*Bundesgesetzblatt* I, p. 401).

[9] Law of June 8, 1967, on the Promotion of the Stability and Growth of the Economy (*Bundesgesetzblatt* I, p. 582).

[10] *Ibid.*, Sec. 1.

[11] *Ibid.*, Sec. 27.

[12] Foreign Tax Law Association. *West German Income Tax Service.* St. Petersburg, Fla., 1968. Certain headings were omitted from the quote, and only pertinent excerpts are given.

[13] *Aspetti della riforma tributaria.* Milano, CEDAM, 1968. p. 83 ff.

[14] Tomaso Corrado. *Agevolazioni fiscali a favore delle zone depresse del Centro-Nord.* Milano, L. di G. Pirola, 1968. p. 41; also *Mezzogiorno- testo unico delle leggi sugli interventi cordinato con le disposizioni complementari.* Milano, L. di G. Pirola, 1969. p. 163–175.

[15] *World Tax Series—Taxation in Italy.* Chicago, Harvard Law School, International Program in Taxation, 1964. p. 523 ff. Also *Tax and Trade Guide in Italy.* Arthur Andersen and Co., 1962. p. 43 ff; p. 105 ff.

[16] Tomaso Corrado, *op. cit.* p. 9, 10 and 31.

[17] 6/5.1, 6/6.2 and 7/3.1–7/3.6.

[18] C. G. Hellquist. *Sveriges Rikes Lag.* Stockholm, 1969. p. B360–B365.

[19] Royal Decree No. 79 of April 10, 1964, on special investment allowances on estimated state income tax. *Svensk Författningssamling för 1964.* Stockholm, 1965. p. 159–161. Royal Decree No. 87 of March 15, 1968, *ibid.* Hellquist, *op. cit.*, p. B366–367.

Mr. HARTKE. Mr. President, I also ask unanimous consent to have printed in the RECORD a statement of Dr. Walter Heller, of the Department of Economics of the University of Minnesota, in which he strongly urges the suspension of the investment credit.

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

UNIVERSITY OF MINNESOTA,
DEPARTMENT OF ECONOMICS,
Minneapolis, Minn., October 27, 1969.

Hon. VANCE HARTKE,
U.S. Senate,
Washington, D.C.

DEAR VANCE: In response to a request from your office, I would like to state briefly why I prefer suspension of the investment credit to the outright repeal requested by the Nixon Administration and passed by the House:

First, suspension would be more effective in temporarily damping down business spending on machinery and equipment and the associated plant. (Perhaps I should say "would have been" in view of the effective date being pegged many months ago.) Killing the 7% credit incentive is not as effective in curbing capital spending as suspending it, i.e., telling the decision-maker that he can't get the benefit now, but will get it if he postpones his spending for, say, twelve or eighteen or twenty-four months.

Second, suspension instead of repeal would make crystal-clear that this country continues its strong commitment to a high-investment, high-growth economy. Along with our stepped-up investment in human beings—through education, training and retraining, and research—we should continue to stimulate the investment in the tools through which our investments in the intangible factors of brainpower, skills, and technology are converted into a tangible flow of goods and services.

I note that the Nixon Administration has set up a Task Force to deal with, among other things, means of stimulating investment through taxation. Doesn't this seem a bit contradictory at the same time that a

major tax stimulant to investment is being stricken from the books?

Please don't misunderstand me, as between repeal of the credit and no action on the credit, I prefer repeal under the present circumstances. But suspension would be superior to repeal.

Further, if the credit is repealed, I didn't mean to say that we could not find something better—for example, the Swedish system of investment reserves may be a superior way of stimulating investment. This is certainly an area in which clear signals and leadership from the White House would be helpful. As matters now stand, neither the goals nor preferred means of the Administration's economic policy for growth are very clear.

Sincerely,

WALTER W. HELLER.

Mr. HARTKE. I ask unanimous consent to have printed in the RECORD at this point a statement made by Mr. Arthur Okun, the former Chairman of the Council of Economic Advisers, on October 3, 1969, who is presently senior fellow at the Brookings Institution.

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

The investment tax credit is a proven, effective incentive to the modernization and expansion of our productive capacity. It is a general and *non-discriminatory* provision available to all business investors. The case for more anti-inflationary fiscal policy in 1969 and 1970 can not justify the permanent repeal of this highly desirable structural feature of our tax system. I believe that repeal of the investment tax credit would be a myopic decision.

Mr. HARTKE. I point out that Henry Fowler, former Secretary of the Treasury, recently stated that he is "strongly opposed" to the repeal of the investment tax credit.

Douglas Dillon has stated that the repeal of the investment tax credit would be "very damaging to the competitive position of the United States." He added that he had always viewed the investment tax credit as a "permanent" measure. The investment tax credit "worked perfectly," he said.

Dr. James S. Dusenberry of Harvard states:

In the long run, we will regret disposing of the investment tax credit.

He is "in favor of suspension." He noted that "from 1962 onward, it did have a stimulating effect," and concluded, "as a matter of long run policy, I would like to keep it and not reduce the corporate tax."

And in Dr. Heller's statement, which I have asked to have printed in the RECORD, he stated that the investment tax credit "ought to be suspended but not repealed." He declared:

In the long run, it should not be repealed because it is a good stimulus.

Probably one of the leading advocates of tax reform in the United States today is former Assistant Secretary of the Treasury Stanley Surrey. He also does not favor outright appeal, although he stated:

The administration in the future will need an incentive to investment.

There is one thing I should like to make perfectly clear, Mr. President. There may be some need, and I am not saying there is no need, for suspension. I personally do not think so. But to repeal this law outright, as this measure would do, is, to my opinion, the height of folly.

In the first place, the 7-percent tax credit was proposed, discussed and adopted as a permanent depreciation reform to stimulate investment in plant and equipment, enhance productivity, and strengthen our entire economy and increase the competitiveness of our products at home and abroad.

Second, the investment tax credit is not a subsidy to business because it is a recovery of capital on a return of investment rather than a return on investment or profit.

Third, in a long-term economic analysis, the investment tax credit is decidedly anti-inflationary. The effect of repeal will not be timely enough to help out present inflation and in fact, may in itself be inflationary.

Fourth, the capital expenditures of the major industrial countries exceed those of the United States, and the investment tax credit is necessary if our industries are to be competitive with foreign industries and to prevent a further deterioration of our balance of trade.

Fifth, the investment tax credit is required for the future necessary expansion of the U.S. economy and the creation of new jobs.

Sixth, the investment tax credit in its present form, although not perfect, is at least better than any alternative that is presently being suggested for it.

Mr. President, it is not my intention to close off debate on this measure at this time, but I will say that I do not intend to offer this amendment, because it is quite obvious, from the actions taken in the committee, that the mood of the Senate is not one in which there would be substantial support to retain the investment tax credit.

But, as I said at the beginning of my statement, this measure does not dispose of the issue. The issue has not been met, and it will have to be met, either now or some time in the future. I commend the Senator from New York (Mr. JAVITS) for his proposal to have an independent study of this matter. It is long overdue.

Mr. President, unless there is further discussion of this proposed amendment, which is No. 324, it is now my intention to call up another amendment, No. 326.

Mr. MURPHY. Mr. President, will the Senator yield for a question?

Mr. HARTKE. I yield.

Mr. MURPHY. Unfortunately, I was not present in the Chamber during the Senator's full presentation. Is it his position that the removal of the 7-percent tax incentive would not accomplish the stated purpose—in other words, that the removal of the incentive would reduce the production facilities, and thereby add further pressure to the inflationary spiral which we are trying to stop?

Mr. HARTKE. The Senator from California is correct. There is no question about it, and as I have stated repeatedly, the investment tax credit is anti-inflationary, not inflationary in any aspect whatever. I think this can be demonstrated in the facts and figures shown in the material I have previously submitted for the RECORD.

Mr. MURPHY. The Senator's amendment would restore the 7-percent tax credit?

Mr. HARTKE. The amendment which is at the desk, which I have not called up and do not intend to call up, would restore the investment tax credit.

Mr. MURPHY. Does the Senator have figures as to what total effect this might have on the budget condition, as affected by this entire tax reform bill?

Mr. HARTKE. There is no question but that, if we repeal the investment tax credit, we make a substantial gain in the Treasury over the short run. That is one of the reasons why I suppose the administration has taken the position it has. Those figures, the revenue estimates and their burden, are contained in the summary of H.R. 13270 in the committee print of the Tax Reform Act of 1969, at page 133. I ask unanimous consent that an excerpt from table 1, on page 133 of that document be printed in the RECORD at this point.

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

REVENUE ESTIMATES AND BURDEN TABLES

TABLE 1.—BALANCING OF TAX REFORM AND TAX RELIEF UNDER H.R. 13270—CALENDAR YEAR TAX LIABILITY

[In millions of dollars]

A. AS APPROVED BY THE SENATE COMMITTEE ON FINANCE

	1970	1971	1972	1974	1979
Repeal of investment credit	+2,500	+2,990	+2,990	+3,090	+3,270

Mr. MURPHY. I thank my distinguished colleague. I have had great reservations about the wisdom of removing it. I know that that might sound as though we are trying to protect industry at the expense of the individual, but I do not believe that is the case. I am inclined to agree that the Senator's position is proper, that the way to contain inflation is to control the number of dollars in the currency stream, keep it constant, and let its value expand with increased production. If there are more goods on the shelf with the same number of dollars to pay for them, I think that is the way inflation is stopped. If we do anything to impede the increase in production, it would seem to me that we would be defeating our stated purpose, that it might tend to increase the inflationary pressure rather than decrease it.

Mr. HARTKE. I think there is no question that the whole question of productivity is involved here. There is a short-term revenue gain if we repeal the investment credit, there is no question about that, but the point still remains that there is a lag. If we follow the procedures and arguments of the administration, that they are using this simply to fight inflation, there is a lag of at least 12 months, and probably more nearly 18 months, because—and this is a subject of constant debate—there will be amendments incorporated in the bill, in fact, there are special considerations in the

bill for various companies, attempting somehow to find a way to exclude themselves from the provisions of the repeal of the investment credit. There are certain exclusions made; the application is not universal.

Then the effective date has been a very difficult problem, because the question arises, when is the investment credit actually to be considered effective? That is, is it on the date the contract is let? If it is, its administration will involve almost insurmountable problems.

The point is that under any circumstances as an anti-inflationary measure, even assuming the point of those who advocate it is anti-inflationary, it would not have any measurable effect until the last part of 1970 or perhaps the early part of 1971.

Mr. MURPHY. Mr. President, I know that there are many specific cases in the State of California in which the planning and program has advanced 2 or 3 years ahead of time with regard to plant expansion based on existing conditions. And it sometimes seems to me that this is one of my problems with the entire tax bill. We do something that is pretty complicated. And we do it in great haste. It is liable to work more hardship than do good.

I do not know what to do in this case. I do not know how to do it. I do not know about the activity or whether it is proper in the fourth quarter of a football game to say, "It is now illegal to throw a forward pass."

I think there is a great point to be made. I congratulate my distinguished colleague and neighbor for raising the matter. I will consider his amendment very carefully. I hope it receives full consideration from the entire membership of the Senate and not merely the few who are present at the time to receive the advantage or disadvantage of listening to the colloquy.

I thank my distinguished friend.

Mr. HARTKE. Mr. President, I thank the Senator from California for making a point that certainly needs to be made.

Mr. President, I have amendment No. 326 at the desk. I ask unanimous consent that it be printed in full at this point in the RECORD for the benefit of the discussion.

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

The amendment (No. 326) ordered to be printed in the RECORD, reads as follows:

AMENDMENT No. 326

On page 413, line 3, after "property" insert "and property to which subsection (e) applies".

Page 428, line 6, strike out the closing quotation marks and after line 6 insert the following:

"(e) SMALL BUSINESS EXEMPTION.—

"(1) IN GENERAL.—In the case of section 38 property (other than pre-termination property)—

"(A) the physical construction, reconstruction, or erection of which is begun after April 18, 1969, or

"(B) which is acquired by the taxpayer after April 18, 1969,

and which is constructed, reconstructed, erected, or acquired for use in a trade or business, the taxpayer may select items to which this subsection applies to the extent that the qualified investment for the taxable year attributable to such items does not exceed $20,000. In the case of any item so selected (to the extent of the qualified investment attributable to such item taken into account under the preceding sentence), subsections (a), (c), (d), and (e) of this section, paragraphs (5) and (6) of section 46(b), and the last sentence of section 47(a)(4) shall not apply.

"(2) SPECIAL RULES.—

"(A) MARRIED INDIVIDUALS.—In the case of a husband or wife who files a separate return, the amount specified in paragraph (1) shall be $10,000 in lieu of $20,000. This subparagraph shall not apply if the spouse of the taxpayer has no qualified investment for, and no unused credit carryback or carryover to, the taxable year of such spouse which ends within or with the taxpayer's taxable year.

"(B) AFFILIATED GROUPS.—In the case of an affiliated group, the $20,000 amount specified in paragraph (1) shall be reduced for each member of the group by apportioning $20,000 among the members of such group in such manner as the Secretary or his delegate shall by regulations prescribe. For purposes of the preceding sentence, the term 'affiliated group' has the meaning assigned to such term by section 1504(a), except that—

"(i) the phrase 'more than 50 percent' shall be substituted for the phrase 'at least 80 percent' each place it appears in section 1504(a), and

"(ii) all corporations shall be treated as includible corporations (without any exclusion under section 1504(b)).

"(C) PARTNERSHIPS.—In the case of a partnership, the $20,000 amount specified in paragraph (1) shall apply with respect to the partnership and with respect to each partner.

"(D) OTHER TAXPAYERS.—Under regulations prescribed by the Secretary or his delegate, rules similar to the rules provided by sections 46(d), 48(e), and 48(f) shall be applied for purposes of this subsection."

Mr. HARTKE. Mr. President, it is my intention to call up the amendment for a vote.

The amendment at the desk deals with small business. It deals with investment tax credit up to $20,000 which is a very much more modified version of the amendment I previously discussed. The amendment merely provides for small businessmen and small farmers some type of tax recognition of their capital expenditures.

The amendment provides that they shall be allowed to have a tax credit for an investment of $20,000.

I want to make it very clear that it is not a tax credit of $20,000. But it is a total investment of $20,000.

Mr. President, I have tried to indicate why I consider the outright repeal of the investment tax credit to be both unnecessary and unwise. Its outright repeal is neither a tax reform measure nor an anti-inflationary measure. As I have indicated earlier, I fully realize that this position has few advocates in the U.S. Congress.

If the U.S. Senate is determined to go ahead and repeal the investment tax credit, then at the very least, it should provide some measure of relief from the increasing cost of inflation and the mounting burden of purchasing equipment needed by small businessmen and small farmers. This is why I have proposed an amendment providing for an exemption from the repeal of the investment tax credit for small businessmen and farmers.

These are the people who are particularly trapped by the present high-tax and high-money policies. Unlike large corporations, they cannot so easily pass increased costs on to the consumer. Increasing costs for them means increasing bankruptcy. For a nation that prides itself on private initiative and feels that the small businessman or farmer is the backbone of our society—the distinctive characteristic of our economy—this Nation should be appalled by the high number of small business failures and the dwindling number of people who can afford to go into farming. We have Government programs that recognize the needs of large organizations, large corporations, and large unions, but it is the small man, the small businessman, who is forgotten. Government being so large is unable to set up the mechanisms and the policies that will encourage the development of small businesses and farms. We have become a society of large institutions, intent upon their own interests. I am reminded of the African proverb that says:

When elephants fight, it is the grass that suffers.

In the conflicting interests of large institutions in our society, it is the small businessman and the small farmer who suffer.

In the committee, I sought, without success, an exclusion of at least $20,000 annually for all businesses. Such an exclusion, amounting to a tax credit of about $1,400 annually, might sound like a pittance. It is, of course, to our industrial giants, but to small businessmen it may make the difference between investing or not investing in much needed equipment.

Information furnished me by the National Federation of Independent Business, which represents more than 272,000 small businesses throughout the country, with more than 8,000 of them in my own State of Indiana, shows that 90 percent of all businesses today spend $20,000 or less per year in qualified investments.

Mr. President, there is no question in my mind that ample justification exists for continuing a portion of the credit for small business. Even the revenue loss to the U.S. Treasury would be minimal when compared to the countless thousands of smaller firms that would benefit. Going back to 1965, some 312,000 corporations earning less than $25,000 claimed a total of $174.2 million, or only 10 percent of the investment tax credit for that year. Surely, when 90 percent of all American businesses account for less than 10 percent of all investment credits, this wonderful Nation of ours should be able to continue offering such an incentive to that sector which has always been referred to as the "Backbone of the Nation."

Other arguments can be made for retention of the credit for small business. They have a disadvantage, as compared with large public corporations, in obtaining capital. Because of imperfections in the capital markets, small businesses typically pay interest rates that are appreciably higher than prime rates paid

by large businesses and frequently, especially during periods of credit stringency and rationing, are unable to obtain adequate credit at any price. Retention of the investment credit would enable these small businesses to finance a larger proportion of their capital requirements from retained earnings and consequently with reduced interest costs.

Economies of scale are available to large businesses in most capital-intensive industries. Retention of the investment tax credit for small businesses would enable them to acquire capital facilities at appreciably lower after-tax costs. This would tend to compensate somewhat for the economies ot scale enjoyed by the larger businesses, enable the smaller concerns to be a more competitive force in the economy, and provide a disincentive for small business mergers.

The small farmers in our country are in an equally desperate situation. I can assure the Members of this body from personal observations and conversations with many of the approximately 10,000 small farmers in the State of Indiana that they are particular victims of our present fiscal and monetary policies. Farmers in Indiana and throughout the country have been losing the race between increased costs and increased efficiency. An exemption for the small farmer offers the opportunity and the hope for greater efficiency, greater productivity. Without this, it requires no profit to state that there will be continuing numbers of farm closings. For farmers, production expense rose by a billion dollars in 1968. The cost of interest, taxes, and labor rose by 3 percent over the previous year. Farm liabilities increased by some $4.1 billion in the 12 months preceding January of this year. Once again, these increased costs were felt most severely by the small farmer. The U.S. Government and we in the Senate have an obligation to insure that the small farmer does not become a historical curiosity. The greatness of our past was in large measure determined by the existence of the small farmer. We jeopardize our future if we jeopardize the existence of the small farmer.

Mr. President, for this reason I ask that the clerk report amendment No. 326 which provides for the retention of the $20,000 investment tax credit for small farmers and businessmen.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The bill clerk proceeded to read the amendment.

Mr. HARTKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

Mr. HARTKE. Mr. President, I ask unanimous consent that the name of the Senator from Wyoming (Mr. McGEE) be added as a cosponsor of my amendment.

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

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

Mr. HARTKE. I yield.

Mr. McINTYRE. As the Senator is aware, I presently am chairman of the Subcommittee on Small Business of the Committee on Banking and Currency. Therefore, I am quite interested in this matter.

Do I correctly understand that the effect of this amendment would be that a small shopowner who wanted to make improvements in his store, let us say up to $15,000, during any fiscal or calendar year, would still be able to take advantage of the investment tax credit?

Mr. HARTKE. He would be entitled to keep his 7-percent tax credit, as he would today, with a limitation on the total amount of the investment. In that case, it would be 7 percent of the $15,000.

Mr. McINTYRE. This would not be accumulative?

Mr. HARTKE. No, it would not be. It would be in each one of his taxable years.

Mr. McINTYRE. Does the Senator from Indiana have any idea of what the revenue loss of this would be?

Mr. HARTKE. It has been estimated that the revenue loss of this would be in the neighborhood of $720 million a year.

Mr. McINTYRE. Is the Senator aware that pending amendments are at the desk which seek to help small business, based, as I understand them, on the gross sales or the gross earnings of these businesses?

Mr. HARTKE. I am familiar with that, yes.

Mr. McINTYRE. Does the Senator feel that this type of amendment has any chance—if it is adopted by the Senate—to be retained in conference?

Mr. HARTKE. I would think it would be. It has been one of the types of approaches that has been recognized in the early stage of the difficulties we have had in trying to do something to help the small businessman.

Take the man who buys a tractor, for example. This is a big expense for a farmer. Nothing else could be done for that man to help him more, if he wants to make a capital improvement, than to provide him with some type of investment tax credit.

Mr. McINTYRE. In taking the $20,000 figure—and I understand that this would be by capital improvements—did the Senator have any advice in selecting the figure, or was it arbitrarily chosen as seemingly a reasonable figure for the small businessman? Is there anything really backing this up as a good figure?

Mr. HARTKE. I pointed out that this accounts for 90 percent of the total number of people who would be eligible for this type of consideration; yet, at the same time, they had only 10 percent of the tax credit dollarwise under the total provision as originally before Congress.

Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. McINTYRE. I want to compliment the Senator from Indiana, because, as he said in the portion of his statement that I heard, the real crunch in the inflation we are suffering today does not hit the giants. I enjoyed the Senator's metaphoric reference to elephants—that when they fight, it is the grass that gets trampled and gets hurt.

I know that in my State of New Hampshire we have had many complaints about the inability of small businessmen—we have a great number of them in the Granite State—to try to get loans and to get the ability to compete.

So I certainly endorse this amendment, and I ask the distinguished Senator from Indiana to add my name as a cosponsor.

Mr. HARTKE. Mr. President, I ask unanimous consent that the name of the Senator from New Hampshire (Mr. McINTYRE) be added as a cosponsor of my amendment.

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

Mr. HARTKE. I might say to the Senator from New Hampshire that New Hampshire has had a rather remarkable growth rate for the Northern New England States since the total investment tax credit has gone into operation. I compliment his State for the growth it has had, and it attributed to somewhat to the beneficial effect of the tax credit.

Mr. McINTYRE. I thank the Senator for his remarks about my State.

Mr. HARTKE. I thank the Senator for his support.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. HARTKE. I yield.

Mr. WILLIAMS of Delaware. Mr. President, the proposal before the Senate would incorporate an exemption from the repeal of the investment tax credit for the first $20,000 across the board for all taxpayers. That may sound very attractive. Cutting taxes is always attractive.

I call attention, however, to the fact that the approval of this amendment would result in a loss of revenue of $720 million a year. By the preceding vote the Senate has already dropped $6.1 billion in additional revenue in the next 2 years, over and beyond the committee bill. This amendment would add another $1.4 billion to that loss, which would bring it to a $7.5 billion additional loss.

If the Members of the Senate want to defeat this bill they should go ahead and vote for this amendment and the other tax reduction amendments that come along, and delete the revenue-producing measures. Then they can go home and keep making speeches, as they have done for the past 12 months, about how much they are for tax reduction and for tax reform. But I hope they will also tell their constituents at the same time that when the chips were down on the individual items they just did not have the guts to vote for them.

Let us admit it. We are not going to get tax reform unless we stand up and vote for it, and we cannot get tax reductions unless we first cut expenditures or at least hold the revenue we have.

I compliment some of my colleagues who are so nimble that they can get on both sides of this question and vote for all the tax reductions and then vote against all the expenditure reductions. It would be wonderful if we could do it, but we cannot have a solvent government if we do.

I hope this amendment will be rejected. I say again to those who want to defeat this bill that the approval of this amendment is an excellent way to do it. Then they can go on right down the road and tell their people that all they have been doing is making speeches

and that all this talk about tax reform has been just so much political poppycock.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. DOMINICK. Is there a number to the amendment of the Senator from Indiana?

Mr. WILLIAMS of Delaware. No. 326. This amendment would lose $720 million a year in revenue annually, and we do not have the revenue to do it. We are already operating the Government at a deficit. No one disputes that point. We have no chance of balancing the budget in the foreseeable future. Any additional loss of revenue, whether it be on this amendment or the preceding amendment, is going to be accomplished only on the basis of borrowed money.

As to whether we can make any political capital out of this, I do get encouragement from one thing; and that is, that some of my friends on the other side of the aisle have so much confidence in the Republican Party that they think we can reduce expenditures so that they can cut taxes, something they were not able to do and never tried to do for 20 years when they were in office. Once our party gets in office they always come up with great ideas and how they want to cut taxes and increase spending at the same time. I hope that some time someone will discover how that can be done along with perpetual motion.

Mr. MURPHY. Mr. President, will the Senator yield for a question?

Mr. WILLIAMS of Delaware. I yield.

Mr. MURPHY. I know and respect the Senator's judgment and knowledge. He mentioned a moment ago that we have been told—and I hope my distinguished colleague will correct me if I am wrong—by five living former Secretaries of the Treasury that we need a surtax in order to help balance the budget, in order to stop the inflationary pressure which is destroying the value of the dollar.

We hear about numbers of dollars. Earlier, in this Chamber, we were talking about raising the exemption because of the cost of living; but the proponent of that proposal neglected to say that the dollars he was increasing are now worth 37 cents, as compared with the real buying power of the dollar. He would have to raise it to $1,800 in order to meet the cost of living. But that is not my point at this time.

Are we in a deficit position at the present time, in the judgment of my distinguished colleague?

Mr. WILLIAMS of Delaware. It is not only my judgment, but it is also a matter of record that we are in a deficit position. The national debt in the last fiscal year was increased approximately $6.5 billion. That is a rate of approximately $500 million per month, and we are running into debt in this fiscal year at a faster rate than we did last year.

Every dime of extra tax reduction in this bill will have to be financed by borrowed money, and we are already in trouble from the standpoint of inflation because of the Government's borrowings.

The $600 exemption is inadequate, and it is inadequate because of the inflation we have built up over the past several years. A few years ago, with a $25 billion deficit the Government had to go into the money market and draw out an extra $25 billion in order to finance it.

I say that the inflation that has been created has been created because Congress and the previous administration have not accepted their responsibilities to hold expenditures in line with the revenues. We are seeing another great example of it here today, in which Senators say, "I vote to cut taxes, cut down on the revenue"; and at the same time, in the last few days, they have increased expenditures all down the line. Such hypocrisy.

I think it is time that the American people realize that the only real tax reduction we can have is when we cut expenditures first. This inflation is destroying the life savings of America. When we talk about so many people in poverty today some of my friends who have voted for all these giveaway programs and spendthrift programs should remind themselves of a fact they seem to have forgotten—that their policies have pauperized the aged of this country and those who have retired on fixed incomes.

So many people are in near poverty today because of the policy of preceding Democratic administrations in spending far beyond their income, creating inflation, and in lowering the value of the dollar. They have pauperized the American people, especially those people living on pensions, retirement income, and their saving accounts. Many individuals today are retired on what they thought 5 or 10 years ago was adequate, but today because of the decrease in the purchasing power of the dollar they are being forced to appeal to the Federal Government for assistance. That is the greatest crime in Washington. We have destroyed the purchasing value of the life savings of people, the savings for which they worked.

Mr. MURPHY. Is it not true that two things happened. We have been caught in a sort of pincer movement. For instance, the purchasing power of the dollar has been greatly decreased and at the same time the cost of living has increased, so that the difference is much greater than we generally consider. The average American is getting hurt both ways. Is that not correct?

Mr. WILLIAMS of Delaware. The Senator is correct. It is said around here today that the Republican Party does not have sympathy for the people and that the Republican Party does not want to cut taxes. It is well for us to review the record. The first income tax law was passed in 1914 or 1915 and it has been on the books since that time. During that time, going back to 1932, the exemption was $2,500 for a married couple and $1,000 for an individual. That was the year the Republican Party lost control of the Government.

Mr. MURPHY. What would that amount to in today's dollars?

Mr. WILLIAMS of Delaware. It would be at least double or more.

Mr. MURPHY. I thank the Senator.

Mr. WILLIAMS of Delaware. But that exemption was whittled down under the New Deal and the Fair Deal until in 1947 it was down to $500 and it was increased to $600 by the Republican 80th Congress, at that time over the veto of the Democratic President. Some of the same Senators who are speaking loudest today in favor of this increase in the exemption voted against that increased exemption 20 years ago.

On the other hand, since 1915 we have had 11 major tax reductions, and eight of those tax reductions were given to the American people under the Republican Party. On only three occasions has the Democratic Party ever decreased taxes and then it was at a time when they did not balance the budget. We have had 15 major tax increases and 13 of them were enacted by the Democratic Party; only twice were taxes increased by the Republican Party. I think it is necessary that the record be made clear.

We have a national debt today of $369 billion and over 95 percent of that debt was created under Democratic administrations in the 34 years they have had control of this Government since 1900. Less than 5 percent of our national debt was created during the 34 years while the Republican Party was in power. The Republican Party has been trying to hold the line and restore some degree of fiscal solvency to this country. We have an excellent record in that regard. Nevertheless because of the actions of Democratic administrations in the past, we today are paying about $17 billion a year in interest on the national debt.

Senators should also tell their constituents that about $16.5 billion a year, or over $1 billion a month, is required to pay interest on the debt created by the Democrats who now say so much about how they want to help the taxpayers. I wish some of their great speeches could carry over into their votes but, unfortunately, as in the matter of tax reform, we have had speeches—I have never heard so many speeches in my life—but there is so little enthusiasm when the time comes to vote.

Mr. President, we cannot have tax reform unless we eliminate some of the inequities in the law. I think it is time we face up to this matter. There is involved $720 million in the amendment, and other similar amendments are to follow.

Let us decide if we are going to have reform or just a lot of speeches and then water down the bill or sink it so that the President could not possibly sign it.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. COTTON. Mr. President, in the pending amendment, which is under the title of "Small Business Exemptions," the limitation is $20,000. That is very alluring. However, it is a fact in the first place that the small businesses making improvements are the small businesses that are making money. I am interested in small business as much as anyone else. I served for 7 years on the Committee on Small Business in this body.

It is well to talk about a poor farmer who needs a tractor, but I know of instances, not only in my State but also elsewhere, where, for instance, a res-

taurant doing business plans every year to use up enough money in changing the decor of the interior of the restaurant or the appearance of the entrance of the restaurant in order to get the tax advantage. I know of other instances where habitually this is done.

If this amendment is agreed to, is it not a fact that we can look forward with complete confidence to the possibility that it will be done by every business that is making money?

Every business that is making money will see to it that they get the full benefit of the $20,000, while the business which is struggling along will not be in a position to take advantage of it.

Is it not a fact also that the people who most deserve our consideration and who have received consideration under the bill which the committee brought in, are not so much those in business, but, rather, those on salaries, the taxpayers, the workers, and all those who have a fixed salary on which they live? In no way can they avail themselves of a loophole to spend money. Most of them are just getting by. In no way can they avail themselves of this provision.

Is that not the true picture of the amendment?

Mr. WILLIAMS of Delaware. It is, and that is the reason behind the committee action. This investment credit can be used only by a company which is prosperous. A company that is struggling along cannot take advantage of the provision.

There are many other ways to give help. One of the best ways would be to strengthen our economy to give some degree fiscal solvency to the country and to stop the inflationary spiral. Then we would have made a large step toward reducing the exorbitantly high interest rate which must be paid when the Government has to go into the money market and compete with private industry.

Mr. COTTON. I thank the Senator.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. DOMINICK. Mr. President, I have been very interested in the remarks of the Senator from Delaware in his discussion with the Senator from California and the Senator from New Hampshire. I think the Senator has brought out an extremely important and pertinent point.

During the same time I started studying in a little more detail the amendment of the Senator from Indiana. It is called a small business exemption. As I read it I do not find any definition of small business in it.

Sitting, as I do, as the second ranking member on the Subcommittee on Small Business, I would like to know if there is some particular group to which this would apply.

Mr. WILLIAMS of Delaware. No; this would apply to everyone. The title "Small Business" is used only to make it sound more appealing. Actually General Motors could get the exemption also.

Mr. DOMINICK. What it means is that any company could get the tax credit on an investment of up to $20,000.

Mr. WILLIAMS of Delaware. The Senator is correct. They just refer to small business to make it sound better.

Mr. DOMINICK. The Senator indicated earlier in the debate how much revenue loss this would amount to. I did not hear that figure.

Mr. WILLIAMS of Delaware. $720 million a year.

Mr. DOMINICK. $720 million a year from this one exemption?

Mr. WILLIAMS of Delaware. Yes. We have already, by the preceding vote, lost $6,100 million beyond the committee bill in the next 2 years, and this would add an additional $1.4 billion to that loss, which would mean a $7½ billion total loss. As I said earlier, those who want to defeat the bill should just keep this up, because this is the way to do it. When they go back home and tell their constituents that they voted for tax reduction and tax relief and tax reform, that will all sound nice; but they know that we will end up with nothing.

Mr. DOMINICK. Can the Senator give me an indication whether there is anything in the bill now which is of assistance to new schools of business?

Mr. WILLIAMS of Delaware. Nothing specifically, except as the owners of the business would get the benefit of the reduced rates that would gradually go into effect.

Mr. DOMINICK. So there are reduced rates for business as they go along?

Mr. WILLIAMS of Delaware. Not for the businesses themselves if they are corporations, but for the individual owners of the business.

Mr. DOMINICK. I thank the Senator for yielding to me. As the Senator said, this does have a kind of attractive title to it until one reads it he thinks it is designed to do something for them. Heaven knows, small business companies need help in many places. They would not get it under this. It does not apply to them, anyway.

Mr. WILLIAMS of Delaware. All these tax reduction proposals are attractive if one has the money to do it.

Mr. President, I yield the floor.

Mr. HARTKE. Mr. President, I ask unanimous consent that the name of the Senator from South Dakota (Mr. McGOVERN) be added as a cosponsor of of my amendment No. 326.

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

TAX CONSIDERATION FOR FARMERS AND SMALL BUSINESS

Mr. McGOVERN. Mr. President, for some time I have had an amendment pending, with the cosponsorship of Senators BURDICK, NELSON, MONDALE, BAYH, CHURCH, METCALF, and YOUNG of Ohio, which would retain the investment tax credit for investments up to $20,000. I, therefore, support the similar amendment now offered by Senator HARTKE. The $20,000 figure is the same level that was set in 1966 when the credit was temporarily suspended. This proposal is designed to protect the farmer and small businessman.

Mr. President, I fully agree that repeal of the investment tax credit is an appropriate place to start in efforts to counter the severe inflationary pressures plaguing the country.

The credit was created in order to stimulate capital investment in the early 1960's, a period when we sorely needed expansion in the industrial base. It has been effective. American business since has spent some $400 billion on capital goods.

But we no longer require such stimulation, particularly in the case of giant industry. On the contrary, the capital goods sector is the area where inflationary pressures are most acute. The anti-inflationary effect of each dollar removed from this sector of the economy will, according to the testimony of the chairman of the Council of Economic Advisers before the House Ways and Means Committee, be even greater than the effect of each dollar removed from circulation by the surtax.

I am convinced, however, that the broad brush approach, or total repeal, is highly undesirable under present circumstances. I think we can write tax laws with enough precision to insure that they will not work contrary to other national policies. Repeal of the investment tax credit without some provision for small businessmen and farmers would, for these two important groups, deny the very motivation which underlies the administration's proposal. It will exacerbate the squeeze on a large number of those who have suffered most from rising prices and tight money. It will attack victim and villain alike with the same blow.

The chairman of the Select Committee on Small Business, Mr. BIBLE, recently described the "triple credit squeeze" facing small businessmen. The unprecedented rise in interest rates which has occurred in recent years and has accelerated since December creates the most oppressive burden upon those least able to pay. On top of this, the executive branch reduced the fiscal 1969 business loan program of the Small Business Administration by some 58 percent, further restricting access to capital. Addition of a third in the tax area—elimination of the investment tax credit—could force economic ruination in thousands of cases, all in the name of inflation control.

It is also pertinent to note in this connection that on March 5 of this year President Nixon established, in the Department of Commerce, an Office of Minority Business Enterprise, aimed at expanding business ownership by minority groups. He said that:

> Black, Mexican-American, Puerto Ricans, Indians and others must be increasingly encouraged to enter the field of business, both in the areas where they now live and in the larger commercial community, and not only as workers, but also as managers and owners.

Quite frankly, I confess a great degree of skepticism about the prospects that this approach will go very far toward healing the deep economic, social and philosophical divisions which exist between black and white Americans. Perhaps it can help.

But I become skeptical as well about the extent of the commitment to this approach when the investment tax credit repeal comes up without any apparent consideration of the fact that it can make the growth of new enterprise substantially more difficult.

If the situation today is acute for

small business, it is just as critical for agriculture. Inflation has driven the necessities of efficient food and fiber output to unparalleled levels. An implement dealer from my State told me recently, in fact, that an austere version of one harvester costs some $21,500, some five times as great as a few years ago. Production expenses rose by about $1 billion in 1968, and prices paid for implements, interest, taxes and farm labor were 3 percent higher than in the previous year. Farm liabilities excluding claims of the Commodity Credit Corporation went up $4.1 billion in calendar 1968, and a large share of that debt was incurred to offset operating losses. The cost of sustaining the debt are astounding, with interest rates—when money can be obtained—standing at confiscatory levels.

The most recent statistical summary from the Department of Agriculture confirms that the cost pressure has not abated during the past year. The index of prices paid by farmers for commodities used in production had, by October, risen thirteen points over last year's average.

Meanwhile the prices farmers receive have remained relatively constant or have fallen, lagging further and further behind the cost of living and the cost of producing. For crops, the index of prices received is down 12 points from the 1968 average. For livestock the index is up over last year, but it has already started to decline, with meat animals down fully 21 points since August. The downturn in the livestock cycle assures that the cost-price squeeze—with intolerable interest rates, mounting production costs, and dismal price prospects—will score massive new gains in its efforts to smother family farm agriculture in this country. Elimination of the investment tax credit in the case of family farmers will hasten the process, ending the economic viability of many existing farms and accelerating the migration from rural America to cities which have neither the resources nor the room to serve more people.

Mr. President, over the past several decades our agricultural programs have spelled out a firm national preference for efficient family farm agriculture. We have been concerned about the rapid decline in farm numbers and by the prospect that our food and fiber supply will eventually be under the control of a few large producers.

At the same time, we have evolved a policy, declared in the Small Business Act of 1953, calling upon Government to aid, counsel, assist and protect, insofar as is possible, the interests of small business concerns in order to preserve free competitive enterprise.

I believe these twin policies remain entirely valid, and that they supply ample reason for maintaining the investment tax credit up to $20,000. We should continue to reject the view that bigness is either naturally desirable or inevitable, and we should continue to embrace the concept that entrepreneurship should be widely dispersed and readily accessible.

The revenue cost of continuing the credit up to $20,000 would be modest. The effects of eliminating it could be extremely damaging.

I urge the Senate to act favorably on this amendment.

INVESTMENT TAX CREDIT SHOULD BE PRESERVED FOR SMALL BUSINESS

Mr. SPARKMAN. Mr. President, this year's debate constitutes the third full-dress congressional consideration of the investment tax credit. It was enacted in 1966, and temporarily suspended, with an exemption for small business at the $20,000 level. At that time, the Senate actually voted to continue the credit at $25,000, but the lower figure emerged from the conference with the House.

The reasons which made this legislation sound policy in 1962 and 1966 carry even more force in 1969.

BALANCE OF PAYMENTS ISSUES

Congress adopted the investment tax credit because every other industrialized nation possessed an investment incentive device, and every one of our major competitors was modernizing its plants and equipment at a more rapid rate than the United States. In the words of then Treasury Secretary Dillon:

> Machinery and equipment expenditures—the type of business capital expenditure which is basic to the creation of new products and which also makes the most direct contribution to cost-cutting, productivity, and efficiency—constitute a smaller percentage of (GNP) in the United States than in any major industrial nation in the world.[1]

Since other Western nations already employed both accelerated depreciation and investment incentives, Secretary Dillon made the point that administrative modernization of depreciation—alone—simply cannot do the job, the combination of both—this—and a special incentive such as the investment credit is needed if U.S. business firms are to be placed on a substantially equal footing with their foreign competitors.[2] As a result of the thorough study incident to the passage of the Revenue Act of 1962, the Treasury Department was able to inform the Congress that:

> We have chosen the credit primarily because it increases the profitability of investment *more per dollar of revenue cost* than any of the other alternatives.[3] (Italic supplied.)

Now, after 5 years, we are able to conclude that this analysis was correct. The investment tax credit has, in fact, resulted in an improvement of the competitive position of American industry in international trade. For instance, between 1957 and 1962 the U.S. share of manufactured products declined from 28.7 to 22.8 percent of the world total, a percentage decline of 22.3 percent. In the 5 years following the enactment of the investment credit, the decline was slowed to 10 percent, or less than half of the preceding rate.[4]

It has been a matter of concern to me that the U.S. balance of payments has continued to deteriorate. Our trade surplus has declined steadily from the peak of $6.7 billion in 1964 to a mere $100 million in 1968.[5] These figures, together with the downturn in agricultural exports,[6] present many of the hallmarks of a long-term and worrisome trend.

As a result, the Commerce Department has recommended that the investment credit be increased, perhaps to 14 percent, in export industries.[7]

If, on the contrary, the credit is eliminated, it will add still another Government-imposed disadvantage for sensitive American companies. These firms are already faced with the imposition and remission of foreign border and value-added taxes when they are making their decisions on whether to locate plants, make investments, and create jobs inside or outside the United States. I have no doubt that outright repeal of the investment credit will cost the U.S. balance of payments dearly.

It therefore seems to me, that at least a partial preservation of the investment credit is in order, to carry forward the objectives of this legislation, which have begun to prove their worth.

For that reason, I offered amendments earlier this year—amendment No. 71 to H.R. 12290 and amendment No. 258 to H.R. 13270—to continue the investment credit at the $150,000 level of investment. This would approximate the amount of credit actually claimed in the manufacturing segment of our economy, and would, in addition to preserving our international competitive position, leave some elbow room for small and new companies to come into manufacturing and grow into maturity. My testimony to the Finance Committee and statements on the Senate floor on this subject did not convince the committee to adopt this proposal.[8]

THE QUESTION OF INFLATION

It has been argued, because of the so-called "capital investment boom," that the investment credit should be abolished on the grounds that it is contributing to inflation. I believe we all agree that it is necessary to break the back of inflation, which is already exerting tremendous pressure against small businessmen, local governments, and housing industry.

There is some doubt, however, that across-the-board repeal of the investment credit in a tax bill is an appropriate means to that end. One serious study at least has concluded that it is not.[9] At present, the investment credit repeal is being relied on for about one-half the revenue gain in this bill—I question whether this one provision should be carrying this proposition of the revenue burden.

As far back as 1966, the House Ways and Means Committee concluded that:

> The pressure for loans to finance significant increases in plant and equipment spending stems largely from the Nation's larger business organizations. The [small business—$15,000] exemption will be a negligible factor in the investment decisions of such organizations. It will not be negligible, however, to small business enterprises, many of which presently have difficulty raising funds because of existing monetary restrictions.[10]

A further analysis reveals that, in 1965, the 377 largest companies, with income over $10 million, account for more than half of all the investment credit claimed by corporations.[11] Furthermore, Federal reserve data confirms the findings of the

Footnotes at end of article.

Ways and Means Committee, in that more than half the business loan borrowing takes place in amounts of more than $1 million.

It is therefore clear that the borrowing and spending on capital equipment which count as inflationary factors are highly concentrated among the Nation's biggest businesses. Some press reports have speculated that perhaps as few as 50 or 60 large corporations are responsible for the lion share of this activity. The amounts attributable to really small business are not very significant.

It thus seems to me that this state of affairs could be dealt with without reaching down to further disadvantage the overwhelming majority of corporations, partnerships, and proprietorships, and farms, which are small business.

CREDIT SQUEEZE WORST ON SMALL BUSINESS

To me, however, the basic question here is one of tax justice.

As the distinguished chairman of the Select Committee on Small Business (Mr. BIBLE) and the diligent Senator from South Dakota (Mr. MCGOVERN) have been emphasizing all this year, small firms and farmers, as always, are bearing the brunt of tight money and the fight against inflation.

Interest rates are setting historical records.[12] Bank reserves and deposits have declined substantially, and the growth of the money supply slowed to an annual rate of 1 percent in the third quarter of this year.[13] There are increasing indications that credit rationing is taking place.[14]

Small businesses are now compelled to pay well above the prime rate of interest for loans, and for some purposes such as new meat packing plants required by the Wholesome Meat Act—which involve single-purpose facilities—they may find funds unavailable at any rate of interest.[15]

There are really two different kinds of business in this country. The local, family, and independent small businesses simply cannot compete for credit with the great established national and international corporations.

Furthermore, when the small firm turns to the Small Business Administration as a last resort, he finds that the business loan program has been cut back almost 60 percent from 1968 levels.

Furthermore, because the effects of tight money are cumulative, there is the danger that the squeeze and, therefore, the injury to our small business community will be worse in 1970.

CONCLUSION

Mr. President, the Congress recognized a situation very similar to what we face today when they continued the investment credit for small firms during the 1966 suspension. It appears that credit conditions currently and in the immediate future may even be worse than those in 1966.

Accordingly, it will be an act of tax equity, as well as a help to our international balance-of-payments position, to preserve a portion of the investment credit for truly small firms. I hope that the Senate will act favorably on the amendment which will accomplish this result.

FOOTNOTES

[1] "Revenue Act of 1962" Hearings before the Committee on Finance, U.S. Senate, April 2, 1962, p. 79.

[2] Finance Committee Hearings, p. 83.

[3] Hearings, p. 85.

[4] *The Competitive Position of U.S. Exports,* National Industrial Conference Board, Study No. 101, (1968), p. 9.

[5] See *Statistical Abstract of the United States, 1968,* and *Survey of Current Business,* U.S. Dept. of Commerce, March 1969, pp. 24 and 25.

[6] "Decline in Farm Exports, etc." Remarks on Senate floor by Sen. Sparkman, Oct. 8, 1969, CONGRESSIONAL RECORD, p. 29139.

[7] "U.S. Foreign Trade, A Five Year Outlook," U.S. Dept. of Commerce, April 1969, Recommendation 1.3, p. 76.

[8] Statement of Senator Sparkman to the Comm. of Finance, Hearings on "Proposed Extension of the Surcharge and Repeal of the Investment Tax Credit," July 15, 1969, p. 375; remarks on the Senate floor of June 12 ("The Investment Tax Credit—Its Relation to the Balance of Payments and Small Business") July 14 (Introduction of Amend. 71) and July 31 (Remarks during debate).

[9] See "The Investment Credit as an Economic Control Device," *Capital Goods Revenue,* Machinery and Allied Products Institute, Sept. 1966.

[10] House Rept. 2087, 89th Cong. 2d Sess., to accompany H.R. 17607, p. 16.

[11] Finance Committee Hearings, July 15, 1969, pp. 376 and 454.

[12] "Rates Set Marks in Credit Markets," *New York Times,* Nov. 20, 1969, p. 69: 4.

[13] "Financial Developments in the Third Quarter of 1969," Federal Reserve Bulletin, Nov. 1969, lead article, p. 867.

[14] "Bankers Concede Rates Rising," *The Washington Post,* Nov. 20, 1969, financial page; "Comments on Credit," Solomon Bros. and Hutzler Nov. 28, 1969, p. 2.

[15] See hearings before the Small Business Subcommittee, Senate Banking and Currency Committee, on Small Business legislation, July 8–11, 1969.

Mr. MCGEE. Mr. President, I strongly support and urge passage today of this amendment to exempt small businessmen, ranchers, and farmers from the repeal of the 7-percent investment tax credit. This exemption is limited in its scope, but will do a great deal to preserve the private initiative which is so traditional in our free enterprise system in this country. The small businessman is the backbone of our economic society and this legislation will be a major step to halt the high number of small business failures and the dwindling number of our citizens who remain on ranches and farms.

I am pleased to have joined with the senior Senator from Indiana in the cosponsorship of this amendment and join with him in pointing out that the revenue lost to the Treasury would be minimal when compared to the countless thousands of small firms that would benefit.

The small businessmen, ranchers, and farmers in this country will be caught in a triple squeeze if this amendment fails to pass. Presently, the private money market's interest rates are at record levels. Operating capital is becoming more difficult to obtain in competition with the huge national corporations in this country. The repeal of the investment credit would thus be a third pressure to fall upon the small businessman this year.

This is especially critical to the small firms, farmers, and ranchers who are unable to control the prices which they receive for their services and products as many of the large and powerful corporations do in our complex economy.

I, therefore, urge passage of this amendment to grant much needed financial relief and incentives to this area of our economy.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

The question is on agreeing to the amendment (No. 326) of the Senator from Indiana (Mr. HARTKE).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Georgia (Mr. RUSSELL), and the Senator from Missouri (Mr. SYMINGTON), are necessarily absent.

I further announce that the Senator from Indiana (Mr. BAYH) is absent on official business.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. FULBRIGHT), and the Senator from Alaska (Mr. GRAVEL), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Oklahoma (Mr. BELLMON), the Senator from Idaho (Mr. JORDAN), and the Senator from Maryland (Mr. MATHIAS) are detained on official business.

If present and voting, the Senator from Oklahoma (Mr. BELLMON), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Maryland (Mr. MATHIAS) would each vote "nay."

The result was announced—yeas 48, nays 41, as follows:

[No. 167 Leg.]

YEAS—48

Allen	Hughes	Montoya
Bible	Inouye	Moss
Burdick	Jackson	Nelson
Byrd, W. Va.	Javits	Pastore
Cannon	Jordan, N.C.	Pearson
Church	Kennedy	Proxmire
Cook	Magnuson	Randolph
Cranston	Mansfield	Smith, Ill.
Dodd	McCarthy	Sparkman
Eastland	McClellan	Stennis
Ervin	McGee	Stevens
Fong	McGovern	Tydings
Goodell	McIntyre	Williams, N.J.
Hart	Metcalf	Yarborough
Hartke	Miller	Young, N. Dak.
Hatfield	Mondale	Young, Ohio

NAYS—41

Aiken	Ellender	Pell
Allott	Fannin	Percy
Baker	Gore	Prouty
Bennett	Griffin	Ribicoff
Boggs	Gurney	Saxbe
Brooke	Hansen	Schweiker
Byrd, Va.	Harris	Scott
Case	Holland	Smith, Maine
Cooper	Hollings	Spong
Cotton	Hruska	Talmadge
Curtis	Long	Thurmond
Dole	Murphy	Tower
Dominick	Muskie	Williams, Del.
Eagleton	Packwood	

NOT VOTING—11

Anderson	Goldwater	Mundt
Bayh	Gravel	Russell
Bellmon	Jordan, Idaho	Symington
Fulbright	Mathias	

So Mr. HARTKE's amendment was agreed to.

Mr. HARTKE. I move to reconsider the vote by which the amendment was agreed to.

Mr. McINTYRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(The following colloquy which occurred subsequently, is printed in the RECORD at this point by unanimous consent.)

Mr. BIBLE. Mr. President, a short time ago the Senate voted to agree to a small business amendment offered by the Senator from Indiana (Mr. HARTKE). I believe the vote was 48 to 41, or in that range.

This amendment will be highly reassuring to the distressed small business community. Those of us who work on the Small Business Committee have been having regular hearings, attempting to see how we could be of most help to small business. We were aware, of course, of the proposal to terminate the investment tax credit. One of the areas that we recognized as essential for small business welfare was the preservation of the tax credit for truly small enterprises. A number of amendments very similar to that offered, called up, and guided through passage by the Senator from Indiana have been pending at the desk, including one by the Senator from Alabama (Mr. SPARKMAN), one by the Senator from South Dakota (Mr. McGOVERN), and others. There was also a combined amendment on behalf of myself and the Senator from North Dakota (Mr. BURDICK), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Alabama (Mr. SPARKMAN), and also the Senator from Indiana (Mr. HARTKE). There may well have been other amendments in the same general field.

Mr. President, if the Hartke amendment had not won approval, I was prepared to call up this jointly sponsored amendment.

This amendment, which I call to the attention of our Senate conferees should they find it helpful in their deliberations, would preserve the 7 percent investment tax credit for truly small businesses and farmers up to a level of $20,000 of investment. It would limit the benefit of the credit to those businesses whose taxable income does not exceed $250,000 a year. Its purpose was to make doubly sure that this tax credit will be restricted to the genuinely small business enterprises that so sorely need this kind of assistance.

The cost of this amendment has been estimated generally at from between $620 and $720 million by the Joint Committee.

The $20,000 level of investment figure is not new to the Congress. When the investment tax credit was suspended in 1966, the Senate approved the retention of a credit for up to $25,000 of investment, but in the Senate-House conference on the legislation the figure was reduced to $20,000 in the bill as finally approved.

So this amendment would not have plowed new ground. Over the years the Congress has recognized the importance of this kind of tax incentive for the small businesss community. This amendment merely asked that the Congress reaffirm its long-standing interest in and concern for the special problems of small businessmen.

The only difference between the Hartke amendment and the amendment that we offered jointly is that the joint amendment places a ceiling on the measurement of what is a small business. We specified that small businesses were those businesses in which the taxable income was not in excess of $250,000. It seems to me that that would conform more with the general feeling of bringing it within the range of a small business.

In checking the cost figures with the very able members of the staffs of both the Committee on Finance and the joint committee, I was amazed to find that they indicated to me that the cost of the amendment that put the ceiling at $250,000 would be approximately $680 million. The amendment of the Senator from Indiana would cost somewhere in the range of $720 million, or only an additional $40 million in revenue. I had honestly felt that there would be a greater differential if we lowered the ceiling to the $250,000 figure. But in studying the matter, I was advised that that was not a correct conclusion, and that there was very little difference in the total amount of revenue affected by one amendment as compared to the other.

I supported the Hartke amendment. I am delighted that it did become a part of this bill, by a rather substantial vote. I recognize that the distinguished chairman of the Committee on Finance must still go to conference, and I hope that something can there be done in this area of helping the small businessman. Our hearings held throughout the course of this congressional year have made abundantly clear the distressed condition of the small businessman in obtaining money and credit, and that he was very badly hurt by a freeze which froze $170 million that was appropriated for direct and participating loans of the Small Business Administration. That money reverted on July 1 of this year, so it is no longer available for those purposes.

I am still hopeful that the administration will make money available for these loans. We found out, in our study, that such direct business loans have worked out very well, as have the participating loans. The percentage of loss in each instance is very small—something in the range of 2 to 3 percent. So this is another area where we hope we can be of help to the small business community.

The Hartke amendment, which has now been agreed to and made a part of the pending bill, does offer some additional help. I offer by way of suggestion to the chairman of the Committee on Finance the possibility that some limitation may be appealing as he goes to conference. I realize there are many problem areas in a tax bill of this magnitude and this complexity.

I think it should be recognized that the $20,000 level for the investment credit is certainly not new to Congress. When the investment credit was suspended by Congress in 1966 an exception was made in the case of the small business investor, and at that time the figure coming out of the Senate-House conference was agreed upon as $20,000.

Mr. President, the 91st Congress has done a monumental job initiating this historic tax reform program and bringing it now to the threshold of enactment. I believe that the leadership in both Houses, together with the chairmen of the tax-writing committees, Representative MILLS, of Arkansas, and Senator LONG, of Louisiana, have earned the commendation of this body and the thanks of the country for the job they have done.

As chairman of the Select Committee on Small Business, however, I felt obliged earlier this week to draw a small business amendment because neither the tax reform bill passed by the House nor the Finance Committee's recommendations had provided adequately for the Nation's small business community.

Our efforts to curb abuses of the Internal Revenue Code, plug its loopholes and fight inflation had created, before adoption of the Hartke amendment an unintended overkill against small business.

From the small business point of view, H.R. 13270, as it came from the Finance Committee, not only declined to extend further tax relief to small business, it also eliminated two existing provisions of the law which were originally enacted as tax reforms, were preserved over the years by the Congress, and which presently provide some measure of equity for the small entrepreneur in our increasingly complex and competitive economy.

Unless these actions had been modified on the Senate floor, the label of "tax reform" would have had a hollow ring for the 5½ million hard-working, risk-taking, taxpaying small business owners.

Small business is the heart of our American free enterprise system. It is the corner grocery. The small restaurant. The small machine shop and factory. The independent hardware and drygoods store. The small building trades contractor, and the myriad small and family-owned service establishments that line the streets of every community in the Nation. Small business is the opportunity and challenge of the average citizen to find independence and a place for himself in the commercial mainstream.

And it has properly been our consistent national policy for many years to promote and foster small independent enterprise.

Repeal of the tax credit had been recommended by the Nixon administration as a necessary anti-inflationary measure—a measure to cool down our overheated economy. I am pleased that the Senate has moved affirmatively to assist small business in precisely this context.

First, it is critically important to recognize that small business is already hard pressed by the present inflation, and is bearing the brunt of the Government's efforts to combat the inflation. Throughout this year it has become increasingly apparent that the various types of Government financial restraints and the gathering business slowdown have borne very heavily on small business.

Interest rates in the private money markets are setting records every week. As I pointed out in a floor statement on June 25 of this year, the credit problems of small business firms are becoming increasingly acute. The business loan program of the Small Business Administration was cut back 58½ percent for fiscal year 1969, and has been set at the reduced level for the current fiscal year.

A recent survey of 80,000 small businessmen throughout the fifty States by the National Federation of Independent Business confirms that—when they can get financing at all—many small business enterprises must pay interest rates that are scaled upward from the prime interest rate. In some cases as much as 11 or 12 percent.

Only about one-half of these same small firms reported sales increases over 1968, and according to the study more than three-quarters of them face increased labor, material, and other costs in 1969.

Nearly one-half—46 percent—of the firms involved found themselves unable to add to their capital investment in 1969.

A combination of forces: Record interest rates, intensifying stringency in the private money markets, and the drastic curtailment of Small Business Administration lending programs is creating very serious financial pressures on our smaller and independent businesses. Under these circumstances, small firms which would ordinarily survive may be forced out of business. Others will be less successful than they would otherwise be. Some will experience reverses that may take years to overcome.

As I pointed out in my remarks last June, the system of free enterprise itself—ease of entry into business, competition, and the growth of businesses supplying new products and services—is in danger of being impaired.

Unless we pay careful attention to the needs of small enterprise, and understand the damage ill-considered changes in the tax laws may do, we not only limit the opportunities for our people, but we may find ourselves counting the wreckage of small businesses that are already struggling against inflation.

Repeal of the investment tax credit was offered as an effective way to curb inflation. At the same time, the effect of an outright repeal would be to further injure a small business community already victimized by inflation. It seems to me that this feature of the tax bill should be tailored so as to take account of small business problems, with very little impact on its anti-inflationary objective.

The fact is that small business has accounted for a very minor portion of the inflationary pressures associated with the investment tax credit. The bulk of the pressures have been generated by big business. According to calculations based upon Internal Revenue Service figures for 1965, altogether the overwhelming majority of small firms—those with less than $25,000 of taxable income—accounted for only 10.1 percent of the tax credit. Firms in the $25,000 to $250,000 category accounted for only 9.4 percent.

In contrast, the 377 largest companies—those with taxable incomes over $10 million—accounted for more than one-half of the total corporate credit. Firms in the $1 million to $10 million category accounted for almost 20 percent. The large business firms account for almost three-quarters of the total corporate tax credit.

Mr. President, from this kind of evidence there is no question in my mind that preserving an investment tax credit for small businesses would have little or no inflationary consequences. This is corroborated by examination of the picture of commercial lending. According to Federal Reserve Bulletin for June 1969, the percentage of bank loans accounted for by the largest loans—over $1 million—is 54.6 percent, a figure almost identical to big business' share of the investment tax credit. The small business activity, on the other hand, as measured by loans under $100,000, accounted for 82 percent of the number of loans, but only 12½ percent of the number of dollars. In this connection, it was interesting to note the press reports of a bankers' meeting held here in Washington last Spring which suggested that as few as 50 or 60 of the largest corporations were exerting the bulk of the inflationary pressures on the economy by their borrowing and investing policies.

I think it is clear, Mr. President, that the great number of small firms across this country have not been the moving force in the inflation attributed to the investment tax credit. The bulk of the pressures have come from big business. As I have said, small businesses have not bred inflation. Rather, they have been its victims.

May I commend to the Senate conferees on this tax bill that because the spending and borrowing—the inflationary pressures—are largely concentrated in the Nation's largest corporations, an investment tax credit can and should be preserved for the vast majority of the truly small, family owned, and independent businesses where financial assistance is needed. This can be accomplished at a small cost in tax revenue, and with very large benefits to the economy and our national small business policy.

The investment tax credit is particularly important to small enterprises because we know that local, family and independent business simply cannot compete in the money markets for capital against giant national and multinational corporations. They must accept less favorable terms if they can obtain the money at all. Thus, small business must rely even more heavily on its internally retained earnings for working and growth funds. Figures compiled by the Federal Reserve System each month show graphically that small firms pay interest rates scaled upward a point or more above the prime rate. We are now beginning to see definite indications from leading bankers that, under the present tightened money market conditions, credit rationing is taking place. This means that small firms will have increasing difficulty obtaining needed loans in 1970.

The vital importance of the investment credit mechanism is that it allows these firms to keep more of the money which they have already earned, and makes them less dependent on outside sources of capital.

Mr. President, it bears repeating that the 5½ million small business enterprises are the backbone of many communities and of the Nation's free enterprise system. They are a major factor in employment, growth, anti-inflationary price competition, and rural-urban balance.

For these reasons, it has been the declared objective of the Congress over many years, and by way of many pieces of legislation, to encourage and foster the development of small business. It seems to me that in acting on this historic tax reform legislation the Senate must be especially careful to advance this policy and not undermine it.

The need to support and encourage small business has not diminished over the years. If anything, it is greater than ever. I dare say we all want tax reform, but in an attempt to reform tax abuses by big business we ought to be extremely careful to avoid action that will needlessly damage small business.

I simply wanted to make these observations, and say that I think the action of the Senate this afternoon is a step forward in trying to help the small business community.

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

Mr. BIBLE. I yield to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, the Senator from Nevada, who has just spoken, is, of course, the chairman of the Small Business Committee. As its ranking member, I should like to associate myself with the remarks the chairman has made. I, too, have tried to hold the line in respect to making this not a tax reduction, but rather a tax reform bill.

However, one of the items which would repeal an existing tax exemption which relates to taxes, not reform, is the equipment tax credit; and therefore I did not feel that it was invading that principle to endeavor to preserve for small business some opportunity to modernize, the need for which is deeply inherent in its particular situation.

Mr. President, in the same connection, again directed toward the same objective, if the Senator will permit me——

Mr. BIBLE. Oh, certainly.

Mr. JAVITS. To do something of an original and affirmative character, I have prepared an amendment to phase out the investment tax credit for everyone, conditioned upon the promulgation of new depreciation schedules by the Treasury Department which would coincide with the need for modern standardization and technology. This is infinitely more important to the competitive quality of American business at home and abroad than the investment tax credit, and is so generally recognized.

The Treasury has grave problems with this proposition. The best they have been able to do is to make available by June 30, 1970, a study of various alternative proposals for depreciation reform and the estimated revenue effect thereof. After consultation with the Senator from Louisiana (Mr. LONG) and the Senator from Delaware (Mr. WILLIAMS), I felt that I should go along with that. They assured me that it will work out better that way. And I think they are right.

Knowing that the committee itself, as expressed to me by the majority and minority members, is very deeply interested and sees very clearly the aspect of this matter which has so great a bearing on the American business system, I am satisfied that this is the proper route, to get the alternatives. Then, taking common consultation with the committee, I think that we can get the Treasury Department to go one of these alternative routes which will do for American business what it so urgently needs at the present time—both for small and big business. The idea of having an opportunity under revised depreciation schedules to modernize and automate is probably one of the greatest real elements of the strength of our country which, in the final analysis, no matter what is said about inflation, money, or fiscal policy, depends upon its industrial and productive strength.

I am sure the chairman will agree with me.

Mr. President, I ask unanimous consent that the letter from Charles E. Walker, the Acting Secretary be printed in the RECORD as part of my remarks in connection with the discussion with my friend, the Senator from Nebraska.

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

NOVEMBER 25, 1969.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: This will confirm that the Treasury Department will make available to you by June 30, 1970, a study of various alternative proposals for depreciation reform and the estimated revenue effect thereof.

Sincerely,

CHARLES E. WALKER,
Acting Secretary.

Mr. BIBLE. Mr. President, I yield now to the Senator from New Hampshire.

Mr. McINTYRE. Mr. President, I thank my good friend, the Senator from Nevada. I am pleased to place myself in the same company with the distinguished Senator from Nevada.

I had come to the floor prepared to support the amendment of the Senator from Nevada and the Senator from Alabama (Mr. SPARKMAN) in the area of small business concerns.

The success of the Hartke amendment has been very heartwarming.

I associate myself with the remarks of the Senator from Nevada which were addressed to the chairman of the committee.

Mr. McINTYRE. Mr. President, in 1966 inflationary pressures compelled the Congress to eliminate the investment tax credit which it had initially enacted in 1962. It saw fit at that time, however, to retain the credit as it affected the small businesses of this Nation. I hope the Congress will see fit to act in a similar manner in meeting the present inflationary spiral. For the considerations underlying its earlier decision have, if anything, attained greater significance with the subsequent passage of time.

The events of the past year have demonstrated once again that the small businessman is one of the major victims of any inflationary period. Unable to rely on internally generated funds to as great an extent as his larger counterpart, he is driven more quickly to the capital markets where interest rates are now at their highest levels in modern history. And once in the capital markets, he is more likely than his larger counterpart to be cut off when the availability of credit becomes tight.

Moreover, the small businessman is being victimized also by the cutback in Federal spending brought on at the outset of inflation. He has been greatly damaged this year by the Budget Bureau's 58½-percent cutback in congressionally approved SBA loan funds.

Many small businesses would be severely damaged if they were forced to absorb, on top of these other jolts, a repeal of the investment tax credit.

Such a blow would be the more unfortunate because it is so clearly unmerited. There is increasing evidence that the capital investment and borrowing policies which have contributed most to the current round of inflation have been those of our largest corporations. These corporate giants have accounted for the great bulk of the increased investment and borrowings which have led us to our current state.

Finally, continuity of the investment tax credit would bring long-range benefits to small firms and hence to our entire economy. It would facilitate the planning by these firms of their introduction of cost-cutting machinery. The only possible result would be a distinct improvement in our still suffering balance of payments.

Mr. President, on grounds of equity and fair play, as well as because of the long-range benefits for our economy, I urge retention of the investment tax credit as it affects the small businessman of America.

(This marks the end of the colloquy which was ordered to be printed in the RECORD at this point.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Bartlett, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14159) making appropriations for public works for water, pollution control, and power development, including the Corps of Engineers—Civil, the Panama Canal, the Federal Water Pollution Control Administration, the Bureau of Reclamation, power agencies of the Department of the Interior, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions for the fiscal year ending June 30, 1970, and for other purposes; that the House receded from its disagreement to the amendment of the Senate numbered 18 to the bill and concurred therein; and that the House insisted on its disagreement to the amendment of the Senate numbered 5 to the bill.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 1728. An act for the relief of Capt. Norman W. Stanley;

H.R. 2241. An act for the relief of John T. Anderson;

H.R. 2481. An act for the relief of Cmdr. John W. McCord;

H.R. 3571. An act for the relief of Miloye M. Sokitch;

HR. 7830. An act for the relief of James Howard Giffin;

H.R. 9092. An act for the relief of Thomas J. Condon;

H.R. 10662. An act for the relief of Walter L. Parker; and

H.R. 12622. An act for the relief of Russell L. Chandler.

ENROLLED BILLS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills:

S. 564. An act for the relief of Mrs. Irene G. Queja;

S. 2019. An act for the relief of Dug Foo Wong; and

S. 2185. An act to authorize a Federal contribution for the effectuation of a transit development program for the National Capital region, and to further the objectives of the National Capital Transportation Act of 1965 (79 Stat. 663) and Public Law 89-774 (80 Stat. 1324).

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred to the Committee on the Judiciary:

H.R. 1728. An act for the relief of Capt. Norman W. Stanley;

H.R. 2241. An act for the relief of John T. Anderson;

H.R. 2481. An act for the relief of Comdr. John W. McCord;

H.R. 3571. An act for the relief of Miloye M. Sokitch;

H.R. 7830. An act for the relief of James Howard Giffin;

H.R. 9092. An act for the relief of Thomas J. Condon;

H.R. 10662. An act for the relief of Walter L. Packer; and

H.R. 12622. An act for the relief of Russell L. Chandler.

TAX REFORM ACT OF 1969

The Senate continued with the consideration of the bill (H.R. 13270), the Tax Reform Act of 1969.

AMENDMENT NO. 328

Mr. PROXMIRE. Mr. President, I call up my amendment No. 328, to disallow certain foreign tax credits allowed to the oil industry as a result of preferences in our tax laws, and ask unanimous consent that the amendment be printed in the RECORD as if read.

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

Mr. Proxmire's amendment (No. 328) is as follows:

On page 350, line 23, insert the following:

"SEC. 508. FOREIGN TAX CREDIT WITH RESPECT TO CERTAIN FOREIGN MINERAL INCOME.

"(a) LIMITATION ON AMOUNT OF FOREIGN TAXES ALLOWED.—Section 901 (relating to taxes of foreign countries and possessions of the United States) is amended—

"(1) by redesignating subsection (e) as subsection (f), and

"(2) by inserting after subsection (d) the following new subsection:

"'(e) FOREIGN TAXES ON MINERAL INCOME.—

"'(1) REDUCTION IN AMOUNT ALLOWED.—Notwithstanding subsection (b), the amount of any income, war profits, and excess profits taxes paid or accrued during the taxable year to any foreign country or possession of the United States with respect to foreign mineral income from sources within such country or possession, which would (but for this paragraph) be allowed under such subsection shall be reduced by the amount (if any) by which—

"'(A) the amount of such taxes (or, if smaller, the amount of the tax which would be computed under this chapter with respect to such income determined without the deduction allowed under section 613), exceeds

"'(B) the amount of the tax computed under this chapter with respect to such income.

"'(2) FOREIGN MINERAL INCOME DEFINED.—For purposes of paragraph (1), the term "foreign mineral income" means taxable income from mines, wells, and other natural deposits within any foreign country or possession of the United States, to the extent such taxable income constitutes taxable income from the property within the meaning of section 613. Such term includes, but is not limited to—

"'(A) dividends received from a foreign corporation in respect of which taxes are deemed paid by the taxpayer under section 902, to the extent such dividends are attributable to foreign mineral income, and

"'(B) that portion of the taxpayer's distributive share of the income of partnerships attributable to foreign mineral income.'

"(b) ELECTION OF OVERALL LIMITATION.—Section 904(b) (relating to election of overall limitation) is amended—

"(1) by striking out 'with the consent of the Secretary or his delegate with respect to any taxable year' in paragraph (1) and inserting in lieu thereof '(A) with the consent of the Secretary or his delegate with respect to any taxable year or (B) for the taxpayer's first taxable year beginning after December 31, 1969', and

"(2) by striking out 'If a taxpayer' in paragraph (2) and inserting in lieu thereof 'Except in a case to which paragraph (1)(B) applies, if the taxpayer'.

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1969.

"SEC. 509. FOREIGN TAX CREDIT REDUCTION IN CASE OF FOREIGN LOSSES

"(a) REDUCTION IN FOREIGN TAX CREDIT LIMITATION.—Section 904(a) (relating to alternative limitations on foreign tax credit) is amended by adding at the end thereof the following new paragraph:

"'(3) REDUCTION IN LIMITATION.—

"'(A) DEDUCTION OF FOREIGN LOSSES.—In determining under paragraph (1) or (2) the taxable income for the taxable year from sources within a foreign country or possession of the United States or the taxable income for the taxable year from sources without the United States, as the case may be, there shall be deducted an amount equal to (i) the foreign loss carryovers to such year plus (ii) the foreign loss carrybacks to such year.

"'(B) FOREIGN LOSS CARRYBACKS AND CARRYOVERS.—For purposes of this paragraph—

"'(i) A foreign loss for any taxable year (hereinafter in this subparagraph referred to as the "loss year") shall be a foreign loss carryback to each of the 2 taxable years preceding the loss year and a foreign loss carryover to each of the 10 taxable years following the loss year. A foreign loss shall not be carried to a taxable year beginning before January 1, 1970. A foreign loss shall not be carried to a taxable year for which the taxpayer does not take the benefits of this subpart, but the number of taxable years to which such loss must otherwise be carried over under the preceding sentence shall be increased by the number of taxable years to which the loss must otherwise be carried which are years for which the taxpayer does not take the benefits of this subpart.

"'(ii) The entire amount of the foreign loss for the loss year shall be carried to the earliest of the taxable years to which such loss must be carried. The portion of such loss which shall be carried to each of the other taxable years to which such loss must be carried shall be the excess, if any, of the amount of such loss over the sum of the taxable income from sources within the same foreign country or possession of the United States in which the foreign loss occurred or the sum of the taxable income from sources without the United States, as the case may be, for each of the prior taxable years to which such loss must be carried. For purposes of the preceding sentence, the taxable income for any such prior taxable year from sources within a foreign country or possession or from sources without the United States shall be computed without regard to the foreign loss for the loss year or any taxable year thereafter and without regard to section 172(b) (relating to net operating loss carrybacks and carryovers) and section 1212(a)(1) (relating to capital loss carrybacks and carryovers of corporations).

"'(iii) The Secretary or his delegate shall by regulations prescribe the manner for carrying a foreign loss from sources within a foreign country or possession of the United States for a taxable year to another taxable year to which the limitation provided by paragraph (2) applies, or for carrying a foreign loss from sources without the United States for a taxable year to another taxable year to which the limitation provided by paragraph (1) applies.

"'(C) FOREIGN LOSS DEFINED.—For purposes of this paragraph, the term "foreign loss" means a loss sustained in any taxable year which is from sources within a foreign country or possession of the United States or from sources without the United States, as the case may be. For such purposes, a loss shall be the amount (determined without regard to section 172(b) and 1212(a)(1)) by which the gross income from sources within a foreign country or possession of the United States or from sources without the United States, as the case may be, is exceeded by the expenses, losses, and other deductions properly apportioned or allocated thereto and a ratable part of any expenses, losses, or other deductions which cannot definitely be allocated to some item or class of gross income.' If the taxpayer does not take the benefits of this subpart in a taxable year, the amount of his loss, if any, shall be determined as if the limitation provided by paragraph (2) applied.

"(b) CONFORMING AMENDMENT.—Section 6501(i) (relating to limitations on assessment and collection in case of foreign tax carrybacks) is amended—

"(1) by striking out "Tax" in the heading and inserting in lieu thereof 'Loss or Tax'.

"(2) by striking out 'carryback under' and inserting in lieu thereof 'carryback under section 904(a)(3)(B) (relating to foreign loss carrybacks and carryovers) or,' and

"(3) by striking out 'of the excess taxes described in section 904(d) which result' and inserting in lieu thereof 'of the foreign loss, or of the excess tax described in section 904(d), which results'.

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to losses sustained in taxable years beginning after December 31, 1969."

Mr. PROXMIRE. Mr. President, the Treasury estimates that this amendment would raise $65 million.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Wisconsin may proceed.

Mr. PROXMIRE. I repeat, the Treasury estimates that this amendment would raise $65 million.

My amendment carries out the intent of the Nixon administration proposals on September 4 and 30 to the Finance Committee, and recommendations by President Kennedy in 1963. My amendment is quite similar to the House-passed tax credit provision, although I think it is sounder and fairer, reflects precisely what the Treasury presented, and in fact was drafted by the Treasury.

This proposal equalizes the tax treatment enjoyed by the international oil companies and that enjoyed by the domestic oil industry. I cannot see any greater justification for giving tax incentives to those companies which explore in foreign countries than those who explore here in the United States. What justification can possibly exist for discriminating against the domestic oil industry? I report, what justification?

If the real rationale for giving all these tax subsidies to the oil industry is to protect our national security, no case has been made for the subsidizing of foreign investment or foreign exploration. This discrimination does not help us achieve any greater national security.

Changing the tax provisions relating to foreign tax credits as I propose should help the domestic oil industry, particularly the small independent who does not have the financial resources to explore for oil in foreign countries. If we limit some of these tax preferences for foreign exploration, then the international companies may be more willing to spend money here in the United States to explore for oil rather than in Saudi Arabia. This would result in more jobs here as well as a savings for our balance of payments.

My amendment is in two parts. The first part is almost identical to section 431 of the House tax reform bill. It requires companies incurring a loss in their foreign operations to take that into account when figuring out their foreign income and taxes that qualify for foreign tax credits. Under our present law, foreign losses may be offset against domes-

tic income but are not carried forward to offset foreign income. This means that companies under a per-country limitation can obtain a double tax benefit.

Where a U.S. oil company incurs losses in a foreign country during the time it is beginning to drill for oil in that country it is able to deduct these losses against U.S. income and, thus, pay a lower U.S. tax. When income is derived from the operations in later years the foreign country levies its tax on that income without taking into account the losses incurred in prior years. The foreign tax is then claimed by the oil company as a credit against its U.S. tax. What is really happening is that the foreign country is levying a much higher rate of tax on the U.S. company's income—because it is ignoring the loss carryover—and the U.S. tax system is subsidizing this higher tax by virtue of the operation of the foreign tax credit, or, in effect, subsidizing the foreign country. It is a kind of concealed foreign aid program.

Let me state an example, because the area is very complex. Assume that oil company A drills in country X. There is a net operating loss of $1 million in year one; there is net income of $1 million in years two and three. In each of the 3 years A has U.S. net income of $1 million. Country X levies a tax at the rate of 50 percent on the net income each year, but does not provide for a loss carryover.

In this example, A will pay no taxes in year one; in years two and three, $500,000 in taxes will be paid to country X, which will be used as a credit against the U.S. tax of $1 million, thus leaving a net payment to the United States in each year of $500,000. This is plainly wrong. Over the 3-year period, company A has realized $3 million on its U.S. operations, and should have paid $1.5 million in U.S. tax. Instead the United States received only $1 million in taxes. The reason for this reduction in U.S. taxes is that country X has levied a tax of $1 million on net income of $1 million from the country X operations—in other words, country X has imposed a 100-percent rate of tax on the net income from the operation in that country. The U.S. tax system absorbs the loss caused by the improper tax rules of country X.

If both the U.S. tax and the country X tax were working properly, A should have paid $1.5 million in U.S. tax and $500,000 in foreign tax, rather than $1 million in U.S. tax and $1 million in foreign tax. My amendment would accomplish that.

My amendment would insure that the American taxpayer is not required to subsidize foreign countries in their oil operations. It would also put a stop to our tax system actively encouraging foreign countries to continue improper tax systems. However, it would continue to allow companies incurring losses abroad to deduct them from U.S. income in order to encourage risk taking by U.S. companies. But, once the corporation starts to make money abroad, it should pay back to the U.S. Treasury the amount of taxes it escaped when it was losing money. My amendment would accomplish that by providing that a taxpayer using a per country limitation who reduces his U.S. tax on U.S. income by reason of a loss from a foreign country has the resulting tax benefit recaptured when income is subsequently derived from that country. This is done by taxing subsequent income from that country until, in effect, the previous tax benefit is recaptured.

I think it is important to repeat at this point that this is the same proposal that the Treasury Department proposed to the Finance Committee on September 4 and again on September 30. As a matter of fact, at my request, these proposals were drafted by the Treasury Department experts.

The second part of my amendment places the international oil companies on the same basis as other international American corporations by preventing them because of the depletion allowance from generating excess tax credits in one country and using them to hide other foreign income. This also alleviates to a great extent the problem of determining when a payment made to a government which owns the mineral rights within its boundaries is a royalty payment or a tax payment. As you know, many countries, primarily in the Middle East, impose extremely high taxes upon oil companies. These taxes are written off dollar for dollar against U.S. taxes. In other words, the American taxpayer is being asked to pay 50 cents of every dollar these oil companies pay to keep these sheiks in Cadillacs called "golden gimmick." As a matter of fact, these "tax laws" were drafted by the oil companies for these foreign countries to achieve just that result.

After all, if you can pay off with 50-cent dollars, why not? Particularly, if Uncle Sam acquiesces. To show you the extent of this abuse, one leading U.S. oil company estimated it pays 22 percent royalties on foreign operations, but only 15 percent on domestic operations. This reflects the ability of the foreign countries to hide royalty payments under the guise of tax payments.

The oil companies thus use these excess tax credits generated by the high "tax" laws in the oil producing countries to hide from Federal taxes income they receive in low tax countries. In other words, an oil company which pays an alleged tax rate of 60 percent in Saudi Arabia on income of $100 million will have at least an excess foreign tax credit of $6 million. Foreign tax rate of 60 percent minus U.S. tax rate of 54 percent. In fact, however, because of the low effective tax rate in the United States for the oil industry of about 21 percent according to the Treasury Department, this situation would generate excess tax credits of $39 million. This $39 million could be used to hide about $78 million in foreign income from U.S. taxation under present law.

My amendment, the same amendment proposed by the Treasury Department to the Finance Committee, would help stop this abuse.

While the overall limitation normally allows high foreign tax rates to be averaged with low foreign tax rates there seems to be no justification for this in the case of mineral production income where the excess credits arise because the foreign country does not match our percentage depletion allowance.

Under my amendment, excess foreign tax credits resulting from the allowance of percentage depletion by the United States would not be available against other foreign income. Thus, to the extent the foreign tax in a particular foreign country exceeds the U.S. tax on the same foreign mineral income, but is less than the U.S. tax on such income computed without percentage depletion being allowed, the excess credits could not be applied against other foreign income.

Let me give you an example of how my amendment would work. According to the Treasury, the effective U.S. tax rate on the oil industry is 21 percent, although the theoretical corporate rate, including the surtax, is about 54 percent. Let us assume that foreign country Y has a tax rate of 60 percent and that an American oil company has $100 million of income in that country. Under my proposal, that oil company could not use the $33 million of foreign tax credits attributable to the depletion allowance to hide other foreign income—$54 million minus $21 million equal $33 million. It could, however, still use the $27 million in foreign tax credits to hide other foreign income from U.S. taxation—$60 million minus $54 million plus $21 million equal $27 million.

I consider that a tax at that level and the Treasury Department proposal considers that a tax at that level would be a legitimate tax.

The only thing my amendment would do would be to put the oil companies on the same basis as every other American corporation which does not have the benefit of the percentage depletion allowance. A similar provision is already in our tax code in relation to the lower tax rates paid by Western Hemisphere Trade Corporations so we know such a provision would work.

I think these proposals are fair and equitable. They do not discriminate against the oil companies. All they do is place the oil companies on the same footing as other American companies doing business abroad. There is no justification for special tax privileges for oil companies abroad. There may be some justification for special treatment here in the United States, but what justification exists for special treatment in Saudi Arabia or other foreign countries which care little about U.S. security?

According to the Treasury Department, eliminating foreign depletion allowances would result in $25 million additional revenue the first year, $10 million the second, and none thereafter. My amendment, on the other hand, according to the Treasury Department, would raise about $65 million in additional revenue and would continue to raise at least that amount in future years. It would also eliminate the abuse caused by these foreign tax privileges—hiding nonoil income from U.S. taxes under the excess foreign tax credits generated by these royalty payments disguised as foreign taxes.

There is no justification for allowing this $65 million to escape from the Federal Treasury. There is no national se-

curity justification for this tax loophole or any other justification for not closing this gaping loophole. I repeat, there is absolutely no justification for not closing this tax loophole which allows $65 million to escape the Federal Treasury. The only justification listed by the Finance Committee for deleting the House provisions dealing with tax loopholes was that the area needed more study. Baloney, the oil companies will not provide the needed information. This is merely a delaying tactic to avoid reform. Mr. President, the American taxpayer will not stand for any delays. He wants and deserves tax reform now.

Delaying tax reform for a study will not result in reform. As a matter of fact, the oil companies have refused to supply the Treasury Department with the information required by the tax forms pertaining to foreign tax credits.

Mr. President, I want to read very briefly from the minority views of the Senator from Tennessee (Mr. GORE) on page 323 of the hearings. He said:

The Treasury was asked to provide the revenue dimensions of this abuse, and its estimate of the effectiveness of the House provision. The Treasury advised that this information could not be provided because the oil companies refuse to supply information required by the tax return form. Deputy Assistant Secretary of the Treasury John S. Nolan wrote on September 30, 1969:

"Available information largely precludes our estimating the revenue effects of section 431 for individual oil companies as their tax returns do not reveal the countries in which they are experiencing net loss or the amount of these foreign losses. Although the tax forms and accompanying instructions appear to require U.S. companies using the per country limitation to report foreign losses on a country by country basis, they generally neglect to do so as these losses do not affect the amount of foreign tax credit they can claim. Nor have the oil companies responded to Treasury's request that they voluntarily provide this information, on a confidential basis, for analytic purposes only."

Senator GORE said in his individual views:

This highhanded treatment of the Internal Revenue requirement by the major oil companies is outrageous, and an affront to every law-abiding taxpayer who dutifully supplies all information called for on his tax return.

My question is, How can we expect reform when the attention of the American public is not focused on these tax loopholes? Delay will only bury tax reform, much to the delight of the international oil firms.

I yield to the Senator from Iowa.

Mr. MILLER. Mr. President, may I ask the Senator from Wisconsin whether his amendment does anything with respect to operating loss carryovers and carryback?

Mr. PROXMIRE. Yes; it does. It allows 10-year loss carry forward and 2-year loss carryback.

Mr. MILLER. Do I correctly understand that if a very large loss is incurred in 1 year, the Senator's amendment would require that this be carried back, to deprive the losing taxpayer of credits previously obtained?

Mr. PROXMIRE. If there is a very large loss, they can carry it back 2 years. That is the limit. They can carry it forward 10 years.

Mr. MILLER. But what would happen to the tax credits that the taxpayer had received as a result of that? Would the Senator's amendment knock this out?

Mr. PROXMIRE. It can be carried forward, but, as I indicated in my remarks——

Mr. MILLER. I am now talking about the carryback.

Mr. PROXMIRE. The carryback is limited to 2 years.

Mr. MILLER. That is correct. So, if there is a large loss from foreign operations, the Senator would have this carried back. But what would happen to the credit against the tax that was obtained during those 2 years with respect to the U.S. tax? Would that be wiped out?

Mr. PROXMIRE. The loss applies only to income. Foreign tax credits can be carried forward indefinitely.

Mr. MILLER. In other words, the Senator is saying that where there is a very large loss, this would be carried back 2 years, and this would, by carrying it back 2 years, have no effect whatever upon the tax credit previously received in connection with the U.S. tax?

Mr. PROXMIRE. That is correct.

Mr. MILLER. I have a further question. The Senator has been talking about oil companies, but I have in mind, for example, other industries as well, and I am sure the Senator's amendment is not confined to oil operations.

Mr. PROXMIRE. It is confined, in the sense that it applies to those who benefit from depletion, but it would apply to other companies which have depletion allowances also.

Mr. MILLER. For example, a mining company that has a $100 million investment in a copper mine, and, because of expropriation by the foreign government, suffers a loss of $100 million in 1 year. Is the Senator going to take into account that this is a different type of loss compared to an operating loss, or is he going to treat that the same as any other loss for the purposes of his amendment?

Mr. PROXMIRE. They are treated exactly the same.

The purpose of this amendment is to put the oil companies on the same basis as other corporations. That was the intent of it, and that is what we asked the Treasury to try to accomplish in drafting this, and that is their understanding of what the amendment would accomplish.

Mr. MILLER. It is my understanding that the Senator's amendment would cover not only oil companies but also mining companies, and it would cover other corporations which have losses in foreign operations. I just want to make clear that the Senator's amendment covers losses whether they are incurred in connection with operations or whether they are incurred in connection with an expropriation action by a foreign government or whether they are incurred in connection with a casualty, such as an earthquake.

Mr. PROXMIRE. That is exactly right, but there is nothing so far as those losses are concerned. They would be adversely affected by this amendment.

Mr. MILLER. As I understand it, however, when there is such a loss, the Senator would recapture the tax advantage taken from those losses in later years.

Mr. PROXMIRE. Only when they make a profit.

Mr. MILLER. But whether those losses were incurred from operations or from an expropriation action or from a casualty, they still would be subject to recapture in later years?

Mr. PROXMIRE. That is correct.

Mr. MILLER. I understand that the Senator is trying to do something constructive here, but I would hope that he might check with his staff to see whether or not there might be something done to alleviate the impact of his amendment in the case of expropriation losses, because these can be very tragic and very serious so far as our American-owned companies doing business abroad are concerned, whether they are oil companies or mining companies or any other type of business.

Mr. PROXMIRE. That is an excellent suggestion. I certainly will be delighted to ask my staff to draft language to accomplish that.

As a matter of fact, I think the Senator is correct. The yeas and the nays have not been ordered on this amendment, so I can modify the amendment without asking unanimous consent, and I will be happy to do that.

Mr. MILLER. I thank the Senator.

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

Mr. PROXMIRE. I yield.

Mr. HART. Mr. President, unfortunately, I was not able to be present in the Chamber during the entire remarks of the Senator. He may have discussed the one aspect about which I now rise to ask a question. It has to do with the concern that we not permit any longer the availability of the oil depletion allowance for overseas operations by American firms.

It was always my understanding that the depletion allowance was justified as a means of encouraging a development of domestic resource. Some national security aspect was assigned to justify the oil depletion allowance.

The Subcommittee on Antitrust and Monopoly Legislation has held some hearings on the oil import quota system, and in the course of those hearings—I confess an ignorance—I was greatly surprised to learn that the assumption that the import quota system was intended to encourage domestic exploration and discovery really did not make sense, because it developed, according to the testimony, that you could get the same depletion allowance if you went into Timbuktu.

Mr. PROXMIRE. Exactly. Those programs work at complete counterpurposes. The purpose of the oil import quota, as the Senator has said, has been to encourage the exploration and development of the domestic oil industry, and what we do with the oil depletion allowance abroad is to encourage exploration aboard, providing a subsidy, in effect, for that exploration abroad, and then, with the oil import quota, we prevent the cheaper oil we have encouraged developing from coming into this country. So they do contradict each other.

Mr. HART. The inconsistency of that is clear, and I hope the blue ribbon com-

mittee now reviewing it will recognize it and enable us to have it corrected.

The inconsistency I now rise to ask about—the inconsistency that I hope the Senator's amendment reaches and corrects—is with respect to the availability of the depletion allowance for overseas activities, when we are told the justification for the depletion allowance is to encourage us to make sure that we have adequate resources at home.

Now, to me, there is no justification for the extension of the depletion allowance for overseas operations. It had been my intention to offer an amendment to the bill to insure that no longer would that allowance be available for overseas activity by domestic firms.

Do I understand correctly that the amendment now pending, which has been offered by the Senator from Wisconsin, does in fact reach and correct this inconsistency?

Mr. PROXMIRE. Yes, it does. The difficulty is this. I thought seriously of supporting an amendment which would end the foreign depletion allowance, which does not make any sense in terms of national security. But I am told if we were to do that foreign countries would be able to pick up the money anyway by increasing the tax or royalty. So if we were to eliminate the old depletion allowance they have agreements that are tentative that they could put into effect right away to increase their tax which could be offset against taxes that would be paid to the U.S. Government, and in doing so it would accomplish for them just what the depletion allowance does. This is why the U.S. Treasury estimates if we put in an amendment knocking out the oil depletion allowance and adopt that amendment, it would raise $25 million the first year, $10 million the second year, and nothing after that. They would simply adjust to it.

My amendment would provide that the foreign tax credit can only be offset against the U.S. taxes to the extent it is at the same level as the U.S. tax. If they raise it above the 54 percent tax, then it will be considered a payment, an expense of doing business, and it would be subtracted from their income in computing taxable income. But it would not be a tax credit.

This matter is complicated, but I am sure the Senator can see that unless we agree to my amendment it would do a job for only a brief time, only a year or two, and then raise only a relatively small amount of money, unless we provide for this limitation on foreign tax credits.

Mr. HART. I appreciate the explanation and, of course, I will support the amendment. However, in the event the amendment is not agreed to, would it not make sense, as a matter of consistency and logic, whether or not reaction by foreign governments in 2 years eliminated any increased revenues to us, to go ahead and make explicit that the depletion allowance, advertised as needed for our national security, is not available if they actively engage in the exportation of oil overseas—whether or not it captures additional revenue, at least it would make sense.

Mr. PROXMIRE. I think it would make a lot of sense, and I would be delighted to support such a measure. The only justification for foreign depletion is cost depletion. In other words, it is allowed to the extent they expend funds, for instance, as depreciation is allowed on a piece of equipment, and no more. I would be happy to support such an amendment.

Mr. HART. I thank the Senator.

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

Mr. PROXMIRE. I yield.

Mr. McINTYRE. Mr. President, I am interested in the colloquy on foreign oil depletion allowances and how it affects subsidizing of oil company operations.

Is it not true that once the foreign oil is extracted, it is sold in the foreign market? Only a small portion may find its way back to our market.

Mr. PROXMIRE. The Senator is correct. We have a certain amount of imports from abroad. We get some imports from Canada and much less from the Middle East.

Mr. McINTYRE. What is wrong with my thought that from that international balance of oil, that the U.S. companies operating in foreign countries, selling oil around the world—and they may be selling to Japan and other countries—are competing with us?

Mr. PROXMIRE. The Senator is correct.

Mr. McINTYRE. The entire situation becomes absurd when one looks at it from the point of view of a New Englander.

Mr. PROXMIRE. It means subsidizing international competition.

Mr. McINTYRE. I would like to say, as the Senator knows, that I have an amendment at the desk which would seek to eliminate the foreign oil depletion allowance as such. Whether we call it up depends upon the progress the Senator makes with his amendment. As the Senator knows, I support it strongly.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. GURNEY in the chair). The Senator from Louisiana is recognized.

Mr. LONG. Mr. President, I would like to speak with respect to this amendment for a few minutes. I understand the Senator from Nevada wants to say something about some other subject.

Mr. BIBLE. Mr. President, if the Senator will yield to me for just a few minutes, I would like to make a brief statement. I believe the Senator from Kentucky also wants to be heard.

Mr. COOPER. Mr. President, will the Senator yield so that I may address a question to the Senator from Wisconsin?

Mr. LONG. I yield.

Mr. COOPER. Mr. President, I would like to ask the Senator from Wisconsin a question. I understand the amendment applies to all extracting industries.

Mr. PROXMIRE. The Senator is correct.

Mr. COOPER. The Senator refers to oil, but it refers to all of them.

Mr. PROXMIRE. The Senator is correct.

Mr. COOPER. I would like to ask the Senator if this situation is correct. If company A operating in the United States also has a company in Saudi Arabia, or any other place, and if it should lose money during the first 2 or 3 years of operation, in each taxable year it would be able to apply as a deduction to the income of the company in the United States losses that occurred in the foreign country. Is that correct?

Mr. PROXMIRE. The Senator is correct.

Mr. COOPER. Would that company also be able to use a tax credit on taxes paid in a foreign country?

Mr. PROXMIRE. It would, up to a certain level. I admit it is arbitrary.

Mr. COOPER. Would they be able to use both the loss as the deduction and the further credit on the amount of taxes owed?

Mr. PROXMIRE. The Senator is correct.

Mr. COOPER. Is it also true that under the House bill, if the company made profits in the future on its foreign company, the United States would be able to recapture the taxes it had deducted from its taxes in the United States?

Mr. PROXMIRE. Under present law they would not. Under my bill they would.

Mr. COOPER. And also in the House bill, according to the report.

Mr. PROXMIRE. The Senator is correct.

Mr. COOPER. They are the same on that question.

Mr. PROXMIRE. The Senator is correct.

Mr. COOPER. Is it also correct that the amount of taxes which could be used as credit would be the same rate as for the United States?

Mr. PROXMIRE. There is a difference between the House bill and my proposal. The House provides they can subtract taxes up to the effective rate, which is 21 percent. My amendment has a more liberal provision. It would not raise as much as the House bill. It would provide the international oil company could subtract the foreign tax up to the corporation income tax level, which is now calculated at 54 percent.

Mr. COOPER. How much revenue do those tax provisions make to the United States?

Mr. PROXMIRE. My bill would raise $65 million and the House bill about $75 million.

Mr. COOPER. Then, why not follow the House bill?

Mr. PROXMIRE. Frankly, I thought a more moderate amendment would have a better chance to pass. Second, I thought it very important to have this coincide with Treasury recommendations. They have the best experts there that we have in Government. I took their advice. It was a practical decision. I think the House position is a good one.

Mr. COOPER. It is difficult for me to understand but we have one oil company in the United States. I forget where it stands in the range of oil companies.

But it is nothing. It is not so large in any way. It is a great giant. I have been told by their representatives that the Senator's amendment would operate against the smaller companies, that the

big companies would be able to operate more easily under the amendment but would make it much more difficult for the smaller ones. If we are to have equity among the oil companies——

Mr. PROXMIRE. Oil companies that did not have any foreign operations would not be adversely affected at all by my amendment. The only way they could have a tax increase would be if they have a foreign operation. So small companies would not be hit on the assumption that the smaller companies do not have an investment abroad. So it would be clear to me that the tax would be progressive in the sense that it would have more impact on the larger than the small companies. There may be some exceptions.

Mr. COOPER. I thank the Senator from Wisconsin.

Mr. CURTIS. Mr. President, will the Senator from Wisconsin yield?

Mr. PROXMIRE. I yield.

Mr. CURTIS. The able Senator has referred several times to the Treasury Department. Has the Treasury endorsed the amendment?

Mr. PROXMIRE. No. It takes the position, which is an understandable position, and they made their views known before the Finance Committee. They were beaten. That is it. They drafted this to conform with the recommendations they made to the Finance Committee twice in September.

Mr. CURTIS. I wonder whether that is a correct statement of fact? My understanding is that the Treasury, at least as to this one section, and they are definitely related, want Congress to wait for a study. In the statement made before the Finance Committee on September 4, 1969, Secretary Cohen indicated that the Treasury Department would present new recommendations which would involve a complete review of U.S. taxation and foreign income.

Mr. PROXMIRE. I have a letter dated November 29 from the Deputy Under Secretary of the Treasury in which he stated that this amendment reflects the views of the Treasury, that is the position taken by the Treasury when it appeared before the Senate Finance Committee last November.

So it seems we know the Treasury view on foreign tax credit and that is precisely what this amendment reflects.

Mr. CURTIS. In the statement given to the committee, Secretary Cohen requested section 432 be eliminated, pending a further study.

Mr. PROXMIRE. Well we have eliminated section 432 and substituted the Treasury's proposal. That is what the amendment does.

Mr. CURTIS. At no time did the Treasury suggest section 432 be eliminated in its present form, when it came before the committee.

Mr. PROXMIRE. As I understand it, they did that September 30 when they appeared. That is what my amendment reflects.

Mr. CURTIS. I think I was present at most of the hearings. There was one section that did not get that request in reference to this, but definitely the motivating reason for the action taken by the Finance Committee was that the whole subject of foreign tax credits was to be under study by the Treasury.

I think, before the vote comes, we should know whether the Treasury endorses the amendment.

Mr. PROXMIRE. No. I think we know. The Treasury does not endorse the amendment. I never said that it did. I said that the amendment reflected the views they expressed to the Finance Committee. Having lost to the Finance Committee, they have taken this position and they do not feel they should intrude further. If that constitutes an endorsement, in the view of the Senator from Nebraska, so be it; but if it does not, that is something else.

Mr. CURTIS. I still do not understand, as they came before our committee and suggested a further study of the matter.

I will be persuaded by other Senators who will speak to this subject. But that is my understanding, that the Treasury would come back with a further study.

Mr. PROXMIRE. Mr. President, I send to the desk a modification of my amendment to reflect the constructive proposal made by the Senator from Iowa (Mr. MILLER). I will read it:

On page 7, line 14, after "income," insert "for purposes of the preceding sentence, a foreign expropriation loss—as defined in section 172(k)—shall not be taken into account."

I thank the Senator from Iowa for this most constructive suggestion.

Mr. MILLER. Mr. President, I would appreciate it if the Senator from Wisconsin would withhold that for a moment, in order that I may have an opportunity to confer with him and his staff on it.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may withhold that modification, in order to confer first with the Senator from Iowa.

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

Mr. PROXMIRE. Mr. President, I yield the floor.

Mr. LONG. Mr. President, what is happening in the debate on this amendment is typical of what tends to happen on an amendment of this kind. A Senator gets up and offers an amendment, and makes his speech about it while someone is here who may be listening to it, just after a rollcall vote. They hear some of it, but not all of it. What they hear sounds good, but they do not stay in the Chamber long enough to hear the other side. The prima facie case sounds good and one says, "Maybe I will vote for it." But they have not heard the other side of the argument.

Let us take this amendment. It would tax the oil companies and others in the extractive industry with foreign operations in a different way than it would tax every other kind of company. It would permit all other companies doing business overseas to have the overall limitation for the foreign tax credit—all except the oil companies.

The amendment in effect would tax them on a country-by-country basis instead of allowing them the same limitation as anyone else.

Mr. President, what is the matter with oil companies?

I do not know, but the Senator does not seem to like them. All year long he makes speeches against oil companies. This amendment discriminates against international oil companies. It is totally unfair. If these rules are going to be applied, they should be applied on all companies with overseas operations, and not just on those in the extractive industries.

Here we would penalize the oil companies because some countries are not so sophisticated in the way they tax businesses as is the case with the United States. Some countries do not allow a net operating loss carryover so that if one loses money in 1 year, it can be made up for tax purposes in another year. This amendment would disallow a company's foreign tax credit for taxes imposed by a foreign country which would not have been imposed, however, if the country had allowed a net operating loss carryover in its own tax law. In other words, because of a defect in the foreign country's tax system, we would penalize, not that country, but the oil companies doing business there by double taxation.

Let me discuss the Senator's amendments in more detail.

Actually, the amendments being offered by the Senator from Wisconsin really are two quite different and distinct amendments, both of which deal with the foreign tax credit and both of which have their primary impact upon the oil and gas industry.

I can explain the application of the first of these amendments best by giving what is generally thought of as the typical case of those who favor this amendment and then showing you how the analysis of the proponents in this regard breaks down.

Let us start with a very simple example. Assume a company has $1,000 of income from U.S. sources and because of intangible drilling expenses has a $100 loss in a foreign country. Assume also, to make the illustration as simple as possible, a 50-percent tax rate in both the United States and foreign country. In this case, the total income is $900—the $1,000 of domestic income minus the $100 loss abroad. With the 50-percent tax rate, this means a tax of $450, all of which is from U.S. sources.

Assume now that in the next year the drilling in the foreign country has paid off and that there is $100 of income in the foreign country plus the same $1,000 of income from U.S. sources. In this case, the total income is $1,100 and the total tax $550. However, in this case, since the foreign country imposes a tax of $50 on the $100 of income and since the United States allows a credit for this tax, the tax will be $500 from United States and $50 from the foreign country.

If we look at these 2 years in combination, the proponents of the amendment complain about the fact that the U.S. tax on the $2,000 of domestic income is $950. The intent of this amendment is to increase that $950 tax to $1,000. Looked at from the standpoint of the U.S. Government, probably this is the correct answer. The difficulty is that, looked at from the standpoint of the company, it paid a $1,000 tax on a $2,000 income and, given a 50 percent tax rate,

that is the total tax it ought to pay. This is the point that I think the Senator in his amendment ignores. Why should there be a double tax in this case? The $1,000 tax on $2,000 of income is exactly what the company ought to pay given a 50 percent tax rate. Yet the Senator from Wisconsin in his amendment would make them pay $1,000 to the United States plus $50 to the foreign country. It seems to me that this is clearly the wrong answer. Of course, what ought to happen is that the foreign country ought to provide a net operating loss carryover in which event the loss from the first year would be carried to the second year, wiping out the income in that year. Then the U.S. tax in the second year would be $550 and, taken together with the $450 in the first year, would result in the correct overall tax and the correct U.S. tax.

The committee recognized that there was a problem here but also thought that the answer which the House and the Senator from Wisconsin propose was not the correct answer; namely, to make the company pay a double tax with respect to the $100 of foreign income. It was for this reason that the committee requested the Treasury Department to study this matter along with its other investigations of the tax on income earned abroad. In my estimation, what needs to be accomplished is for the foreign country in this case to make provision for a net operating loss carryover. If this were done, no change would be needed in the U.S. tax laws. The Treasury Department can and should achieve this objective through its tax treaty program.

Let me turn now to the second amendment of the Senator from Wisconsin. This amendment also is concerned with the foreign tax credit but is concerned with what we call the overall limitation.

Under present law, if a company operates in more than one foreign country, it can elect what is called the overall foreign credit limitation. This permits the company to average its foreign taxes and foreign income in all of the foreign countries in which it operates in determining the foreign tax credit which can be claimed against the U.S. tax. The effect of this is to say that if one foreign country has a tax rate which is below ours and another foreign country has a tax rate which is above ours, these can be averaged together in determining the foreign tax credit which can be claimed against U.S. income.

Let me illustrate this with a simple example. Assume in foreign country A that a company earns $100 and pays a tax of $70. Assume that in foreign country B the company also earns $100 but the tax is $30. Also assume that in the United States the domestic income is $1,000 on which the tax at a 50-percent rate would be $500.

In this case, tentative U.S. tax is computed on the basis of $1,200 which, given a 50-percent tax rate, would mean a tentative U.S. tax of $600. The question then arises how much of the foreign tax will be applied as a credit against this. The limitation in effect limits this to the U.S. rate—in this case assumed to be 50 percent—applied to foreign income. This is known as the overall limitation. In the case I cite, this would mean that the full $100 could be claimed as a foreign tax credit since the foreign income is $200.

Another limitation which taxpayers may elect if they so desire involves what we call a country-by-country limitation. In this event, the tax in effect is limited to the U.S. rate multiplied by the income derived from that country alone. In other words, in country A, where a $70 tax was paid on a $100 income, this would limit the credit to $50. In country B, where the tax paid was $30 on $100 of income, this would mean the full credit would be allowed. The effect of this, however, is to allow $80 of tax credit in the example I cite rather than $100.

Present law allows companies generally to elect the overall or per country limitation as they see fit. The amendment offered by the Senator from Wisconsin, however, discriminates against oil companies and other companies engaged in the extraction of natural resources. His amendment, in effect, would say: "Oh, no; if you are one of these natural resource companies, we do not treat you like all other companies. Instead, we only give you the choice of the per country limitation, insofar as your natural resource income is concerned. Although, if you are in the manufacturing business, you can offset high taxes in one country against low taxes in another; if these high foreign taxes arise from the oil business or from hard minerals, you cannot offset those high taxes against low taxes in another country."

From my standpoint, it seems to me that this is rank discrimination. I see no reason for treating those companies engaged in the extractive industries any different in this regard from any other companies. In this case, no one is asking for any special benefits from the foreign companies, but rather just to treat them no worse than other companies.

It seems to me clear that the amendments of the Senator from Wisconsin should be defeated.

Why would any one recommend double taxation on an American oil company? These oil companies are doing as much as any other company in the American economy to help with our balance of payments by going overseas, earning money, and bringing it back here.

It is contended that if we double tax a company in the oil business doing business overseas, those companies will bring pressure on foreign governments to make those countries amend their laws to conform them more closely to ours. But why should the companies have to pay this penalty?

Mr. TALMADGE. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. I yield.

Mr. TALMADGE. Is it not true, under the particular amendment which has been proposed, that corporations doing business overseas could be taxed whether they earn a profit or not?

Mr. LONG. They can be taxed for losing money, that is right.

Mr. TALMADGE. Is it not true, also, that most foreign countries have a provision that automatically raises their taxes so as to recoup any tax increase here? In other words, if the Proxmire amendment prevails, is it not true that in many foreign countries that tax would automatically be increased if that particular country deprived this country of the tax increase?

Mr. LONG. Yes, that could happen.

The Senator from Wisconsin dislikes oil companies so much that he would double tax them even though it would hurt this country. What can they do? They earn the money and bring it back here and plow half of it into expansion of the industry. The remaining 50 percent they declare in dividends to stockholders in this country who on the average pay about 40 percent in taxes on the dividends.

So, on every dollar the oil companies can make in a foreign country and bring back here, they declare a big part of it in dividends. Generally speaking, the companies make about 20 cents on every dollar, using foreign labor, discovering the oil, developing it, and bringing it back. In making that 20 cents on the dollar, we are better off than if they did not. The companies are managing to earn $1.56 billion, of which $445 million represents dividends on which taxes are paid to our Government.

Here is one of our biggest contributions in trying to offset our unfavorable balance of payments. Here is an industry bringing earnings back to this country which results in $445 million of taxable dividends, but a Senator dislikes the companies' activities so much that he would double tax them, even though it would kill the goose that lays the golden egg.

Mr. TALMADGE. Is it not a fact that many foreign countries do not tax the money made in overseas activities by their own nationals?

Mr. LONG. Most trading countries do not. Generally, the rule is that the companies that compete with overseas oil companies not only are not taxed on their overseas activities, but in addition the countries subsidize them. Japan and other countries subsidize those companies for doing what these people are doing for their own country. Our people have to compete with subsidized companies, which pay no taxes on their subsidized operations, while we not only tax them, but it is proposed to penalize them even further.

Mr. TALMADGE. Is it not true that if this amendment is agreed to, it will put our nationals who engage in foreign business and trade at a greater disadvantage competitively than they are in at the present time?

Mr. LONG. That is entirely correct. They are now at a competitive disadvantage. It will be made worse.

Mr. TALMADGE. Is it not true that it would also worsen our balance of payments?

Mr. LONG. It would do that.

Mr. TALMADGE. I agree with the Senator completely in his argument. He is making an argument that is absolutely to my mind, convincing. I cannot see how anyone would want to take action to worsen our balance of payments when we have had a deficit in our balance of payments for 18 out of the last 19 years. We have lost the surplus on our trade. We are actually running into a deficit at the present time, as the Senator knows

It seems to me, instead of trying to destroy companies engaged in bringing home profits, we ought to be encouraging them rather than trying to destroy them. It is absolutely imperative, unless our dollar is to be destroyed and unless our situation is to worsen more than it is at the present time.

Mr. LONG. I thank the Senator. American oil companies are bringing back to this country over $1 billion more money than they are taking out of this country. They are one of the biggest contributors to our balance of payments. The money they can make overseas is resulting into about $500 million in taxable dividends, and they are doing it against grave and difficult conditions.

Perhaps Senators have forgotten it, but it was only recently that Peru proceeded to confiscate Standard Oil's investment in that country. Libya is now threatening companies producing oil in that country and demanding more of the take on oil. Every time one turns around, those countries are discriminating against our companies, either nationalizing their investment or making them pay more and more to the Government so that they end up with less profit.

One would think that a person would be happy about an overseas company of ours making money and bringing it back into our country, without wanting to discriminate against it in a fashion in which no other company is discriminated against.

Under the bill we have before us, the oil companies have been taxed to the extent of $155 million on their depletion allowance over and above what they were paying before. They have been taxed another $200 million on the 5-percent supertax. They have been taxed another $200 million on production payments. That is a total of $555 million imposed on these companies just because they are oil companies and oil producers. In addition to that, they are also being hit with capital gains increases and the elimination of the investment credit and accelerated depreciation. That is the way they are being hit now. Is that not enough? Why would someone want to kill the goose that lays the golden egg merely because it happens to be involved in the oil business? It makes no sense.

When we get to the foreign tax credit, the whole question deserves study. The Treasury admits it is studying the matter to see if a better system can be worked out.

As a matter of fact, the best estimate I can get is that all companies doing business overseas—oil, automobile manufacturers, and everyone else—presently are paying taxes to the United States on their foreign income of only something like $100 million. The Senator's amendment would pick up, on just this one industry, an additional $65 million—which shows the magnitude of the effort by which the Senator would like to pick on one industry.

This industry is one of the principal assets this Nation has in trying to offset our unfavorable balance of payments, and yet it is proposed to tax it so heavily that it will not be able to help the country at all. It does not make sense at all. It is discriminatory. It would indicate that somebody does not like that particular industry, no matter how much that the industry advances this country's interest.

When one gets through discriminating against this industry, by nationalizing their investment overseas, by making them compete with other foreign companies which are subsidized by their own countries, then the situation will finally get to the point where the industry is so discouraged that it will not go overseas and try to develop oil and bring it out. Those who are making this proposal then will discover that they ought to have been happy with the situation of this industry which has been of such great benefit to this country, instead of trying to tax it out of business.

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

Mr. LONG. I yield.

Mr. McGEE. Mr. President, the proposal before us is that certain sections of H.R. 13270, applying to the foreign activities of U.S. petroleum companies, be restored to the bill reported by the Senate Finance Committee.

The provisions in question were removed from the bill after extensive testimony made clear the discriminatory and harmful effects that would follow their enactment and after the Treasury Department informed the committee that it was studying these issues with a view to making comprehensive recommendations on the tax treatment of foreign income.

Mr. President, in my view, the committee acted wisely in voting to remove these provisions that would seriously weaken the ability of U.S. oil companies to compete for and develop diverse sources of petroleum to provide for this country's increasing requirements. In doing so, the committee gave altogether appropriate recognition to the fact that enactment of these provisions would violate important and valid principles of tax equity by creating international double taxation.

In view of these considerations and in view of the fact that enactment of these provisions would not produce a significant amount of revenue for the United States, it would be unwise indeed, to disregard the testimony that has been presented and to override the results of the committee's deliberations.

Mr. President, the foreign activities of U.S. petroleum companies are critically important to this Nation's national security and economic welfare. Even if present incentives for domestic producing capacity are maintained, the United States will have to rely increasingly on foreign source oil to meet our growing requirements. Under the circumstances, the best way to provide for these requirements and to minimize the threat of political or economic blackmail is to continue to encourage U.S. companies to search for and develop resources in diverse foreign areas.

The extent to which U.S. petroleum companies are active in foreign areas is indicated by the contribution of foreign oil investments to the U.S. balance of payments. Last year alone these investments returned roughly $2.5 billion to U.S. receipts of income and royalties and fees.

But the international oil industry is becoming increasingly competitive. Foreign-owned companies, many totally exempt from taxation on their foreign income and many receiving outright subsidies for foreign and domestic operations, are increasingly active in all phases of petroleum activity. In the light of this increased competition, if U.S. companies are to continue to participate in the growth of the international industry and more directly, continue to obtain a share in the concession rights in the new producing areas, the very substantial tax burden on the foreign operations of U.S. companies must not be increased.

It would be extremely unfortunate if the Government of the United States were to take steps which in themselves could tip the scales in favor of foreign-owned companies especially at a time in which an increasing tax burden on the domestic industry is increasing the importance of diverse foreign supplies. Thus the problem of increased dependence on foreign supplies would be compounded by the problem of increased dependence on foreign-owned companies. This would be the worst of both worlds.

Finally, Mr. President, reinsertion of the provisions suggested here would not only impair the national security, as I have indicated, it would violate long-standing and valid principles of tax equity. In particular the thrust of the several proposals would be to impose double taxation on some U.S. foreign income. U.S. tax laws have traditionally sought to avoid double and discriminatory taxation in the interests of tax neutrality and the economic feasibility of engaging in foreign commerce. In voting to remove these provisions, the Senate Finance Committee was, in effect, voting to uphold this tradition. With so much to be lost and so little to be gained, and with the Treasury Department currently involved in an extensive review of the whole foreign tax area, it would be ill-advised indeed, to disregard the committee's considered recommendations.

Let me conclude, Mr. President, by underscoring something the Senator from Louisiana was saying just a moment ago. I would like to think I could address myself to it in the context of American foreign policy and our national interest, rather than in the context of an industry that is of greater or lesser importance in various States around the Nation. That role is that of our accessibility to foreign oil, with all of its critical implications in our kind of advanced economic technology.

I think our technology probably makes us far more dependent on a readily available supply of oil than would be the case with any other country in the world, in terms of its impact on our capabilities and our viability, our economy, and in many other ways.

It seems to me the committee acted wisely in removing from its consideration the discriminatory aspects that would take a severe toll.

We know there are problems that result from this kind of operation, but I think, on balance, a nation that is one of the largest in the world, which has greater responsibilities on its shoulders than any country in modern times ever had, needs to have access, through competitive means, to the great supplies of oil around the world, in order to supplement our operations here at home, which are becoming more and more marginal. That is only the course of wisdom. It has nothing to do with an industry; it has to do with the national interest. My judgment is that we would be only spiting ourselves, no one else, if we were to take the kind of precipitate action that is now under consideration.

I commend the chairman of the Finance Committee for his efforts to place this issue on a higher level of evaluation, and I pledge my support in preserving that concept.

Mr. LONG. I thank the Senator.

Mr. President, other companies doing business overseas, whether automobile companies, soft drink companies such as Coca-Cola, or any other type of company, are permitted to use the overall limitation rather than a country-by-country limitation, if they wish. The Senator, by his amendment, would deny that to the oil companies and others in the extractive industry only; all the other manufacturing, trading, and so forth, companies would still get it.

The Senator would also double tax these companies. If there is a problem with the way foreign countries tax our companies the answer to relieving that problem is not to punish the companies by double taxation. They are not in a position to make those foreign governments do anything. They are a supplicant or a pleader to be there, to be permitted to do business at all. I do not know of any country that treats an American company any better than it treats its own companies. As a matter of fact, most of them treat us worse, and tend to discriminate against our capital, to nationalize it, and to favor their own as against our American companies when they do go overseas. If there is a problem with these foreign countries, the answer should be found through tax treaties between this country and those countries, and the way to achieve that is for those handling the oil import quota system to be tough in dealing with those countries, and tell them, "Until you enter into treaties with us to deal with these problems, we are not going to liberalize our quotas."

We have processed income tax treaties through the Senate time and again. But, while this country has the leverage to correct that situation with foreign countries, and fails to do so, it is grossly unfair to punish companies in a particular industry doing business in those countries because they do not do what the U.S. Government itself ought to do. When this Government has the power to correct the situation but those oil companies do not have the power—in fact, it is all they can do to keep from being nationalized, to continue to be permitted to do business on any basis whatever, and not be made to give up as so many companies have had to do—it is wrong and grossly unfair to put the burden of trying to change the laws in those foreign countries upon them.

Instead, we should say to those countries, "If you want your companies to sell oil in this country at favorable rates you will have to enter into a treaty with us concerning the taxation of our companies producing oil in your country."

But above all, this country should not penalize those private companies for failing to do what the U.S. Government ought to be doing. That is about all the Senator's amendment would accomplish.

UNANIMOUS-CONSENT AGREEMENT

Mr. President, recognizing the problem various Senators have about timing, I ask unanimous consent that further debate on the Proxmire amendment now pending at the desk be limited to 20 minutes, the time to be equally divided between the Senator from Wisconsin (Mr. PROXMIRE) and the manager of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. PROXMIRE. Mr. President, I will not object because I think it is a good suggestion.

I send to the desk a modification of my amendment before the unanimous consent agreement is agreed to. It is the modification I referred to before.

The PRESIDING OFFICER. The modification will be stated for the information of the Senate.

The assistant legislative clerk read as follows:

On page 7 line 14 after "income.'", insert: "For purposes of the preceding sentence, a foreign expropriation loss (as defined in section 172(k)) or a casualty loss shall not be taken into account and shall be available for deduction against income from U.S. sources as otherwise provided by law."

The PRESIDING OFFICER. The amendment is so modified.

Is there objection to the unanimous consent request? The Chair hears none, and it is so ordered.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I believe it might be well to emphasize again that the amendment does apply to all extractive industries. All of it applies to the copper industry, the nickel industry, the aluminum industry, the tin industry, and, indeed, to all American companies overseas extracting and processing metals of any sort whatever.

I have a memorandum pointing this out and opposing the amendment very strongly. It is a memorandum from the National Foreign Trade Council which realizes that this provision would have an impact not only on the oil companies but also on a great many other companies.

I ask unanimous consent that at the close of the debate, the memorandum I have received from the National Trade Council be printed in the RECORD in connection with my statement here.

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

(See exhibit 1.)

Mr. LONG. Mr. President, furthermore it had been pointed out that a great many of the foreign countries provide special treatment for their companies and it is these companies that our companies must compete with overseas. These foreign companies are not taxed on their foreign income in some cases and, moreover, are even subsidized by the foreign countries through various special tax benefits.

I have a whole list of these countries here. I ask unanimous consent that the list be printed in the RECORD.

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

Thre are at least sixty-five countries which fall into one of the two categories concerning foreign earnings of companies organized under their laws:

(1) Do not impose income tax on foreign income (26).

(2) Grant preferential tax treatment to foreign income (39).

1. *Do not impose income tax on foreign income:*

Aden	Montserrat
Argentina	Morocco
Brazil	Netherlands [2]
Chad	Nicaragua
Colombia	Panama
Costa Rica	Paraguay
France	Rep. of Congo
Guatemala	Senegal
Haiti	S. Africa
Italy [1]	Tanzania
Kenya	Uganda
Lebanon	Uruguay
Libya	Venezuela

[1] Subject to Company tax.
[2] If subject to foreign tax.

2. *Grant preferential tax treatment to foreign income such as rate concessions, foreign tax credits, deferments, etc.:*

Australia	Japan
Austria	Liechtenstein
Belgium	Luxembourg
Burma	Malta
Canada	Mexico
Ceylon	Netherlands Antilles
Chile	New Zealand
Cyprus	Norway
Denmark	Pakistan
Egypt	Peru
Finland	Philippines
Gambia	Portugal
Germany	Spain
Gibraltar	Sweden
Greece	Switzerland
India	Syria
Iran	Tunisia
Iraq	Turkey
Ireland	United Kingdom
Israel	

Mr. LONG. Mr. President, the countries imposing no income tax on the foreign income received by their oil companies from overseas include France and the Netherlands, with whose companies we must compete. Other countries make very favorable terms to their nationals to go overseas and find oil, far more advantageous terms than our country gives. I refer to countries such as Germany, Japan, and the United Kingdom. As a matter of fact, Germany even goes to the extent of making loans to their companies at no interest at all. And, having made the loans to the companies to go overseas and compete with American companies to find oil and produce it

there, if the companies are unsuccessful in finding oil, the loans are forgiven. What better deal could one have? They win both ways. Japan has an advantage that is almost as attractive.

Yet, our companies compete at great disadvantage and would be further handicapped if they were to receive the type of tax treatment that the amendment of the Senator would impose on them.

Mr. President, I yield 3 minutes to the Senator from Nebraska.

Mr. CURTIS. Mr. President, I support the action taken by the Finance Committee. I believe that from a standpoint of procedure, this must be done.

Perhaps the most complicated thing in our entire tax system is the taxation of foreign income. In 1962 the Finance Committee held long hearings on this matter. We did not have before us at that time a bill of 585 pages with other material in it.

Those hearings were restricted to the treatment of income earned abroad. Actually, I believe I was more confused after the hearings than before. We have here now a proposal to reinsert into the bill something that the Finance Committee struck out.

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

Mr. CURTIS. I yield.

Mr. AIKEN. Is the provision in the House bill?

Mr. CURTIS. In some similar form.

Mr. AIKEN. Will it be in conference?

Mr. CURTIS. In some similar form. The Senate Finance Committee struck this material out of the bill because at least some of us were of the impression—and I believe I am correct on this—that the Treasury Department was going to conduct a complete study of the matter.

In the statement before the Finance Committee on September 4, 1969, Assistant Secretary Cohen indicated that the Treasury Department was going to present new recommendations that would involve a complete review of U.S. taxation on foreign income.

In the light of that, Mr. President, we should not try to write this legislation on the floor.

The very able and distinguished Senator, after presenting his amendment, yielded for questions by the Senator from Iowa (Mr. MILLER) and the question arose, How do you treat expropriation of property abroad? The Senator from Wisconsin has one of the quickest and most able minds of any Senator in this Chamber. Yet, it took him a while to find out whether or not he was dealing with the subject of expropriation of property abroad. Now he has amended his proposal to change it in that regard.

I submit that this is a subject that deserves separate study. It may well be that there ought to be some changes. We are not under any time emergency in this matter. It is not a question of repealing something, such as the investment credit, or extending the excise tax or anything else. Time is relatively unimportant in this matter. What is important is that we do justice. If that results in increasing the taxes for some American companies, so be it. If it results in preventing an injustice to some American taxpayers, so be it. We should not try it on this floor.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. I yield 4 minutes to the Senator from New Hampshire.

Mr. McINTYRE. Mr. President, I rise to speak today in support of the amendment offered by the Senator from Wisconsin (Mr. PROXMIRE) to amend the foreign tax credit provisions of our tax laws. It is, in my opinion, a very modest amendment. It will have no effect at all on domestic oil companies and will serve simply to put international oil companies on a tax footing more comparable to that faced already by most international companies.

The amendment has two main provisions. The first provision requires that when a company incurs a loss in a foreign country and uses that loss to offset U.S. income, it must pay back to the Federal Government, when it later earns a profit, the taxes it escaped through its earlier loss offsets. In other words, a company will not be able to make use of foreign tax credits to reduce its U.S. taxes until these earlier loss offsets have been taken into account.

The second provision of the amendment is based on a recognition that international oil companies have been able to make more liberal use of foreign tax credits than most international concerns. This has been possible because of the existence of the oil depletion allowance on oil from foreign sources. At present, all international concerns are allowed to average the excess of foreign tax over U.S. tax on one source of foreign income against any excess of U.S. tax over foreign tax on other sources of foreign income. The reason why oil companies have been able to take undue advantage of this opportunity is that foreign countries do not have as liberal an oil depletion allowance as we do. Without such an allowance, their tax rates on oil from foreign sources are bound to be higher than our own, which leaves international oil companies with large amounts of tax credits on their foreign oil income for use against foreign income from other than mineral sources.

The second provision of the present amendment would remedy this situation by providing that international oil companies' foreign tax credits on mineral income are to be computed without taking into account the rate differential due to the foreign depletion allowance. Foreign tax credits on mineral income for use against foreign income from other than mineral sources will henceforth arise, in other words, only if foreign tax rates on mineral income itself are higher than U.S. rates would be if the latter were computed without percentage depletion being allowed.

Surely, this is a very moderate amendment. It does not eliminate the foreign depletion allowance; nor does it eliminate the very considerable extent to which international oil companies can treat as tax credits what are really royalty payments to foreign governments. In both these respects, it is decidedly more modest than the bill already passed by the House.

I would hope, Mr. President, that the Senate would see fit to support this amendment.

Mr. PROXMIRE. Mr. President, I yield myself 3 minutes.

I should like to reply to the distinguished chairman of the Committee on Finance, the Senator from Louisiana (Mr. LONG), who made a very strong and effective statement in opposition to this amendment.

The Senator from Louisiana said, in the first place, that we would be taxing oil companies differently. I submit that that is not the intention of this amendment; it does not do that. This amendment would tax all extractive industries the same, and it is an effort to put them on the same basis as all international companies that invest abroad. This is what we asked the Treasury to do, and they did it.

It is interesting that there are objections to taxing oil companies differently. It would be nice if we taxed oil companies the same as everybody else. We know that because of the intangible drilling expenses, they can take that depletion allowance over and over again. A Treasury study a few years ago showed that they took it an average of 17 times, like taking depreciation 17 times on the same piece of equipment. We are leaving in the law, with this modest and limited amendment, all kinds of tax advantages that the oil companies have.

In the second place, it was said that this constitutes a double taxation of oil companies. That is not so. This amendment attempts to eliminate a double loophole. Once again, this is what we tried to work out with the Treasury. That is their understanding, and it is my understanding .

In the third place, it is said that the companies could be taxed while losing money abroad. I cannot see how this amendment would provide that. What this does is just to require an offset for their foreign losses, but it does not permit any taxation of a company which is losing money.

Finally, Mr. President, the argument was made that this would worsen our balance of payments. It is true, of course, that, to the extent that Americans invest abroad and we have American companies sending money back to this country, that tends to help our balance of payments. But what we ought to recognize is that when we give great advantage for developing the oil industry abroad and they are producing and hiring labor abroad, and the oil that is produced abroad is sold, some in this country and some abroad, obviously in competition with American oil production, that action is worsening our balance of payments. I submit that this amendment would benefit our balance of payments.

I reserve the remainder of my time.

Mr. LONG. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. LONG. Mr. President, at the time I made the statement that the Senator discriminates against the oil industry, I perhaps, should have stated that the

same discrimination would apply to the extractive industries. But as between manufacturing industries and extractive industries, the Senator would permit all manufacturing industries, such as Coca-Cola, Ford Motor Co., General Motors, and others, to continue to have the benefit of an overall limitation, but would deny that to the extractive industries, of which the oil industry is the major one.

So he discriminates in his amendment. It is a discriminatory amendment that increases the taxes on these types of companies doing business overseas. The overall tax collected on foreign income of all U.S. companies has been estimated to be something like $100 million, and here is a $65 million increase in one industry alone. This clearly discriminates against those in the extractive industries, of which oil is the primary one.

With regard to the point the Senator made about double taxation, I said that a company could be taxed even though it lost money. Many of these foreign countries simply do not permit a loss carry forward. Let us assume a company lost $2,000 in the first year and it made $1,000 in the second year. Under our laws, we would permit them to offset the $2,000 loss in year 1 against the $1,000 profit they made in year 2. That is what is called a loss carryforward, which is traditional in our country, and it is only fair. But these other countries do not have it, and that is one of the primary problems. That creates a problem that exists in the first part of the Senator's amendment.

I have been a member of the Committee on Foreign Relations, and we have processed treaty after treaty dealing with double taxation, and we should have treaties like that being sure that the foreign country allows a net operating loss. That would solve the problem. This country has the leverage and the power in trading with those countries. We favor them in all kinds of ways. We have all the leverage we need, under the oil quota program and other programs, to enter into such treaties. There would then be no problem at all about the first point, the double taxation feature arising because of the foreign country failing to allow a net operating loss carryover.

But the Senator wants to punish not the foreign country for not having adequate laws; he wants to punish our oil companies and our extractive industries that go there, when it would make much better sense to put the pressure on that country to enter into a logical tax agreement with us. Such a tax treaty would solve the problem.

The Senator would punish the wrong party. He should be concerned with the foreign country rather than putting double taxation on the oil companies. The oil companies are not in a position to put pressure on foreign countries. With respect to those companies, it is fortunate if they do not become nationalized.

As a practical matter it is a discriminatory amendment. It is unfair to the extractive industries and it does not do the same thing to other industries. It tends to kill the goose that lays the golden egg, which brings back about $1.5 billion a year on which about $445 million in taxable dividends is paid.

EXHIBIT 1

MEMORANDUM IN OPPOSITION TO PROPOSAL TO REDUCE FOREIGN TAX CREDITS

The National Foreign Trade Council strongly urges the rejection of amendments to H.R. 13270 proposed by Senator Proxmire which would (1) reduce the foreign tax credit in cases where the taxpayer sustains foreign losses and (2) reduce the foreign tax credit with respect to certain foreign mineral income. These proposed amendments should not be considered at this time on a piecemeal basis but rather should be considered in the recently commenced Treasury Department study of the U.S. taxation of foreign source income. The Council endorses the action of the Senate Finance Committee which deleted somewhat similar provisions contained in the House passed version of H.R. 13270. See S. Rept. No. 91–552, 91st Cong., 1st Sess., pp. 307, 308.

These far reaching proposals will affect a broad cross-section of taxpayers and add needless complexity to already complex provisions. Such proposals are inequitable and will seriously discriminate against U.S. companies in their attempts to meet strong, aggressive foreign competition from corporations from countries such as Japan and Germany, which give assistance to their overseas operations rather than discriminate against them.

Both proposals dilute the foreign tax credit by indirectly limiting the full effect of deductions heretofore granted by the Congress as they pertain to the foreign business operations of a U.S. national. Thus both proposals seriously discriminate against foreign source income. All deductions allowable to U.S. nationals having U.S. income should also be allowed to U.S. nationals having foreign income, since the U.S. taxes its nationals on income from worldwide sources. Otherwise the foreign tax credit mechanism will not prevent international double taxation and U.S. international trade and investment must suffer.

PROPOSED LOSS RECAPTURE PROVISION

The proposal to recapture foreign losses provides that if the taxpayer sustains a foreign loss which is deducted against U.S. income, such loss will reduce, in another taxable year in which there is income, the credit for foreign taxes actually paid which is now allowable under present law. The effect of this proposal is limited to a period commencing 2 years prior to and ending 10 years subsequent to the year of the loss.

In attempts to justify section 431 of the House passed version of H.R. 13270, it has been argued in the Ways and Means Committee report that the current law provides a so-called "double tax benefit" to companies which incur losses in foreign activities and are able under the per-country foreign tax credit provision to reduce their U.S. taxable income in that year by the amount of such foreign losses. The first so-called tax "benefit" is that the taxpaying company is able to combine profits earned in the United States and abroad with losses incurred in the United States and abroad in determining taxable income. The reasonableness and appropriateness of combining profits and losses for tax purposes is accepted in the House-passed bill, as it should be. This is a long-accepted and valid principle of taxation. The ability to combine profits and losses in the case of foreign and domestic operations is simply consistent with the U.S. principle of taxing the worldwide income of its citizens.

The second part of the so-called "double tax benefit" is claimed to occur when operations turn profitable in the country in which the losses were incurred and the U.S. taxpayer is then allowed credit for the foreign taxes he actually pays on such income. This, of course, reflects the operation of the foreign tax credit, which is required in order to prevent international double taxation. Far from being a "double tax benefit," the credit for foreign taxes paid avoids the inequitable situation in which the taxpayer's income would be taxed twice.

The proposed loss recapture provision is inconsistent with and departs from basic U.S. principles of taxation since it could result in the taxation of foreign source income at a rate higher than that applicable to domestic income. Under the so-called "recapture" provisions the foreign loss will reduce the foreign tax credit otherwise allowable during the 12 year recapture period. Any such reduction in foreign tax credit would result in the imposition of an additional U.S. tax on foreign source income. The degree of this penalty for a loss increases with the foreign tax rate. Thus, foreign source income would be taxed at a greater overall rate than comparable income of other taxpayers who never sustained a prior year's loss in foreign operations.

The basic function of section 904 of the Code is to insure that foreign source income will be taxed at no more than the higher of the U.S. or foreign tax rate. The proposed loss recapture provision would in some cases require taxation of foreign income at a rate higher than either the U.S. or foreign rate.

The proposal to apply the so-called "recapture" provision where there has been a net foreign loss while using the overall limitation results in a second tax penalty for taxpayers experiencing an overall loss while using the overall limitation. Firstly, foreign taxes applicable to foreign source income which have actually been paid or accrued will not be credited. This is the result under the present law. Secondly, as operations turn profitable foreign taxes otherwise creditable will be reduced by the loss recapture provisions in violation of the traditional U.S. principles inherent in the taxation of foreign source income.

The proposed loss recapture provisions provide for an extremely complicated formula in computing the amount of the foreign loss which is to be carried backward and forward in order to reduce otherwise creditable foreign taxes. The ratable portion of all expenses which are not directly attributable to foreign source income must be allocated to such foreign source income. Many foreign countries will not permit allocation of U.S. home office and other general type expenses in computing their taxable income. Thus international double taxation will surely result. It should be noted that further complexities will result if the proposed loss recapture provision is enacted, inasmuch as the foreign tax credit carryover provisions do not coincide with the proposed loss carryover provision.

PROPOSED REDUCTION OF FOREIGN TAX CREDIT ON MINERAL INCOME

The proposal to reduce the foreign tax credit with respect to mineral income singles out, and discriminates against, the extractive industries and fails to recognize the integrated nature of many foreign mineral operations. In essence, for U.S. tax purposes, it would separate a part of the extractive industry, production, from activities such as processing, transporting and marketing. This would be done by denying a credit for foreign taxes actually paid in respect of such operations which in many international operations is economically inseparable. The effect of this denial is to increase the U.S. tax on foreign mineral operations. This, in turn, increases the overall tax burden on such foreign operations to an amount above that that would have been incurred had such operations been entirely conducted in the U.S. This results in taxing foreign income at a higher rate than domestic source income. This violates the fundamental objective of

the tax credit of avoiding international double taxation.

The result of this proposal would be to weaken the ability of U.S. business abroad to compete for and develop diverse sources of natural resources needed both for economic development and, in the case of some minerals, for our national security. In light of the very substantial activity by foreign owned companies, many totally exempt from taxation on their foreign operations and many receiving subsidies for both foreign and domestic operations, U.S. companies will not be able to continue to participate as effectively in the growth of the international extractive industry. This, in turn, would increase the dependence of the U.S. upon the political or economic whims of foreign owned companies for natural resources needed by U.S. interests to support both domestic and foreign needs. In the case of many minerals, this could have a direct impact upon the national security of the U.S. For example, since the U.S. consumes more than one-third of the oil consumed in the Free World but only has about one-tenth of the total Free World reserves, it is quite obvious that in the future the U.S. will have to place greater reliance upon foreign source oil to meet its needs. Moreover, foreign source oil will continue to be of great importance not only in meeting our military needs abroad but also in supplying our allies. These facts make it clear that the future security of the U.S. and the Free World will depend on easy access to diverse and growing sources of oil. Accordingly, it would not be prudent for Congress to make tax changes which discriminate against and discourage U.S. businesses from effectively competing with foreign owned, and sometimes government controlled, enterprises for petroleum and other needed natural resources located abroad.

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

Mr. PROXMIRE. Mr. President, I yield 2 minutes to the Senator from North Dakota.

Mr. BURDICK. Mr. President, I have listened carefully to the debate. I am a little disturbed by one thing that has been brought out by the Senator from Louisiana. We are dealing with foreign tax credits. Is it correct that we are dealing with the extractive industries in a way that is different from the way we deal with other American industries?

Mr. PROXMIRE. No. In my view, it would not.

Mr. BURDICK. Are we treating American manufacturing industries in the same manner?

Mr. PROXMIRE. We are treating American manufacturing industries in the same manner. There is this kind of exception. At the present time only extractive industries have the depletion allowance available to them. The depletion allowance when taken on a broad overall basis has enabled them to virtually eliminate in many cases their domestic taxes.

We provide that any extractive industry can take its depletion allowance at a tax offset in the country in which it is operating for purposes of the depletion allowance, so it does have that kind of limitation. This is a limitation which the Treasury Department suggested and it seemed a fair way to get at this difficulty of the ability of these firms to disguise their royalty and maintain a tax advantage other companies do not have. It is an attempt to equalize.

Mr. BURDICK. In other words, the Ford Motor Co. could do the very things the Senator outlined today?

Mr. PROXMIRE. Yes, indeed.

Mr. BURDICK. The same things?

Mr. PROXMIRE. The same things.

Mr. BURDICK. This would not apply to them?

Mr. PROXMIRE. No, they would not be adversely affected. They would be in the same position as any extractive industries. Ford Motor Co., of course, does not have the depletion allowance.

Mr. BURDICK. That is the Senator's distinction?

Mr. PROXMIRE. Yes, and the oil company is able to write off losses other than the oil depletion, exactly as the Ford Motor Co. would.

Mr. BURDICK. I thank the Senator.

Mr. PROXMIRE. Mr. President, I want to make clear that the amendment was drafted by the Treasury Department to conform with the views expressed by the Treasury Department to the Committee on Finance. In that sense it reflects the administration position, although as the Senator from Nebraska has brought out, this is not specifically endorsed as an amendment by the Treasury Department.

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

Mr. PROXMIRE. I yield.

Mr. PELL. Mr. President, I have followed this argument as closely as I could. I am aware that the oil companies have a very real interest.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the pending amendment.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the Senator may proceed for 2 additional minutes.

Mr. PELL. I need only 1 minute.

Mr. MANSFIELD. I will leave it at 2 minutes. I wish to make a request.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and it is so ordered.

Mr. PELL. Mr. President, as I understand, this is the only industry where taxes paid are taken as a full credit against taxes owed the American taxpayer; is that correct?

Mr. PROXMIRE. Well, yes. The contention of most realists is that in substantial part the taxes imposed by foreign countries are concealed royalty payments so they can take that as a tax credit rather than as a deduction.

Mr. LONG. Mr. President, I have inserted in the RECORD a memorandum from the National Foreign Trade Council which states that this is double taxation. This is not the Senator from Louisiana speaking. This is somebody else. This is the National Foreign Trade Council. It is double taxation by making a company pay taxes where presently it does not pay taxes because a foreign country does not permit a net operating loss carryforward as we do in our law.

Furthermore, it should be made clear that the Senator's amendment, by denying the overall limitation on the foreign tax credit to the extractive industries, of which oil is the major one, would not deny that to the manufacturing companies and those companies not in the extractive business. The provision is discriminatory and it is double taxation.

ORDER FOR ADJOURNMENT TO 9:30 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business this afternoon it stand in adjournment until 9:30 tomorrow morning.

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

ORDER FOR RECOGNITION OF SENATOR GOODELL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the prayer and disposition of the Journal tomorrow the Senator from New York (Mr. GOODELL) be recognized for a period not to extend beyond 10 a.m.

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

TAX REFORM ACT OF 1969

The Senate continued with the consideration of the bill (H.R. 13270), the Tax Reform Act of 1969.

The PRESIDING OFFICER. The question is on agreeing to the pending amendment of the Senator from Wisconsin, as modified. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), and the Senator from Arkansas (Mr. FULBRIGHT), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from Indiana (Mr. BAYH) is absent on official business.

I further announce that, if present and voting, the Senator from Arkansas (Mr. FULBRIGHT) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) is necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Maryland (Mr. MATHIAS) and the Senator from South Carolina (Mr. THURMOND) are detained on official business.

If present and voting, the Senator from Oklahoma (Mr. BELLMON), the Senator from Arizona (Mr. GOLDWATER), and the Senator from South Carolina (Mr. THURMOND) would each vote "nay."

The result was announced—yeas 33, nays 58, as follows:

[No. 168 Leg.]

YEAS—33

Aiken	Hartke	Nelson
Brooke	Hughes	Pastore
Case	Inouye	Pell
Church	Jackson	Prouty
Dodd	Javits	Proxmire
Dole	Kennedy	Ribicoff
Eagleton	Magnuson	Smith, Maine
Goodell	McGovern	Williams, N.J.
Gore	McIntyre	Williams, Del.
Griffin	Mondale	Yarborough
Hart	Muskie	Young, Ohio

NAYS—58

Allen	Fong	Murphy
Allott	Gravel	Packwood
Baker	Gurney	Pearson
Bennett	Hansen	Percy
Bible	Harris	Randolph
Boggs	Hatfield	Russell
Burdick	Holland	Saxbe
Byrd, Va.	Hollings	Schweiker
Byrd, W. Va.	Hruska	Scott
Cannon	Jordan, N.C.	Smith, Ill.
Cook	Jordan, Idaho	Sparkman
Cooper	Long	Spong
Cotton	Mansfield	Stennis
Cranston	McCarthy	Stevens
Curtis	McClellan	Talmadge
Dominick	McGee	Tower
Eastland	Metcalf	Tydings
Ellender	Miller	Young, N. Dak.
Ervin	Montoya	
Fannin	Moss	

NOT VOTING—9

Anderson	Fulbright	Mundt
Bayh	Goldwater	Symington
Bellmon	Mathias	Thurmond

So Mr. PROXMIRE'S amendment (No. 328) as modified was rejected.

NOTICE OF INTENTION TO CONSIDER CONFERENCE REPORT ON PUBLIC WORKS APPROPRIATION BILL TOMORROW

Mr. ELLENDER. Mr. President, after consulting with the leadership on both sides of the aisle, I wish to give notice that I shall attempt to take up the conference report on the public works appropriations tomorrow at about 10 o'clock.

TAX REFORM ACT OF 1969

The Senate continued the consideration of the bill (H.R. 13270) the Tax Reform Act of 1969.

The PRESIDING OFFICER. What is the will of the Senate?

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, if I may have the attention of the Senate—I have discussed this with the distinguished Republican leader—there will be no further rollcall votes tonight, but amendments will be offered which, hopefully, will be accepted on voice votes. If there are any rollcall votes in the offing tonight, they will be postponed until tomorrow.

Mr. WILLIAMS of Delaware. Mr. President, I send to the desk an amendment to the committee amendment, which I ask to have stated by the clerk.

The PRESIDING OFFICER. The amendment will be stated by the clerk.

The legislative clerk proceeded to read the amendment.

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 292, delete lines 3 through 8 and insert the following after line 2: "ment unit shall be the portion so allocated to it. In the case of a bond or other evidence of indebtedness, or an investment unit as described in this paragraph (other than a bond or other evidence of indebtedness or an investment unit issued pursuant to a plan of reorganization within the meaning of section 368(a)(1) or an insolvency reorganization within the meaning of section 371, 373, or 374), which is issued for property and which—

"(A) is part of an issue a portion of which is traded on an established securities market, or

"(B) is issued for stock or securities which are traded on an established securities market

The issue price of such bond or other evidence of indebtedness or investment unit, as the case may be, shall be the fair market value of such property. Except in cases to which the preceding sentence applies, the issue price of a bond or other evidence of indebtedness (whether or not issued as part of an investment unit) which is issued for property (other than money) shall be the stated redemption price at maturity."

Mr. WILLIAMS of Delaware. Mr. President, in dealing with section 413 of the bill the committee tried to correct what was interpreted as a loophole in existing law with relation to the organization of conglomerates. After the bill had been reported by the committee to the Senate as a whole the Treasury, in reviewing the matter, discovered that inadvertently the language of the bill as it had been approved by the committee and by the Treasury Department opened another loophole in another area. The Department of the Treasury submitted a letter asking the committee to correct the error in the draft of the bill and to carry out the full intention of the committee and the Treasury Department.

We submitted the matter to our staff. Our staff agrees with the Department. The committee agrees that the correction should be made.

I ask unanimous consent that the letter of the Treasury Department, under date of November 28, 1969, requesting this change, be printed in the RECORD at this point.

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

THE DEPARTMENT OF THE TREASURY,
Washington, D.C., November 28, 1969.

Hon. JOHN J. WILLIAMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: Section 413 of the bill falls in the group of provisions designed to deal with "conglomerates." It relates specifically to the treatment of "original issue discount" on issuance by a corporation of bonds, notes, or other written evidences of indebtedness. Under existing law, original issue discount arises when a corporation issues its bonds for less than their face amount. Since the difference in reality represents additional interest cost to the issuer, the corporation may take a deduction for amortization of the discount, and existing law requires the bondholder to treat this part of his gain on sale or redemption of the bond as ordinary income.

Under existing law the issuing corporation deducts the discount ratably over the life of the bond, but the bondholder reports the income only when the bonds are sold or redeemed. Thus, the treatment is not entirely parallel. Furthermore, there are indications that bondholders frequently do not report this portion of their gain on ultimate sale or redemption as ordinary income, and since this may occur at a time long after the bonds were originally issued, it is often difficult to determine whether there was original issue discount when the bonds were issued. We have found that these circumstances have encouraged the issuance of bonds by conglomerates in takeover cases, so we recommended changes in existing law in this area in our original tax reform program.

Section 413 of the bill deals with this problem by requiring the bondholders to report the discount income ratably over the period they hold the bonds. Also, there is an information reporting requirement imposed on the issuing corporation. Thus, the treatment of the issuing corporation and the bondholder is made parallel, and we will obtain greater assurance of full reporting of the ordinary income received by the bondholders.

In the drafting of the bill on the House side, out of an abundance of caution, we defined "original issue discount" broadly to include cases where bonds were issued for property (as opposed to cash). The discount amount in such a case is equal to the excess of the face amount of the bonds over the fair market value of the property at the time of issuance of the bonds. Only recently, it has come to our attention that this may inadvertently open up a loophole in which the Government could be whipsawed, and that in any event it should not be the rule where bonds are issued in a tax-free reorganization. In the press of business before the Committee, this was not brought to the attention of the Committee, and we are concerned that unless something is done on the Senate floor, it will not be open in conference to deal with the matter because the bill containing the crucial language in question will have passed both Houses. The language in question appears at lines 3–8 on page 292 of the bill.

The whipsaw problem arises because of the severe difficulty of valuing property not traded on some recognized exchange. The issuing corporation will claim a low value for property received on issuance of its bonds in order to obtain a bond discount amortization deduction. The bondholder will claim that the property was worth the full face amount of the bonds so that he has no "original issue discount" income. It is not possible to bring these parties together in the same lawsuit, or otherwise to insure that consistent valuations are applied, so that if one party gets an ordinary deduction, the other has an equivalent amount of ordinary income. This would suggest there should be no original issue discount where bonds are issued for property except where the bonds are traded on an established securities market or are issued for property which consists of securities so traded. In these latter cases, the valuation problem (and thus the whipsaw danger) does not exist.

The reorganization problem arises because in a tax-free reorganization, no gain or loss is recognized to the corporations involved and the basis of the assets of the transferor corporation carries over, that is, such assets have the same basis in the hands of the transferee corporation. Under these circumstances, original issue discount should not be taken into account so as to give the transferee corporation an amortization deduction as a result of the issuance of its bonds in the reorganization. In other situations, the issuing corporation pays a price where there is original issue discount because the basis of the assets is their lower value at the time the bonds are issued rather than the face amount of the bonds. In a reorganization, however, where the basis of the assets carries over, this "leveling" factor does not exist and there is every reason for the issuing corporation to claim a low value for the assets to increase its amortization deduction for bond discount if such a deduction is allowed. Thus, the danger of the Government being whipsawed is even greater.

Accordingly, we believe the rule stated at lines 3–8 on page 292 of the bill is too broad. Furthermore, it is at odds with the basic thrust of the bill as it affects conglomerates because it could actually increase the tax benefits of an acquisition with debt instruments to the acquiring company rather than

decreasing such benefits. Several court cases have held that there is no original issue discount on the issuance of bonds for property on the ground that the principal amount of the debt is the purchase price of the property acquired.

We therefore recommend that a floor amendment be offered deleting the lines in question and substituting a rule that where a bond is issued for property other than cash, the issue price of the bond will be deemed to be the stated redemption price of the bond at maturity except where such bond is part of an issue which is traded on an established securities market, or is issued for stock or securities which are traded on an established securities market. In the latter event, the value of the bond or the stock or securities for which it is issued on the established securities market will measure the amount of original issue discount for all purposes of the Internal Revenue Code. Further, original issue discount will not be deemed to exist where a bond is issued in a "reorganization" as defined in section 368 or sections 371–374 of the Code.

Sincerely yours,

JOHN S. NOLAN,
Deputy Assistant Secretary.

Mr. WILLIAMS of Delaware. Let me read briefly from one paragraph:

In the drafting of the bill on the House side, out of an abundance of caution, we defined "original issue discount" broadly to include cases where bonds were issued for property (as opposed to cash).

Continuing:

The language in question appears at lines 3–8 on page 292 of the bill.

The whipsaw problem arises because of the severe difficulty of valuing property not traded on some recognized exchange.

The Department points out that the language in the bill did not carry out the intention of the committee or of the Treasury Department.

This matter has been discussed with the chairman and the other members of the committee, and they recommend the approval of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware to the committee amendment.

The amendment was agreed to.

CAPITOL GUIDE SERVICE

Mr. WILLIAMS of Delaware. Mr. President, I have another amendment, offered on behalf of myself and the Senator from Montana (Mr. MANSFIELD), which I send to the desk and ask to have reported.

The PRESIDING OFFICER. The amendment to the committee amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent to waive the reading of the amendment.

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

The amendment is as follows:

At the end of the act add the following new section:

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

"ESTABLISHMENT AND PURPOSES

"SEC. 2. (a) There is hereby established, within the Congress of the United States, an organization to be known as the Capitol Guide Service, which shall provide without charge, guided tours of the interior of the United States Capitol Building for the education and enlightenment of the general public. The Service shall be under the direction, control, and supervision of the Capitol Police Board (hereafter referred to as the 'Board').

"(b) The Board may also detail guides to assist the United States Capitol Police by providing ushering and informational services, and other services not directly involving law enforcement, in connection with the inauguration of the President and Vice President of the United States, the official reception of representatives of foreign nations and other persons by the Senate or House of Representatives, and other special or ceremonial occasions in the United States Capitol Building or on the United States Capitol Grounds which require the presence of additional Government personnel and which cause the temporary suspension of the performance of the regular duties of the Capitol Guide Service.

"GUIDES

"SEC. 3. (a) (1) There shall be appointed to the Capitol Guide Service such guides as may be necessary, including a chief guide, to carry out effectively and efficiently the activities of the Service. The chief guide shall be appointed by the Board and one-half of all other guides shall be selected for appointment by the Board by the Sergeant at Arms of the Senate and the other one-half selected for appointment by the Board by the Sergeant at Arms of the House of Representatives.

"(2) The annual (gross) rate of pay of the chief guide shall be $9,417, and the annual (gross) rate of pay of any other guide shall be $8,322.

"(3) Section 106(a) of the Legislative Branch Appropriation Act, 1963, as amended (2 U.S.C. 60; (a)), is amended by adding at the end thereof the following new clause: '(8) Guides of the Capitol Guide Service.'

"(b) No guide of the Capitol Guide Service shall charge or accept any fee, or accept any gratuity, for or on account of his official services.

"(c) Section 2107 of title 5, United States Code, relating to the definition of 'congressional employee', is amended—

"(1) by striking out the word 'and' at the end of paragraph (7);

"(2) by striking out the period at the end of paragraph (8) and inserting in lieu thereof a semicolon and the word 'and'; and

"(3) by adding at the end thereof the following new paragraph:

"'(9) a guide of the Capitol Guide Service.'.

"(d) Section 8332(b) of title 5, United States Code, relating to creditable service for retirement purposes, is amended—

"(1) by striking out the word 'and' at the end of paragraph (5);

"(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon and the word 'and';

"(3) by adding immediately after paragraph (6) the following new paragraph:

"'(7) subject to sections 8334(c) and 8339 (h) of this title, service performed on and after February 19, 1929, and prior to the effective date of the Capitol Guides Act, as a United States Capitol guide."; and

"(4) by inserting at the end thereof the following sentence: "The Civil Service Commission shall accept the certification of the Capitol Police Board concerning service and rates of pay for the purpose of this subchapter of the type described in paragraph (7) of this subsection and performed by a guide.'

"(e) Notwithstanding the other provisions of this section, the Board and the Sergeants at Arms of the two Houses shall afford, to each person who is a member of the United States Capitol Guides immediately prior to the effective date of this Act, the opportunity to be appointed under this Act to the Capitol Guide Service. For the purposes of the initial appointments of such persons, the appointments and number of such persons shall be considered to have been authorized and approved for the Capitol Guide Service under subsection (a)(1) of this section.

"POWERS OF THE BOARD

"SEC. 4. (a) The Board is authorized—

"(1) to prescribe the duties and responsibilities of the guides;

"(2) to prescribe a uniform dress, including appropriate insignia, which shall be worn by such guides when on duty;

"(3) from time to time as may be necessary, to procure and furnish, without charge, such uniforms to such guides;

"(4) to enter into contracts or other arrangements, or modifications thereof, to carry out the purposes of this Act; and

"(5) to take such actions and make such expenditures as may be necessary to carry out the purposes of this Act.

"(b) The Board may take appropriate disciplinary action, including suspension or removal, against any guide who violates any provision of this Act or any regulation prescribed by the Board pursuant to this Act, except that a guide may not be suspended from duty without pay, demoted, removed, or have his pay reduced unless (1) in the case of the chief guide, a majority of the members of the Board so decides, and (2) in the case of any other guide, the Sergeant at Arms, who appointed that guide consents.

"(c) All expenses and salaries of the Capitol Guide Service shall be disbursed by the Secretary of the Senate, upon vouchers approved by the Chairman of the Board, out of funds appropriated for the Service.

"TRANSFER PROVISIONS

"SEC. 5. (a) On the effective date of this Act, all personnel records, financial records, assets, and other property of the United States Capitol Guides, which exist immediately prior to such effective date, are transferred to the Capitol Guide Service.

"(b) As soon as practicable after the effective date of this Act, but not later than the close of the sixtieth day after such effective date, the Board shall, out of the assets and property belonging to the United States Capitol Guides immediately prior to such date, on the basis of a special audit which shall be conducted by the General Accounting Office—

"(1) settle and pay any outstanding accounts payable of the United States Capitol Guides;

"(2) discharge the financial and other obligations of the United States Capitol Guides (including reimbursement to purchasers of tickets for guided tours which are purchased and paid for in advance of intended use and are unused); and

"(3) otherwise wind up the affairs of the United States Capitol Guides;

which exist immediately prior to such effective date. The Board shall dispose of any net monetary amounts remaining after the winding up of the affairs of the United States Capitol Guides, in accordance with the practices and procedures of the United States Capitol Guides, existing immediately prior to the effective date of this Act, with respect to disposal of monetary surpluses.

"EFFECTIVE DATE

"SEC. 6. The provisions of this Act shall become effective on the first day of the first month which begins after the thirtieth day after the date of enactment of this Act."

Mr. WILLIAMS of Delaware. Mr. President, this is the identical amendment which was approved late the other night after Senators were told there would be no more votes. Some Senators interpreted that statement to mean there

would be no votes at all. Therefore, I had the vote by which the amendment was agreed to reconsidered, but I served notice that it would be offered later.

This amendment does not relate to the Internal Revenue Code. Its purpose is to furnish paid guide services at the National Capitol. At the present time we are the only nation in the free world where schoolchildren have to pay for a conducted tour of our Nation's Capitol. This is wrong, and the approval of this amendment would correct this situation.

The amendment is offered on behalf of the Senator from Montana (Mr. MANSFIELD) and myself. We have discussed it with the members of the Committee on Rules and Administration, and they have no objection to our accepting this amendment.

Mr. MANSFIELD. Mr. President, will the Senator yield to me to make a statement at this point?

Mr. WILLIAMS of Delaware. I yield.

Mr. MANSFIELD. Mr. President, may I say that I regret very much that circumstances required the reconsideration of the free Capitol guide service proposal. Certainly I believed that this matter was without controversy. Though I must say that I, too, was away from the Chamber when it was called up as an amendment Monday evening. And to accommodate other Senators who were not present at the time, I had no objection to its being reconsidered.

However, I do urge its approval now for a number of reasons. First of all, it provides free guide service for schoolchildren and all persons who visit their Nation's Capitol. I understand that ours is the only capitol in the world that does not provide such service. In this fashion, also, it would place the Capitol in the same category as the White House, the Justice Department, the National Gallery and many other governmental institutions that have long provided free tours to the public.

The guides themselves would be under the jurisdiction of the Capitol Police Board and would be given the same status in all respects as the present "trained" Capitol Police force. For example, salaries will be equivalent to trained police salaries, selection will be made—one-half from the Senate, one-half from the House—by the respective Sergeants at Arms as they now are for the police force, the guides would be brought under the same legislative retirement, health and insurance programs and given the same longevity privileges.

I should point out that with respect to the salary provided under this proposal, the guide force would receive $8,322 per year. As I said, this is the same salary now paid to the trained career Capitol police officers. It compares with a salary of between $5,000 and $6,000 paid guides in the executive branch and $7,200 provided in a similar proposal passed by the Senate 2 years ago. It may be less than the guides now receive but it must be remembered that they are also given retirement benefits, health and life insurance benefits. Moreover, they are treated in the same fashion as our career police and there is no reason to treat them differently. That is all that is sought in creating this service. In this respect I should point out that the White House tour guides are themselves members of the White House Police detachment and start at a salary of only $8,000.

I urge the adoption of the amendment at this time and on this bill. With minor exceptions, it is identical to the free Capitol guide service proposal passed 2 years ago in the Senate by a record vote of 74 to 8.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware.

Mr. HRUSKA. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. Yes, indeed.

Mr. HRUSKA. Is not the subject of this amendment the subject also of a bill that is pending?

Mr. MANSFIELD. That is correct.

Mr. HRUSKA. In what committee is that bill pending?

Mr. MANSFIELD. The Committee on Rules and Administration. And, as the Senator from Delaware has stated, we have discussed this amendment with that committee, and they have no objection.

Mr. HRUSKA. Is the subject matter of the amendment germane to the bill?

Mr. WILLIAMS of Delaware. Just about as germane as the subject matter of the amendment to the interest equalization tax bill.

Mr. HRUSKA. This subject matter is a little different.

Mr. WILLIAMS of Delaware. That is correct.

Mr. HRUSKA. And the urgency is not quite as great?

Mr. WILLIAMS of Delaware. Oh, yes. For a long time I have not understood why the schoolchildren who visit the Nation's Capitol have to pay to visit their Congress. This is the only capitol in the Western World where it is done.

Mr. HRUSKA. There are other features in the bill, are there not, besides providing a free guide service? There is the matter of adjusting salaries, and one thing and another?

Mr. MANSFIELD. That is correct, and also the benefits based on the congressional pension fund, health insurance, life insurance, permanency, and, I think, greater stability than is the case at the present time. The only difference is the salary, and I think that is compensated for. I believe the trained police force we have here is just as important as the guides who conduct our people through their Capitol.

Mr. HRUSKA. What is the status of the bill in the Rules Committee? Have there been hearings?

Mr. WILLIAMS of Delaware. Not as yet.

Mr. MANSFIELD. Not as yet; and we have present the ranking Republican member, the Senator's colleague from Nebraska (Mr. CURTIS), which should be relevant.

Mr. WILLIAMS of Delaware. This measure has passed the Senate twice already.

Mr. HRUSKA. In identical form, or with some variations?

Mr. WILLIAMS of Delaware. Oh, not exactly identical form. The Senate never does anything in the identical form as before. It is an improved form.

Mr. HRUSKA. The Senator from Nebraska would be reluctant to see the jurisdiction of a committee invaded and short-circuited, but if there is assurance that the Committee on Rules and Administration has no objection, it is their prerogative.

Mr. WILLIAMS of Delaware. I have talked with the chairman and the ranking member of the Committee on Rules and Administration and have been assured that they have no objection.

Mr. MANSFIELD. I have talked only with the chairman.

Mr. CURTIS. Mr. President, I have no objection.

Mr. HRUSKA. Under the circumstances, the senior Senator from Nebraska has no objection, either.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware.

The amendment was agreed to.

Mr. WILLIAMS of Delaware. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. AIKEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CURTIS. Mr. President, I send to the desk an amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The BILL CLERK. The Senator from Nebraska (Mr. CURTIS), for himself and Mr. WILLIAMS of Delaware, proposes an amendment as follows:

At the proper place in the bill, insert the following new section:

"SEC. ——. AMENDMENT OF BUDGET AND ACCOUNTING ACT, 1921.

"(a) Section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11) is amended by striking out subsections (b), (c), (d), (e), and (f), and inserting in lieu thereof the following new subsection:

"'(b) Whenever the President transmits to the Congress a budget message or a supplemental budget message, he shall transmit to the Committee on Appropriations and the Committee on Ways and Means of the House of Representatives, and to the Committee on Appropriations and the Committee on Finance of the Senate, a separate report in which he shall state—

"'(1) the extent to which the proposals made or referred to in that message, if carried into effect, would result directly or indirectly in (A) a surplus or deficit in Federal funds (as distinguished from trust funds), and (B) an increase or a decrease in the national debt of the United States; and

"'(2) in detail the facts and circumstances upon which those conclusions are based.'

"(b) The amendment made by subsection (a) shall apply with respect to the Budget for the fiscal year ending June 30, 1971, and for each fiscal year thereafter."

Mr. CURTIS. Mr. President, if we may have order in the Chamber, I think I can state the case for this amendment in brief order.

The PRESIDING OFFICER. The Senate will be in order, so the Senator can be heard.

The Senator from Nebraska may proceed.

Mr. CURTIS. Mr. President, this amendment does not relate to revenue. It is not something to add to or detract from our taxes. Neither does it change the budget system now followed by the

Federal Government. A change in the budget system should only follow after hearings have been held by an appropriate committee.

What this amendment would do is require, at the time the budget is submitted, that certain information be delivered to the Appropriations Committees of the House of Representatives and the Senate, and to the tax-writing committees, the Committee on Finance in the Senate and the Committee on Ways and Means in the House of Representatives—in other words, at the time the budget is submitted, and at such other times as messages are sent to us.

This amendment would require that information as to the effect upon deficits or surpluses, as determined by the administrative budget, and the effect upon the national debt, shall be shown in reference to the items in the budget for the benefit of those four committees, together with the necessary details to support the same.

It is my understanding that the distinguished chairman of the Committee on Finance has no objection to the amendment. It is merely a provision to give to the committees charged with the responsibility of appropriating money and recommending taxes information that will be helpful to them in managing the fiscal affairs of the country, eliminating deficits, and avoiding an increase in the national debt.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. CURTIS. I am happy to yield.

Mr. WILLIAMS of Delaware. Mr. President, as a cosponsor of this amendment, I join the Senator from Nebraska in expressing the hope that this amendment will be approved. I think it would be of great service to the Committee on Finance and to Members of Congress in general if we could obtain this additional information as to the true financial position of this Government as we move along. I think it is an excellent amendment, and I support it wholeheartedly.

Mr. CURTIS. I think the distinguished Senator, and I again state for the RECORD that, while I feel there should be a change in our budget system, a bill to accomplish that purpose should be handled by the appropriate committee, which is the Committee on Government Operations.

This provision does not go that far. It merely requires a systematic giving of needed information to the appropriate committees of Congress.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska.

The amendment was agreed to.

AMENDMENT NO. 301

Mr. DOLE. Mr. President, I call up amendment No. 301, an amendment to provide for reimbursement of professional fees incurred by a taxpayer in certain circumstances in connection with a "second audit" by the Internal Revenue Service.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

At the proper place, insert the following new section:

"SEC.—REIMBURSEMENT OF TAXPAYER'S COSTS IN CERTAIN CASES.

"(a) IN GENERAL.—Subchapter A of chapter 65 (relating to procedure in case of abatements, credits, and refunds) is amended by adding at the end thereof the following new section:

" 'SEC. 6408. COSTS AND EXPENSES INCURRED BY TAXPAYERS.

" '(a) GENERAL RULE.—Costs and expenses incurred by a taxpayer in connection with the determination, collection, or refund of any internal revenue tax shall be borne by such taxpayer, except that, if—

" '(1) the Secretary or his delegate subjects the return of a taxpayer to a field audit and after such audit (i) propose a deficiency or overpayment of income tax imposed by section 1 or section 11 of this title, which the taxpayer accepts in writing, on a form specified by the Secretary or his delegate, or (ii) notifies the taxpayer that there is no change in his tax liability;

" '(2) subsequent to the taxpayer's written acceptance of such proposed deficiency or overpayment, or the taxpayer's receipt of a notification that there is no change in his tax liability, the Secretary or his delegate proposes another deficiency or reduction in the overpayment of such tax for the same year with respect to which such acceptance has been made, or such notification has been received; and

" '(3) the deficiency in such tax for such year finally obtained, or the overpayment finally allowed, is not more favorable to the Secretary or his delegate than the deficiency or overpayment which the taxpayer had accepted, or the tax liability reflected on the return for which notification had been received by the taxpayer, then the Secretary or his delegate shall reimburse the taxpayer for all costs incurred by the taxpayer (including legal and accounting fees) in connection with the deficiency or reduction in overpayment proposed subsequent to such acceptance or notification.

" '(b) REIMBURSEMENT OF COSTS AND EXPENSES.—Costs and expenses incurred by the taxpayer which shall be borne by the Secretary or his delegate pursuant to subsection (a) of this section shall be deemed, for the purposes of section 6511(a) of this title, a tax paid by the taxpayer on the date his tax liability for such year is finally determined (whether determined administratively or judicially). For purposes of this title and section 1346(a)(1) of title 28, United States Code, the amount of tax so deemed paid by the taxpayer shall constitute an overpayment.'

"(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 65 is amended by adding at the end thereof the following new item:

" 'Sec. 6408. Reimbursement of Taxpayer's Costs in Certain Cases.' "

Mr. DOLE. Mr. President, under existing law and current Internal Revenue Service practice, if the Internal Revenue Service proposes either a deficiency in tax or overassessment in tax at the completion of a field audit the taxpayer is requested to execute a form 870, in which he consents to the assessment and collection of the deficiency or accepts the overassessment. The form 870, however, specifically "does not preclude assertion—by the Internal Revenue Service—of a further deficiency in the manner provided by law if it is later determined that additional tax is due." In the event the field audit reflects no change in the taxpayer's tax liability, the taxpayer receives what is referred to as a "no-change letter," which also does not preclude the Internal Revenue Service from asserting a further deficiency—"second deficiency."

The rationale of the amendment is as follows: Following a field audit when the tax liability of a taxpayer has been agreed upon by the Internal Revenue Service and the taxpayer—that is, the taxpayer has executed a form 870 reflecting an overassessment or deficiency, or the taxpayer has received a no-change letter—the Internal Revenue Service should not be barred from asserting a second deficiency in tax, but the Internal Revenue Service should reimburse the taxpayer for all costs—including professional fees—incurred by the taxpayer in contesting the second deficiency if the second deficiency ultimately is not sustained.

Although the Internal Revenue Service would still be able to assert a second deficiency after the conclusion of and acceptance by the taxpayer of a field audit, the fact that the taxpayer would be reimbursed for all his costs in contesting the second deficiency if the Internal Revenue Service is unsuccessful should deter the Internal Revenue Service from asserting insignificant and/or questionable second deficiencies. Thus, the enactment of this amendment would impart a greater degree of finality to a taxpayer's acceptance of the result of an audit of his return.

Although existing Code section 7605 (b) provides that the Internal Revenue Service is allowed only one inspection of the books and records of a taxpayer unless the taxpayer requests otherwise or the Secretary of his delegate after investigation notifies the taxpayer in writing that an additional inspection is necessary, this section, of course, does not prevent the Internal Revenue Service from asserting a second deficiency. It should be noted that the proposed amendment is somewhat analogous to rule 68 of the Federal rules of civil procedure which permits a party defending against a claim to make an offer of judgment; if the judgment finally obtained by the party to whom the offer is made is not more favorable than the offer, the party to whom the offer is made must pay the cost incurred by the party extending the offer after the making of the offer.

Mr. President, I have discussed the amendment with the chairman of the committee and with the ranking Republican member. I understand that there is no objection to accepting the amendment.

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

Mr. DOLE. I yield.

Mr. PEARSON. Mr. President, my distinguished and able colleague has stated precisely the intent and the purpose of the amendment. It is born out of actual experience. And really it relates to a situation in which the Internal Revenue Service may come in under a claim, as the Senator stated, and have an audit and thereafter reach an adjudication as to the liability of the taxpayer that may be paid. Thereafter there are proceedings available under which they can come in for the second time and ask for

a second audit. That audit requires considerable expense.

The amendment of the Senator from Kansas proposes that if on that second audit, after all that expense is incurred, it is determined that no further liability is due the Internal Revenue Service, then, the Internal Revenue Service shall be responsible for that additional expense.

I repeat that the amendment is borne out of a specific case. But it has no relation to it. It is not retroactive in any way. I believe it is really in the very essence of fairness.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. WILLIAMS of Delaware. Mr. President, I have discussed the amendment with both of the Senators from Kansas. As a member of the committee, I think it has merit. I have no objection to accepting the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment (No. 301) was agreed to.

AMENDMENT NO. 343

Mr. CURTIS. Mr. President, I call up my amendment No. 343 so that it may become the pending business, and I ask unanimous consent that it be printed in the RECORD in lieu of being read.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment (No. 343) ordered to be printed in the RECORD, is as follows:

On page 79, after line 19, insert the following:

"(3) Annual report.—Part III of subchapter A of chapter 61 (relating to information returns) is amended by adding after subpart B (added by section 602(a) of this Act) the following new subpart:

"'SUBPART E—INFORMATION CONCERNING PRIVATE FOUNDATIONS

"'SEC. 6058. ANNUAL REPORTS BY PRIVATE FOUNDATIONS.

"'(a) General.—The foundation managers (within the meaning of section 4946(b)) of every organization which is a private foundation (within the meaning of section 509(a)) having at least $5,000 of assets at any time during a taxable year shall file an annual report as of the close of the taxable year at such time and in such manner as the Secretary or his delegate may by regulations prescribe.

"'(b) Contents.—The foundation managers of the private foundation shall set forth in the annual report required under subsection (a) the following information:

"'(1) its gross income for the year,

"'(2) its expenses attributable to such income and incurred within the year,

"'(3) its disbursements (including administrative expenses) within the year,

"'(4) a balance sheet showing its assets, liabilities, and net worth as of the beginning of the year,

"'(5) an itemized statement of its securities and all other assets at the close of the year, showing both book and market value,

"'(6) the total of the contributions and gifts received by it during the year,

"'(7) an itemized list of all grants and contributions made or approved for future payment during the year, showing the amount of each such grant or contribution, the name and address of the recipient, any relationship between the recipient and the foundation's managers or substantial contributors, and a concise statement of the purpose of each such grant or contribution,

"'(8) the address of the principal office of the foundation and (if different) of the place where its books and records are maintained.

"'(9) the names and addresses of its foundation managers (within the meaning of section 4946(b)), and

"'(10) a list of all persons described in paragraph (9) that are substantial contributors (within the meaning of section 507(d)(2)) or that own 10 percent or more of the stock of any corporation of which the foundation owns 10 percent or more of the stock, or corresponding interests in partnerships or other entities, in which the foundation has a 10 percent or greater interest.

"'(c) Form.—The annual report may be prepared in printed, typewritten, or any other legible form the foundation chooses. The Secretary or his delegate shall provide forms which may be used by a private foundation for purposes of the annual report if it wishes.

"'(d) Special Rules.—

"'(1) The annual report required to be filed under this section is in addition to and not in lieu of the information required to be filed under section 6033 (relating to returns by exempt organizations) and shall be filed at the same time as such information.

"'(2) A copy of the notice required by section 6104(d) (relating to public inspection of private foundations' annual reports), together with proof of publication thereof, shall be filed by the foundation managers together with the annual report.

"'(3) The foundation managers shall furnish copies of the annual report required by this section to such State officials and other persons, at such times and under such conditions, as the Secretary or his delegate may by regulations prescribe."

On page 79, line 20, strike out "(3)" and insert in lieu thereof "(4)".

On page 81, after line 12, insert the following:

"(3) Annual reports.—In the case of a failure to file a report required under section 6058 (relating to annual reports by private foundations) or to comply with the requirements of section 6104(d) (relating to public inspection of private foundations' annual reports), on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary or his delegate and in the same manner as tax) by the person failing so to file or meet the publicity requirement, $10 for each day during which such failure continues, but the total amount imposed hereunder on all such persons for such failure to file or comply with the requirements of section 6104(d) with regard to any one annual report shall not exceed $5,000. If more than one person is liable under this paragraph for a failure to file or comply with the requirements of section 6104(d), all such persons shall be jointly and severally liable with respect to such failure. The term 'person' as used herein means any officer, director, trustee, employee, member, or other individual who is under a duty to perform the act in respect of which the violation occurs."

On page 83, line 7, insert the following:

"(3) Annual reports.—Section 6104 is amended by inserting immediately after subsection (c), as added by this bill, the following new subsection:

"'(d) Public Inspection of Private Foundations' Annual Reports.—The annual report required to be filed under section 6058 (relating to annual reports by private foundations) shall be made available by the foundation managers for inspection at the principal office of the foundation during regular business hours by any citizen on request made within 180 days after the publication of notice of its availability. Such notice shall be published, not later than the day prescribed for filing such annual report (determined with regard to any extension of time for filing), in a newspaper having general circulation in the county in which the principal office of the private foundation is located. The notice shall state that the annual report of the private foundation is available at its principal office for inspection during regular business hours by any citizen who request it within 180 days after the date of such publication, and shall state the address of the private foundation's principal office and the name of its principal manager."

"(4) Willful failure to provide information regarding private foundations.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding after section 6685 (added by section 602(b) of this Act) the following new section:

"'SEC. 6686. ASSESSABLE PENALTIES WITH RESPECT TO PRIVATE FOUNDATION ANNUAL REPORTS.

"'In addition to the penalty imposed by section 7207 (relating to fraudulent returns, statements, or other documents), any person who is required to file the report and the notice required under section 6058 (relating to annual reports by private foundations) or to comply with the requirements of section 6104(d) (relating to public inspection of private foundations' annual reports) and who fails so to file or comply, if such failure is willful, shall pay a penalty of $1,000 with respect to each such report or notice.'

"(5) Section 7207 (relating to fraudulent returns, statements, or other documents) is amended by striking out 'section 5047 (b) or (c)' and inserting in lieu thereof 'sections 6047 (b) or (c), 6058, or 6104(d)'."

On page 98, line 22, strike out "and 6034" and insert in lieu thereof", 6034, and 6058".

On page 104, before line 17, insert the following: "and by adding after the item relating to section 6685 (added by section 602(c)(2) of this Act) the following new item:

"'SEC. 6686. Assessable penalties with respect to private foundation annual reports."

On page 105, after line 6, insert the following:

"(64) The table of subparts for part III of subchapter A of chapter 61 is amended by adding after the item relating to subpart D (added by section 602(c)(1) of this Act) the following new item:

"'SUBPART E.—INFORMATION CONCERNING PRIVATE FOUNDATIONS."

Mr. HARRIS. Mr. President, I intend to support the amendment to be offered by the distinguished Senator from Arizona (Mr. FANNIN), to strike from the Tax Reform Act of 1969, the provisions requiring that H.R. 10 rules be applied to qualified pension plans of professional corporations.

The report of the Senate Finance Committee stated:

The Committee recognizes that there are disparities in the tax treatment of self-employed individuals and corporate employees with respect to pension plans, and that this problem needs attention.

Recognizing that the disparities should be eliminated, the question then becomes one of determining what course of action should be taken in the meantime.

A study of what the effect of the disparities has been, leads me to believe that rather than take action on this matter at this time, we should await the results of the study being conducted by the Treasury Department and staffs of the Senate Finance Committee and the Joint Committee on Internal Revenue Taxation. In an effort to provide equal treatment to all taxpayers, many

States adopted special incorporation laws which provide for what are commonly referred to as "professional corporations." To require that these corporations can be governed by H.R. 10 plans, and thereby provide a further disparity of treatment, would not lead us any closer to solving the problem of equality and would seem to be unfair to those who have attempted to gain the same treatment as corporate employees and in the process have gone to considerable expense.

I have been in touch with numerous lawyers in my home State of Oklahoma concerning this problem. Oklahoma has adopted a professional corporation act, and many lawyers, in reliance upon recent court cases holding that corporations organized under such an act are to be treated as corporations for tax purposes, have incorporated and set up pension plans. Almost without exception these lawyers have not questioned the need to eliminate the disparities in the present system, but they have questioned whether the action taken by the Finance Committee is in fact a step in the direction of eliminating these disparites. Many have concluded that the action of the committee will only result in further confusion and expense.

Under these circumstances, I am hopeful that in the very near future, rules that will provide equality of treatment to all, whether they be self-employed or employed by a corporation, professional or nonprofessional, large or small corporation, be granted equality of treatment. In the meantime, the best course of action is to adopt the pending amendment.

Mr. TALMADGE. Mr. President, the amendment, No. 310, proposed by Senator PROXMIRE would reincorporate sections 431 and 432 of the House bill, in substantially modified form, into the Senate bill. These provisions were rejected by the Senate Finance Committee and Senator PROXMIRE'S amendment should likewise be rejected. Mr. Edwin S. Cohen, Assistant Secretary of the Treasury for Tax Policy, assured the Senate Finance Committee that a complete and thorough study of the U.S. taxation of foreign income would be undertaken by the Treasury and that concrete proposals in this regard would be forthcoming in the near future. It would be a mistake to adopt "peacemeal" legislation such as this which could have drastic effects on foreign investment and our balance of payments without the benefit of the Treasury study and their recommendations in this area.

This amendment penalizes a taxpayer who incurs a loss and who properly offsets U.S. income with his loss by denying him foreign tax credits for taxes paid to foreign countries when in later years the taxpayer makes a profit. This is in effect double taxation of the same income which is contrary to our laws since 1918. Such a result will place taxpayers at a competitive disadvantage with foreign nationals who pay only one tax—that of the foreign country.

Further, the proposed amendment, at least with regard to foreign losses, is even more stringent than the House bill and would have more inequitable results. For example, a foreign expropriation loss would have to be carried back to each of the 2 preceding taxable years with the resultant loss of a properly claimed foreign tax credit for those years. This is obviously an inequitable result and any legislation which has the effect of creating a double penalty in the case of expropriation should not be adopted.

The second portion of the amendment would reduce the amount of creditable foreign taxes by the taxes attributable to the depletion allowance amounts to a backdoor attempt to reduce the effective rate of depletion. Last Monday the full Senate voted on the rate of depletion to be allowed oil and gas and the decision reached at that time should not be undermined by amendments such as this. The revenue gain to the United States from this proposal would be temporary, if indeed there would be any at all, since the foreign governments will raise their tax rates—in some cases automatically—to reflect this change. This proposal would only result in higher foreign taxes with no appreciable revenue gain to the United States thus creating an additional burden on American companies operating abroad. It is difficult to see any benefit to be derived from this proposal.

Mr. METCALF. Mr. President, tomorrow, or as soon thereafter as I can get recognition I am going to offer amendment No. 315 to the pending tax reform bill H.R. 13270. Amendment No. 315 relates to correction of the abuses by high income non-farm taxpayers using the liberal accounting methods for legitimate farmers to create artificial tax losses.

I have been interested in the problem of preserving the tax accounting methods allowed farmers for those who need it, and at the same time correcting the abuses that have grown, for several years. In the course of my sponsorship of this legislation I have received hundreds of letters. A great majority of them were favorable to the legislation which I am going to offer as an amendment.

At the hearing before the Senate Finance Committee the chief opposition to meaningful reform in this area came from such organizations as the American Horse Council, the National Livestock Tax Committee and the American Hereford Association.

Of course, it would be impracticable to put into the RECORD all the letters I have received from people all over America who support the approach I am seeking, but on the eve of the vote I do want to call attention to four letters that are in my file.

The first letter is from a Wyoming cattleman addressed to the American National Cattlemen's Association. Senators HANSEN and MCGEE and Congressman WOLD also received copies of this letter. I ask unanimous consent that this letter be included as a part of my remarks.

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

AMERICAN NATIONAL CATTLEMEN'S ASSOCIATION,
Denver, Colo.

GENTLEMEN: I am concerned with the testimony ANCA is presenting to Congress, as per your Beef Bulletin of March 8, 1969, against the Metcalf Bill and the Culver Bill with regard to tax-loss farming.

For 25 years I have been a member of American National Cattlemen's Association and I want you to know you are certainly not representing me when you testify against these bills.

I run a 500 cow herd which is my only means of livelihood, and I might add it has been pretty "slim pickins" the last several years. This depressed cattle income, I feel, is due to several reasons, but probably the two most important are the great amount of tax dodge farming and ranching by wealthy individuals and corporations, and excessive imports of beef.

To me, the Metcalf and Culver Bills are steps in the right direction. They will not only protect the bread and butter farmers and ranchers but in the long run will contribute very materially to our national economy.

I suspect there are a good many other bread and butter cowmen who feel exactly as I do about these bills.

Sincerely yours,

Mr. METCALF. Mr. President, I also ask unanimous consent that the cover letter to me be included at this point in the RECORD.

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

DEAR SENATOR METCALF: Enclosed is a copy of my letter to the American National Cattlemen's Association, which is self-explanatory.

May I add further that I am pleased with your bill and feel that its passage will enable the bread and butter cowman and farmer to stay in business, and if it doesn't pass it won't be long until many of us starve out, leaving the ranching and farming industries to the wealthy tax-dodgers.

I appreciate your efforts and thank you.

Sincerely yours,

Mr. METCALF. Mr. President, another significant letter from a grassroot farmer was sent to Senator MCGOVERN with a copy to me. I ask unanimous consent that this letter be inserted in the RECORD at this point.

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

Hon. GEORGE S. MCGOVERN,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MCGOVERN: I would like you to support the Metcalf Bill and Treasury proposals regarding offsetting farm losses against other income.

I am a member of The American Hereford Association, and I do not believe they are representing a majority, when they oppose this bill.

The continual flow of outside capital into land for tax purposes, not only puts an unrealistic value on land; but is also continually raising our real estate taxes by this false value.

These same people are the ones who also are hollering loudest about raising grazing fees on public land. We pay around $5.00 per unit for private grazing, and they get public land for about $1.00 per unit. If they don't want to pay the higher grazing fees, there are plenty of us who will.

Yours truly,

Mr. METCALF. Mr. President, a very interesting letter is from a member of the International Arabian Horse Association to the executive secretary of that association. It is as follows:

Mr. RALPH E. GOODELL, Jr.,
Executive Secretary, International Arabian Horse Association, Burbank, Calif.

DEAR MR. GOODELL: As an Arabian horse owner and member of the I.A.H.A., I received your March, 1969, letter asking members to oppose Senator Metcalf's bill S. 500. As I understand it, this bill would limit the amount of loss incurred in farm or ranch operations to be offset against nonfarm income—in other words, big businessmen could not operate farms/ranches at a loss to ease their tax status.

I am well aware that owning and raising Arabian horses can be very expensive, and that a nonfarm income is most helpful in paying the bills between sales of livestock. However, having lived in a ranch community in Wyoming for a good many years, and having numerous friends who are trying to make a living by farming or ranching, I must seriously protest your stand on S. 500 and H.R. 4257. That our extremely unfair tax system has allowed so many farms and ranches to be run at a loss by "absentee big business" at the expense of those who are trying to make a living by ranching is to me a crime, and I am most gratified that the good Montana Senator is seeking to remedy this situation.

As a staunch conservative, I am very much in favor of the free enterprise system which has made our country so great, and it would appear to me that a return to a "free market" in the ranching/farming sector of our economy would be much better for all concerned than a continuation of subsidizing uneconomical livestock producers at the expense of those trying to earn their livelihood in this industry.

I would be very much interested in the response to your March, 1969, letter, and to my comments above. I am very much interested in the future of both the I.A.H.A. and the Arab horses we all try to promote, but I feel that stands such as this one against S. 500 serve only to confirm the "non-Arab" public's opinion that all Arab owners are big rich businessmen having no thought or care about the average rancher.

Sincerely,

Mr. METCALF. Mr. President, the author of that letter shared it with me but the Senator to whom the primary plea was addressed was the Senior Senator from California (Mr. MURPHY). The covering letter to Senator MURPHY is as follows:

DEAR SENATOR MURPHY: The enclosed letter to Mr. Goodell, regarding Senator Metcalf's S. 500, is self-explanatory. I am sending a copy to you in order to ask you to please lend your support to S. 500, and also to ask if I might have a copy of this bill.

Also, thank you very much for continuing to do such an outstanding job in presenting the conservative side of issues back there in all the confusion! As the daughter of a state legislator and a former district secretary to a congressman, I can readily appreciate the job you are accomplishing, and just wanted you to know that you have many, many supporters here in the Golden State.

Again, many thanks for your attention to S. 500, and for a job well done.

Sincerely,

Mr. METCALF. Mr. President, in late March the Ohio Farm Bureau Federation, Inc. wrote to me, as follows:

OHIO FARM BUREAU FEDERATION, INC.,
Columbus, Ohio, March 27, 1969.

Senator LEE METCALF,
Senate Office Building,
Washington, D.C.

DEAR SENATOR METCALF: During the month of February over 1,460 Advisory Council discussion groups of the Ohio Farm Bureau Federation were discussing the topic, "Will Non-Agricultural Corporations Dominate Agriculture?" A copy of this discussion material is enclosed.

We received minutes from 670 groups who discussed this topic and that summary is enclosed. I think you will be encouraged to find that so many Ohio farmers favor legislation such as the "tax loss farming bill" which you introduced.

Sincerely yours,

Mr. METCALF. Mr. President, enclosed was a résumé of the minutes of the seminar which is set forth as follows:

WILL NON-AGRICULTURAL CORPORATIONS DOMINATE AGRICULTURE?

Many Farm Bureau members are concerned about the possibility that non-agricultural corporations may dominate agriculture in the future, but they do not see much immediate danger. Some fear that corporations will purchase farms and use expenses as tax write-offs on their total operation.

There was a feeling if non-agricultural corporations turn to farming it will be more difficult for young people to get started.

Ohio farmers believe that the trend toward corporations farming will continue, because large sums of capital are needed to operate a farm successfully. There was interest in the possibility of incorporating family farms, and this has increased sharply since "Workable Agreements for Joint Farm Operations" was the Advisory Council Guide topic in October, 1967.

Many Councils thought that non-agricultural corporations would pose a threat to the family farm in the future unless there was a greater governmental control of them. There was considerable support for the "tax loss farming" bill which has been introduced by Senator Lee Metcalf of Montana. Many Councils thought that Farm Bureau should work for the passage of such legislation.

Councils agreed that steps should be taken to strengthen Farm Bureau and Landmark. By working together these organizations could help family-owned farms and keep them from being taken over by non-agricultural corporations.

Cooperatives must use modern methods and be competitive with other businesses, it was stated frequently. Cooperatives should provide more information to their patrons, so that they will understand the operations of their farmer-owned businesses.

There was wide support for the Ohio Agricultural Marketing Association, and a belief that its program should be strengthened and enlarged. More Farm Bureau members should join OAMA, it was frequently suggested.

Mr. METCALF. Mr. President, and finally a letter that has gone to every Member of the U.S. Senate from officers of the National Grange, the National Farmers Organization, the National Farmers Union, the Midcontinent Farmers Association, and the National Association of Wheatgrowers, which specifically mentions amendment No. 315 and recommends its passage. That letter is as follows:

DECEMBER 2, 1969.

DEAR SENATOR: The mounting concern of the family farm operator over the accelerating acquisition of agricultural lands by individuals and organizations for the purpose of building up a loss position from farming operations conducted on the lands acquired and deducting such losses from income tax liability is indicated by the fact that 12 farm and commodity organizations supported S. 500, introduced by Sen. Lee Metcalf, to prevent this practice of farming the Internal Revenue Code rather than the land.

This corrective legislation will affect only non-farmers with large amounts of nonfarm income who invest in farming in order to secure tax losses which may be set off against their non-farm income. There are numerous safeguards in the bill to protect the family farmer who depends on his farm to produce the income needed to support his family.

Therefore, we urge that you support amendment No. 315 when it is offered from the floor by Sen. Metcalf, as a complete substitute for the tax-loss farming provisions of the Tax Reform Act of 1969 as reported by Senate Finance Committee.

We are confident that the amendment will not have a detrimental effect on legitimate farmers or non-farmers who invest in farming to earn farm profits; nor will it force any farmer to the accrual system of income tax accounting.

The amendment is unique, in that it is pointed directly at the abuse of the liberal tax accounting rules of the Internal Revenue Code, provided by Congress for ordinary farmers or those interests outside of agriculture that make investments in farming for a profit.

Your yes vote on amendment No. 315 is a vote for American agriculture and the continuation of the free enterprise system in the family farm structure.

JOHN W. SCOTT,
The National Grange.
OREN LEE STALEY,
National Farmers Organization.
TONY T. DECHANT,
National Farmers Union.
FRED HEINKEL,
Midcontinent Farmers Assn.
E. L. HATCHER,
National Assn. of Wheat Growers.

MARIHUANA USE IN VIETNAM

Mr. DODD. Mr. President, a pall of grief and shame and sadness has descended on our land and our people in the wake of the reported massacre at Mylai, South Vietnam.

For most of us, I believe, our first reaction to the initial reports of the alleged massacre was one of shocked disbelief.

Never before in our history have American troops been accused of mass murder in cold blood.

Our Armed Forces have strict rules of combat prohibiting the maltreatment of civilians.

Moreover, the American GI is universally known for his compassion and kindness to young and old; friend and foe.

The pictures and stories of American troops feeding candy bars and chewing gum to children are legion.

Literally thousands of women and children throughout the world are alive today thanks to the generosity of our troops.

Every GI who served overseas during World War II has told and retold the story of how he and his buddies shared their "K-ration" with hungry children, many of whom had been left orphans on the battlefields of Europe and Asia.

Who has not heard of the hundreds of military units who adopted scores of these orphans of war as their own.

I recall the stories of supply sergeants making smiling complaints that their men were "stealing them blind" in order to feed, clothe, and house the innocent victims of war in Korea, in France, in Italy, and in virtually every corner of the world where the ravages of war took their deadly toll of human life and misery.

If the massacre at Mylai took place as alleged, then it represents a total and almost incomprehensible aberration from the normal conduct of American GI's, in previous wars and in the Vietnam war as well.

It is noteworthy in this connection that the feature article on Mylai in the current issue of Life quotes an old woman as saying that, before, when the Americans came to their village, they "always brought us medicine or candy for the children." And Charles West an ex-sergeant who was in Mylai on March 16, 1968, was quoted as saying:

> On other missions the GI's would take their fruit and maybe a can of pork and beans, and give the rest to the Vietnamese people . . . kids would meet us two or three miles out of the village. We didn't have to use our mine detecting machine, because they would run their animals down the trail and walk behind them just to show us GI's we don't want to hurt you and we know you don't want to hurt us.

These are the reasons why we are all at a loss to understand the terrible incidents that are reported to have taken place in South Vietnam. The people of the world, the people of the United States, and even the parents of the GI's involved, are shocked and dumbfounded.

Mr. President, the grisly incidents alleged to have occurred on March 16, 1968, in Mylai, South Vietnam, present us with a major confrontation in character. Have American soldiers suddenly been transformed into brutish monsters overnight?

Or, is there some other cause, another factor that has induced this terrible aberration?

There is reason to believe that this new image of the GI as a stormtrooper could well be the direct result of the toxic effects of certain drugs which are abundant in Vietnam.

Congress has never been given a definitive answer on the extent of the drug abuse problem in the Armed Forces in general, and Vietnam in particular. The Juvenile Delinquency Subcommittee has taken testimony on that matter several times from both the military and from professional men who have had to deal with drug addiction, much of it traceable to the time of military service.

By a coincidence, only 10 days before the alleged incident at Mylai, as chairman of the Senate Juvenile Delinquency Subcommittee, I was conducting hearings on the use of marihuana and other dangerous drugs by members of our Armed Forces in Vietnam.

In the course of these hearings, the Secretary of Defense told me that arrest figures for marihuana in Vietnam increased 2,553 percent between 1965 and 1967.

We heard of marihuana being found on four out of five bodies of dead GI's including officers, and of confused young men in combat turning to marihuana in sheer desperation.

It is common knowledge among servicemen, newsmen, and civilian employees in Vietnam that a stick of marihuana in Saigon is as far away as the nearest newsstand or bar, and only slightly more expensive than a good cigar.

The son of John Steinbeck, the celebrated author, testified that during a recent tour as a reporter in Vietnam, he determined that as high as 75 percent of the troops, including combat troops, used marihuana.

As far back as our 1966 hearings on the Narcotic Addict Rehabilitation Act, we were told by a marine helicopter machinegunner of how he shot three South Vietnamese military personnel while under the influence of drugs.

In these years, we were frequently warned by the medical profession of the increased use of marihuana and dangerous drugs, because they were treating scores of Vietnam veterans who came back to this country addicted or suffering from mental and emotional illness as a result of drug abuse.

We have since that time maintained a close watch on the efforts of the Armed Forces to reduce or eliminate marihuana use and the drug traffic in Vietnam.

My frank impression is that the efforts to date have been completely inadequate, and that the problem remains as acute as ever.

It has been reported to me that physicians in Vietnam have been impressed by the severity and frequency of adverse reactions to smoking Vietnamese marihuana, which is reported by the Army Chemical Laboratory in Japan to be twice as potent as that found anywhere in the United States.

Medical men who have worked in this area have pleaded with me to expose the fact that use of marihuana in Vietnam, combined with environmental stress, has caused a condition which is known as marihuana toxic psychosis. According to one noted expert, this psychosis might demonstrably be the cause of the alleged massacre at Mylai.

As recently as November 4, 1969, 9 days before the Mylai incident was reported, an investigator for the Juvenile Delinquency Subcommittee took a deposition from a reputable New York psychiatrist who has treated Vietnam veterans for this condition. In this statement, he discussed the potential for the blind violence that can result from marihuana psychosis.

In one particular case, a 19-year-old soldier on guard duty smoked some marihuana with another soldier, who was also a user. The first smoker began to taunt some nearby Vietnamese children; he told them he was Ho Chi Minh, and fired his weapon near them. The second smoker, on seeing the words Ho Chi Minh on the T-shirt of his comrade became terrified and murdered him with his rifle.

Reports of this kind of behavior have been regularly coming to the subcommittee and have increasingly caused me great concern.

Interviews with returning Vietnam veterans by subcommittee investigators indicate that as many as 60 percent of the troops and officers who go on dangerous patrols or actions such as the Mylai action, smoke marihuana in order to dissolve the fear and anxiety related to combat action.

Official Army surveys report that 30 to 65 percent of our troops have used canabis derivatives during their tours of duty in Vietnam.

Only yesterday I received information from an outstanding expert that the marihuana toxic psychosis I have described may have played a part in the events at Mylai on March 16, 1968.

In view of the significance of this aspect of the case, I have asked the White House and the Department of Defense to cooperate with subcommittee investigators in determining the relationship between drug use or drug-induced psychosis among the troops of C Company, 1st Battalion, 20th Infantry, 11th Light Infantry Brigade, and the events that occurred on March 16, 1968. According to the information that has been coming in to me since November 13, this may be part of the explanation for the behavior of some of our troops on that day.

We should not be altogether startled by the bizarre activities of these young soldiers if what we have been told happened at Mylai did indeed happen. I know only what I have read in the newspapers.

These GI's are of the same generation as some of the college crowd who are leading the weird actions and revolts on campuses across the country. These are the students who, in a very large percentage, have associated themselves with marihuana, a "pot culture."

There is a long record of grotesque activities of our young here at home committed while under the influence of marihuana and other psychotropic drugs.

We should not be taken completely off guard when those same students, introduced to the stress of Army life and the harsh realities of battle conditions, react in weird ways under the influence of these drugs.

This is all the more so when it is understood that the difference between the domestic variety of marihuana here in the States and Vietnam marihuana is the same as the difference between a glass of beer and a half pint of whisky.

If this is so, it is imperative that immediate drastic steps be taken to correct this drug problem that I have warned the past two administrations about since 1966.

Upon the completion of our interviews with medical witnesses, and the Army and civilian personnel involved, I plan to conduct public hearings to get at the facts, to let our people know if our soldiers in Vietnam have suddenly become brutal stormtroopers, or, whether, as I consider more likely, some of them have become the victims of a drug problem that has already torn asunder the fabric of domestic American society.

COLLEGIALITY IN A WORLD FUND FOR HUMAN DEVELOPMENT

Mr. JAVITS. Mr. President, some months ago the President named the Presidential task force on international development, which was enjoined to thoroughly review the developmental assistance programs of the United States and to make recommendations for the future. One of the distinguished Americans named to this Commission was the archbishop of New York, Terence Cardinal Cooke. In my correspondence with the cardinal we have explored an area that

increasingly will concern mankind—the growing north-south gap between the developed and developing world.

When I learned that Cardinal Cooke made concrete proposals addressed to the problem of human development at the recently concluded synod of bishops in Rome, I asked his permission to have his remarks printed in the RECORD. I regard the cardinal's remarks as most appropriate for the forthcoming holiday season.

In the calling for the establishment of a World Fund for Human Development, Cardinal Cooke states:

> More than one-half of the parents of the world lack the necessities to provide a decent human life for themselves and their families. Hunger is their constant and relentless companion. They live in hovels for human habitation. The majority are functionally illiterate and thus lack all hope of ever rising out of their misery.

Cardinal Cooke calls for a renewed commitment to act on this problem. He states:

> However, if we truly live up to this commitment it means that all of us in different nations must be willing to sacrifice some portion of our resources; we should support and become involved in the programs of international aid and development, for creating a more just world community, in keeping with the teachings of the gospel and the appropriate goals now being set forth by organizations acting through the United Nations.

Mr. President, I contend that this is what the foreign assistance bill is all about.

I ask unanimous consent that Cardinal Cooke's statement to the synod of bishops, entitled "Collegiality in a World Fund for Human Development," be printed at this point in the RECORD.

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

COLLEGIALITY IN A WORLD FUND FOR HUMAN DEVELOPMENT

[STATEMENT TO THE SYNOD OF BISHOPS, ROME, 1969]

(By Terence Cardinal Cooke)

CHAPTER 3

My brother bishops, throughout these days together we have deliberated on the inner meaning of collegiality and we have considered specific ways in which the College of Bishops can share with the Holy Father in his pastoral concern for the whole world. We are all well aware that we have not given final answers to all of the questions that have been raised and that there is room for a greater development in the future.

For the present, I should like to make a proposal which could, I believe, in a concrete way both exemplify and strengthen our present possession and awareness of collegial concern for the whole Church and for all mankind.

"The joys and the hopes, the griefs and anxieties of the men of this age, especially those who are poor or in any way afflicted, these too are the joys and hopes, the griefs and anxieties of the followers of Christ." (*Gaudium et Spes*, par. 1)

This opening declaration of the Pastoral Constitution on the Church in the Modern World has reverberated around the world now for the four years since the Second Vatican Council. Yet today, more than ever, it is imperative that the actions of the Universal Church, as evidenced in this Synod of Bishops, give flesh to the words of the Fathers of the Council. Sad to say, grief and anxiety, human need and misery have increased in most regions of our planet.

But what of joy and hope? Our Holy Father, with his great encyclical *Populorum Progressio*, by his visits to the developing countries and to the United Nations in New York and to Geneva, and by his acts on behalf of the poor and oppressed, has indeed animated the world with a Christ-inspired vision and hope. I urge that this Synod should follow our Holy Father's example, so that we also, by our teaching and deeds, might give greater force to the words of the Council Fathers, spoken in the Holy Spirit.

As we are gathered here, we represent the Church from all nations. We have been called by Our Lord, and by His Vicar, to make Christ present in this world of hunger and human striving and elusive hope—not only by the words of His Gospel and teaching, but by His acts of sacrificing love and service. We must bring to life our expressed concern by collegial and continuing action for human development, for world justice and peace.

We can do this conjointly, as national and regional conferences of bishops, in solidarity with the Pope, in ecumenical collaboration with all Christian churches and religious communities, in cooperation with the United Nations and other secular institutions, for building up together with all men of good will, a world of peace based on justice and the integral development of every man and of all peoples.

To further these goals, I respectfully suggest that this Synod of Bishops consider the following proposals:

(1) A number of episcopal conferences have already established Justice and Peace Commissions. They have launched educational programs for arousing the conscience and personal participation of the faithful, for motivating them as Christian citizens to fulfill their individual roles in the development of the human family as well as for generating the collective will of all peoples especially on behalf of the poor and oppressed of the world. These programs of education should be continued and extended, and where they do not exist, programs should be initiated. It would be helpful to have an exchange of information between episcopal conferences concerning this important matter.

(2) However, if we truly live up to this commitment it means that all of us in different nations must be willing to sacrifice some portion of our resources; we should support and become involved in the programs of international aid and development, for creating a more just world community, in keeping with the teachings of the Gospel and the appropriate goals now being set forth by organizations acting through the United Nations.

In this way we can help the poor of the world to generate their own human development, in the context of their own culture and local environment.

Therefore, I propose that we should respond effectively to the Holy Father's pleas in *Populorum Progressio* (Par. 51) to establish a world fund for human development. In this way, we would be following the initiative that he has given through his fund for agrarian reform in Latin America. This would give added weight to our teaching, and be an effective sign of solidarity among ourselves as members of the College of Bishops with the Holy Father, and of our solidarity with the world community of nations.

Governments have given priority to economic development. The fund we are proposing would give major emphasis to human development. In many countries, more than one-half of the people are unable to read and write and to take their rightful place in the human family. This fund would aim at helping to develop these human resources which are, as yet, unused. It would greatly expand programs for training leaders in the field of social action, education and cooperative movements; programs which the Church is uniquely equipped to encourage and to promote.

In testimony to our collegial responsibilities and as both a symbol and a means of our belief in the present need for world-wide collaboration, this world fund might be constituted by contributions from every conference of bishops and supported by the whole People of God. By the very act of gathering the fund, all of us would be educated to the needs of peoples throughout the world and provided with an effective means for responding to the needs of our brothers.

More than one-half of the parents of the world lack the basic necessities to provide a decent human life for themselves and their families. Hunger is their constant and relentless companion. They live in hovels unfit for human habitation. The majority are functionally illiterate and thus lack all hope of ever rising out of their misery.

Happily, several conferences of bishops already carry out their own extensive and praiseworthy programs of social assistance and development, in bilateral relation with the peoples of other areas. The fund would not replace and hopefully would not diminish these praiseworthy activities. The new fund could be supervised by a Board consisting of representatives of the bishops' conferences of all continents, and it would be an expression of our universal character as the College of Bishops. This development fund could be managed by an agency such as the Pontifical Commission for Justice and Peace established by the Holy Father at the request of the Second Vatican Council (*Gaudium et Spes*, par. 90). This would be arranged in cooperation with the secretariats of our regional conferences, benefitting also from the wide experience and competent staff of our existing aid and development agencies, missionary bodies and social action movements.

Once again, we recall the words of the College of Bishops, spoken in the Holy Spirit during the Vatican Council. I quote the Pastoral Constitution on the Church in the Modern World (par. 93):

"Mindful of the Lord's saying: 'By this will men know that you are my disciples, if you have love for one another' (John 13, 35), Christians cannot yearn for anything more ardently than to serve the men of the modern world ever more generously and effectively. Therefore, holding faithfully to the gospel and benefitting from its resources, and united with every man who loves and practices justice, Christians have shouldered a gigantic task demanding fulfillment in this world. Concerning this task they must give a reckoning to Him who will judge every man on the last day."

Certainly these words apply to us who are called to be the Lord's shepherds. Sharing His vision, and with His strength, we must bear one another's burdens. United, as we are here, we must show forth the love of Christ by sacrificing service, and hopefully by this collective witness help to unite the whole human family. I believe that this action can demonstrate our collegiality in a way that will be readily understood by all members of the Church and by all mankind.

TAX REFORM ACT OF 1969

The Senate continued with the consideration of the bill (H.R. 13270), the Tax Reform Act of 1969.

Mr. CRANSTON. Mr. President, generally, under the bill, the investment tax credit will not be available with respect to property which is acquired by the taxpayer after April 18, 1969, or the construction of which commenced after that date. Thus, in the case where a manufacturer commenced construction of

property prior to April 19, 1969, even though the property could qualify for the credit in his hands, the credit would be lost upon the sale of the property after April 18, 1969, since the manufacturer would no longer own the property and the buyer would have acquired the property after the cutoff date.

It is apparent that the effect of this general rule could be circumvented if the manufacturer would lease, rather than sell, the property. In this manner, the manufacturer-lessor could claim the credit, and the lessee could acquire the use and possession of the property together with the benefit of the investment credit which would be reflected in a lower rental than would have been charged by the manufacturer had the credit not been applicable.

To prevent this abuse, the bill adds section 49(c) to the Internal Revenue Code which provides, in part, that the credit will not be available to the lessor or to the lessee in the case of property which was acquired by the lessor prior to April 19, 1969, or the construction of which commenced before that date, if the lessor ordinarily sold rather than leased property of the type involved.

I am in agreement with this provision and believe that it is a necessary safeguard against improper avoidance of the repeal of the investment tax credit. However, the effect of the provision turns upon a construction of the word "ordinarily"—that is, if the taxpayer has "ordinarily" sold property of the type involved, the investment tax credit is not available to him or to the lessee. The reports of the Committee on Ways and Means and the Committee on Finance do not elaborate upon how the word "ordinarily" is to be construed.

Therefore, I wish to ask the distinguished chairman of the Committee on Finance whether in determining if property has been "ordinarily" sold for these purposes, a projection of anticipated leasing activities by a manufacturer may be taken into account in the following circumstances.

A jet aircraft manufacturer created a wholly owned subsidiary to assist in the financing and leasing of aircraft produced by the parent corporation. The subsidiary actually engaged in, and claimed the investment credit with respect to, a number of leasing transactions from the time it commenced business operations through April 18, 1969. However, the number of aircraft which it had leased as of April 18, 1969, does not properly reflect the scope of its anticipated leasing transactions. A projection prepared by the companies prior to the commencement of business activity by the subsidiary and several months prior to the cutoff date, anticipated leases of aircraft for specified future years at a rate, compared to sales of aircraft, in excess of the rate which was experienced during the aforementioned start-up period. This projection was relied upon not only by the companies in determining their financing requirements, but also by independent third parties. For example, independent banking institutions were presented with and relied upon the projection in extending lines of credit to the subsidiary to cover its projected leasing activities. This projection also marked a departure from the aircraft manufacturer's past practices in which leasing activities had been kept to a minimum. My question, therefore, is whether the subsidiary can, under section 49(c), claim the investment tax credit with respect to aircraft leased at a rate which does not materially exceed the rate set forth in the projection to which I have just referred.

Mr. LONG. Mr. President, section 49(c) is intended to deny the investment tax credit with respect to property which is leased but which ordinarily would have been sold. Thus, the term "ordinarily" is intended only to prevent the credit from applying to leases at a rate disproportionately greater than the rate of leases the company ordinarily would have made. Such a disproportionate rate of leasing activity is convincing evidence of the conversion of normal sales transactions into lease transactions in order to circumvent the repeal of the credit. The provision is not intended, however, to eliminate the credit in those cases where a company continues the level of ordinary lease transactions.

In determining what ordinary lease transactions are for purposes of the bill, the term "ordinarily" should be construed on a reasonable basis, consistent with the objectives of the bill. In the case you cite, I believe the projection is a particularly significant one in determining the level of ordinarily lease transactions since the projection was relied upon by both the company and third parties and it marked a significant departure from the aircraft manufacturer's past leasing activities. Thus the investment tax credit, if otherwise applicable, would apply to aircraft leased by the subsidiary which does not materially exceed the rate of lease transactions set forth in the projection.

Mr. CRANSTON. I thank the Senator very much for the explanation.

The PRESIDING OFFICER (Mr. HUGHES in the chair). What is the pleasure of the Senator?

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

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

Mr. MILLER. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside so that I may offer an amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and it is so ordered.

Mr. MILLER. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 127, line 11, after the word "Members" insert "and from institutions or trade shows directly related to the purposes of such organization."

Mr. MILLER. Mr. President, this is purely a technical amendment to reflect what I am sure was the intent of the Committee on Finance. During the deliberations of the committee I offered the amendment and I was told it could be handled in the committee report. The committee report handled the matter with regard to tax exempt organizations, but not with respect to non-tax-exempt organizations.

The measure would provide in the case of unrelated business income that the income from institutions or trade shows conducted for the benefit of members and which are not used primarily as a selling device will not constitute unrelated business income. It seems to me the law should not differentiate between exempt and nonexempt organizations for this purpose.

I hope the chairman will accept the amendment.

Mr. LONG. Mr. President, I see nothing wrong with the amendment. I believe the committee did have this in mind when it acted in this area.

I regret the Senator from Delaware (Mr. WILLIAMS) is not present in the Chamber because I would like to be able to show it to him. I do not believe he will object. If he should have second thoughts about it tomorrow I think we could reconsider it. Therefore, if anyone wants to object he could come in and do so and on that basis I would be glad to agree to the amendment.

Mr. MILLER. The Senator is most agreeable. If any member of the Committee on Finance feels this was not the intention of the committee I would join in asking that the amendment be reconsidered.

Mr. LONG. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Iowa.

The amendment was agreed to.

MINIMUM TAX ON INDIVIDUALS

Mr. KENNEDY. Mr. President, tomorrow I intend to submit for the consideration of Members of the Senate a "minimum tax" amendment to H.R. 13270—the Tax Reform Act of 1969. The purpose of the amendment is to make certain changes in the minimum tax on individuals in the bill reported by the Committee on Finance.

At the outset, Mr. President, I would like to commend the committee and its distinguished chairman, the Senator from Louisiana, for the significant improvements the committee has made in the provisions dealing with the minimum tax as passed by the House of Representatives. Although the theory of the limit on tax preferences—the so-called LTP—in the House bill was relatively simple in concept, the proposal was highly complex in practice, as most of us who have tried to fathom its detailed provisions will attest. If enacted, the LTP would require difficult calculations by taxpayers, and would add significant new administrative difficulties to the Internal Revenue Code. Even more significant for our present purposes, however, the bill

passed by the House was deficient in three major respects:

First, it omitted a number of substantial items from its list of the tax preferences subject to the minimum tax, such as preference income from percentage depletion and from leased personal property;

Second, it applied the minimum tax only to individual taxpayers. It failed to apply the tax to corporations, who also are able to enjoy large amounts of tax preference incomes;

Third, and, most significant of all, the House bill contained provisions that did not "trigger" the minimum tax until tax preference income exceeded taxable income. As a result, many individuals with high taxable income would continue to enjoy large amounts of tax-free preference income under the House bill, in spite of the minimum tax.

As the excellent report of the Finance Committee makes clear, the committee recognized the serious complexity and inequity of the House version of the minimum tax, and adopted a completely different approach, based on the general concept that every taxpayer should pay at least some tax on income derived from tax preferences. I believe that this new concept of the minimum tax, now offered by the Finance Committee, is one of the major virtues of the committee bill, and I commend the committee for establishing this important principle. Indeed, as Members of the Senate are aware, Senator LONG has long favored the concept of the minimum tax, and it is entirely appropriate that this important contribution should at long last be made a part of this major tax reform bill.

At the same time, however, I believe that the minimum tax proposed by the committee can be improved still further as it applies to individuals. In fact, there are three important respects in which the fruitful work of the committee should be carried forward, and my amendment is intended to accomplish this result.

First, the minimum tax on individuals should be a progressive tax, not a flat rate tax. As many Senators have pointed out in the course of the current debate, the genius and guiding principle of our Federal income tax system is its progressivity. We apply that principle to our ordinary income tax on individuals, and we should apply it as well to the committee's version of the minimum tax.

As reported by the committee, the minimum tax in H.R. 13270 imposes a flat 5-percent tax rate on both individuals and corporations. Since corporations are already subject to a flat income tax rate under our present tax laws, it is appropriate that the minimum tax applied to corporations should also be at a flat rate. Therefore, I support the provisions of the committee bill as they apply to corporations.

With respect to individuals, however, the situation is far different. Under present law, the tax rates are progressive, ranging from 14 percent in the lowest bracket to 70 percent in the highest bracket. I believe that the minimum tax rate we enact should also be progressive. In general, the larger the amount of an individual's income from tax preferences, the larger should be the rate of the minimum tax he pays. We know that each year, many taxpayers receive hundreds of thousands of dollars or more in tax-free income through the use of the numerous preferences now contained in the tax code. It is fair to demand that these wealthy taxpayers pay their minimum tax at a higher rate than citizens with more modest preference income. For this reason, the minimum tax amendment I am proposing contains a new rate schedule graduated in four stages, from 2½ percent in the lowest bracket to 15 percent in the highest bracket.

Second, the minimum tax should be triggered at the lowest reasonable level consistent with effective administration of the tax laws and avoidance of unnecessary complexity for the taxpayer. Obviously, not every taxpayer with a few hundred dollars of capital gain should be subject to the tax. As passed by the House, the first $10,000 of tax preference income was made exempt from the minimum tax. In the version of the minimum tax reported by the Finance Committee, the first $30,000 of preference income was exempted from the operation of the tax.

I believe that both of these triggers are too high. One of the great virtues of the minimum tax is its insistence that all individuals with substantial tax preferences should pay at least some tax on their preference income. To be sure, even with the $30,000 trigger in the committee bill, the wealthiest taxpayers—those with the largest amounts of tax preference income—would be subject to the committee's minimum tax. But to say that $30,000—or even $10,000—of such income can continue tax-free is to cast grave doubt on the principle of the minimum tax in the eyes of scores of millions of our citizens whose taxable income is far less than $30,000 or $10,000. If we are to win their confidence in the justice of the minimum tax, we must set the trigger at the lowest practicable level. For this reason, my amendment proposes to set the trigger for application of the minimum tax on individuals at $5,000 of preference income. Thus, the amendment will establish the following progressive tax rates on preference income:

	Percent
$0–$5,000	0
$5,000–$30,000	2½
$30,000–$50,000	5
$50,000–$100,000	10
Over $100,000	15

Third, the items of tax preference income made subject to the minimum tax should be as comprehensive as possible. Except for two omissions, I believe that the nine items of preference income listed in the committee bill represent an essentially complete list of the preferences now contained in the Internal Revenue Code, or that will be contained in the code if other provisions of the committee bill are enacted.

The two omissions however, are significant. They are: Interest on State and local government bonds, and the appreciation in value of property donated to charity. Because of the extremely tenuous position of the tax-exempt bond market at this time, and the virtually unanimous opposition of Governors and mayors throughout the Nation to any mandatory tax whatever on their government bonds, it makes no sense to attempt to include interest on such bonds in the list of tax preferences subject to the minimum tax.

No such argument applies, however, to appreciation in value of property given to charity. Undoubtedly, such appreciation is a tax preference, and should be subject to the minimum tax, just as excess percentage depletion or excess depreciation on property is subject to the tax. I believe that the concept of the minimum tax is too important to allow its comprehensive base to be lightly eroded. Therefore, the amendment I am proposing includes as a tax preference the appreciation in value of property donated to charity.

In sum, my amendment would make three changes in the minimum tax: It would replace the existing flat rate with a graduated rate; it would reduce the trigger from $30,000 to $5,000; and it would expand the list of tax preferences by adding an important additional item, the appreciation in the value of property donated to charity.

According to preliminary estimates, these provisions will increase the revenue gain from its present value of $700 million under the committee bill to approximately $1 billion. More detailed information on the revenue impact of the amendment will be available when I call up the amendment at the appropriate time.

As today's vote on tax relief makes clear, additional revenues from tax reform are essential if we are to maintain a proper measure of fiscal responsibility in the immediate years ahead. I am pleased, therefore, that a more equitable approach to the minimum tax also confers the additional bonus of a substantial revenue gain. If enacted, the amendment I am proposing will help bridge the gap between tax reform and tax relief in the bill.

In closing, I compliment the distinguished chairman of the committee for his positive leadership in the area of tax reform—not only with respect to the minimum tax, an idea that he has long advocated, but also with respect to the many other very desirable features of this bill. Last winter, when the taxpayer's revolt first began, few of us believed that by December the Senate would be about to pass the greatest tax reform bill in our history. Today, our hopes are being realized, and the fact that they are is a great and lasting tribute to the leadership of the Senator from Louisiana.

Mr. President, I ask unanimous consent that the text of the amendment be printed in the RECORD.

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

On page 212, strike out lines 16 through 20 and insert the following:

"(a) IN GENERAL.—

"(1) INDIVIDUALS.—In addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to the income of every person other than a corporation, a tax, determined in accordance with the following tables, on the sum of the items of tax preference:

"(A) Taxpayers other than married individuals filing separate returns—	
"If such sum is:	The tax is:
Not over $5,000	0
Over $5,000 but not over $30,000	2½ percent of such sum over $5,000.
Over $30,000 but not over $50,000	$625, plus 5 percent of such sum in excess of $30,000.
Over $50,000 but not over $100,000	$1,625, plus 10 percent of such sum in excess of $50,000.
Over $100,000	$6,625, plus 15 percent of such sum in excess of $100,000.
"(B) Married individuals filing separate returns—	
"If such sum is:	The tax is:
Not over $2,500	0
Over $2,500 but not over $15,000	2½ percent of such sum in excess of $2,500.
Over $15,000, but not over $25,000	$312.50, plus 5 percent of such sum in excess of $15,000.
Over $25,000, but not over $50,000	$1,812.50, plus 10 percent of such sum in excess of $25,000.
Over $50,000	$3,312.50, plus 15 percent of such sum in excess of $50,000.

"(2) CORPORATIONS.—In addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year with respect to the income of every corporation, a tax equal to 5 percent of the amount by which the sum of the items of tax preference exceeds $30,000."

On page 213, line 2, strike out "person" and insert "corporation".

On page 214, after line 2, insert the following:

"(4) Taxpayers other than corporations.—In the case of a taxpayer other than a corporation, rules similar to the rules provided by paragraphs (1), (2), and (3) shall be applied under regulations prescribed by the Secretary or his delegate."

On page 217, after line 21, insert the following:

"(10) Appreciation in value of charitable contributions.—So much of the amount of the deduction allowable for the taxable year under section 170 or 642(c) which is attributable to contributions of property (other than contributions to which section 170(e) applies) as is equal to the amount by which the fair market value of such property (at the time of contribution) exceeds the taxpayer's adjusted basis in such property."

On page 220, strike out lines 9, 10, and 11 and redesignate subsections (b) through (g) of section 58, as subsections (a) through (f), respectively.

On page 220, beginning with line 21 strike out all through line 6, page 221 and insert the following: "or trust the sum of the items of tax preference for any taxable year of the estate or trust shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each."

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. KENNEDY. 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 9:30 o'clock tomorrow morning.

The motion was agreed to; and (at 5 o'clock and 19 minutes p.m.) the Senate adjourned until tomorrow, Thursday, December 4, 1969, at 9:30 a.m.

NOMINATIONS

MESSAGE RECEIVED

Executive nominations received by the Senate December 3, 1969:

ASSISTANT DIRECTOR, OFFICE OF ECONOMIC OPPORTUNITY

Donald S. Lowitz, of Illinois, to be an Assistant Director of the Office of Economic Opportunity, vice James D. Templeton resigned.

HOUSE OF REPRESENTATIVES—*Wednesday, December 3, 1969*

The House met at 12 o'clock noon.

The Reverend James P. F. Stevenson, D.D., pastor, Central Presbyterian Church, Bristol, Va., offered the following prayer:

Our help is in the name of the Lord, who made heaven and earth.—Psalm 124: 8.

O magnify the Lord with me and let us exalt His name together.—Psalm 34: 3.

Let us search and try our ways, and turn again to the Lord.—Lamentations 3: 40.

We are humbled and delighted, O Lord, to represent You here today before this august body. There is hope for each Member when his trust is in Thee.

We thank Thee for the faith of our fathers by which we claim kinship with the past and gain strength for the present.

In Thee and in Thee alone, there is strength to do and patience to endure.

We commend the Speaker and Representatives to Thy grace, through Jesus Christ our Lord. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendments, in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 10105. An act to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations for fiscal years 1970, 1971, and 1972, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 2185. An act to authorize a Federal contribution for the effectuation of a transit development program for the National Capital region, and to further the objectives of the National Capital Transportation Act of 1965 (79 Stat. 663) and Public Law 89-744 (80 Stat. 1324).

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE A PRIVILEGED REPORT ON DEPARTMENT OF DEFENSE APPROPRIATIONS, 1970

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight, December 3, to file a privileged report on the Department of Defense appropriations bill for fiscal year 1970.

Mr. MINSHALL reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

EXTENSION OF THE ECONOMIC OPPORTUNITIES ACT WILL NOT BE CALLED UP THIS WEEK

(Mr. PERKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PERKINS. Mr. Speaker, I wish to announce to the House that I do not intend to call up the extension of the Economic Opportunities Act this week. There are several reasons for this. I regret any delay but believe it is essential in offering the best possible legislation.

First, in the meeting this morning with the Democrat members of the committee who support the committee bill, all were very much against calling up the measure until they had seen a copy of the substitute that the gentleman from Ohio (Mr. AYRES), the gentleman from Minnesota (Mr. QUIE), and the gentlewoman from Oregon (Mrs. GREEN) say they will offer to the committee bill. In fact, the members at the meeting considered it a discourteous act that they have never been afforded an opportunity to even look at a copy of the substitute. They feel that they should have a few days to study it, when and if they can get a copy of the proposal.

Second, there is the matter of attendance. I personally have called on the whip's office, at the direction of the Speaker, to make a check of the members who will be present through Thursday and Friday.