SENATE—*Tuesday, December 9, 1969*

The Senate met at 10 o'clock a.m. and was called to order by Hon. HAROLD E. HUGHES, a Senator from the State of Iowa.

The Reverend John T. Tavlarides, dean, St. Sophia Greek Orthodox Cathedral, Washington, D.C., offered the following prayer:

Our Father, we offer You a eucharist of humility and gratefulness for our life and for the privilege of service in this august assembly.

We do so because we are made in the image of Your Son. We would be the presence of Him in the world.

Coworkers with You in a world where love and death are opposed, where death is destruction and love is creation, we would transfigure impoverishment into enrichment, humiliation into glory, crucifixion into resurrection.

We would be free by Your love.

In this love, send Your Holy Spirit to bless our Nation, our leaders and us; to make real Your promise, "They shall fight against thee; but they shall not prevail against thee, for I am with thee and I will deliver thee." Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will read a communication to the Senate.

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 9, 1969.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. HAROLD E. HUGHES, a Senator from the State of Iowa, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

Mr. HUGHES thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, December 8, 1969, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Subcommittee on Labor of the Committee on Labor and Public Welfare and the Committee on Commerce and its subcommittees be authorized to meet during the session of the Senate today.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Subcommittee on Administrative Practices and Procedures of the Committee on the Judiciary be authorized to meet during the session of the Senate today.

Mr. SCOTT. Mr. President, at the request of other Senators, I must object.

The ACTING PRESIDENT pro tempore. Objection is heard.

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

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the calendar, commencing with Calendar No. 569 and continuing with Calendar Nos. 570, 572, 573, 574, and then 571.

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

TACHIKAWA AIRBASE CIVILIAN EMPLOYEES

The bill (H.R. 2238) to provide for the relief of certain civilian employees paid by the Air Force at Tachikawa Airbase, Japan, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-574), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to relieve a group of civilian employees paid by the Air Force accounting and finance officer at Tachikawa Airbase, Japan, of liability to refund to the United States amounts representing overpayments of living quarters allowances (LQA) occurring during the period beginning on April 2, 1961, and ending April 13, 1963.

STATEMENT

The facts of the case as set forth in House Report No. 195 are as follows:

The Department of the Air Force in its report to the committee on a similar bill in 1968 stated that it recommends the enactment of the bill in view of the particular circumstances surrounding the payments of living quarters allowances referred to in the bill. The Comptroller General in his report on the same bill indicated that since relief involved a question of policy for the Congress, the General Accounting Office would offer no recommendation concerning the merits of the matter.

As noted by the Air Force in its report, Government civilian employees living in foreign areas are granted living quarters allowances in accordance with the provisions of the Department of State standardize regulations. These regulations provide that an employee is entitled to a flat-rate living quarters allowance according to his grade. Should the head of an agency determine that an employee's expenses are substantially well covered by a living quarters allowance rate received prior to a promotion, that individual is required to authorize a payment of less than the full living quarters allowance applicable to the rate set which otherwise would have been applicable after a promotion to a higher grade. As will be noted in this report the issue as to the employees affected by this bill involved the question of a determination of whether employees expenses were substantially well covered by a rate applicable prior to a promotion.

In a report issued in August 1964, the Comptroller General criticized the Air Force for failing to reduce living quarters allowances of certain employees who were promoted and given increased allowances. The basis of the criticism of the Comptroller General was that the living expenses of these employees prior to promotion was determined by the General Accounting Office to have been "substantially well covered" by the allowance rates applicable to them before promotion. In reply the Assistant Secretary of the Air Force for Finance Management agreed that the Air Force had erred in not reducing the living quarters allowance rates of the employees involved. However, the Assistant Secretary maintained that this retroactive determination did not make the payments illegal and, therefore, should not be recovered from the employees. It was pointed out that the employees were entitled to the living quarters allowance prescribed for their civil service grades unless administrative action was taken to reduce those specific allowances. Here the administrative action had not been taken, and it was, therefore, asserted that the allowances were proper when paid. In a letter dated May 4, 1965, the Comptroller General reaffirmed his view that the payments of living quarters allowances to promoted employees which had been subsequently determined to be in excess of their needs, as outlined above, were "illegal payments" and had to be recovered from them.

CREATION OF AN ADDITIONAL JUDICIAL DISTRICT, LOUISIANA

The bill (S. 1646) to create an additional judicial district in the State of Louisiana, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1646

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 98 of title 28 of the United States Code is amended to read as follows:

"§ 98. Louisiana

"Louisiana is divided into three judicial districts to be known as the Eastern, Middle, and Western Districts of Louisiana.

"Eastern District

"(a) The Eastern District comprises the parishes of Assumption, Jefferson, Lafourche, Orleans, Plaquemines, Saint Bernard, Saint Charles, Saint James, Saint John the Baptist, Saint Tammany, Tangipahoa, Terrebonne, and Washington.

"Court for the Eastern District shall be held at New Orleans.

"Middle District

"(b) The Middle District comprises the parishes of Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, Saint Helena, West Baton Rouge, and West Feliciana.

"Court for the Middle District shall be held at Baton Rouge.

"Western District

"(c) The Western District comprises six divisions.

"(1) The Opelousas Division comprises the parishes of Evangeline and Saint Landry.

"Court for the Opelousas Division shall be held at Opelousas.

"(2) The Alexandria Division comprises the parishes of Avoyelles, Catahoula, Grant, LaSalle, Rapides, and Winn.

"Court for the Alexandria Division shall be held at Alexandria.

"(3) The Shreveport Division comprises the parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine, and Webster.

"Court for the Shreveport Division shall be held at Shreveport.

"(4) The Monroe Division comprises the parishes of Caldwell, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, and West Carroll.

"Court for the Monroe Division shall be held at Monroe.

"(5) The Lake Charles Division comprises the parishes of Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, and Vernon.

"Court for the Lake Charles Division shall be held at Lake Charles.

"(6) The Lafayette Division comprises the parishes of Acadia, Iberia, Lafayette, Saint Martin, Saint Mary, and Vermilion.

"Court for the Lafayette Division shall be held at Lafayette."

SEC. 2. The district judge for the Eastern District of Louisiana holding office on the day immediately prior to the effective date of this Act, and whose official station on such date is Baton Rouge, shall on and after such date, be the district judge for the Middle District of Louisiana. All other district judges for the Eastern District of Louisiana holding office on the day immediately prior to the effective date of this Act shall be district judges for the Eastern District of Louisiana as constituted by this Act.

SEC. 3. (a) Nothing in this Act shall in any manner affect the tenure of office of the United States attorney and the United States marshal for the Eastern District of Louisiana who are in office on the effective date of this Act, and who shall be during the remainder of their present terms of office the United States attorney and marshal for the Eastern District of Louisiana as constituted by this Act.

(b) The President shall appoint, by and with the advice and consent of the Senate, a United States attorney and marshal for the Middle District of Louisiana.

SEC. 4. The table contained in section 133 of title 28 of the United States Code is amended to read as follows with respect to the State of Louisiana:

"Districts	Judges
* * * * *	
"Louisiana:	
"Eastern	7
"Middle	1
"Western	3".

SEC. 5. Section 134(c) of title 28 of the United States Code is amended by deleting the first sentence.

SEC. 6. The provisions of this Act shall become effective one hundred and twenty days after the date of enactment of this Act.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–575), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the proposed legislation is to create an additional judicial district in the State of Louisiana by dividing the present Eastern District of Louisiana into two districts, the Eastern and Middle Districts.

STATEMENT

At present, the Eastern District of Louisiana consists of two divisions, one of which sits in New Orleans and the other in Baton Rouge, the State capital. S. 1646 would convert the Baton Rouge division into a new district to be known as the Middle District of Louisiana.

In recent years the Eastern District of Louisiana has had one of the most persistent civil backlog problems in the United States. At the end of fiscal year 1969, there were 4,208 civil cases pending on the docket and the median interval for trial of a civil case was 19 months, well above the national median of 13 months. In fact, the civil business of the Eastern District is exceeded in only two other Federal districts, the Southern District of New York and the Eastern District of Pennsylvania. The vast bulk of the workload in the district is in the New Orleans division where, through the efforts of the judges and personnel of the Eastern District, the Federal Judicial Center, and the Administrative Office of the U.S. Courts, better calendar control and new procedures in the clerk's office have been accomplished recently. These joint efforts have been almost entirely directed at the New Orleans division. Indeed, the problems and caseload demands of the Baton Rouge division are very different from those confronting the New Orleans division.

The number of cases filed yearly in the Baton Rouge division of the Eastern District of Louisiana exceeds the number filed in 21 districts in the United States.[1] A significant part of the civil caseload of the Baton Rouge division is made up of maritime and seaman's cases attributable to the Port of Baton Rouge, now ranked seventh in the Nation. The Baton Rouge division also has an average of 44 civil cases per year involving the United States of America. Moreover, since the State penitentiary at Angola, La., is located in the Baton Rouge division, a majority of the habeas corpus petitions for the entire State of Louisiana fall to the Baton Rouge division.

On the criminal side of the docket, the Baton Rouge division handles an average of 148 hearings per year requiring the presence of the U.S. attorney or one of his assistants. These appearances are in addition to those required to meet demands of the civil calendar. There is no assistant U.S. attorney assigned to the Baton Rouge division and for each civil or criminal case appearance, the U.S. attorney or an assistant must travel from New Orleans, a distance of nearly 80 miles.

Other major administrative difficulties are also created by the lack of a district court at Baton Rouge. The division could be much more efficiently operated if it were a district unto itself. Furthermore, since the Federal Court Building in Baton Rouge has recently been extensively renovated, no new physical facilities are anticipated if S. 1646 becomes law.

S. 1646 has the support of the Judicial Council of the Fifth Circuit, the judges of the Eastern District and the Louisiana State Bar Association. Support has also been expressed by the U.S. attorney, the chief probation officer, and the U.S. marshal for the Eastern District. More significantly, despite a general policy in opposition to the creation of new districts, the Judicial Conference of the United States at its meeting on October 31, 1969, considered the proposal contained in S. 1646 and voted its approval thereof. A copy of a letter expressing the Judicial Conference's recommendation is attached hereto and made a part of this report.

[1] Discussion of the need for a new Middle District of Louisiana may be found in hearings before the Subcommittee on Improvements in Judicial Machinery, "Federal Judges and Courts," 91st Cong., first sess., pp. 202–213, 499.

MRS. EZRA L. CROSS

The bill (H.R. 4744) for the relief of Mrs. Ezra L. Cross was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–577), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to waive sections 8119 to 8122, inclusive, of chapter 81 of title 5, of the United States Code, so that Mrs. Ezra L. Cross of Flint, Mich., can file a claim for compensation under the codified provisions of the Federal Employees Compensation Act based on the death of her husband, Ezra L. Cross, a former employee of the Agency for International Development. The proposed legislation provides that no benefits would accrue by the enactment of a bill for any period prior to the date of enactment except for reimbursable hospital, medical, funeral, and burial expenses.

STATEMENT

In its favorable report on the bill, the House of Representatives set forth the facts of the case as follows:

The report of the Agency for International Development of the Department of State indicates that it would have no objection to the enactement of the bill should the Congress determine that legislative relief is appropriate. The Department of Labor similarly indicated it would have no objection should the Congress find that there are adequate reasons for not filing a claim within the time limited. The Department of Labor further recommended the amendment added by the committee in lieu of the last paragraph of the bill which bars retroactive benefits except for reimbursable hospital, medical, funeral, and burial expenses.

The bill, H.R. 4744, was the subject of a subcommittee hearing on Wednesday, April 16, 1969. The claimant, Mrs. Ezra L. Cross, appeared at that hearing and testified concerning the circumstances of her husband's death. Dr. Ezra L. Cross worked with Foreign Aid from 1950–61. He was first assigned to Manila, and then to Asuncion, Paraguay. Subsequently he was assigned to Quito, Ecuador, and he passed away in that city on the night of September 30, 1961.

As is noted in the report of the Department of State, at the time of his death, Dr. Cross was serving as a Foreign Service Reserve officer and he was assigned to the mission of the International Cooperation Administration, the predecessor agency of AID, at Quito, Ecuador. The committee has been advised that at the time of his death, Mrs. Cross was not advised of her right to file for compensation under the then applicable provisions of the Federal Employees' Compensation Act. This is borne out by the report of the Department of State. In that report, it is stated under AID practice, and when feasible, officials of the Agency meet with the widow and survivors to assist them in preparing the necessary documents for settlement of claims for Government-sponsored insurance and benefit programs. Such meetings are not scheduled as a part of any mandatory procedure, but have proved to be of a mutually convenient and beneficial nature, both for the Agency and the families of its employees. At that time, if the possibility of a service-

connected injury having been involved in the death of the employee is indicated, the widow is advised of her right to file a claim for compensation for the consideration of the Bureau of Employees' Compensation. In Mrs. Cross' case, however, the customary meeting did not take place. All claim forms for moneys due Mrs. Cross, by reason of her husband's status as a Federal employee at the time of his death, were executed in Quito when she returned there to close out her household. The State Department further agreed that there was apparently no opportunity for a personal exchange between Mrs. Cross and Washington offices at any time immediately following her husband's death. The departmental report further stated that had there been such an opportunity, the Department felt that Mr. Cross' apparent problems with the altitude would have surfaced and Mrs. Cross would have been apprised of the existence of the benefits program provided under what was then the Federal Employees' Compensation Act and of her right to file a claim with the Bureau of Employees' Compensation.

In view of these statements in the departmental report, the members of the subcommittee questioned Mrs. Cross concerning the events which occurred immediately following her husband's death. She stated that she left Ecuador shortly after her husband passed away and went to Flint, Mich. She remained in that city for approximately 2 weeks and then returned to Quito, Ecuador. When she arrived there she was advised by State Department personnel that she would have to act quickly to settle her affairs there because it appeared that there would be civil disturbances within the country at any time. Because of the restriction on movement of people under these circumstances, the packing of her belongings and like personal matter were difficult for her and contact in the office of her late husband was with a secretary of a new executive officer who had just arrived. The executive officer had not known her husband and was not familiar with all of the circumstances of her husband's death.

The next point that is relevant to the consideration of this bill is the point expressly stated in the departmental report to the effect that at the time that Mrs. Cross was attempting to settle matters, there was nothing in the records of the Department to indicate that Dr. Cross' death was due to any other cause than a heart attack. At the hearing Mrs. Cross complained that the initial reports made to Washington were to the effect that her husband had died of a heart attack. However, as is indicated in the departmental report, the autospy report listed the cause of death as "posterior myocardial infarction," with a contributory cause of "epistaxis with aspiration of blood and phlegm." In addition, departmental records covering Mr. Cross' service from February 15, 1952 through December 1960, in the Philippines and Paraguay (both low altitude posts) reflect that Mr. Cross was in excellent health with no limiting factors demonstrated and was described by his colleagues as an energetic, well-adjusted person.

The Department has further stated that there was nothing in its records indicating any physical problems for the time period between Mr. Cross' departure from Washington to Ecuador and his death. The report then significantly states that it was not until almost 6 years after his death that AID officials became aware that there may have been complicating factors that could have contributed to his death. At the hearing Mrs. Cross explained that these individuals in Washington indicated that these circumstances could provide the basis for a claim under the Federal employees compensation provisions now found in chapter 81 of title 5 of the United States Code. Mrs. Cross therefore sought information concerning Federal employees compensation and pointed out that Dr. Cross was physically not able to cope with the high altitude of Ecuador. Additionally inquiry resulted in statements by two AID employees who had worked with Mr. Cross in Ecuador which corroborated that Mr. Cross had been affected by the altitude.

Mr. Cross' death came after he had been in Ecuador about 8 months. Mrs. Cross only arrived in Quito on July 4, 1961. After being in that country 6 months, and after her arrival, Mr. Cross made a few short business trips. During a more extensive trip he fell ill and was eventually evacuated to Panama. Mrs. Cross states that she was unaware of the serious problems Mr. Cross had been having: Inability to sleep well and headaches, commonly regarded as initial reactions to high altitude living in Quito.

The committee is impressed with the following summary in the report of the Agency for International Development of the Department of State:

"In summary, throughout the period of almost 6 years that followed Mr. Cross' death during which the time period for filing a claim had expired, (1) the Agency was not aware of any circumstances that would have indicated the possibility of a service-connected injury having been involved in Mrs. Cross' death, and (2) Mrs. Cross was not aware of the benefits program established by this statute, for which she was eligible to apply."

In view of the facts summarized by the Department and referred to in this report and as more fully set forth in the testimony at the subcommittee hearing, the committee has concluded that this is a proper subject for legislative relief. The evidence before the committee shows, in its opinion, that there is adequate basis for a waiver of the statute of limitations to permit the filing of a claim. Clearly, the unusual circumstances faced by Mrs. Cross made it difficult, if not impossible, to adequately be advised of her rights to file. Accordingly, the most equitable resolution of the matter is to extend the relief provided in the amended bill. Accordingly, it is recommended that the bill as amended be considered favorably.

The committee concurs in the action taken by the House of Representatives and recommends that the bill, H.R. 4744, be considered favorably.

NATIONAL BLOOD DONOR MONTH

The joint resolution (S.J. Res. 154) to authorize and request the President to proclaim the month of January of each year as "National Blood Donor Month" was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S.J. RES. 154

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in recognition of the vital role of the voluntary blood donor in medical care, the President is authorized and requested to issue annually a proclamation designating the month of January of each year as "National Blood Donor Month".

VOLUNTEERS OF AMERICA WEEK

The Senate proceeded to consider the joint resolution (H.J. Res. 10) authorizing the President to proclaim the second week of March 1970, as Volunteers of America Week which had been reported from the Committee on the Judiciary with an amendment, in line 3, after the word "issue", strike out "annually".

The amendment was agreed to.

The amendment was ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution was read the third time, and passed.

THE CUSTOMS COURTS ACT OF 1969

The Senate proceeded to consider the bill (S. 2624) to improve the judicial machinery in customs courts by amending the statutory provisions relating to judicial actions and administrative proceedings in customs matters, and for other purposes, which had been reported from the Committee on the Judiciary, with amendments on page 2, line 9, after "(b)," strike out "When a judge in the Customs Court, in issuing an interlocutory order," and insert "When the chief judge of the Customs Court issues an order under the provisions of section 256(b) of this title; or when any judge in the Customs Court, in issuing any other interlocutory order,"; on page 5, line 16, after the word "commissions.", strike out "Judges whose commissions bear the same date shall have precedence according to the seniority of their commissions." on page 7, line 16, after "(b)," strike out:

Upon application of a party and for good cause shown, or upon his own initiative, the chief judge may authorize a judge of the court to preside at a trial of hearing in a foreign country.

And insert:

Upon application of a party or upon his own initiative, and upon a showing that the interests of economy, efficiency, and justice will be served, the chief judge may issue an order authorizing a judge of the court to preside in an evidentiary hearing in a foreign country whose laws permit such a hearing: *Provided, however,* That an interlocutory appeal may be taken from such an order pursuant to the provisions of section 1541(b) of this title, subject to the discretion of the Court of Customs and Patent Appeals as set forth in that section.

On page 8, line 12, after the word "the" where it appears the first time, insert "administrative"; in line 21, after the word "drawback;", strike out "and" and insert "or"; on page 10, line 13, after "515(b)", strike out "or 515(c)"; on page 11, line 8, after the word "There", strike out "may" and insert "shall"; in line 10, after the word "shall", strike out "not exceed" and insert "be not less than $5 nor more than"; at the beginning of line 22, strike out "decision contested in the protest." and insert "decision or decisions listed in section 514 of the Tariff Act of 1930, as amended, that were contested in the protest."; on page 12, line 7, after "(f)", strike out:

Upon service of the summons on the Secretary of the Treasury or his designee, the appropriate customs officer shall forthwith transmit the following documents to the United States Customs Court as an official record of the civil action: (1) consumption or other entry; (2) commercial invoice; (3) special Customs invoice; (4) copy of protest; and (5) copy of denial of protest, in whole or in part, if any denial has been issued."

And insert:

Upon service of the summons on the Secretary of the Treasury or his designee, the

appropriate customs officer shall forthwith transmit the following items, if they exist, to the United States Customs Court as part of the official record of the civil action: (1) consumption or other entry; (2) commercial invoice; (3) special Customs invoice; (4) copy of protest; (5) copy of denial of protest in whole or in part (6) importer's exhibits; (7) official samples; (8) any official laboratory reports; and (9) the summary sheet. If any of the aforesaid items do not exist in the particular case, an affirmative statement to that effect shall be transmitted as part of the official record.

On page 16, line 10, after the word "his", insert "own"; in line 19, after the the word "on", strike out "January" and insert "July"; on page 20, line 4, after the word "after", strike out "January" and insert "July"; in line 7, after the word "before", strike out "the date of enactment" and insert "July 1, 1970,"; in line 9, after the word "before", strike out "January" and insert "July"; in line 10, after the date "1970", strike out the period, insert a comma and "or with respect to which a protest has not been disallowed in whole or in part before July 1, 1970."; on page 26, line 12, after the word "Decisions.", strike out:

The appropriate customs officer shall review a protest filed in accordance with section 514 of this Act and may allow or deny such protest in whole or in part. Thereafter, he shall remit or refund any duties, charge, or exaction found to have been assessed or collected in excess, or pay any drawback found due. Notice of the denial of any protest shall be mailed in the form and manner prescribed by the Secretary of the Treasury.

And insert:

Unless a request for an accelerated disposition of a protest is filed in accordance with subsection (b) of this section the appropriate customs officer, within two years from the date a protest was filed in accordance with section 514 of this Act, shall review the protest and shall allow or deny such protest in whole or in part. Thereafter, any duties, charge, or exaction found to have been assessed or collected in excess shall be remitted or refunded and any drawback found due shall be paid. Upon the request of the protesting party, filed within the time allowed for the filing of a protest under section 514 of this Act, a protest may be subject to further review by another appropriate customs officer, under the circumstances and in the form and manner that may be prescribed by the Secretary in regulations, but subject to the two-year limitation prescribed in the first sentence of the subsection. Notice of the denial of any protest shall be mailed in the form and manner prescribed by the Secretary.

On page 27, line 13, after the word "be", strike out "filed in writing with" and insert "mailed by certified or registered mail to"; in line 19, after the word "following", strike out "receipt" and insert "the date of mailing by certified or registered mail"; in line 21, after the word "following", strike out "receipt" and insert "mailing"; after line 22, strike out:

(c) CONSTRUCTIVE DENIAL OF PROTEST. Any protest which has not been allowed or denied in whole or in part in accordance with paragraph (a) of this section and which is not deemed to be denied in accordance with paragraph (b) of this section, shall be deemed denied after two years have elapsed from the date the protest was filed in accordance with section 514 of this Act."

On page 38, line 9, after the word "thereof", strike out "'Customs" and insert "Appropriate customs"; in line 14, after the word "'or", strike out the word "a" and insert "an appropriate"; in line 17, after the word "thereof", strike out "'a" and insert "an appropriate"; and in line 21, after the word "'or", insert "appropriate"; so as to make the bill read:

S. 2624

A bill to improve the judicial machinery in customs courts by amending the statutory provisions relating to judicial actions and administrative proceedings in customs matters, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—JUDICIAL ACTIONS IN CUSTOMS CASES

SHORT TITLE

SEC. 101. This title may be cited as "The Customs Courts Act of 1969".

APPEALS FROM CUSTOMS COURT DECISIONS—JURISDICTION

SEC. 102. Section 1541 to title 28 of the United States Code is amended to read as follows:

"§ 1541. Appeals from Customs Court decisions

"(a) The Court of Customs and Patent Appeals has jurisdiction of appeals from all final judgments or orders of the United States Customs Court.

"(b) When the chief judge of the Customs Court issues an order under the provisions of section 256(b) of this title; or when any judge in the Customs Court, in issuing any other interlocutory order, includes in the order a statement that a controlling question of law is involved as to which there is substantial ground for difference of opinion and that an immediate appeal from its order may materially advance the ultimate termination of the litigation, the Court of Customs and Patent Appeals may, in its discretion, permit an appeal to be taken from such order, if application is made to it within ten days after the entry of the order: *Provided, however,* That neither the application for nor the granting of an appeal hereunder stays proceedings in the Customs Court unless a stay is ordered by a judge of the Customs Court or by the Court of Customs and Patent Appeals or a judge of that court."

APPEALS FROM CUSTOMS COURT DECISIONS—PROCEDURE

SEC. 103. Section 2601 of title 28 of the United Stataes Code is amended to read as follows:

"§ 2601. Appeals from Customs Court decisions

"(a) A party may appeal to the Court of Customs and Patent Appeals from a final judgment or order of the Customs Court within sixty days after entry of the judgment or order.

"(b) An appeal is made by filing in the office of the clerk of the Court of Customs and Patent Appeals a notice of appeal which shall include a concise statement of the errors complained of. A copy of the notice shall be served on the adverse parties. When the United States is an adverse party service shall be made on the Attorney General and the Secretary of the Treasury or their designees. Thereupon, the Court of Customs and Patent Appeals shall order the Customs Court to transmit the record and evidence taken, together with either the findings of fact and conclusions of law or the opinion, as the case may be.

"(c) The Court of Customs and Patent Appeals may affirm, modify, vacate, set aside, or reverse any judgment or order of the Customs Court lawfully brought before it for review, and may remand the cause and direct the entry of an appropriate judgment or order, or require such further proceedings as may be just under the circumstances. The judgment or order of the Court of Customs and Patent Appeals shall be final and conclusive unless modified, vacated, set aside, reversed, or remanded by the Supreme Court under section 2106 of this title."

PRECEDENCE OF AMERICAN MANUFACTURER, PRODUCER, OR WHOLESALER CASES

SEC. 104. Section 2602 of title 28 of the United States Code is amended to read as follows:

"§ 2602. Precedence of American Manufacturer, producer, or wholesaler cases

"(a) Every proceeding in the Court of Customs and Patent Appeals arising under section 516 of the Tariff Act of 1930, as amended, shall be given precedence over other cases on the docket of such court, except as provided for in paragraph (b) of this section, and shall be assigned for hearing at the earliest practicable date and expedited in every way.

"(b) Appeals from findings by the Secretary of Commerce provided for in headnote 6 to schedule 8, part 4, of the Tariff Schedules of the United States (19 U.S.C. 1202) shall receive a preference over all other matters."

DUTIES OF CHIEF JUDGE; PRECEDENCE OF JUDGES

SEC. 105. Section 253 of title 28 of the United States Code is amended to read as follows:

"§ 253. Duties of chief judge; precedence of judges

"(a) The chief judge of the Customs Court, with the approval of the court, shall supervise the fiscal affairs and clerical force of the court;

"(b) The chief judge shall promulgate dockets.

"(c) The chief judge, under rules of the court, may designate any judge or judges of the court to try any case and, when the circumstances so warrant, reassign the case to another judge or judges.

"(d) Whenever the chief judge is unable to perform the duties of his office or the office is vacant, his powers and duties shall devolve upon the judge next in precedence who is able to act, until such disability is removed or another chief judge is appointed and duly qualified.

"(e) The chief judge shall have precedence and shall preside at any session which he attends. Other judges shall have precedence and shall preside according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age."

SINGLE-JUDGE TRIALS

SEC. 106. Section 254 of title 28 of the United States Code is amended to read as follows:

"§ 254. Single-judge trials

"Except as otherwise provided in section 255 of this title, the judicial power of the Customs Court with respect to any action, suit or proceeding shall be exercised by a single judge, who may preside alone and hold a regular or special session of court at the same time other sessions are held by other judges."

PUBLICATION OF DECISIONS

SEC. 107. Section 255 of title 28 of the United States Code is redesignated as section 257 and is amended to read as follows:

"§ 257. Publication of decisions

"All decisions of the Customs Court shall be preserved and open to inspection. The court shall forward copies of each decision to the Secretary of the Treasury or his designee and to the appropriate customs officer for the district in which the case arose. The Secretary shall publish weekly such decisions as he or the court may designate and abstracts of all other decisions."

THREE-JUDGE TRIALS

SEC. 108. There shall be a new section 255 of title 28 of the United States Code as follows:

"§ 255. Three-judge trials

"(a) Upon application of any party to a cause of action or upon his own initiative, the chief judge of the Customs Court shall designate any three judges of the court to hear and determine any cause of action which the chief judge finds: (1) raises an issue of the constitutionality of an Act of Congress, a proclamation of the President or an Executive order; or (2) has broad or significant implications in the administration or interpretation of the customs laws.

"(b) A majority of the three judges designated may hear and determine the cause of action and all questions pending therein."

TRIALS AT PORTS OTHER THAN NEW YORK

SEC. 109. There shall be a new section 256 of title 28 of the United States Code as follows:

"§ 256. Trials at ports other than New York

"(a) The chief judge may designate any judge or judges of the court to proceed, together with necessary assistants, to any port or to any place within the jurisdiction of the United States to preside at a trial or hearing at the port or place.

"(b) Upon application of a party or upon his own initiative, and upon a showing that the interests of economy, efficiency, and justice will be served, the chief judge may issue an order authorizing a judge of the court to preside in an evidentiary hearing in a foreign country whose laws permit such a hearing: *Provided, however,* That an interlocutory appeal may be taken from such an order pursuant to the provisions of section 1541(b) of this title, subject to the discretion of the Court of Customs and Patent Appeals as set forth in that section."

JURISDICTION OF THE CUSTOMS COURT

SEC. 110. Section 1582 of title 28 of the United States Code is amended to read as follows:

"§ 1582. Jurisdiction of the Customs Court

"(a) The Customs Court shall have exclusive jurisdiction of civil actions instituted by any person whose protest pursuant to the Tariff Act of 1930, as amended, has been denied, in whole or in part, by the appropriate customs officer, where the administrative decision, including the legality of all orders and findings entering into the same, involves: (1) the appraised value of merchandise; (2) the classification and rate and amount of duties chargeable; (3) all charges or exactions of whatever character within the jurisdiction of the Secretary of the Treasury; (4) the exclusion of merchandise from entry or delivery under any provisions of the customs laws; (5) the liquidation or reliquidation of an entry, or a modification thereof; (6) the refusal to pay a claim for drawback; or (7) the refusal to reliquidate an entry under section 520(c) of the Tariff Act of 1930, as amended.

"(b) The Customs Court shall have exclusive jurisdiction of civil actions brought by American manufacturers, producers, or wholesalers pursuant to section 516 of the Tariff Act of 1930, as amended.

"(c) The Customs Court shall not have jurisdiction of an action unless (1) either a protest has been filed, as prescribed by section 514 of the Tariff Act of 1930, as amended, and denied in accordance with the provisions of section 515 of the Tariff Act of 1930, as amended, or if the action relates to a decision under section 516 of the Tariff Act of 1930, as amended, all remedies prescribed therein have been exhausted, and (2) except in the case of an action relating to a decision under section 516 of the Tariff Act of 1930, as amended, all liquidated duties, charges an exactions have been paid at the time the action is filed.

"(d) Only one civil action may be brought in the Customs Court to contest the denial of a single protest. However, any number of entries of merchandise involving common issues may be included in a single civil action. Actions may be consolidated by order of the court or by request of the parties, with approval of the court, if there are common issues."

REPEAL OF SECTION 1583—REVIEW OF DECISIONS ON PROTESTS

SEC. 111. Section 1583 of title 28 of the United States Code is repealed.

TIME FOR COMMENCEMENT OF ACTION

SEC. 112. Section 2631 of title 28 of the United States Code is amended to read as follows:

"§ 2631. Time for commencement of action

"(a) An action over which the court has jurisdiction under section 1582(a) of this title is barred unless commenced within one hundred and eighty days after:

"(1) the date of mailing of notice of denial, in whole or in part, of a protest pursuant to the provisions of section 515(a) of the Tariff Act of 1930, as amended; or

"(2) the date of denial of a protest by operation of law pursuant to the provisions of section 515(b) of the Tariff Act of 1930, as amended.

"(b) An action over which the court has jurisdiction under section 1582(b) of this title is barred unless commenced within thirty days after the date of mailing of a notice sent pursuant to section 516(c) of the Tariff Act of 1930, as amended."

CUSTOMS COURT PROCEDURE AND FEES

SEC. 113. Section 2632 of title 28 of the United States Code is amended to read as follows:

"§ 2632. Customs Court procedure and fees

"(a) A party may contest denial of a protest under section 515 of the Tariff Act of 1930, as amended, or the decision of the Secretary of the Treasury made under section 516 of the Tariff Act of 1930, as amended, by bringing a civil action in the Customs Court. A civil action shall be commenced by filing a summons in the form, manner, and style and with the content prescribed in rules adopted by the court.

"(b) There shall be a filing fee payable upon commencing an action. The amount of the fee shall be fixed by the Customs Court but shall be not less than $5 nor more than the filing fee for commencing a civil action in a United States district court. The Customs Court may fix all other fees to be charged by the clerk of the court.

"(c) The Customs Court shall provide by rule for pleadings and other papers, for their amendment, service, and filing, for consolidations, severances, and suspensions of cases, and for other procedural matters.

"(d) The Customs Court, by rule, may consider any new ground in support of a civil action if the new ground (1) applies to the same merchandise that was the subject of the protest; and (2) is related to the same administrative decision or decisions listed in section 514 of the Tariff Act of 1930, as amended, that were contested in the protest.

"(e) All pleadings and other papers filed in the Customs Court shall be served on all the adverse parties in accordance with the rules of the court. When the United States is an adverse party, service of the summons shall be made on the Attorney General and the Secretary of the Treasury or their designees.

"(f) Upon service of the summons on the Secretary of the Treasury or his designee, the appropriate customs officer shall forthwith transmit the following items, if they exist, to the United States Customs Court as part of the official record of the civil action: (1) consumption or other entry; (2) commercial invoice; (3) special Customs invoice; (4) copy of protest; (5) copy of denial of protest in whole or in part; (6) importer's exhibits; (7) official samples; (8) any official laboratory reports; and (9) the summary sheet. If any of the aforesaid items do not exist in the particular case, an affirmative statement to that effect shall be transmitted as part of the official record."

PRECEDENCE OF AMERICAN MANUFACTURER, PRODUCER, OR WHOLESALER CASES

SEC. 114. Section 2633 of title 28 of the United States Code is amended to read as follows:

"§ 2633. Precedence of American manufacturer, producer, or wholesaler cases

"Every proceeding in the Customs Court arising under section 516 of the Tariff Act of 1930, as amended, shall be given precedence over other cases on the docket of the court, and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way."

NOTICE

SEC. 115. Section 2634 of title 28 of the United States Code is amended to read as follows:

"§ 2634. Notice

"Reasonable notice of the time and place of trial before a judge of the Customs Court shall be given to all parties to any proceeding, under rules prescribed by the court."

BURDEN OF PROOF; EVIDENCE OF VALUE

SEC. 116. Section 2635 of title 28 of the United States Code is amended to read as follows:

"§ 2635. Burden of proof; evidence of value

"In any matter in the Customs Court:

"(a) The decision of the Secretary of the Treasury, or his delegate, is presumed to be correct. The burden to prove otherwise shall rest upon the party challenging a decision.

"(b) Where the value of merchandise is in issue:

"(1) Reports or depositions of consuls, customs officers, and other officers of the United States and depositions and affidavits of other persons whose attendance cannot reasonably be had, may be admitted in evidence when served upon the opposing party in accordance with the rules of the court.

"(2) Price lists and catalogs may be admitted in evidence when duly authenticated, relevant, and material.

"(c) The value of merchandise shall be determined from the evidence in the record and that adduced at the trial whether or not the merchandise or samples thereof are available for examination."

ANALYSIS OF IMPORTED MERCHANDISE

SEC. 117. Section 2636 of title 28 of the United States Code is amended to read as follows:

"§ 2636. Analysis of imported merchandise

"A judge of the Customs Court may order an analysis of imported merchandise and reports thereon by laboratories or agencies of the United States."

WITNESSES; INSPECTION OF DOCUMENTS

SEC. 118. Section 2637 of title 28 of the United States Code is amended to read as follows:

"§ 2637. Witnesses; inspection of documents

"(a) In any proceeding in the Customs Court, under rules prescribed by the Court, the parties and their attorneys shall have an opportunity to introduce evidence, to hear and cross-examine the witnesses of the other party, and to inspect all samples and all papers admitted or offered as evidence, except as provided in subsection (b) of this section.

"(b) In an action instituted by an American manufacturer, producer, or wholesaler, the plaintiff may not inspect any documents or papers of a consignee or importer disclosing any information which the Customs Court deems unnecessary or improper to be disclosed."

DECISIONS; FINDINGS OF FACT AND CONCLUSIONS OF LAW; EFFECT OF OPINIONS

SEC. 119. Section 2638 of title 28 of the United States Code is amended to read as follows:

"§ 2638. Decisions; findings of fact and conclusions of law; effect of opinions

"(a) A decision of the judge in a contested case shall be supported by either (1) a statement of findings of fact and conclusions of law, or (2) an opinion stating the reasons and facts upon which the decision is based.

"(b) The decision of the judge is final and conclusive, unless a retrial or rehearing is granted pursuant to section 2639 of this title or an appeal is made to the Court of Customs and Patent Appeals within the time and in the manner provided in section 2601 of this title."

RETRIAL OR REHEARING

SEC. 120. Section 2639 of title 28 of the United States Code is amended to read as follows:

"§ 2639. Retrial or rehearing

"The judge who has rendered a judgment or order may, upon motion of a party or upon his own motion, grant a retrial or a rehearing, as the case may be. A party's motion must be made or the judge's action on his own motion must be taken, not later than thirty days after entry of the judgment or order."

REPEAL OF SECTIONS 2640, 2641, 2642—REHEARING OR RETRIAL; FRIVOLOUS PROTEST OR APPEAL; AMENDMENT OF PROTESTS, APPEALS, AND PLEADINGS

SEC. 121. Sections 2640, 2641, and 2642 of title 28 of the United States Code are repealed.

EFFECTIVE DATE

SEC. 122. (a) This title shall become effective on July 1, 1970, and shall thereafter apply to all actions and proceedings in the Customs Court and the Court of Customs and Patent Appeals except those involving merchandise entered before the effective date for which trial has commenced by such effective date.

(b) An appeal for reappraisement timely filed with the Bureau of Customs before the effective date, but as to which trial has not commenced by such date, shall be deemed to have had a summons timely and properly filed under this title. When the judgment or order of the United States Customs Court has become final in this appeal, the papers shall be returned to the appropriate customs officer to decide any remaining matters relating to the entry in accordance with section 500 of the Tariff Act of 1930, as amended. A protest or summons filed after final decision on an appeal for reappraisement shall not include issues which were raised or could have been raised on the appeal for reappraisement.

(c) A protest timely filed with the Bureau of Customs before the effective date of enactment of this Act and which is disallowed, as to which trial has not commenced by such date, shall be deemed to have had a summons timely and properly filed under this title.

(d) All other provisions of this Act shall apply to appeals and disallowed protests deemed to have had summonses timely and properly filed under this section.

MISCELLANEOUS AMENDMENTS

SEC. 123. (a) The analysis of chapter 11 of title 28 of the United States Code, immediately preceding section 251 of such title, is amended by striking the caption of section 254 and substituting therefor the caption, "Single-judge trial.", by striking the caption of section 255 and substituting therefor the caption "Three-judge trials." and by adding the following captions at the end of the analysis of that chapter:

"256. Trials at ports other than New York.
"257. Publication of decisions."

(b) The analysis of chapter 93 of title 28 of the United States Code, immediately preceding section 1541 of such title is amended by striking the caption of section 1541 and substituting the caption "Appeals from Customs Court decisions."

(c) The analysis of chapter 95 of title 28 of the United States Code, immediately preceding section 1581 of such title, is amended to read as follows:

"Sec.
"1581. Powers generally.
"1582. Jurisdiction of the Customs Court."

(d) The analysis of chapter 167 of title 28 of the United States Code, immediately preceding section 2601, is amended to read as follows:

"Sec.
"2601. Appeals from Customs Court decisions.
"2602. Precedence of American manufacturer, producer, or wholesaler cases."

(e) The analysis of chapter 169 of title 28 of the United States Code, immediately preceding section 2631 of such title is amended to read as follows:

"Sec.
"2631. Time for commencement of action.
"2632. Customs Court procedures and fees.
"2633. Precedence of American manufacturer, producer, or wholesaler cases.
"2634. Notice.
"2635. Burden of proof; evidence of value.
"2636. Analysis of imported merchandise.
"2637. Witnesses; inspection of documents.
"2638. Decisions; findings of fact and conclusions of law; effect of opinions.
"2639. Retrial or rehearing."

TITLE II—ADMINISTRATIVE PROCEEDINGS IN CUSTOMS MATTERS

SHORT TITLE

SEC. 201. Titles II and III of this Act may be cited as "The Customs Administrative Act of 1969".

AMENDMENT OF SECTIONS

SEC. 202. Unless otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or provision of the Tariff Act, the reference shall be considered to be made to a section or provision of the Tariff Act of 1930, as amended (19 U.S.C. 1202 et seq.).

EFFECTIVE DATE

SEC. 203. Titles II and III of this Act shall take effect with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 1, 1970, and such other articles entered or withdrawn from warehouse for consumption prior to such date, the appraisement of which has not become final before July 1, 1970, and for which an appeal for reappraisement has not been timely filed with the Bureau of Customs before July 1, 1970, or with respect to which a protest has not been disallowed in whole or in part before July 1, 1970.

APPRAISEMENT, CLASSIFICATION, AND LIQUIDATION PROCEDURES; COLLECTIONS AND REFUNDS; LIMITATIONS

SEC. 204. (a) Section 500 of the Tariff Act (19 U.S.C. 1500) is hereby amended to read as follows:

"SEC. 500. APPRAISEMENT, CLASSIFICATION, AND LIQUIDATION PROCEDURES.—

"The appropriate customs officer shall, under rules and regulations prescribed by the Secretary—

"(a) appraise merchandise in the unit of quantity in which the merchandise is usually bought and sold by ascertaining or estimating the value thereof by all reasonable ways and means in his power, any statement of cost or costs of production in any invoice, affidavit, declaration, or other document to the contrary notwithstanding;

"(b) ascertain the classification and rate of duty applicable to such merchandise;

"(c) fix the amount of duty to be paid on such merchandise and determine any increased or additional duties due or any excess of duties deposited;

"(d) liquidate the entry of such merchandise; and

"(e) give notice of such liquidation to the importer, his consignee, or agent in such form and manner as the Secretary shall prescribe in such regulations."

(b) Section 488 of the Tariff Act (19 U.S.C. 1488) is repealed.

(c) Section 505 of the Tariff Act (19 U.S.C. 1505) is amended to read as follows:

"SEC. 505. PAYMENT OF DUTIES.—

"(a) DEPOSIT OF ESTIMATED DUTIES.—Unless merchandise is entered for warehouse or transportation, or under bond, the consignee shall deposit with the appropriate customs officer at the time of making entry the amount of duties estimated by such customs officer to be payable thereon.

"(b) COLLECTION OR REFUND.—The appropriate customs officer shall collect any increased or additional duties due or refund any excess of duties deposited as determined on a liquidation or reliquidation.

REPEAL OF SEPARATE APPRAISEMENT PROCEDURE; VOLUNTARY RELIQUIDATIONS

SEC. 205. Section 501 of the Tariff Act (19 U.S.C. 1501) is amended to read as follows:

"SEC. 501. VOLUNTARY RELIQUIDATIONS.—

"A liquidation made in accordance with section 500 or any reliquidation thereof made in accordance with this section may be reliquidated in any respect by the appropriate customs officer on his own initiative, notwithstanding the filing of a protest, within ninety days from the date on which notice of the original liquidation is given to the importer, his consignee or agent. Notice of such reliquidation shall be given in the manner prescribed with respect to original liquidations under section 500(e)."

DUTIABLE VALUE

SEC. 206. Section 503 of the Tariff Act (19 U.S.C. 1503) is amended to read as follows:

"SEC. 503. DUTIABLE VALUE.—

"Except as provided in section 520(c) (relating to reliquidations on the basis of authorized corrections of errors) or section 562 (relating to withdrawal from manipulating warehouses) of this Act, the basis for the assessment of duties on imported merchandise subject to ad valorem rates of duty or rates based upon or regulated in any manner by the value of the merchandise, shall be the appraised value determined upon liquidation, in accordance with section 500 or any adjustment thereof made pursuant to section 501 of the Tariff Act: *Provided, however,* That if reliquidation is required pursuant to a final judgment or order of the United States Customs Court which includes a reappraisement of imported merchandise, the basis for such assessment shall be the final appraised value determined by such court."

PROTESTS

SEC. 207. Section 514 of the Tariff Act (19 U.S.C. 1514) is amended to read as follows:

"SEC. 514. FINALITY OF DECISIONS; PROTESTS.—

"(a) FINALITY OF DECISIONS.—Except as provided in secton 501 (relating to voluntary reliquidations), section 516 (relating to petitions by American manufacturers, producers, and wholesalers), section 520 (relating to refunds and errors), and section 521 (relating to reliquidations on account of fraud) of this Act, decisions of the appropriate customs officer, including the legality of all orders and findings entering into the same, as to—

"(1) the appraised value of merchandise;

"(2) the classification and rate and amount of duties chargeable;

"(3) all charges or exactions of whatever character within the jurisdiction of the Secretary of the Treasury;

"(4) the exclusion of merchandise from entry or delivery under any provision of the customs laws;

"(5) the liquidation or reliquidation of an entry, or any modification thereof;

"(6) the refusal to pay a claim for drawback; and

"(7) the refusal to reliquidate an entry under section 520(c) of this Act.

shall be final and conclusive upon all persons (including the United States and any officer thereof) unless a protest is filed in accordance with this section, or unless a civil action contesting the denial of a protest, in whole or in part, is commenced in the United States Customs Court in accordance with section 2632 of tilte 28 of the United States Code within the time prescribed by section 2631 of that title. When a judgment or order of the United States Customs Court has become final, the papers transmitted shall be returned, together with a copy of the judgment or order to the appropriate customs officer, who shall take action accordingly.

"PROTESTS

"(b) (1) IN GENERAL.—A protest of a decision under subsection (a) shall be filed in writing with the appropriate customs officer designated in regulations prescribed by the Secretary, setting forth distinctly and specifically each decision described in subsection (a) as to which protest is made; each category of merchandise affected by each such decision as to which protest is made; and the nature of each objection and reasons therefor. Only one protest may be filed for each entry of merchandise, except that where the entry covers merchandise of different categories, separate protests may be filed for each category. In addition, separate claims with respect to any one category of merchandise that is the subject of a protest are deemed to be part of a single protest. A protest may be amended under regulations prescribed by the Secretary any time prior to the expiration of the ninety-day period in which the protest could have been filed under section 514 of this Act. Except as otherwise provided in section 557(b) of this Act, protests may be filed by the importer, consignee, or any authorized agent of the person paying any charge or exaction, or filing any claim for drawback, or seeking entry or delivery, with respect to merchandise which is the subject of a decision in subsection (a).

"(2) TIME FOR FILING.—A protest of a decision, order, or finding described in subsection (a) shall be filed with such customs officers within ninety days after but not before—

"(A) notice of liquidation or reliquidation, or

"(B) in circumstances where subparagraph (A) is inapplicable, the date of the decision as to which protest is made.

"(c) LIMITATION ON PROTEST OF RELIQUIDATIONS.—The reliquidation of an entry shall not open such entry so that a protest may be filed against the decision of the customs officer upon any question not involved in such reliquidation."

REVIEW OF PROTEST

SEC. 208. Section 515 of the Tariff Act (19 U.S.C. 1515) is amended to read as follows:

"SEC. 515. REVIEW OF PROTESTS.—

"(a) ADMINISTRATIVE REVIEW AND MODIFICATION OF DECISIONS.—Unless a request for an accelerated disposition of a protest is filed in accordance with subsection (b) of this section the appropriate customs officer, within two years from the date a protest was filed in accordance with section 514 of this Act, shall review the protest and shall allow or deny such protest in whole or in part. Thereafter, any duties, charge, or exaction found to have been assessed or collected in excess shall be remitted or refunded and any drawback found due shall be paid. Upon the request of the protesting party, filed within the time allowed for the filing of a protest under section 514 of this Act, a protest may be subject to further review by another appropriate customs officer, under the circumstances and in the form and manner that may be prescribed by the Secretry in regulations, but subject to the two-year limitation prescribed in the first sentence of the subsection. Notice of the denial of any protest shall be mailed in the form and manner prescribed by the Secretary.

"(b) REQUEST FOR ACCELERATED DISPOSITION OF PROTEST.—A request for accelerated disposition of a protest filed in accordance with section 514 of this Act may be mailed by certified or registered mail to the appropriate customs officer any time after ninety days following the filing of such protest. For purposes of section 1582 of title 28 of the United States Code, a protest which has not been allowed or denied in whole or in part within thirty days following the date of mailing by certified or registered mail of a request for accelerated disposition shall be deemed denied on the thirtieth day following mailing of such request.

PETITIONS BY AMERICAN MANUFACTURERS, PRODUCERS, OR WHOLESALERS

SEC. 209. Section 516 of the Tariff Act (19 U.S.C. 1516) is amended to read as follows:

"SEC. 516. PETITIONS BY AMERICAN MANUFACTURERS, PRODUCERS, OR WHOLESALERS—VALUE AND CLASSIFICATION.—

"(a) The Secretary shall, upon written request by an American manufacturer, producer, or wholesaler, furnish the classification, and the rate of duty, if any, imposed upon designated imported merchandise of a class or kind manufactured, produced, or sold at wholesale by him. If such manufacturer, producer, or wholesaler believes that the appraised value is too low, that the classification is not correct, or that the proper rate of duty is not being assessed, he may file a petition with the Secretary setting forth (1) a description of the merchandise, (2) the appraised value, the classification, or the rate or rates of duty that he believes proper, and (3) the reasons for his belief.

"(b) If, after receipt and consideration of a petition filed by an American manufacturer, producer, or wholesaler, the Secretary decides that the appraised value of the merchandise is too low, or that the classification of the article or rate of duty assessed thereon is not correct, he shall determine the proper appraised value or classification or rate of duty, and notify the petitioner of his determination. All such merchandise entered for consumption or withdrawn from warehouse for consumption more than thirty days after the date such notice to the petitioner is published in the weekly Customs Bulletin shall be appraised or classified or assessed as to rate of duty in accordance with the Secretary's determination.

"(c) If the Secretary decides that the appraised value or classification of the articles or the rate of duty with respect to which a petition was filed pursuant to subsection (a) is correct, he shall so inform the petitioner. If dissatisfied with the decision of the Secretary, the petitioner may file with the Secretary, not later than thirty days after the date of the decision, notice that he desires to contest the appraised value or classification of, or rate or duty assessed upon, the merchandise. Upon receipt of notice from the petitioner, the Secretary shall cause publication to be made of his decision as to the proper appraised value or classification or rate of duty and of the petitioner's desire to contest, and shall thereafter furnish the petitioner with such information as to the entries and consignees of such merchandise, entered after the publication of the decision of the Secretary at such ports of entry designated by the petitioner in his notice of desire to contest, as will enable the petitioner to contest the appraised value or classification of, or rate of duty imposed upon, such merchandise in the liquidation of one such entry at such port. The Secretary shall direct the appropriate customs officer at such ports to notify the petitioner by mail immediately when the first of such entries is liquidated.

"(d) Notwithstanding the filing of an action pursuant to section 2632 of title 28 of the United States Code, merchandise of the character covered by the published decision of the Secretary (when entered for consumption or withdrawn from warehouse for consumption on or before the date of publication of a decision of the United States Customs Court or of the United States Court of Customs and Patent Appeals, not in harmony with the published decision of the Secretary) shall be appraised or classified, or both, and the entries liquidated, in accordance with the decision of the Secretary and, except as otherwise provided in this chapter, the final liquidations of these entries shall be conclusive upon all parties.

"(e) The consignee or his agent shall have the right to appear and to be heard as a party in interest before the United States Customs Court.

"(f) If the cause of action is sustained in whole or in part by a decision of the United States Customs Court or of the United States Court of Customs and Patent Appeals, merchandise of the character covered by the published decision of the Secretary, which is entered for consumption or withdrawn from warehouse for consumption after the date of publication of the court decision, shall be subject to appraisement, classification, and assessment of duty in accordance with the final judicial decision in the action, and the liquidation of entries covering the merchandise so entered or withdrawn shall be suspended until final disposition is made of the action, whereupon the entries shall be liquidated, or if necessary, reliquidated in accordance with the final decision.

"(g) Regulations shall be prescribed by the Secretary to implement the procedures required under this section."

REFUNDS AND ERRORS

SEC. 210. Section 520(c) of the Tariff Act (19 U.S.C. 1520 (c)) is amended by—

(a) striking the words "the Secretary of the Treasury may authorize a collector to" and substituting the words "the appropriate customs officer may, in accordance with regulations prescribed by the Secretary,";

(b) striking the word "appraisement," wherever it appears in paragraph (1); and

(c) deleting "sixty" and substituting "ninety" and deleting "ten" and substituting "nine" in paragraph (1).

TITLE III—MISCELLANEOUS AMENDMENTS

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 301. The Tariff Act of 1930, as amended (19 U.S.C. ch. 4), is further amended as follows:

(a) Section 305 (19 U.S.C. 1305) is amended by—

(1) striking the word "collector" in the first paragraph and inserting in lieu thereof "appropriate customs officer"; and

(2) striking the term "the collector" where it first appears in the second paragraph and inserting in lieu thereof "the appropriate customs officer" and by striking the term "the collector" wherever it thereafter appears in the paragraph and inserting in lieu thereof "such customs officer".

(b) Sections 311, 315, 432, 434, 438, 441, 443–447, 449–450, 452–455, 457, 485, 490, 492, 496, 521, 555, 562, 584, 586, 609, 613, and 614 (19 U.S.C. 1311, 1315, 1432 1434, 1438, 1441, 1443–1447, 1449–1450, 1452–1455, 1457, 1485, 1490, 1492, 1496, 1521, 1555, 1562, 1584, 1586, 1609, 1613, and 1614) are amended by striking the word "collector" wherever it appears in the sections and inserting in lieu thereof "appropriate customs officer".

(c) Section 401 (10 U.S.C. 1401) is amended by—

(1) striking subsections (h), (i), and (j);

(2) redesignating subsections (k), (l, (m), and (n) as subsections (h), (i), (j), and (k), respectively, and amending redesignated subsection (i) to read as follows:

"(i) OFFICER OF THE CUSTOMS: CUSTOMS OFFICER.—The terms 'officer of the customs' and 'customs officer' mean any officer of the Bureau of Customs of the Treasury Department (also hereinafter referred to as the 'Customs Service') or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by

law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service."

(3) adding a new subsection (l) to read as follows:

"(l) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury or his delegate."

(d) Section 402a (19 U.S.C. 1402) is amended by—

(1) striking the word "appraiser" wherever it appears in the section and inserting in lieu thereof "appropriate customs officer"; and

(2) striking the word "APPRAISER'S" in the heading of subsection (b) and inserting in lieu thereof "CUSTOMS OFFICER'S".

(3) striking the words "subject to review in reappraisement proceedings under section 501" and inserting in lieu thereof "subject to protest in accordance with section 514".

(e) Sections 448, 493, and 608 (19 U.S.C. 1448, 1493, and 1608) are amended by striking the term "the collector" where it first appears in each section and inserting in lieu thereof "the appropriate customs officer" and by striking the term "the collector" wherever it thereafter appears in each section and inserting in lieu thereof "such customs officer".

(f) Section 451 (19 U.S.C. 1451) is amended by—

(1) striking the word "collector" where it appears the first time in the section and inserting in lieu thereof "appropriate customs officer";

(2) striking out the word "collector" where it appears the second time in the section and inserting in lieu thereof "such customs officer"; and

(3) striking the word "collector" where it appears the third time in the section and inserting in lieu thereof "appropriate customs officer".

(g) Section 467 (19 U.S.C. 1467) is amended by striking the words "collector of customs" and inserting in lieu thereof "appropriate customs officer".

(h) Section 482 (19 U.S.C. 1482) is amended as follows—

(1) subsection (e) is amended by striking the term "collector of customs" and inserting in lieu thereof "appropriate customs officer"; and

(2) subsection (f) is amended by striking "collector of customs or the person acting as such, or by his deputy" and inserting in lieu thereof "appropriate customs officer".

(i) Section 484 (19 U.S.C. 1484) is amended as follows—

(1) subsection (a) is amended by striking the word "collector" and inserting in lieu thereof "appropriate customs officer";

(2) paragraph (1) of subsection (c) is amended by striking the term "the collector" where it first appears in the paragraph and inserting in lieu thereof "the appropriate customs officer" and by striking the term "the collector" where it thereafter appears in the paragraph and inserting in lieu thereof "such customs officer";

(3) paragraph (2) of subsection (c) is amended by striking the term "The collector" and inserting in lieu thereof "The appropriate customs officer" and by striking the term "the collector" wherever it appears in the paragraph and inserting in lieu thereof "such customs officer";

(4) subsection (g) is amended by striking the term "collector or the appraiser" and inserting in lieu thereof "appropriate customs officer";

(5) the second and third sentences of subsection (j) are amended by striking the word "collector" and inserting in lieu thereof "customs officer"; and

(6) The fourth sentence of subsection (j) is amended by striking the term "a collector" and inserting in lieu thereof "a customs officer" and by striking the terms "the collector" and "such collector" and inserting in lieu thereof "such customs officer".

(j) Section 491 (19 U.S.C. 1491) is amended by striking the words "by the appraiser of merchandise and sold by the collector" and inserting in lieu thereof "and sold by the appropriate customs officer".

(k) Section 499 (19 U.S.C. 1499) is amended as follows—

(1) the first sentence is amended by striking the word "appraiser" and inserting in lieu thereof "appropriate customs officer";

(2) the second sentence is amended by striking the term "The collector" and inserting in lieu thereof "Such officer";

(3) the fifth sentence is amended to read: "Such officer may require such additional packages or quantities as he may deem necessary.";

(4) the sixth sentence is amended to read: "If any package contains any article not specified in the invoice and, in the opinion of the appropriate customs officer, such article was omitted from the invoice with fraudulent intent on the part of the seller, shipper, owner, or agent, the contents of the entire package in which such article is found shall be subject to seizure, but if no such fraudulent intent is apparent, then the value of said article shall be added to the entry and the duties thereon paid accordingly.";

(5) the seventh sentence is amended by striking the word "collector" and inserting in lieu thereof "appropriate customs officer"; and

(6) the last sentence is amended by striking the words "appraiser's return of value" and inserting in lieu thereof "appraisement" and by striking the words "value returned by the appraiser" and inserting in lieu thereof "appraisement".

(l) Section 502 (19 U.S.C. 1502) is amended by striking the words "appraiser, deputy appraiser, assistant appraiser, or examiner of merchandise" and inserting in lieu thereof "customs officer".

(m) Section 506 (19 U.S.C. 1506) is amended as follows:

(1) paragraph (1) is amended by striking the term "the collector" where it first appears in the paragraph and inserting in lieu thereof "the appropriate customs officer" and by striking the term "the collector" where it thereafter appears in the paragraph and inserting in lieu thereof "such customs officer"; and

(2) paragraph (2) is amended by striking the word "collector" and inserting in lieu thereof "appropriate customs officer".

(n) Section 509 (19 U.S.C. 1509) is amended by striking the term "Collectors and appraisers" and inserting in lieu thereof "Appropriate customs officers".

(o) Section 510 (19 U.S.C. 1510) is amended by—

(1) striking the words "or a division of such court," the first time they appear;

(2) striking "or an appraiser, or a collector" and inserting in lieu thereof "or an appropriate customs officer";

(3) striking "an appraiser" and inserting in lieu thereof "an appropriate customs officer, or";

(4) striking the words "or a division of such court," the second and third times they appear; and

(5) striking "or appraiser or collector" and inserting in lieu thereof "or appropriate customs officer".

(p) Section 511 (19 U.S.C. 1511) is amended by—

(1) striking the words "or an appraiser, or person acting as appraiser, or a collector" and inserting in lieu thereof "or an appropriate customs officer";

(2) striking the term "the collectors" and inserting in lieu thereof "customs officers"; and

(3) striking the term "the collector" and inserting in lieu thereof "the appropriate customs officer".

(q) Section 512 (19 U.S.C. 1512) is amended by—

(1) striking the word "collector" and inserting in lieu thereof "customs officer"; and

(2) striking the word "collectors" and inserting in lieu thereof "customs officers".

(r) Section 513 (19 U.S.C. 1513) is amended by striking the word "COLLECTOR'S" in the heading thereof and inserting in lieu thereof "CUSTOMS OFFICER'S" and by striking the words "collector or other" wherever they appear in the section.

(s) Section 523 (19 U.S.C. 1523) is amended by striking the word "collectors' " and inserting in lieu thereof "customs officers' ".

(t) The fifth sentence of section 557(b) (19 U.S.C. 1557(b)) is amended by striking the words "an appeal for reappraisement under section 501" and inserting in lieu thereof "a protest contesting an appraisement decision in accordance with section 514".

(u) Section 560 (19 U.S.C. 1560) is amended by striking the words "collector or other".

(v) Section 563 (19 U.S.C. 1563) is amended by—

(1) striking the term "collectors of customs" and inserting in lieu thereof "appropriate customs officers"; and

(2) striking the word "collector" and inserting in lieu thereof "customs officer".

(w) Section 564 (19 U.S.C. 1564) is amended by striking the term "collector of customs" and inserting in lieu thereof "customs officer".

(x) Section 565 (19 U.S.C. 1565) is amended by—

(1) striking the term "collector of customs" and inserting in lieu thereof "appropriate customs officer"; and

(2) striking the word "collector" wherever it thereafter appears in the section and inserting in lieu thereof "customs officer".

(v) Section 595 (19 U.S.C. 1595) is amended by striking the words "collector of customs or other".

(z) Section 602 (19 U.S.C. 1602) is amended by—

(1) striking the word "COLLECTOR" in the heading and inserting in lieu thereof "CUSTOMS OFFICER"; and

(2) striking the word "collector" where is first appears in the section and inserting in lieu thereof "appropriate customs officer" and by striking the word "collector" wherever it thereafter appears in the section and inserting in lieu thereof "customs officer".

(aa) Section 603 (19 U.S.C. 1603) is amended by—

(1) striking the word "COLLECTOR'S" in the heading thereof and inserting in lieu thereof "CUSTOMS OFFICER'S"; and

(2) striking the words "collector or the principal local officer of the Customs Agency Service" and inserting in lieu thereof "appropriate customs officer".

(bb) Section 604 (19 U.S.C. 1604) is amended by striking the word "collectors" and inserting in lieu thereof "customs officers".

(cc) Section 605 (19 U.S.C. 1605) is amended by—

(1) striking the word "collector" and inserting in lieu thereof "appropriate customs officer"; and

(2) striking the word "collector's" and inserting in lieu thereof "customs officer's".

(dd) Section 606 (19 U.S.C. 1606) is amended by striking the words "collector shall require the appraiser to" and inserting in lieu thereof "appropriate customs officer shall".

(ee) Sections 607 and 610 (19 U.S.C. 1607 and 1610) are amended by—

(1) striking the words "returned by the appraiser"; and

(2) striking the word "collector" and inserting in lieu thereof "appropriate customs officer".

(ff) Section 612 (19 U.S.C. 1612) is amended as follows:

(1) the first sentence is amended by striking the term "the collector" where it first appears and inserting in lieu thereof "the

appropriate customs officer"; by striking the words "by the appraiser"; by striking the term "the collector" where it thereafter appears and inserting in lieu thereof "such officer"; and by striking the words "within twenty-four hours after receipt by him of the appraiser's return";

(2) the second sentence is amended by striking the term "the collector" and inserting in lieu thereof "such officer"; and

(3) the third sentence is amended by striking the word "collector" and inserting in lieu thereof "customs officer".

(gg) Section 617 (19 U.S.C. 1617) is amended by striking the word "collector" and inserting in lieu thereof "customs officer" and by striking the words "or customs agent."

(hh) Section 618 (19 U.S.C. 1618) is amended by striking the words "customs agent, collector, judge of the United States Customs Court, or United States commissioner," and inserting in lieu thereof "customs officer".

(ii) Section 623 (19 U.S.C. 1623) is amended by striking the term "collectors of customs" and inserting in lieu thereof "customs officers".

(jj) Section 641 (19 U.S.C. 1641) is amended by striking the words "collector or chief" wherever they appear and substituting therefor "appropriate".

(kk) Section 648 (19 U.S.C. 1648) is amended by striking the term "Collectors of customs" and inserting in lieu thereof "Customs officers".

SEC. 302. The last paragraph of so much of section 1 of the Act of August 1, 1914, as relates to the Customs Service, as amended (38 Stat. 623; 19 U.S.C. 2), is amended to read as follows:

"The President is authorized from time to time, as the exigencies of the service may require, to arrange, by consolidation or otherwise, the several customs-collection districts and to discontinue ports of entry by abolishing the same or establishing others in their stead. The President is authorized from time to time to change the location of the headquarters in any customs-collection district as the needs of the service may require."

SEC. 303. Section 2 of the Act of March 4, 1923, as amended (19 U.S.C. 6), is amended by—

(a) striking the first and second sentences and inserting in lieu thereof the following: "Any officer of the customs service designated by the Secretary of the Treasury for foreign service, shall, through the Department of State, be regularly and officially attached to the diplomatic missions of the United States in the countries in which they are to be stationed, and when such officers are assigned to countries in which there are no diplomatic missions of the United States, appropriate recognition and standing with full facilities for discharging their official duties shall be arranged by the Department of State."; and

(b) striking the words "and employees" in the last sentence of the section.

SEC. 304. Section 2619 of the Revised Statutes, as amended (19 U.S.C. 31), is amended to read as follows:

"A bond to the United States may be required of any customs officer for the true and faithful discharge of the duties of his office according to law."

SEC. 305. Section 2620 of the Revised Statutes, as amended (19 U.S.C. 32), is amended to read as follows:

"The amounts, conditions for filing, and procedures for the approval of bonds required of customs officers shall be set forth in regulations prescribed by the Secretary of the Treasury.

SEC. 306. Section 8 of the Act of August 24, 1912, as amended (19 U.S.C. 50), is amended by striking the term "Collectors of customs" and inserting in lieu thereof "Customs officers".

SEC. 307. Section 2654 of the Revised Statutes, as amended (19 U.S.C. 58), is amended by striking the word "Collectors" and inserting in lieu thereof "Customs officers".

SEC. 308. Section 251 of the Revised Statutes (19 U.S.C. 66) is amended by striking the word "collectors" and inserting in lieu thereof "customs officers".

SEC. 309. Section 3 of the Act of June 18, 1934, as amended (19 U.S.C. 81c) is amended by—

(a) striking the term "collector of customs" and inserting in lieu thereof "appropriate customs officer"; and

(b) striking the word "collector" and inserting in lieu thereof "appropriate customs officer".

SEC. 310. The Act of June 28, 1916 (19 U.S.C. 151), is amended by striking the term "collector of customs" and inserting in lieu thereof "appropriate customs officer".

SEC. 311. Section 202(a) of the Act of May 27, 1921 (19 U.S.C. 161(a)), is amended by striking the word "report".

SEC. 312. Section 208 of the Act of May 27, 1921 (19 U.S.C. 167), is amended by striking the term "the collector" where it first appears in the section and inserting in lieu thereof "appropriate customs officer" and by striking the term "the collector" wherever it thereafter appears in the section and inserting in lieu thereof "such customs officer".

SEC. 313. Section 209 of the Act of May 27, 1921, as amended (19 U.S.C. 168), is amended by—

(a) striking the words "appraiser or person acting as appraiser" where they first appear in the section and inserting in lieu thereof "appropriate customs officer";

(b) striking the words "report to the collector" where they first appear in the section;

(c) striking the words "each appraiser or person acting as appraiser" and inserting in lieu thereof "such customs officer"; and

(d) striking the words "and report to the collector".

SEC. 314. Section 210 of the Act of May 27, 1921, as amended (19 U.S.C. 169); is amended by—

(a) striking the words "appraiser or person acting as appraiser" and inserting in lieu thereof "appropriate customs officer";

(b) striking the term "the collector" and inserting in lieu thereof "such customs officer"; and

(c) striking the words "appeal and" and "appeals and".

SEC. 315. Section 5 of the Act of February 13, 1911, as amended (19 U.S.C. 261), is amended by striking ", and any customs officer who may be designated for that purpose by the collector of customs,".

SEC. 316. Section 5 of the Act of February 13, 1911, as amended (19 U.S.C. 267), as amended by—

(a) striking the words "inspectors, storekeepers, weighers, and others"; and

(b) striking the term "collector of customs" wherever it appears in the section and inserting in lieu thereof "appropriate customs officer".

SEC. 317. Section 3111 of the Revised Statutes (19 U.S.C. 282) is amended by striking the words "other or" and by striking the words "a collector or other" and inserting in lieu thereof "an".

SEC. 318. Section 3126 of the Revised Statutes (19 U.S.C. 293) is amended by striking out "collectors" and inserting in lieu thereof "appropriate customs officers".

SEC. 319. Sections 2863 and 3087 of the Revised Statutes, as amended (19 U.S.C. 341 and 528), are amended by striking the word "collector" and inserting in lieu thereof "appropriate customs officer".

SEC. 320. The Act of June 16, 1937 (19 U.S.C. 1435b), is amended by—

(a) striking the words "collector of customs, or any deputy collector of customs designated by him" and inserting in lieu thereof "appropriate customs officer"; and

(b) striking the words "jointly by the Secretary of Commerce and".

REPEALS

SEC. 321. The following laws are hereby repealed:

(a) section 2613 of the Revised Statutes, as amended (19 U.S.C. 5);

(b) the last paragraph of so much of section 1 of the Act of July 5, 1932, as relates to the Bureau of Customs (47 Stat. 584; 19 U.S.C. 5a);

(c) section 3 of the Act of March 4, 1923 (19 U.S.C. 7);

(d) section 2629 of the Revised Statutes, as amended (19 U.S.C. 8);

(e) section 2625 of the Revised Statutes, as amended (19 U.S.C. 9);

(f) section 2630 of the Revised Statutes, as amended (19 U.S.C. 10);

(g) section 2632 of the Revised Statutes, as amended (19 U.S.C. 11);

(h) the Act of February 6, 1907, as amended (19 U.S.C. 36);

(i) section 2633 of the Revised Statutes (19 U.S.C. 37);

(j) section 7 of the Act of March 4, 1923 (19 U.S.C. 51); and

(k) sections 1 and 2 of the Act of August 28, 1890 (19 U.S.C. 63).

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the amendments are considered and agreed to en bloc.

Mr. HRUSKA. Mr. President, this is a measure to modernize and update a system created in 1890. In that year a board of general appraisers, which was an administrative tribunal created to relieve the heavy burden that customs litigation was placing on Federal district and circuit courts, was put into operation.

It exercised quasi-judicial functions in reviewing appeals from decisions of the Bureau of Customs.

In 1926, a Customs Court was created. Very little beyond a change in name was effected. No essential changes were made in powers, procedures, or duties.

In 1956, Congress declared it to be an article III court, but in many respects it has continued to function as an administrative tribunal, reviewing actions of the Bureau of Customs.

Through the years, various discussions and proposals were advanced for revision of the court. In 1968 a concrete, meaningful step was taken. In October of that year, the senior Senator from Maryland (Mr. TYDINGS), at the request of the administration, introduced S. 4194. It contained most of the basic provisions that appear in the bill now under consideration.

The present bill has received the earnest study and advocacy of Senator TYDINGS throughout. As chairman of the Subcommittee on Improvements in Judicial Machinery, he took active leadership in the processing and revision of the measure to its present state.

He is to be commended. It is rewarding and encouraging to be able to serve on the subcommittee which he heads so well.

THE CUSTOMS COURT

Mr. President, this court is composed of a chief judge and eight judges. It has a clerk and deputy clerks, a marshal and deputy marshals, a librarian, reporters,

and other supporting personnel. It is a court of record under article III of the Constitution of the United States.

The Customs Court has exclusive jurisdiction over civil cases under the tariff laws, the internal revenue laws relating to imported merchandise, the several customs simplification acts, the proclamations of the President issued under reciprocal trade agreements, and also under other proclamations imposing taxes or quotas on imported goods.

It also has appellate jurisdiction of cases litigating the value of imported merchandise. It tries cases without a jury, making findings of fact and applying the law.

Its principal offices are located in New York City.

CHANGES IN NATURE AND VOLUME OF CUSTOMS COURT WORK

In recent years, a number of developments have had a substantial impact on the work of the Bureau of Customs and the U.S. Customs Court. These include: First, significant increase in imports into the United States for each of the past few years; second, a new set of tariff schedules; and third, a more aggressive attitude by American importers and manufacturers in challenging customs decisions. As a consequence, there has been a sharp rise in the number of disputed customs matters in the Bureau of Customs and in the number of cases received by the Customs Court.

The problems that beset the Customs Court are revealed by the statistics showing its annual imput and output of cases. In fiscal year 1963, the court received 35,000 new cases. The number grew to over 75,000 cases in fiscal year 1969. In this same period, its rate of termination of cases increased from an annual average of 32,000 during the period between fiscal year 1963 and fiscal year 1966, to almost 49,000 in fiscal year 1969.

Despite its increasing productivity, with its input substantially exceeding its rate of terminations, the court has been faced with a growing accumulation of pending cases. In fiscal year 1963 these amounted to 186,452; in fiscal year 1969 to 431,612.

It must be noted, however, that these figures are somewhat deceptive since, in customs matters, a single decision may frequently affect a large number of cases that have been suspended during the trial of a test case. On the other hand, the test case, under which there are thousands of cases suspended, is rare and generally involves a threshold issue common to a great variety of merchandise. The suspended cases often involve other issues of fact or law that for convenience have been suspended because of the desire to dispose of the common threshold issue first. The resolution of the threshold issue, therefore, will not ipso facto dispose of the suspended cases.

As a matter of fact, the decision in a test case does not necessarily control the disposition of cases suspended thereunder unless the suspension involves identical merchandise, and, in any case, there is always the question as to whether the merchandise in the suspended case is similar in all material respects to that in the decided case. Also, of course, each of the suspended cases must be examined by counsel to determine any remaining issues and to settle the amount of duties on the importation. In addition, either the importer or the Government might be dissatisfied with the trial of the decided case or feel that additional testimony or arguments are available which will result in a different decision and, therefore, will decide to retry the issue rather than abide by the decision in the earlier case.

SCOPE OF BILL

The purpose of the proposed legislation is to modernize the procedures in the customs courts and the Bureau of Customs so as to permit these agencies to keep up with their sharply increased workload. This will be accomplished by eliminating outmoded provisions in the present law which require the customs courts and the Bureau of Customs to engage in time-consuming, inefficient, and unnecessary practices. In its place new procedures will be initiated to permit these agencies to cope efficiently and effectively with the rising volume of customs matters that come before them.

The bill in no way affects the substantive provisions in the customs or tariff laws. It does not change in any way the rates of duties or any other provisions of the tariff schedules. It will have no substantive effect on the laws relating to import quotas, import controls, or antidumping.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point an enumeration of some 14 major changes contained in the bill.

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

MAJOR CHANGES CONTAINED IN BILL

1. The Bureau of Customs will liquidate an entry, deciding at that time all issues relating to the dutiable status of the merchandise, including its appraised value and classification.

2. The importer will have 90 days in which to decide whether he wishes to protest the decision and secure administrative review. This longer period of time will provide the importer with sufficient opportunity to study the matter and decide whether any useful purpose would be served by seeking further administrative review. He would no longer be pressured by an unrealistically short time limit into filing a protest for protective purposes only.

3. The Bureau of Customs will have 90 days from the date of liquidation to reliquidate the entry on its own initiative. This will, in many cases, avoid the necessity for the importer to go to Customs Court to correct administrative errors. It will also permit the Bureau of Customs to conform administrative actions to relevant decisions of the Customs Court reached within the 90 day period following liquidation and to take any other administrative action necessary for the accurate determination of duty liability.

4. An overall limit of two years will be set in which the Bureau of Customs must dispose of a protest on its merits. Notice of the denial of a protest, in whole or in part, will be mailed to the importer.

5. The importer will be able to obtain accelerated disposition of his protest by mailing a request by certified or registered mail to the Bureau of Customs at any time after 90 days have elapsed from the date of filing the protest. If, within the next 30 days, the Bureau of Customs does not allow or deny his protest in whole or in part, it is deemed denied on the 30th day following the mailing of the request.

6. The importer will have 180 days in which to decide whether or not to litigate a denial of a protest by the Bureau of Customs. This should be sufficient time for the importer to reach a carefully considered decision on the issues involved. It should eliminate many cases that are now on the Court's docket simply because the importer, as a result of the restrictive nature of the present 30 or 60 day time limit, is forced to file the appeal or protest as a protective measure.

7. Automatic reference of all appeals for reappraisement and all denials of protest to the Customs Court, will be eliminated. If an importer wishes to obtain judicial review, he will be required to file a summons in the Customs Court.

8. The Court will be required to fix a filing fee for commencing an action in an amount not less than $5.00 and not exceeding the filing fee for commencing a civil action in the United States district court.

9. There will be a single judicial proceeding in which all issues, including both appraisement and classification, will be considered. The importer will be able to include in one cause of action all entries of merchandise presenting common issues. The Court will have authority to order actions consolidated or severed, as circumstances warrant.

10. All cases in the Customs Court will normally be tried by a single judge. This will increase the judicial manpower available for hearing and deciding cases, since approximately 60 percent of all cases in the Customs Court are now heard by a three-judge trial division.

11. The Chief Judge will have the authority, on application or on his own initiative, to designate three-judge trials when he finds that a cause of action either (a) raises a constitutional question or (b) has broad or significant implications in the administration or interpretation of the customs laws. The use of a three-judge court will provide a means for obtaining carefully considered decisions in landmark or other important cases.

12. In contested cases, the judge will have the option of supporting his decision by either an oral or written statement of findings of fact and conclusions of law or by an opinion stating the reasons and facts upon which his decision is based. This will eliminate the present requirement that the judge write an opinion in every case.

13. Cases outside of New York will be tried in the same manner as other cases and the judge will have full authority to hear and decide the case.

14. Appeals from all cases will go directly to the Court of Customs and Patent Appeals. This will relieve the Customs Court of its present burden of having to set up three-judge divisions to hear appeals from single-judge decisions in appraisement cases.

Mr. HRUSKA. Mr. President, in summary, both the Bureau of Customs and the Customs Court are handicapped by outdated procedures that cannot be changed without corrective legislation. To institute modern and effective methods of administration and adjudication in the customs field, favorable action on the attached bill is recommended. The major provisions in the bill are generally acceptable to the bench, the bar, and the importers concerned with customs matters.

Mr. President, I urge the adoption of the bill.

Mr. TYDINGS. Mr. President, goods arriving in the United States are subject to examination by the Bureau of Customs which appraises the goods, classifies them under the tariff schedules of the United States—that is, determines the dutiable category—and calculates the amount of duty. The importer pays the estimated duties upon entry and

posts bond to guarantee payment of any additional duties that may later be found due and the goods move into commerce while the processes of appraisement and classification take place.

If the importer disagrees with the value at which his goods are appraised he may file a written appeal for reappraisement with the Bureau of Customs. Thereupon the process of classification and the final assessment of duties comes to a halt. Customs has no substantial function to perform with this appeal. The appeal is simply forwarded to the Customs Court where it automatically becomes a case. Such a case is heard by a single judge of the Customs Court, subject to appeal to a three-judge division of the same court, with the right of further appeal to the Court of Customs and Patent Appeals.

After the appraisal issue is resolved, the case is returned to the Bureau of Customs. If, at this point, the importer disagrees with the classification given to his merchandise, he may file a protest with Customs. Customs may thereupon modify or reverse its original action. If it does not, it transmits the protest with the relevant papers to the Customs Court and again it becomes a case without further action by the importer. Such a case is heard by a three-judge division of the Customs Court, with the right to appeal to the Court of Customs and Patent Appeals.

For the past several years the workload of the U.S. Customs Court has been increasing sharply. In fiscal year 1963, the court received 35,000 new cases. In fiscal year 1969, this had grown to over 75,000 cases. During the same period, its rate of termination of cases increased from an annual average of 32,000 for the period between fiscal year 1963 and fiscal year 1966 to almost 49,000 for fiscal year 1969.

There has thus been a growing accumulation of pending cases in the Customs Court despite the increased productivity of the court. In fiscal year 1963, these pending cases totalled 186,452; by the end of fiscal year 1969, the total had reached 431,612.

Outmoded statutory provisions that establish the procedures for deciding customs cases are major contributing factors in the court's increased workload, compelling the Bureau of Customs and the Customs Court to engage in time-consuming, inefficient, and unnecessary practices.

The major defects in present statutory procedures include the following:

First. If questions of both appraisement and classification are presented in a single entry of merchandise, the importer cannot have all issues resolved in a single proceeding. Instead, he must first contest the appraisement issue. Only after this issue has been finally determined, by the courts if necessary, may he contest the classification of the merchandise.

Second. The Bureau of Customs cannot correct administratively any errors of appraisement. When an importer files an appeal for appraisement, the Bureau is automatically divested of jurisdiction, and the appeal is automatically before the Customs Court.

Third. The importer has unrealistically short periods of 30 days in appraisement and 60 days in classification questions to decide whether to contest the decision of the Bureau of Customs by appealing the appraisement or protesting the classification. As a consequence, in many cases importers are compelled to file appeals or protests as protective measures.

Fourth. The Bureau of Customs must automatically refer denials of protest to the Customs Court for disposition without regard to whether or not the importer intends or desires to litigate the Bureau's decision.

Fifth. The court has no statutory authority to charge a filing fee for commencing judicial actions. Since there is no filing fee, there is no restraining influence to cause the importer to select only meritorious actions for litigation.

Sixth. Protest cases, which constitute about 60 percent of all customs cases, must be decided by a three-judge division of the court rather than by a single judge.

Seventh. Single-judge decisions in appraisement cases are subject to review by a three-judge division of the court even though the Court of Customs and Patent Appeals has appellate jurisdiction over final decisions of the Customs Court in both appraisement and protest cases.

Eighth. Single judges trying classification cases in ports outside of New York have no power to decide a case, but must return the hearing record to New York for decision by a three-judge division which need not necessarily include the judge who heard the case at the other port.

In seeking to modernize the procedures in the Bureau of Customs and the Customs Courts by revising these statutory provisions, S. 2624 provides for the following:

First. A single, continuous procedure for deciding all issues in any entry of merchandise, including appraisement and classification issues.

Second. Greater authority in the Bureau of Customs to correct errors administratively and to provide more meaningful administrative review.

Third. Substantial increase in the length of time for importers to file requests for administrative and judicial review.

Fourth. Elimination of automatic referrals of protests to the Customs Court.

Fifth. Normally all customs cases before the Customs Court will be tried and decided by a single judge.

S. 2624 will bring the Customs Court and the Bureau of Customs into the modern era.

The PRESIDING OFFICER (Mr. GRAVEL in the chair). The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the bill.

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

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HRUSKA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

S. 3220—INTRODUCTION OF A BILL RELATING TO OBSCENITY CONTROL IN THE MAILS

Mr. MANSFIELD. Mr. President, just as the "pushers" are the ones most responsible for and, therefore, the most guilty in the traffic of narcotics so is the "pusher" who distributes pornographic material through the mails the most responsible and the most guilty in that area.

It is not a question so much of being the recipient of narcotics or pornographic materials, although that is a vital question, but, rather, it is more a question of how we must deal with those who have the primary responsibility. In that respect, I am glad to note, very glad to note, that the Judiciary Committee of yesterday reported out a narcotics control bill which the Senate may be assured will be called up for action as expeditiously as possible.

I am today introducing a bill dealing with pornography which seeks to put the "fix" on those who are primarily responsible for the propagation and continuation of the distribution of unsolicited pornographic materials into the homes of our people.

This traffic in smut must cease and those who are responsible for it must be punished.

Mr. President, pornography, obscenity, filth, and perversion; that is the package that is sent to my constituents in Montana. That is what is being sent to citizens across the land. And its distributors reach into the privacy of one's home through an instrumentality of the Federal Government—the U.S. Post Office Department.

Much is said lately about our first amendment. Freedom of religion and of the press; the right to assemble peaceably and to speak out—these are fundamental guarantees under our Constitution. But what is also protected is our right of privacy and that right, though long recognized as equally fundamental, is perhaps the least enforced of all of our freedoms when it comes to the filth and dirt that is brought to our homes by the Post Office.

I do not criticize the Post Office Department. Its hands are tied. But we in the Congress could untie them if we act now—this year—to crack down on the peddlers of filth.

There are pending in committees of both the House and Senate a number of proposals aimed directly at the 20 or so corporate panderers of obscenity whose ruthless exploitation reaps millions of dollars a year out of the pornography market at the expense of the young and unsuspecting, the unaware and the unsophisticated. No one is safe from their acts of corruption. Their aim is simple: to reach into the very privacy of one's home with a message of indecency and perversion.

I am a cosponsor of a number of the proposals that seek to curb these filth panderers. And today I submit another proposal on the subject—one that seeks clearly to protect the young and the unsuspecting, the unaware, and the unsophisticated.

My proposal would compel the filth peddler to mark the envelope he uses—

the one that is now often blank—with a warning that the enclosure could be obscene or offensive. With such a warning there can be no mistake. The addressee is fully protected. He would be put on notice, as would his entire household. He would know and his famly would know that what is inside may violate his standards of decency and those he wishes to impress upon his children. And that is his right.

May I say that such a warning is not new to the legislative field. It has already been imposed by the Congress in the case of cigarettes. Indeed, without even deciding that there is a danger involved in smoking, cigarette manufacturers are compelled to warn each purchaser of a possible hazard. By the same token, under my bill, it need not be decided that the material enclosed is obscene, per se. But if there is that possibility, then the envelope must say in plain and simple words, "The Enclosed Material May Be Obscene or Offensive to the Addressee."

A second feature of my proposal would permit the addressee of obscene mail to return the matter to the sender, without charge. And it is left up to the addressee himself to decide what violates his standard of decency. The return mail fee would be paid by the original sender—the pusher, in other words—with an additional handling charge.

Finally, violators of either of these provisions would be met with a penalty of $5,000.

Perhaps my proposal is not a perfect solution. It is one, however, that I believe brings into proper balance the right of privacy on the one hand and the right of the press to use the mails on the other. If enacted it will for the first time impose an effective check on the distribution of obscenity in our society and place the burden where it belongs—on the filth peddler.

Mr. President, the Missoulian, of last December 4 carried a story on this matter written by Lynn Schwanke. In it Postmaster Guy Rogers of Missoula relates very clearly many of the problems faced by his office on this problem. I ask unanimous consent that the article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. MANSFIELD. Mr. President, I urge the Committee on the Judiciary to act on the obscenity proposals now. I can assure the Senate that once on the calendar, they will receive the highest priority of the joint leadership.

I urge the committee to act swiftly as well on the crime proposals. I am happy to note they have acted on at least one of the narcotics proposals. Certainly there are no issues more critical to the quality of our lives today. The proposed Drug Abuse Control Act, the dangerous substances proposal, the bail reform and witness immunity measures, the organized crime matters and all of the proposals in these areas are vitally needed to deal effectively with drugs and crime. It is up to us in the Congress to do everything in our capacity to see that all of these matters are written firmly into the law books as soon as possible and hopefully, before this session closes.

Mr. President, I send my bill on obscenity to the desk and ask that it be appropriately referred.

EXHIBIT 1

ROGERS SAYS RECEIVERS MUST COMPLAIN—LOCAL MAIL FAT WITH PORNOGRAPHY, SAYS POSTMASTER

(By Lynn Schwanke)

Missoula's mail is growing fat with pornographic materials, Postmaster Guy Rogers says.

Each year more of the questionable literature seems to circulate through the Missoula Post Office, Rogers said.

"There's nothing we can do about it" according to the postmaster. "In essence the Supreme Court has decreed that no one person censor another person's mail. Unless we get direct complaints from the receiver, our hands are tied."

The postmaster said he could not make an accurate estimate of the amount of pornography which passes through the local post office, but he described it as "a tremendous amount."

Rogers said the material is easy to recognize, "especially when we get 3,000 envelopes alike and one complaint."

Pornography is defined by the dictionary as "a portrayal of erotic behavior designed to cause sexual excitement."

Rogers said one of the contributing factors to the growing volume of pornography is the import market. He said the literature is legal in Sweden and Denmark, and it comes through the U.S. mails clearly marked "pornography" and "is put up like Life magazine."

The only recourse the post office has to halt obscene materials is through the persons who receive it, Rogers said.

The official said the post office has numerous complaints about the materials from individuals. Persons who receive the literature and wish to complain may go to the post office and sign a form which states they do not want the material and find it offensive. The form is sent to Washington, D.C., to the Office of the General Council which contacts the mailing firm and orders that the name of the complainant be taken from the mailing lists.

"Actually all it does is help the mailers correct their mailing lists," Rogers said.

If the firm does not remove the name of the complainant from its list, the Post Office Department has the power to exclude all that firm's mailings from the U.S. mail.

"It's impossible to stamp it out," Rogers said. He explained that the companies will do business under one name then change to another title and move to another town before authorities can move in.

"In the old days we could get them for fraud, but now they deliver what they promise," the postal official said.

Rogers noted that most of the material is pictures and films of nude women in suggestive poses. He said the increase in volume probably is due to the percentage of return orders. "People do order this stuff," he said, "and when they do, it costs them."

The postmaster also noted that mailing lists make it easy for the pornographic literature to be widespread. He said companies delivering the obscene materials can easily buy alphabetized mailing lists with all pertinent mailing information, including ZIP codes, then resell them when they are done. Rogers said a lot of the material goes to business addresses.

"We get a lot of people who complain," the postmaster said, "but until the legislatures do something about it and the courts take something other than a liberal point of view, we can't stop it."

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

The bill (S. 3220) to protect a person's right of privacy by providing for the designation of obscene or offensive mail matter by the sender and for the return of such matter at the expense of the sender, introduced by Mr. MANSFIELD (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Post Office and Civil Service.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the bill (S. 3220) just introduced by our able majority leader on the subject of pornography.

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

Mr. HUGHES. Mr. President, with regard to what has been said by the distinguished Senator from Montana, I believe this would be an opportune time for me to report to the Senate on the activities of a subcommittee of which I am chairman, which comes under the parent Committee on Labor and Public Welfare. The subcommittee to which I refer is the Subcommittee on Alcoholism and Narcotics, Addiction, and Drug Abuse.

Primarily I wish to report that after months of dedicated work by this subcommittee, including hearings that were held in the District of Columbia on two occasions, in California, New York, Denver, and with the anticipation of holding hearings in other areas of the country in the field of alcoholism, narcotics, and drugs, this subcommittee is approaching the subject matter from the point of view of the health problems, the educational problems and the problems of recovery, rehabilitation, treatment, and prevention.

This is a very comprehensive problem that I think fits right in line with the constructive legislation that the majority leader has been talking about. For far too long in this country we have taken a rather punitive and dim attitude toward users of substances that have both been legal and illegal, without an approach to the problem of recovery, rehabilitation, and prevention of these problems arising in our society. We have been viewing statistics now for many years indicating that there are at least 6 million alcoholics—and they are critical alcoholics—in the United States. It is my personal opinion that the number is at least double that, with probably another 6 million in progressive stages of that vicious disease.

Each of these 6 million alcoholics affect at least another 3 persons around them, or a total of 18 million in the country—which means that we are dealing with probably 25 million men and women, at the very minimum, in relationship to the drug alcohol.

We go on to the estimate of the possibility of there being 10 million or 12 million experimenters and users of marihuana and hundreds of thousands of other users of narcotics of everything from heroin to the amphetamines to the barbiturates, on down to the hallucinogens such as LSD. So that we are dealing with a major, critical problem in this Nation today.

It is not only a great contributor to the crime element in this country which needs to continue perpetrating crimes in

order to support these habits, but also a great contributor to the glut in our hospitals and mental institutions of people receiving little if any help. It has been testified to in my subcommittee by recovered narcotics addicts that they could almost as easily obtain heroin inside the walls of prison as they could out on the street.

Certainly, incarcerating men and women under these conditions does nothing to contribute to their recovery and thereby reducing their crime activities, once released into the social structure.

Thus, basically, what we are dealing with is a massive problem involving 25 million to 40 million people in this country.

The need is for an adult educational program, in addition to an educational program in the medical schools of America, and also in the elementary and secondary schools, and the colleges and universities of America, and the need for these preventive programs to be carried out at every level of the social structure. We are dealing with the needs of recovery itself. There is no longer in America any question that alcoholism is recoverable and treatable. It is no more difficult to treat a patient for alcoholism than any other kind of treatment in a hospital.

The statements and attitudes of hospital associations and medical associations in America are that they will accept alcohol patients and that they will treat them, but the facts prove otherwise.

Insurance programs are inadequate. For example, I have yet to find one discharged veteran of our armed services that has received any disability for chronic alcoholism which he incurred while in the service of the United States of America; yet we have testimony that 1 in every 6 beds in a veterans hospital is filled by an alcoholic patient. As a result, we are not really reaching the men and women of America who have incurred this disease while in the service of their country.

None of us is able to measure the traumatic effect of war that may start these men and women down the long road of no recovery to ultimate dismissal from the services under a less than honorable discharge condition.

Thus, I believe that as a result of the massive program we are studying and undertaking in the particular subcommittee I chair, probably by late next spring we will be ready and able to produce some comprehensive legislation which will complement this particular legislation that we are talking about today in an area that, hopefully, will then bring the Senate in a position to consider an all-out and comprehensive approach to these particular problems.

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

Mr. HUGHES. I yield.

Mr. LONG. I compliment the distinguished Senator from Iowa for his statement and the very fine work he is doing in this field.

It occurs to me that this Government should have greater reason to help with this disease in view of the fact that it receives so much money in revenue from alcoholic beverages. In many instances, the Government is collecting a large amount of money in taxes from the source which is creating such a great deal of mischief and destroying so many lives, as has been so eloquently described by the Senator from Iowa. Treatment should be made available to those very people to whom the Senator makes reference.

I would urge the Senator to bring before the Senate the kind of legislation he would think appropriate. I assure him that this Senator will certainly expect to support whatever can be developed that would help to provide an answer to this difficult problem.

Mr. HUGHES. I want to thank the Senator from Louisiana because, truly, the statistics are even more devastating than I have indicated.

For example, it has been reported that 40 percent of patients in mental hospitals in America today are there because of alcoholism.

An estimate of up to 50 percent of men and women in the prisons of the United States are there because of crimes committed while under the influence of alcohol.

Statistics indicate that between 25,000 and 35,000 Americans die on our highways every year as a result of alcohol-related accidents.

Certainly with these devastating statistics available to the Nation concerning the drug alcohol itself, we should be able to take a reasonable and intelligent approach to the problems of education, rehabilitation, recovery, and prevention, so that those who are ill of this tragic disease will no longer be destroyed.

When we deal with hard alcoholism we have a problem comparable to drugs, but different. We can do something about alcoholism, but with the rapidly developing change in our drug culture in the United States today, it can be said that the parents of the teenagers of America are scared to death. They are really frightened. They know that when their children go to school they will be exposed to drugs of all kinds, and their parents do not know what to do about it.

It is the responsibility of this Government to come forth with a constructive program.

S. 3221—INTRODUCTION OF A BILL DEALING WITH THE HUMANE TREATMENT OF ANIMALS

Mr. YOUNG of Ohio. Mr. President, I ask unanimous consent that I may proceed for 5 additional minutes in the morning hour.

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

Mr. YOUNG of Ohio. Mr. President, I introduce for appropriate reference a bill to assure the humane treatment of animals used for experimental purposes by research facilities.

The PRESIDING OFFICER. Without objection, the bill will be received and appropriately referred.

The bill (S. 3221) to amend the act of August 24, 1966 (Public Law 89–544), in order to prescribe effective criteria for the care and treatment of animals used for research and experiment purposes by research facilities, and for other purposes, introduced by Mr. YOUNG of Ohio, was received, read twice by its title, and referred to the Committee on Commerce.

Mr. YOUNG of Ohio. Mr. President, may I make it clear at the outset that this is not an antivivisection measure. It legislates against unnecessary cruelties in the use of animals in experiments for research purposes.

The unnecessary, senseless, inhumane cruelties afflicted on animals in the name of research and science sometimes are enough to cause one's blood to run cold.

I do not maintain that animals should not be used for legitimate medical research purposes, but I do assert that all procedures in connection with this sort of thing should be controlled, regulated, and carefully supervised. Unscrupulous operators who conduct, for profit, their business with cruelty and neglect should be eliminated. The quacks and sadists must go. We must see to it that those experiments that are conducted are absolutely essential and that the animals themselves are subjected to a minimum of torture.

My record in support of medical research and education speaks for itself. I would not introduce or support any measure to outlaw or curtail research which is responsibly and humanely conducted.

However, needless suffering does nothing to advance science or human welfare, and a nation as idealistic in tradition and as large in resources as ours must not condone this cruelty.

This bill applies only to vertebrate animals used in experiments by Federal agencies and by recipients of grants from the Federal Government. There are many instances on record in which scientists working for Federal agencies were guilty of unnecessary cruelty and torture of animals used in research experiments. Since the Federal Government is one of the biggest customers for experimental animals and, through research grants, one of the main supporters of research laboratories throughout the Nation, it is not only the Government's right, but our duty to see that something is done to correct this intolerable situation. Perhaps such legislation would encourage State governments to enact similar laws.

Mr. President, man's inhumane treatment to man is not so separate from his inhumanity to animals. We must not ignore the conditions that now exist. Mercy is indivisible.

I speak with considerable feeling on this subject. My Washington home has been brightened during the past several years by the fact it is also the home of a little Yorkshire terrier and three cats.

One was purchased in 1960 from Bill Gold, of the Washington Post, for all of a dollar. That cat is a coal-black cat that we call Lilly. She has become a prima donna in our home.

One was a starving, terrified little kitten that I picked up around midnight 5 years ago in the bushes adjoining the Greenbriar Apartment on Massachusetts Avenue. This little kitten came out of the bushes. She was dirty at the time and so thin you could almost see through her ears. She came out of the bushes and rubbed my leg and purred. The door

attendant said he was the only one who had fed that kitten in 2 weeks; that someone had thrown her out of an automobile. I remarked about the inhumane action of throwing a little kitten out of an automobile in front of one of the most luxurious apartment houses in Washington. Later I could not forget that kitten, and, after midnight, went there again.

I was about to leave when the little kitten again came out of the bushes. I took that kitten home. At that time she was near death. Now, she has grown to be a beautiful, affectionate cat that we call Pinky.

The third cat was a vagabond tomcat in our neighborhood that, according to reports of neighbors, had been left by a family who had moved from our neighborhood. The cat had wandered around, getting fed wherever he could. One morning we found him in our back yard, badly mangled and bleeding. We took him to a veterinarian nearby. The veterinarian first said, "I would like to see the other fellow," but then concluded from the wounds that some animal had come up from the Potomac, and Tom Bushytail had tangled with it and was almost killed. After 2 days and 3 nights and an expenditure of $30 Tom Bushytail was almost well again. So now we call him Tom Cedric Bushytail, who weighs 14¾ pounds ringside and is a big, affectionate cat.

So I speak for adults and children the country over made happier because of faithful dogs and affectionate cats who have become really a part of their family life.

Legislation setting forth standards for the treatment of animals used in research experiments should be enacted without further useless delay.

THE NEXT DECADE IN VIETNAM

Mr. YOUNG of Ohio. Mr. President, it is obvious that there will never be peace in South Vietnam until and unless a coalition government is established in Saigon composed of all elements of South Vietnamese political life, including representatives of the National Liberation Front, instead of the militarist Saigon regime of General Thieu and Air Marshal Ky which has barred neutralists, so-called, many Buddhists, and representatives of the National Liberation Front from voting or participating in government.

The administration has not faced up to the fact that the only way this war will be brought to an end is for both sides to compromise on a political solution—a compromise that must include a coalition government in Saigon and free elections. It is equally clear that Thieu and Ky are not going to preside over their own removal from power, so any negotiations in which they have a hand are doomed from the outset. There can be no escape from this hard truth.

The desire of those Saigon militarist leaders to remain in power is totally inconsistent with President Nixons' statement that "what is important is what the people of South Vietnam want." These incompatible policies hold out the prospect not of peace but of a prolonged military occupation which will continue indefinitely to drain American treasure and lives.

The fact is that while professing a desire for peace, the administration has failed to create the political conditions in Vietnam under which peace is possible.

Until the President begins to make a real effort toward solving the central task of forming a coalition government in Saigon, there is no real hope for peace, but only the bleak outlook of at least 10 years of American occupation to maintain in power a corrupt government that has the support of but 20 percent at the most of the people of South Vietnam.

Mr. President, there recently appeared in the St. Louis Post-Dispatch an outstanding editorial entitled "The Next Decade in Vietnam" setting forth in clear and concise terms the dilemma facing the administration in South Vietnam. I ask unanimous consent that the editorial be printed in the RECORD at this point as part of my remarks.

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

THE NEXT DECADE IN VIETNAM

The nature of the stalemate at the Paris peace talks was clearly illustrated when Ambassador Lodge told the press after this week's meeting that the United States would be willing to talk with Hanoi about a coalition government for South Vietnam "and other matters."

Since Hanoi has expressed willingness to resume private talks if a coalition government as well as troop withdrawals are discussed, Mr. Lodge's remark seemed to clear the way for negotiations. An hour later, however, he amended his statement to emphasize that any results of bilateral talks would be subject in effect to veto by the Thieu-Ky government in Saigon—which is implacably opposed to even the thought of coalition. So the stalemate persists.

The obstacle remains the Nixon Administration's insistent confusion of the present Saigon government with the people of South Vietnam. So long as we consider our commitment as being, not to the people, but to the military junta headed by President Thieu and Vice President Ky, it is impossible to see how the negotiating stalemate can be broken.

Ambassador Lodge misstates the case when he accuses Hanoi of demanding that we withdraw all our troops and overthrow the Saigon government as we go. We do not have to overthrow anybody. All we have to do is to allow political forces other than the Thieu-Ky regime to express themselves. Those forces already exist, as witnessed by the recent emergence of Gen. Duong Van Minh as a leading non-Communist opponent of the regime who wants to end the war. Big Minh might very well be able to form a peace government far more representative of the South Vietnamese people than the Thieu-Ky regime, if only the U.S. would let him.

Walter Lippmann is right, we think, in attributing the negotiating stalemate to the Administration's failure to reach the basic decision that *all* American forces, and not just the ground combat troops, should be withdrawn. Writing in *Newsweek*, Mr. Lippmann says:

"Our strategy is not to buy concessions from Hanoi with our military withdrawal, but to buy patience and endurance from the American people for an indefinitely long American occupation in South Vietnam. . . . The theory is that a long occupation, using some 200,000 support troops and the artillery and the Air Force, can be made acceptable to the American people. The official strategy is addressed not to negotiating with our adversaries but to placating American opinion. . . . The right policy, I believe, is to *negotiate* our withdrawal, to obtain, in return for withdrawing our 500,000 men, substantial and honorable concessions."

What kind of concessions could be obtained? It now seems quite clear that both Hanoi and the National Liberation Front are ready to accept a long period of independence for South Vietnam. Mr. Lippmann, who was recently in Paris, says the French are convinced that a settlement could be obtained on the principle that "for at least 10 years after the Americans leave, there shall be two Vietnams, one with its capital in Hanoi, one with its capital in Saigon."

Such a settlement, as he says, would be far from an American defeat, and it would not be dishonorable. Accomplishing a 10-year period of independence and military neutrality, during which the South Vietnamese would be free to determine their own future without outside interference, would represent some gain, at least, from our costly and bloody investment. We would fall short of the original objective, which was to crush the Communists, but this goal has become clearly unattainable in any case.

Is it not better to accept a more modest mission than to go on for years trying to salvage a mistaken one? The real choice lies between 10 years of independence for South Vietnam, during which the self-determination we claim to have been fighting for would have a chance to work, and at least 10 years of American occupation to prop up a government unable to win the support of its people. If Mr. Nixon thinks the latter policy can be made acceptable to Americans, in our judgment he is in error.

IRRESPONSIBLE SENATE ACTION

Mr. WILLIAMS of Delaware. Mr. President, considerable concern is developing throughout the country over the irresponsible manner in which the Senate during the past few days had turned what was intended to be a tax revision measure into a multibillion-dollar revenue loss.

Since H.R. 13270 was reported to the Senate, a series of amendments have been added which, if retained in conference, will reduce the Government's revenue by approximately $11,980 million with $10,280 million of this loss materializing in 1970.

Our Government today, on an administrative budget basis, is already operating at a deficit in excess of $500 million per month, and if the bill as presently before the Senate should become law it will completely nullify the administration's efforts to bring this inflation under control.

As a result of a series of deficits created during the past several years, our country today is confronted with a serious financial crisis, and this is no time for the Congress to consider politics.

As evidence that this concern over the recent irresponsible actions which have been taken by the Senate is shared by others throughout the country, I ask unanimous consent to have printed in the RECORD at this point a series of editorials, the first of which appeared in the Philadelphia Bulletin on Sunday, December 7, entitled "Irresponsible Senate Action"; the second, an editorial appearing in the December 7 issue of the National Observer entitled "Big Favors on Taxes"; next, an editorial appearing in the Evening Journal of Wilmington, Del., on Friday, December 5, entitled "Tax Cut vs. Revenue Loss"; and last,

an editorial appearing in today's Washingto Post entitled "Jobs, Taxes, and Inflation."

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

[From the Philadelphia (Pa.) Sunday Bulletin, Dec. 7, 1969]

IRRESPONSIBLE SENATE ACTION

New fiscal difficulties for the Federal Government, already implicit in the emphasis Congress has placed on tax cutting over tax reform, will become more threatening if several actions taken on the Senate floor are permitted to stand.

The Senate was fiscally irresponsible in adopting the Gore amendment to the reform-tax relief bill, under which the personal income tax exemption would be increased, in two steps, from $600 to $800.

Put aside debate over whether this is a better method of granting tax relief than rate reductions and other devices. Its timing is atrocious. Its fiscal impact over the next couple of years would be to lose several billion dollars more in revenue to the Treasury than under the provisions recommended by the Senate Finance Committee.

The short-term deficit effect fuels the fires of inflation in a most crucial period. It compounds the trouble the Administration faces in shaping anti-inflationary budgets under pressure of already authorized spending programs and proposed new or expanded ones.

The Senate was also irresponsible when it modified the repeal of the 7 percent investment credit subsidy to business that its Finance Committee recommended. This would forfeit about $720 million in taxes annually and further contribute to the imbalance between those provisions of the bill which would gain revenue and those which would lose it.

Fiscal responsibility is not a matter of being all head and no heart; it is a matter of social responsibility, too. The country's troubles multiply when legislators won't add. It is no kindness to the electorate to legislate without regard to the connection between spending and taxing. Inflation eats into every paycheck, undermines the nation's ability to put its troubled house in order.

A still greater revenue loss—estimated at $1.9 billion a year—would be produced by the Dominick amendment approved by the Senate providing tax credits for parents up to $325 for a child's college expenses. As appealing as this is to burdened parents, the move under these circumstances is heedless of the effect on the Government's balance sheet.

At least the bill passed by the House in part took account of the acute fiscal difficulties immediately ahead in the timing of its net giveaway, and the bill recommended by the Senate Finance Committee was fully responsible in this respect. The hope must be that when the Senate and House bills go to conference for adjustment of their conflicting provisions the fiscal imprudence shown on the Senate floor will be corrected.

But next year is an election year for the House.

[From the National Observer, Dec. 7, 1969]

BIG FAVORS ON TAXES

No one pretends that tax legislation can stay free of party politics. But there are some conscientious lawmakers, notably Arkansas' Rep. Wilbur Mills, who take tax-writing seriously. His Ways and Means Committee did a fairly competent job on tax reform, producing a bill that made few people ecstatically happy, but which made an honest attempt at reform without knocking the latch off the door of the U.S. Treasury.

Such professionalism does not extend to the Senate. In that body, where breast-beating over the plight of the nation's poor is most vigorous, the true goal of tax reform has been forsaken in a transparent grab for votes. Democrats took credit last week for giving the little fellow a break by voting an increase in the personal exemption, and Republicans fell all over themselves trying to fix the blame for their party's defeat.

It didn't make much difference to the sponsoring Democrats that the increased exemption may not last through the final version of the bill. Or that the provision may produce such a sizable loss of revenue, at a time when inflation fighting should be the top domestic concern, that President Nixon may feel compelled to veto the entire tax-reform package. Or that the increased exemption would produce little real benefit for low-income taxpayers over the less-easily understood benefits in the House-passed version.

All that made any difference to Senator Gore and his friends last week was the victory his party had won. Everybody who has ever filled out a return can understand an increase in the personal exemption.

There are a few, though, for whom good politics requires a longer view. Massachusetts' Republican Edward Brooke, for example, told his Senate colleague that an increase in the personal exemption would be "an illusory change." Further, if Senate liberals are serious about the need for big Federal spending in coming years to cure the country's social and environmental ills, they had better be careful about capricious tax cutting.

Tax cutting, after all, is what tax reform has really come down to in the Senate. The tax cutters find it easy to claim credit for doing us all a big favor, but the favor will, as Senator Brooke noted, "only prolong the economic crisis which now is reducing the buying power of every American family." The country can stand a certain amount of congressional politics, but it can't stand many big favors like Mr. Gore's.

[From the Wilmington (Del.) Journal, Dec. 5, 1969]

TAX CUT VS. REVENUE LOSS

President Nixon's implied threat of a veto was not sufficient to dissuade the Senate from voting to increase the personal income tax exemption. It approved by a convincing 58–37 margin Sen. Albert Gore's plan to raise the current $600 personal exemption to $700 next year and to $800 in 1971.

What taxpayer can look at that prospect without sighing in eager anticipation? But the American taxpayer owes himself a jolt of economic reality along with his fantasy of higher personal exemptions.

The nation is currently engaged in a double-barreled fight against inflation. Monetary policy, with its high interest rates, is one barrel, one fortunately not too susceptible to the political tug-of-war in Congress.

Fiscal policy, as represented in the current effort to cut government spending as sharply as possible, is much more exposed to capricious legislative action. While it is true that over-all tax reform has been a bipartisan issue this year, it is also true that the federal government cannot look favorably on measures that will seriously reduce revenues.

The tax bill passed earlier by the House would provide about $9 billion in tax cuts by way of reduced rates. They would eliminate taxation of many low-income families now forced to pay. Sen. Gore complains, however, that the rates are disproportionately kind to taxpayers at higher income levels. It is the purpose of increased personal exemptions to adjust the burden in what Sen. Gore considers a more equitable fashion, still reducing personal income taxes about $9 billion.

The Administration, however, cannot ignore the prospect of a revenue loss of $5 billion in the second year of the Gore plan, because of other tax losses the measure still contains. It seems likely that the White House would be happy to live with the personal exemption device for reducing taxes if the measure managed in some other way to prevent that imposing loss in needed revenue.

It is now up to House-Senate conferees to resolve their differences on the two tax reduction methods. A dispassionate observer would have to suppport whichever the conferees found most palatable, so long as the revenue reduction remained about the same.

President Nixon's immediate problem would seem to be his lack of persuasiveness in opposing the Gore amendment, which cost him another unnecessarily embarrassing setback at the hands of the Senate and indignant criticism from his Senate minority leader, Hugh Scott of Pennsylvania.

Mr. Nixon's concern lest the Congress dry up too many sources of revenue in the tax reform bill is legitimate and really in the longrange interest of the American taxpayer. It is important now that he avoid antagonizing members of Congress, including those of his own party, over unnecessary details of the bill. What the President needs is a tax reduction measure he can live with, not one containing unacceptable reductions in revenue voted by a Congress piqued at executive ultimatums on tax reform.

[From the Washington Post, Dec. 9, 1969]

JOBS, TAXES AND INFLATION

The good news that unemployment fell sharply in November has brought fresh consternation to the economists and officials who are trying to chart a safe course between inflation and recession. The sudden rise of unemployment from 3.5 to 4.0 in September had been widely read as evidence of a turndown in economic activity. Along with some other indicators, that rise in joblessness had prompted President Nixon to warn businessmen against betting on continued inflation. Now the recording of a low seasonably adjusted unemployment rate of 3.4 per cent of the labor force in November seems to leave the President's forecast hanging in midair.

If skyrocketing prices, wages and interest rates had been moderated, the country could well rejoice over the placement of 360,000 job-seekers in a single month. In the present context of economic developments, however, the good fortune of these individuals adds to the shadows hanging over the country. For if this dramatic rollback of unemployment is not a statistical fluke, it suggests that private businesses are lunging ahead with their overly rapid expansion plans despite soaring interest rates, wages and raw material costs. It confirms what the official surveys of busiess intentions had previously shown: that a vast number of companies are still trying to beat inflation, not by slowing down its pace, but by speeding their operations to get ahead of the still higher costs they see ahead.

This escalating inflationary psychology could be disastrous in the end if it is permitted to run on unchecked. The Federal Reserve Board seems determined to reverse the trend with its credit squeeze, and some economists believe that overly tight restraints are already sowing the seeds of recession. The appalling part of the picture is that the Fed is getting precious little support from other sources. The Treasury has attempted to do its part by planning budgetary surpluses for the next two years; but the tax-cutting spree in Congress is threatening to make the government itself a contributor to the inflationary spiral once more.

What seems to be dominant in the minds of senators who are heaping one bonanza on another in the tax bill is the political rewards for cutting taxes. A sound argument can be made, however, that they are voting for more inflation, more economic dislocations (such as the critical undoing of the housing industry) and perhaps for a credit-squeeze bust that will lead to a depression. Certainly this is no time to be cutting taxes to stimulate

more demand and consequent economic activity. Sober-minded legislators are warning that this attempt to convert the tax-reform bill into a Christmas tree with goodies for everyone will undermine the whole concept of Congress as a responsible regulator of the economy. But there is little evidence that these wise words of warning heard on Capitol Hill. The President added his own warning last night that he could not sign a tax-reform bill containing an $800 personal exemption and the proposed 15 per cent increase in Social Security benefits. Hopefully, these warnings will be heeded.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. HUGHES in the chair) laid before the Senate the following letters, which were referred as indicated:

CONSUMER PRODUCT TESTING ACT OF 1969

A letter from the Special Assistant to the President for Consumer Affairs, transmitting a draft of proposed legislation to assist consumers in evaluating products by promoting development of adequate and reliable methods for testing characteristics of consumer products (with accompanying papers); to the Committee on Commerce.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on improvements needed in settling claims for termination of communications services, Department of Defense, Federal Communications Commission, dated December 9, 1969 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a secret report on U.S. Assistance to the Kingdom of Thailand (with an accompanying report); to the Committee on Government Operations.

AUTHORIZATION OF LONGER TERM LEASES OF CERTAIN INDIAN LANDS

A letter from the Acting Secretary of the Interior, transmitting a draft of proposed legislation to amend the Act of August 9, 1955, to authorize longer term leases of Indian lands on the Yavapai-Prescott Community Reservation in Arizona (with an accompanying paper); to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. YARBOROUGH, from the Committee on Labor and Public Welfare, with amendments:

S. 2809. A bill to amend the Public Health Service Act so as to extend for an additional period the authority to make formula grants to schools of public health; (Rept. No. 91–586).

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

S. 1389. A bill for the relief of Alex G. W. Miller (Rept. No. 91–587):

H.R. 2208. An act for the relief of James Hideaki Buck (Rept. No. 91–588);

H.R. 4560. An act for the relief of Sa Cha Bae; (Rept. No. 91–589);

H.R. 5133. An act for the relief of Pagona Anomerianaki (Rept. No. 91–590);

H.R. 6600. An act for the relief of Panagiotis, Georgia and Constantina Malliaras. (Rept. No. 91–591); and

H.R. 10156. An act for the relief of Lidia Mendola (Rept. No. 91–592).

By Mr. EASTLAND, from the Committee on the Judiciary, with amendments:

S. 2102. A bill for the relief of Percy Ispan Avram (Rept. No. 91–593).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, with amendments:

S. 3014. A bill to designate certain lands as wilderness (Rept. No. 91–594).

EXECUTIVE REPORTS OF A COMMITTEE

As in executive session, the following favorable reports of nominations were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Robert W. Rust, of Florida, to be U.S. attorney for the southern district of Florida;

Henry L. Brooks, of Kentucky, to be U.S. circuit judge for the sixth circuit;

Alfred T. Goodwin, of Oregon, to be U.S. district judge for the district of Oregon;

Cristobal C. Duenas, of Guam, to be judge of the district court of Guam;

R. Dixon Herman, of Pennsylvania, to be U.S. district judge for the middle district of Pennsylvania;

David L. Middlebrooks, Jr., of Florida, to be U.S. district judge for the northern district of Florida;

John Henry Schneider, of Virginia, to be an Assistant Commissioner of Patents;

Clarence M. Coster, of Minnesota, to be an Associate Administrator of Law Enforcement Assistance; and

Harry Connolly, of Oklahoma, to be U.S. marshal for the northern district of Oklahoma.

BILLS AND A JOINT RESOLUTION INTRODUCED

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

By Mr. MANSFIELD (for himself, Mr. BYRD of West Virginia, and Mr. GRAVEL):

S. 3220. A bill to protect a person's right of privacy by providing for the designation of obscene or offensive mail matter by the sender and for the return of such matter at the expense of the sender; to the Committee on Post Office and Civil Service.

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

By Mr. YOUNG of Ohio:

S. 3221. A bill to amend the Act of August 24, 1966 (Public Law 89–544), in order to prescribe effective criteria for the care and treatment of animals used for research and experiment purposes by research facilities, and for other purposes; to the Committee on Commerce.

(The remarks of Mr. YOUNG of Ohio when he introduced the bill appear earlier in the RECORD under the appropriate heading.)

By Mr. HARRIS:

S. 3222. A bill to designate certain lands in the Wichita Mountains National Wildlife Refuge in Oklahoma as wilderness; to the Committee on Interior and Insular Affairs.

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

By Mr. MAGNUSON (for himself, Mr. ALLOTT, Mr. BENNETT, Mr. BURDICK, Mr. CANNON, Mr. CHURCH, Mr. COOPER, Mr. DOLE, Mr. HANSEN, Mr. HATFIELD, Mr. HRUSKA, Mr. JACKSON, Mr. JORDAN of Idaho, Mr. MANSFIELD, Mr. MCGOVERN, Mr. METCALF, Mr. MILLER, Mr. MOSS, Mr. MURPHY, Mr. PACKWOOD, Mr. PEARSON, and Mr. YOUNG of North Dakota):

S. 3223. A bill to amend the Interstate Commerce Act in order to give the Interstate Commerce Commission additional authority to alleviate freight car shortages 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.)

By Mr. DOLE:

S.J. Res. 167. A joint resolution providing for the display in the Capitol Building of a portion of the moon; to the Committee on Rules and Administration.

(The remarks of Mr. DOLE when he introduced the joint resolution appear later in the RECORD under the appropriate heading.)

S. 3222—INTRODUCTION OF A BILL TO DESIGNATE CERTAIN LANDS IN THE WICHITA MOUNTAINS WILDLIFE REFUGE IN OKLAHOMA AS WILDERNESS

Mr. HARRIS. Mr. President, I reintroduce a bill to designate certain lands in the Wichita Mountains Wildlife Refuge in Oklahoma as wilderness.

Mr. President, the Department of the Interior 2 years ago conducted hearings in Lawton, Okla., concerning a proposal to designate certain lands within the Wichita Mountains Wildlife Refuge as wilderness in order to assure the retention of these lands in their natural state. On the basis of recommendations made at the hearings, the Department of the Interior has decided that some 8,900 acres within the boundaries of the refuge meet the criteria and should be designated a wilderness area in order to preserve their natural beauty.

There are abundant reasons for preserving this area as it has always been. Certainly the study of such subjects as geology and ecology will be enriched for those in the area who are interested. And perhaps more importantly, this act would further protect what is rapidly becoming a unique experience for Americans, camping in a true wilderness. And finally, this refuge will preserve for the people of southwestern Oklahoma and surrounding States the privilege, should they so desire, of simply viewing nature unmarred by that which is manmade.

I would hope, Mr. President, that the bill can be enacted with a minimum of delay.

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

The bill (S. 3222) to designate certain lands in the Wichita Mountains National Wildlife Refuge in Oklahoma as wilderness, introduced by Mr. HARRIS, was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

S. 3223—INTRODUCTION OF A BILL RELATING TO ALLEVIATION OF FREIGHT CAR SHORTAGES

Mr. MAGNUSON. Mr. President, I introduce, for appropriate reference, a bill to amend the Interstate Commerce Act so as to clarify the ICC's authority to utilize penalty per diem in solving freight car supply problems and to provide a clarified basis for prescription by the Commission of a schedule of basic per diem charges. The following Senators have joined with me in sponsoring this legislation: Senators ALLOTT, BENNETT, BURDICK, CANNON, CHURCH, COOPER, DOLE, HANSEN, HATFIELD, HRUSKA, JACKSON, JORDAN of Idaho, MANSFIELD, MCGOVERN, METCALF, MILLER, MOSS, MURPHY, PACKWOOD, PEARSON, and YOUNG of North Dakota.

In 1966 Congress enacted Public Law 89-430, the purpose of which was to alleviate the recurring national shortage of railroad freight cars. That statute authorized the Interstate Commerce Commission to set incentive per diem rates and in so doing consider factors encouraging the acquisition and maintenance of a car supply fleet adequate to meet the needs of commerce and the national defense.

On May 13, 1969, almost 3 years later, the ICC appeared before the Surface Transportation Subcommittee of the Senate Commerce Committee to testify that it had not been able to set incentive per diem rates.

The problem of freight car shortages continues to grow worse. Despite assurances of further action upon completion of a study in progress since 1966, the situation has deteriorated to the point of the present crisis. And, I am sorry to say, at least one of the ICC's recent decisions may contribute significantly to a further worsening of the freight car supply.

The per diem system established by the ICC in 1968 is based on time used and mileage. It has been challenged by 20 railroads and 21 States on the grounds that it does not encourage movement of freight cars to the West to carry western grain and timber to market. In fact, the ICC system exacerbates the problem because its mileage basis provides incentive to retain empty freight cars on other lines until a load is obtained to pay their way back to the owner railroad's lines. In addition to the inherent deficiency of the time used, mileage system, the system is based on 1966 statistics and could prove to be unreasonably expensive to administer.

It is apparent that there must be greater utilization and better distribution of present freight cars and that acquisition and maintenance of the freight car fleet must be encouraged. The western railroads have established a good record for increasing their car supply. Unfortunately, their cars leave western lines and do not quickly return. The 1968 ICC formula not only discourages western lines from building new freight cars, but, incredibly enough, penalizes them for doing it.

The time for study has long since passed. The first part of the bill I introduce today, in effect, relieves the ICC of its discretionary responsibility for setting the basic per diem rates.

This is a technical bill and it goes further than Congress normally goes in directing an independent agency in the performance of one of its tasks. But, in this area of responsibility, it appears that we may have reached a point where it is necessary to develop and prescribe in some detail the basic principles which the ICC should follow in setting per diem rates. The basic per diem provisions are drawn from the conclusions reached by a task force created by the Association of American Railroads after a 4½ year study.

The second objective of the bill is contained in section 4. This section is perhaps of greater relevance to the existing emergency situation. It contains provisions similar to those recommended by the ICC earlier this year, and also in past Congresses, giving the Commission authority to impose penalty per diem rates during periods when an emergency freight car shortage exists.

As I have tried to make crystal clear in the past, most recently during the May hearings on freight car supply, I do not believe additional legislation is necessary to permit the ICC to impose penalty per diem rates on an emergency basis. However, to the extent that questions exist, legislation will hopefully eliminate uncertainty over the Commission's authority in this area.

With this bill, the Special Subcommittee on Freight Car Shortages of the Senate Commerce Committee will be able to hold a full hearing on the merits of the problem in the immediate future. I am hopeful that corrective action and meaningful solutions will not be far distant.

I look forward to early hearings on this bill. While I believe that the bill will help remedy the freight car shortage problem, I am not wedded to its language and will carefully consider information developed in hearings.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

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. 3223) to amend the Interstate Commerce Act in order to give the Interstate Commerce Commission additional authority to alleviate freight car shortages and for other purposes, introduced by Mr. MAGNUSON (for himself and other Senators), was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

S. 3223

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds it essential that a system of compensation for the use of any type of freight car should contribute to sound car service practices (including the efficient utilization and distribution of cars) and encourage the acquisition and maintenance of car supply adequate to meet the need of commerce and the national defense; that to achieve these goals such system should provide just and reasonable compensation to freight car owners, including a fair return on value, and should minimize the administrative expense of such system; that included in such system should be authority to establish car-hire or car-rental charges at the level necessary to meet emergency supply problems; that such system should be predicated solely upon the time a car is held or used; and, therefore, it is the purpose of this amendment to authorize and to direct the Interstate Commerce Commission to prescribe such system of compensation.

DEFINITIONS

SEC. 2. For the purposes of this amendment—

(a) "Freight car" means every new, rebuilt and acquired used car owned by or leased to railroads which may be subject to interchange among such railroads.

(b) "Shop facilities" means those railroad facilities consisting of shops and machinery, engine houses, power plants and machinery, together with the land and tracks therefor.

(c) "Additions and betterments" means the same as that prescribed in the Interstate Commerce Commission's Uniform System of Accounts (49 C.F.R. 1201).

(d) "Value base" means:

(i) For cars, including subsequent additions and betterments, reproduction cost less depreciation based upon

(1) Original cost new for new and acquired used cars.

(2) The initial value determined in accordance with the mechanical interchange rules of the Association of American Railroads and the Interstate Commerce Commission Uniform System of Accounts for rebuilt cars.

(3) Such reproduction cost deflated by a freight car capacity index; and

(ii) For shop facilities, including additions and betterments, original cost.

(e) "Depreciation" means straight line except that for cars nine (9) years old and less, a 1.5 declining balance shall be utilized to the point where the results are exceeded by straight line, and except such depreciation for a car shall not exceed six (6) percent per annum. Initially, car life shall be twenty-seven (27) years, subject to annual review and adjustment, and depreciation in the last year shall be extended for an additional three years.

(f) "Return on investment" means one and seventy-five hundredths (1.75) times the latest five (5) year average of yields on railroad bonds as applied to the depreciated value base.

(g) "Operating and maintenance cost" means, but is not limited to, the following items, the bases of which are prescribed in the Interstate Commerce Commission Uniform System of Accounts:

(i) A proportion of interest and depreciation on shop facilities.

(ii) A proportion of taxes on railroad property used in transportation, undepreciated value of freight cars and payroll taxes.

(iii) Freight train car repairs.

(iv) Train supplies and expenses representing:

(1) Repacking journal boxes.

(2) Roller-bearing lubrication.

(3) Repair track portion of Air Brake, clean, oil, test and stencil.

(4) Repair track portion of re-light weighing.

(v) Maintenance of repair facilities, including machinery therein.

(vi) A proportion of miscellaneous maintenance of equipment accounts.

(vii) Deadhead haul cost and interest on materials and working capital.

(viii) A proportion of general expense.

There should be excluded, however, all train yard inspection and handling line responsibility repairs arising from accident.

(h) "Total annual ownership cost" means the accumulation of depreciation, rate of return on investment and operating and maintenance costs annually.

(i) "Car day divisor" means the ratio of average freight car loadings to peak freight car loadings for the four-week period in each

of the previous five years when freight car loadings were maximum for each type of freight car adjusted by a standard home bad-order ratio based on the experience of at least twenty-five (25) percent of the national per diem freight car fleet.

(j) "Car day cost brackets" means that each freight car shall be assigned to its appropriate car day cost bracket in a series commencing with 0.00 to $1.87 and progressing upwards in increments of 75 cents; with applicable daily rate per car per day separated by increments of 75 cents.

(k) "Daily car hire rates" means that the daily rates shall be applied per each 24-hour period from midnight to midnight or divided for allocation to lesser periods of time.

BASIC PER DIEM AMENDMENT

SEC. 3. Section 1(14)(a) of the Interstate Commerce Act (49 U.S.C. Section 1(14)(2)) is amended to read:

"SEC. 1(14)(a). In fixing such compensation to be paid for the use of any type of freight car, the Commission shall determine the value base of freight cars and shop facilities with additions and betterments, the depreciation thereon and a rate of return on investment. The total annual ownership costs, including operating and maintenance costs, shall be converted by a car day divisor to car day cost brackets so as to produce daily car hire rates. Such rates shall be recomputed annually.

"Upon petition of any carrier complaining that special circumstances beyond its control compel it to incur unduly high car-hire costs, the Commission, after hearing, if it finds it to be in the national interest, may prescribe appropriate reclaim arrangements for the future which will relieve the excessive burden of car-hire charges."

EMERGENCY POWERS

SEC. 4. The first sentence of section 1(15) of the Interstate Commerce Act is amended by striking out "(c)" and "(d)" and inserting in lieu thereof "(d)" and "(e)", respectively, and by inserting immediately after clause (b) of such sentence a new clause as follows: "(c) to impose on one or more carriers, when a shortage or threatened shortage of freight cars exists, such charges (in addition to the daily car-hire or car-rental rates then in effect) applicable to any type of freight car in any section of the country during such emergency, or threatened emergency, as in the opinion of the Commission are reasonably calculated to relieve such shortage or threatened shortage by promoting the expeditious movement, distribution, interchange or return of freight cars, and the additional charges shall be paid by the carrier using such cars to the owners;".

PENALTIES

SEC. 5. Section 1(17) of the Interstate Commerce Act is amended by striking out "$100 nor more than $500 for each such offense and $50", and inserting in lieu thereof the following: "$200 nor more than $1,000 for each such offense and $100".

SENATE JOINT RESOLUTION 167—INTRODUCTION OF A JOINT RESOLUTION RELATING TO DISPLAY OF LUNAR MATERIAL IN THE ROTUNDA OF THE CAPITOL

Mr. DOLE. Mr. President, the rotunda of the Capitol is one of the most frequently visited sites of our national heritage. Each year countless numbers of Americans and visitors from foreign lands come to see the historic paintings and sculpture there as well as the magnificent architecture of the dome. Since the rotunda is one of the Nation's great historic places, it seems appropriate to include among its treasures a memento from mankind's greatest adventure, the Apollo moon program.

The Senate and the House each have their flags which were carried on Apollo 11. These are indeed meaningful to the membership of both bodies, but an exhibit of material from the moon's surface would add a special dimension of immediacy to our astronauts' accomplishments for the visitors who come to the Capitol in such great numbers.

There could be no finer place to pay tribute to our astronauts and all those who have contributed to our space program than in the Capitol rotunda. In addition to honoring America's space effort, an exhibit of this sort would be a worthy monument to all of our past accomplishments and sacrifices and a source of inspiration as we face the challenges of the future.

Mr. President, I introduce this joint resolution for appropriate reference.

The PRESIDING OFFICER. The joint resolution will be received and appropriately referred.

The joint resolution (S.J. Res. 167) providing for the display in the Capitol Building of a portion of the moon, introduced by Mr. DOLE, was received, read twice by its title, and referred to the Committee on Rules and Administration.

ADDITIONAL COSPONSOR OF A BILL

S. 3039

Mr. DOLE. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Texas (Mr. YARBOROUGH) be added as a cosponsor of S. 3039, to provide that certain highways extending from Laredo, Tex., to the point where U.S. Highway 81 crosses the border between North Dakota and Canada shall be known collectively as the "Pan American Highway."

The PRESIDING OFFICER. Without objection, it is ordered.

ADDITIONAL COSPONSOR OF JOINT RESOLUTION

SENATE JOINT RESOLUTION 61

Mr. GRIFFIN. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Illinois (Mr. SMITH) be added as a cosponsor of Senate Joint Resolution 61, proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

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

SENATE RESOLUTION 293—RESOLUTION SUBMITTED AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF "INDIAN EDUCATION: A NATIONAL TRAGEDY—A NATIONAL CHALLENGE"

Mr. KENNEDY. Mr. President, I submit for appropriate reference a resolution to authorize the printing of 3,000 additional copies of the final report of the Subcommittee on Indian Education. This report was entitled "Indian Education: A National Tragedy—A National Challenge." Its number is 91–501.

Mr. President, neither the document room nor the Committee on Labor and Public Welfare have any copies of this report remaining. Yet, there are nearly 500 requests from educational institutions alone for the report.

Consequently, I believe it highly important that this resolution be approved.

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

The resolution (S. Res. 293), which reads as follows, was referred to the Committee on Rules and Administration:

S. RES. 293

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on Labor and Public Welfare three thousand additional copies of the 1969 report of its Special Subcommittee on Indian Education entitled "Indian Education: A National Tragedy—A National Challenge" (Senate Report 91–501).

TAX REFORM ACT OF 1969—AMENDMENTS

AMENDMENT NO. 413

Mr. DOLE 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. 414

Mr. HARRIS (for himself, Mr. GRAVEL, Mr. FANNIN, and Mr. MCGOVERN) 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.

AMENDMENT NO. 416

Mr. DOLE 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. 417

Mr. COOK. Mr. President, the purpose of the amendment I submit today on behalf of myself and my colleague (Mr. COOPER) is to delete section 213 of the bill reported by the Finance Committee. This section would introduce into the code an entirely new principle and would, in practice, apply standards to agricultural pursuits not required of any other business. It is unfair, arbitrary, and discriminatory. It sets up rules governing the question of whether an individual taxpayer is engaged in a particular activity for a profit. It gives to the Internal Revenue Service the authority to determine a taxpayer's intent, without regard to the realities of many businesses which it would affect. The section contains a presumption that if the taxpayer shows a profit in 2 out of any 5 consecutive years, he will be presumed to be in the activity for profit. Even this arbitrary presumption can be negated by IRS merely by its issuing a regulation. Past actions of IRS dictate that the service will undoubtedly interpret this presumption to mean that if the taxpayer fails to make that profit in 2 out of 5 years, he is not engaged in the business for profit and try to disallow all losses.

The danger of the section is its real

threat to new investors in many agricultural pursuits, such as cattle raising, horse breeding, citrus production, pecan growing, and so forth. New capital and the yen to venture into these chancy fields has given this Nation a viable citrus industry, production of quality nuts, abundant supplies of beef, and a booming horse industry that already pours over a billion dollars into tax coffers. While the section might appear on the surface a desirable provision to control some abuses, it will have the effect of prohibiting new people and fresh capital from entering these fields. Orange groves require a minimum of 6 years to bear fruit and produce income, pecans take 11 years, building a quality registered herd of cattle 5 to 10 years by selective breeding. It requires a minimum of 3 years after a mare is bred before its foal can run its first race. Even after a horse is put on a track, there is only 1-in-10 chance of winning.

These businesses need substantial initial investment, and several years before any hope of income and profit. Section 213 threatens these industries. It would provide an unnecessary umbrella of noncompetitive protection, temporarily, of those already in the business—and consequently, the public could end up paying higher prices.

In my State of Kentucky, this section is going to largely destroy the horse breeding and racing industries. New investors are not going to pay the price for top thoroughbreds while faced with the likelihood that if they lose, the Internal Revenue will disallow their losses. And yet, I never met a man who went into the horse business—or any business—without the intention of making a profit. So long as the tax rates are not 100 percent, it will always be more economical to make money in any venture rather than to lose it. It should be noted that direct taxes from parimutuel betting this year will exceed half a billion dollars. Section 213 jeopardizes this tax to State and local governments.

If my amendment is adopted, it will mean that present law on this subject will remain in force.

Under present law—found in section 270 of the code—if a taxpayer loses in excess of $50,000 in a business each year for 5 consecutive years, his deductible losses for each of those 5 years is limited to $50,000.

Under the new provision all of his losses would be disallowed—and he may not even be aware that he stands to suffer such consequences until it becomes clear that he cannot turn a profit in the fourth year of his operation. This would require false economic pressures, and disrupt the orderly processes of good operations.

It is my contention, Mr. President, that section 270—as it exists in the code today—is as severe as the thoroughbred horse industry and similarly situated industries can bear. Section 213 would be added weight that could destroy them.

I urge the adoption of my amendment.

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

EXTENSION OF PUBLIC HEALTH PROTECTION WITH RESPECT TO CIGARETTE SMOKING—AMENDMENTS

AMENDMENTS NOS. 410 THROUGH 412

Mr. MOSS submitted three amendments intended to be proposed by him, to the bill (H.R. 6543) to extend public health protection with respect to cigarette smoking, and for other purposes, which were ordered to lie on the table and to be printed.

AMENDMENT OF ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 AND RELATED ACTS—AMENDMENT

AMENDMENT NO. 415

Mr. DOMINICK (for himself and Mr. MONDALE) submitted an amendment, intended to be proposed by them, jointly, to the bill (S. 2218) to amend the Elementary and Secondary Education Act of 1965 and related acts, and for other purposes, which was referred to the Committee on Labor and Public Welfare and ordered to be printed.

NOTICE OF HEARING ON CERTAIN NOMINATIONS

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Tuesday, December 16, 1969, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nominations:

George H. Barlow, of New Jersey, to be U.S. district judge for the District of New Jersey, vice Arthur S. Lane, resigned.

Leonard I. Garth, of New Jersey, to be U.S. district judge for the District of New Jersey, vice Thomas M. Madden, retired.

Philip C. Wilkins, of California, to be U.S. district judge for the Eastern District of California, vice Sherrill Halbert, retired.

Joe McDonald Ingraham, of Texas, to be U.S. circuit judge, fifth circuit, vice a new position created under Public Law 90-347, approved June 18, 1968.

John L. Gibbons, of New Jersey, to be a U.S. circuit judge, third circuit, vice Gerald McLaughlin, retired.

The subcommittee will consist of the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Nebraska (Mr. HRUSKA), and myself as chairman.

WATER POLLUTION IN ALASKA

Mr. KENNEDY. Mr. President, tomorrow, Senate and House conferees will meet to continue their discussion of H.R. 4148, the Federal Water Pollution Control Act of 1969.

One of the amendments to be considered at tomorrow's meeting was sponsored by the Senator from Alaska (Mr. STEVENS) and me and has as its purpose the creation of a special emergency program designed to provide safe water and hygienic sewage disposal facilities in Alaskan villages which presently do not have such facilities. It is my firm hope that, recognizing the immediate and vital need for these programs, the conference will retain this amendment.

In a further effort to inform the members of the conference about the threat of water pollution to the health of Alaska's citizens and its effect on the economic viability of the State, I ask unanimous consent to have printed in the RECORD an article on this subject, written by Frederick B. Lotspeich, and published in Science magazine for December 1969.

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

WATER POLLUTION IN ALASKA: PRESENT AND FUTURE

(By Frederick B. Lotspeich)

Many people think vaguely of Alaska as a vast wasteland, dominated by ice and snow. They visualize its resources as unspoiled, believing that the state's sparse population and the relatively low stage of technical development have insignificant impact on the land. This is true to some extent, though an accurate evaluation requires some qualifying.

Alaska is largely an unspoiled wilderness; evidence of man's polluting influence on this northern environment is minimal. Winters are long, cold, and dark; the summers, however, are warm, with long hours of sunlight each day, permitting rapid growth of vegetation.

Alaska's waters, although largely unpolluted at present, are locally polluted in several areas by pulp mills, fish packing, and municipalities. This pollution is serious and will intensify before abatement measures are put into effect. Economic activity is increasing, especially in oil production and lumbering, which will generate wastes that must be controlled, despite industry's insistence that pollution is a necessary consequence of industrial development. Water pollution prevention must be emphasized as Alaska enters a new chapter in its history.

Any program for water pollution control in Alaska must consider the natural environment and the possible effects of man's social institutions on this environment, particularly the effects from wastes generated by advancing technology. Because of its location and the relative lack of contamination in its water, Alaska offers a unique opportunity to establish a program of pollution control based on the ecosystem approach. The cold environment poses unique problems that cannot be solved with existing knowledge. Several features of Alaskan natural and social environments are discussed in the following pages as a starting point to this state's program for pollution control.

In his introduction to the Department of the Interior's Conservation Yearbook, *The Third Wave*,[1] Laurance Rockefeller refers to the ecosystem approach as the modern method of conservation. This approach stresses an understanding of ecology, with all its ramifications, as necessary to knowledgeable conservation of the resources which man depends upon for survival. Much needs to be learned about this ecological approach. Without an understanding of man's role in ecosystem dynamics, conservation measures, however well intended, frequently fail because of unforeseen effects. Water pollution is an example of degraded environment caused by man's dumping of his wastes into marine and fresh waters and debasing these ecosystems in varying degrees.

In its report to the Federal Council for Science and Technology, describing the results

Footnotes at end of article.

of its study of waste management and control,[2] the Committee on Pollution recommends an ecological approach to pollution control. This report emphasizes the need to attain, through research, a better understanding of ecosystem dynamics as a basis for predicting how a given waste will affect the receiving waters. Irreparable damage can be prevented by applying the knowledge thus gained. Research should be programed to anticipate, investigate, and prevent the problems before they are upon us. Alaska must stress such programing because pollution prevention costs less than abatement after the waters are degraded.

Alaska is inviting industry that demands certain raw materials. Economic expansion here depends on attracting industry, but expansion portends polluted waters unless early action is taken to prevent water quality degradation. The enlightened approach—and many top-level industrial managers are coming to accept this view—holds that control of its wastes is industry's responsibility and a normal cost of production. Such attitudes need fostering: pollution control benefits the entire society because industrial profits accrue when industry, municipalities, conservationists, and pollution control agencies work harmoniously in the public interest.

With these thoughts before us, let us turn to Alaska's water pollution problems, scrutinize the unique features of Alaskan ecosystems, and compart this with the other 49 states. There is much to be learned about Alaska's ecosystems if we are to prevent widespread devastation. The tundra and taiga are examples of large areas that may be threatened by man's unenlightened quest for new materials to feed his technology. Pruitt[3] describes how the taiga responds to man's activities and points out that the delicate balance of these northern ecosystems is easily upset by man-made interference. The search for, and development of, resources in these environments can easily lead to their destruction unless we have the foresight and knowledge to prevent it. Let us now look at Alaska as it is today and how it is developing.

PHYSICAL ENVIRONMENT

To gain some idea of the scope of its management problems, consider that Alaska is the farthest north of the 50 states; most of it lies between 60° and 70°N. Anchorage, the largest city, is about 61°N and is 1300 miles (2100 kilometers) west and 900 miles north of Seattle. Fairbanks, the principal city on the central plateau, lies almost due north of Anchorage and is only 2.5° south of the Arctic Circle.

Figure 1 (omitted) superimposes a map of Alaska over the continental United States. The main land mass of Alaska, comprising 586,300 square miles, covers the major parts of seven north-central states and is about one-fifth the area of continental United States. The southernmost islands of southeast Alaska are on the coast of Georgia and South Carolina, with the Aleutian Islands chain extending all the way to Los Angeles, a distance of about 2500 miles. Because it is essentially a very large peninsula with outlying islands, Alaska's total tidal coastline measures about 47,300 miles.[4]

The peninsular characteristics provide some moderation of weather by large water masses, but the northern latitude overrides these effects, causing colder climates than those of the other northwest states. Alaska's size and mountain ranges cause severe winter temperatures in the central plateau, commonly dropping to −50°C. Southeast Alaska, lying between 55° and 59°N, has a milder climate because of the maritime influence. The Aleutian Peninsula and Islands are about the same latitude as southeast Alaska, with a cool, damp, windy climate.

High latitude has two important effects on climate—day length and sun angle. Fairbanks, at 65°N, enjoys 24 hours of daylight at the summer solstice although the sun is below the horizon for about 4 hours. At the winter solstice, Fairbanks has a 3.75-hour sun day (a sun day is the length of time the sun is visible); however, because of long twilights and dawns, daylight is about 5 hours. At the Arctic Circle, 175 miles north of the city, the sun neither rises at the winter solstice nor sets at the summer solstice. At Barrow, about 450 miles north of Fairbanks, the sun sets on 29 November, and does not rise until 24 January, a period of 56 days. Anchorage, about 300 miles south of Fairbanks, enjoys a sun day of about 5.5 hours at the winter solstice. Portland has a day length of 8.5 hours at the winter solstice. Sun angle (the angle between the sun and the horizon) at Fairbanks never exceeds 47.5°, so that even with long summer days, the rays strike obliquely. In winter, sun angle is only 2.5° at Fairbanks, and warming is correspondingly less. By comparison, the sun angle at Portland is 66.5° at the summer solstice and 22° at the winter solstice.

Alaska is the only state with permafrost, a permanently frozen surface layer of earth. It is directly related to past and present climate and causes aggravating problems of pollution, water supply, and construction. Distribution of permafrost is included in the discussion on Alaska's ecological division.

In Fig. 2, (omitted) Alaska is divided into five principal physiographic zones: the north slope, Brooks Range, central plateau, south-central area, and the coastal mountains. These divisions are also logical ecological zones because climate and resulting vegetation are strongly influenced by the mountain ranges separating the lowlands. Because most of the precipitation comes from the south, the Alaska Range, forming the southern boundary of the central plateau, removes most of the moisture as air masses move northward, causing a semiarid climate in regions north of the range. The far north is similarly affected by the Brooks Range; Barrow is arid and has an average precipitation of about 5 inches (13 centimeters) annually. A fifth narrow zone along the coast, south and west of the central mountains, needs delineating because its climate and vegetation differ from that inland from the mountains.

This coastal zone extends in a broad arc from southeastern Alaska across the Gulf of Alaska to Kodiak Island and has a high to moderate rainfall, well distributed throughout the year, with relatively mild temperatures for this latitude. Annual rainfall ranges from about 150 inches at Ketchikan to about 26 inches at Skagway on the upper end of Lynn Canal. Vegetation in this zone is primarily coniferous forest (Fig. 3), a continuation of the coastal forests of Washington and British Columbia. Sitka spruce is important in all the zones with western hemlock an important species as far west as Kenai and western red cedar as far north as Petersburg. These forests contain the bulk of the timber resource of Alaska. No permafrost occurs in this zone; however, it contains many glaciers because of heavy precipitation and low temperatures above altitude of 3000 to 4000 feet.[5]

Inland from this coastal zone, rainfall decreases rapidly, with Anchorage receiving about 15 inches a year. Temperatures are colder and the vegetation changes from predominantly conifers to birch, aspen, cottonwood, and white spruce. Figure 4 (omitted) shows a scene representative of this zone. The Matanuska and Susitna valleys are in this zone and offer potential agricultural lands because of milder average temperature and longer growing season. However, by comparison with other states, this climate is rigorous. Both intermittent and sporadic permafrost is present in this zone, forming a mosaic of frozen and unfrozen areas.[6]

The central plateau occupies that area of the interior between Alaska Range on the south to Brooks Range on the north. This is the zone of intense winter cold and summer warmth, and is the extension of the taiga forests of northern Canada. Precipitation is low for reasons given earlier; Fairbanks intermittent in this zone and is an important ecological factor that distinguishes this zone from anything similar in other states. There is some potential for agriculture in the Tanana Valley in this zone but short, dry growing seasons limit the kinds of crops that could be grown.

Brooks Range is the extension of the Rocky Mountain system that bends westward in Yukon Territory, to form a barrier between the interior lowlands and the Arctic slope.[6] This rugged range is treeless except for stunted willow and birch on the southern flanks. The Arctic slope is the true tundra which slopes from Brooks Range to the Arctic Ocean. Figure 6 (omitted) shows the flat, patterned ground typical of the tundra. Permafrost is continuous and deep. Climate is severe, although winter temperatures are not as low as in the interior plateau. Summers are cooler, giving a lower annual mean. Barrow has a summer mean temperature of about 4° to 5° C. Precipitation is about 5 inches a year, but because of the short summer and frozen subsoil, the entire region is a morass from June through August when the surface soil thaws and creates a shallow, perched water table. Vegetation consists primarily of prostrate willow, shrubs, and forbs; no upright trees grow in this zone.

SOCIOECONOMIC ENVIRONMENT

Since people and their activities are chiefly responsible for polluting natural environments, let us look at Alaska and speculate on future problems of water pollution control. Alaska's population of 1 July 1967 was estimated at 270,000, an increase of 25,000 over 1966. Traditionally, Alaska's population has been highly transient because its industrial and economic activity has been seasonal; however, this transciency is steadily declining as new industry develops in the state and improved construction methods are used. Alaska can conceivably support a much larger population; for example, Scandinavia supports a population of 15 million on less area at latitudes similar to Alaska's, although its climate more closely approximates that of coastal Alaska with less rain. As economic activity increases, population will increase, and a population of 400,000 to 900,000 by the year 2000 is forecast.[7]

Economically, Alaska has served as a source of raw materials which are removed and processed elsewhere. This condition will continue to some extent because of the high price of local processing: however, as the economy stabilizes, costs should come down, partly as the result of the recent introduction of efficient freight-handling techniques, such as containerization and hydrotrain. Competition will also influence the price structure as larger enterprises move to Alaska. Some economists feel that the state is near the economic "take-off" stage where industrial expansion generates its own prosperity.

Some industries associated with Alaska—such as gold mining and fur trapping—which were once important, are now minor. Others, like fishing, are still important; some like oil, are completely new to Alaska, and may prove to be all-important future industries. Tourism, although not new to Alaska, is expected to become one of the most important industries in the state. Oil production is the immediate stimulus to prosperity in Alaska which now ranks ninth in production, and predictions are for the state to climb to the nation's fourth largest oil producer in a few years.[8] Costs of exploration, production, and transportation are high; however, even in the face of these costs, the future for oil in Alaska is optimistic.

Lumbering should prove to be a stabilizing industry along the coastal forests, with 5.7 million acres of commercial timber,[9] now

Footnotes at end of article.

that a third pulp mill is scheduled to be built. Nearly all the national forest commercial timber is now scheduled for cutting under a sustained yield plan. Interior forest resources although never inventoried in detail, are estimated at 39 million acres of commercial timber and, once markets develop, will add to the total resource activity. Furs, once important, are no longer in demand as in the past; hence, this industry continues to be minor, although it is capable of large expansion if demands for furs increase.[10] Agriculture is unlikely ever to become important because of unfavorable climates and of Alaska's inability to compete with other areas of agricultural production. Gold mining flourished in recent years, but the cost-price structure has caused this industry to wither.[11] Mining for other metals is almost certain to increase in future years because deposits of many minerals are known and the geology is similar to that of adjacent Canada, where mining is a thriving industry.

Tourism and transportation are related, and both continue to expand with expansion of the road network to all major communities. Tourism is projected to increase and become an even more important industry because of the areas many scenic attractions. Freight rates compare favorably with those in other states, now that efficient handling methods, mentioned earlier, are in effect. The state ferry system has stimulated surface travel to Alaska and bids to compete with the Alaska Highway as a means of entry from Canada. The jet age has arrived in Alaska with regular air routes to Japan, Europe (over the pole), and Seattle; Alaska is strategically located for world air travel. The new superjets are optimistically predicted to transport a significant percentage of Alaskan freight now moving on the surface.

Traditionally, Alaska's salmon fishery was its foremost industry. Although this industry reached its peak several years ago, fishing will continue as an important industry in the state. Recent new conservation and fishery techniques, diversification of the industry to king crab, shrimp, and other shellfish, and modern processing methods will stimulate fishing as an industry.[12]

Alaska's water resources, like her petroleum reserves, are tremendous. A recent inventory of U.S. water resources [13] disclosed that runoff from Alaskan streams is about 650 million acre-feet (1 acre-foot is about 1235 cubic meters), approximately one-third that of the entire United States. If runoff from Canada into the Yukon River is included, the figure rises to about 800 million acre-feet. Alaskan marine waters are an additional resource because of the long tidal coastline and the vast continental shelf totaling 830,000 square miles.

Because Alaskan waters, fresh and marine, are pristine except for a limited number of local areas, and because water quality is increasingly recognized as one possible limiting factor to continue prosperity, serious thought is being given to preventing pollution in these waters. How to use the surplus freshwater resources of Alaska is a question often asked. Thirsty states of the "Lower 48" propose huge programs to import water from the north, but those who now control surplus water [14] oppose this. An alternative proposal is to develop water-using industries in Alaska adjacent to the water resource. Such action could use the water and at the same time disperse plant and prosperity by providing jobs and capital in areas where natural resources need developing. Regardless of the direction Alaska water resources use takes, the quality of this water must be such that it is usable without costly pretreatment.

Summarizing this discussion on the total environment brings out two principal points. Alaska's natural environment is harsh, with many serious problems to be overcome in the state's orderly development of resources and economic expansion; development and expansion are inevitable because Alaska has many natural resources in quantity that are or will be needed by our growing technological society. Although capable of supporting many more people as resources are developed, Alaska's rigorous natural environment will strongly influence population density and economic expansion.

LOCI OF POLLUTION TODAY

Although its waters are now dominantly pure, Alaska has several local pollution problems. By today's standards, no city in the state has an adequate municipal waste disposal system, and only a few have treatment of any kind. None of the major military bases has adequate treatment facilities. Dumping of raw wastes into the nearest water body is the rule; this results in some serious local pollution. Fairbanks runs the effluent from its primary treatment plant directly into the Chena River, and Fort Wainwright, immediately upstream does also. Pollution in this stream is evidenced by bacterial counts below Fairbanks that are 300,000 to 500,000 times those in the river above all sources of man's wastes.

Cook Inlet receives raw sewage from Anchorage and the Elmendorf Air Force Base. Fort Richardson's untreated wastes also end up in Cook Inlet by way of the Eagle River. All these wastes are to be treated by a treatment plant by 1972. The plan calls for primary treatment of wastes initially, with secondary treatment added at a later date as population increases. Raw sewage from Juneau is discharged directly into Gastineau Channel, a poorly circulating inlet. To date no health problem has developed, probably because the population is small. The discharge of raw sewage into any available water is common practice in coastal communities.

Kodiak Harbor has become so polluted from seafood cannery wastes that harbor waters can no longer be used in the live holding tanks. Water quality is so poor that crabs so held die and are wasted. This condition has developed to an acute state in the 10 to 12 years that the king crab industry has been in Kodiak.

Few of the many small military installations, Bureau of Indian Affairs schools, or other state or federal agency properties provide adequate waste treatment by today's standards. When small military installations were built throughout Alaska after World War II, waste disposal was a salient point in the overall plan. The tragic aspect of these plans was their complete reliance on criteria from temperate zones, with insufficient data and with little understanding of the environment in which they were to be applied. This lack of suitable design criteria for northern waste disposal has resulted in a large percentage of failure of waste disposal systems at many locations. Contributing to the failures were the lack of trained treatment plant operators and generally poor management and maintenance of installed systems.

Only the sparse population and the relatively low quantities of these raw wastes have kept the pollution problems from becoming acute and thus highly publicized. This is an example where knowledge is insufficient to deal with a problem that may well become paramount as Alaska develops and population pressures on the environment increase. Design criteria are simply not available—and this includes Scandinavia and Soviet Russia as well as Alaska—to build disposal systems that will function with assurance under the severe climatic conditions of northern latitudes. Only by research, to explore new methods of waste treatment and to improve or modify conventional systems, can satisfactory disposal systems be developed.

Industrial wastes are being recognized as potential pollution agents in Alaska. Two pulp mills now discharge their wastes into estuaries that were pristine 10 to 20 years ago. Recent surveys indicate that pollution products are accumulating; the diministed size and number of shellfish in the intertidal zones of these estuaries are attributed to the polluting agent and the lack of sufficient circulation in these marine water bodies. With a third pulp mill to be built somewhere in southeastern Alaska, it is possible that another estuary will suffer a similar fate.

Oil spills on the waters of Cook Inlet are common, as the petroleum industry enters the production stage. This estuary has some unique physical characteristics making it totally unlike any other water body in the United States. The tides in Cook Inlet are second in magnitude only to those in the Bay of Fundy. Currents during a tidal cycle commonly reach velocities of 8 knots; the upper end of the inlet carries a high silt load derived from glacial streams; in winter the ice becomes several feet thick. How Cook Inlet will react to extensive oil pollution is unknown because our documented knowledge is inadequate to predict the behavior of a cold-water, silt-laden estuary.

FUTURE POLLUTION PROBLEMS

If Alaska prospers as its people hope it will, its cities will assuredly grow, magnifying the volume of municipal wastes. This is being recognized by local governments which are planning disposal systems. Present plans call for all Alaska municipalities to have adequate sewage and waste treatment facilities in place by 1972. A recent inventory to establish the costs of pollution control in Alaska sets forth an estimate of $82 million just for the immediate needs with no reference to future projects.

In the past, great reliance was placed on dilution when raw sewage or the effluents from treatment plants were discharged to a stream. An unknown factor in such reliance is the uncertainty of the efficacy of planned conventional treatment systems in an arctic or subarctic environment. This rigorous environment imposes restrictions on conventional systems that can be overcome only with costly modification of the local environment under which the equipment must function. Moreover, water now unused and considered surplus may have an alternative important future use that is totally unpredictable under prevailing economics today. Another unknown associated with northern climates is the capacity of these cold waters to assimilate wastes. Continued reliance on dilution can result in dramatic failures because the accumulated effects are insidious; they build up with time and are triggered when a critical level is reached. Frequently, these failures are irreversible under the imposed conditions.

Industrial wastes are bound to increase with economic expansion. Ultimately effects of pulp mills on estuarine ecosystems are not known. In these waters in Alaska, temperatures seldom rise above 10° to 20°C, which retards biological and chemical reactions compared to the normal rate for warmer waters. Kodiak Harbor is an example of accelerated pollution because of thoughtlessness. Petroleum wastes will cause problems either because of accidents or irresponsible operations. Methods for the disposal of these wastes warrant intensive research to eliminate the problem before it grows bigger. Certain wastes, now exempt under Alaskan law, will surely assume increased importance, once industry expands as it is almost certain to do. How silt affects stream ecology, except in a general way, is also a subject that has hardly been studied. Dissolved oxygen in arctic streams is low because of ice cover during the winter months; [15] the addition of oxygen-demanding wastes may trigger irreversible reactions in the ecosystem which could interrupt the food chain and cause serious damage to desirable species of flora and fauna.

Timber harvesting is ancillary to pulp

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mills to supply the wood from which to make pulp. This industry frequently comes in for severe criticism from the fishery biologists because of opposing viewpoints on how logging affects the streams of a watershed. Stripping climatic forest from a watershed is indeed traumatic, but is it as disastrous to aquatic life as some biologists infer, if properly done? There must be a compromise position that will satisfy both interests if responsible parties will agree to look at the problem objectively and accept the facts from unbiased research. Much research needs to be done in this area, but enough information is at hand to justify certain controls that prevent stream degradation. The principal obstacle is unwillingness on the part of loggers to accept the premise that it is possible and desirable to log without ruining the watershed.[16]

FUTURE COURSE OF ACTION

Two courses of action must be implemented immediately. First, present knowledge must be used to treat and manage waste to prevent damage to the environment; and, second, necessary research must be instituted to acquire an understanding of ecosystem dynamics in the northland. Such an approach was supported in a colloquium at Washington, D.C., where a "National Policy for the Environment" was discussed.[17] Treating municipal wastes and using only approved logging practices are examples of the first action where much benefit will accrue. However, ultimate solutions must await research or engineering innovations for some problem areas. For example, in the Point Barrow area, the Navy and various other groups under contract for oil exploration have accumulated an estimated one-quarter of a million drums of human wastes because no feasible disposal method is available.[18] What is going to happen as oil development expands with its attendant problems in the tundra ecosystem? How to provide ground transportation in the tundra without destroying these tundra ecosystems, how to dispose of human and petroleum wastes in this environment, and how to prevent polluting the arctic waters when water is everywhere in summer—these are some of the problems that must receive attention if damage is to be avoided.

Research to gain additional knowledge of Alaskan waters off the continental shelf needs to be given momentum. Alaska's continental shelf area is estimated at 830,000 square miles and constitutes 74 percent of the total U.S. shelf.[19] The fisheries over the Alaskan continental shelves are incompletely understood. However, the consensus is that these fisheries have a tremendous potential for supplying seafood to a growing population. Mining the continental shelf for desirable metals will probably become important as research develops information to extract these metals from shelf areas. For these industries to develop without damaging the marine ecosystems, marine scientists must have research completed which will furnish guidelines to orderly development of these resources.

Total solution of these and other pollution problems is not at hand today, but the Washington, D.C., colloquium concurred on one need—to continue educating all persons involved to accept responsibility for preventing pollution and to develop incentives to make this desirable. When it can be shown that, in the long run, degradation of the environment costs more than preventive measures, potential polluters will more readily accept and initiate control measures. Regulations and water quality standards in themselves are insufficient to provide long-range results; there must be an honest desire on the part of the general population to prevent deterioration of man's environment. Once this is accomplished, policing becomes an insignificant facet of pollution control.

SUMMARY

Evidence indicates that Alaska is on the threshold of economic expansion. The magnitude of the expansion is unknown, but any expansion is certain to increase pollution pressures. Because Alaskan waters are, for the most part, still clean, a unique opportunity exists to apply a preventive program based on ecosystem dynamics, instead of the classical practice of cleanup after deterioration has set in. Research on the tundra and taiga ecosystems must be initiated to learn the dynamics of ecological response to man's quest for new resource development. Imaginative engineering innovations must be applied toward solving the immediate problems while awaiting research findings that accrue slowly over time. An accelerated, continuing education of industry and all others who are potential polluters must be initiated. All the research, engineering, standards, and regulations in the world will not prevent the ultimate destruction of our environment unless we all accept our responsibility to prevent this destruction. Pollution prevention will make great strides when we devise means, through economic analysis, to show that esthetics and society's acceptance of the costs of pollution control are imperative to man's survival, health, and happiness. Then we will no longer think in terms of how heavily we can load a stream with wastes, but how clean we can get it and how we can maintain it in this enhanced condition.

FOOTNOTES

[1] L. S. Rockefeller, *The Third Wave* (Conservation Yearbook No. 3, U.S. Government Printing Office, Washington, D.C., 1967).

[2] "Waste management and control," report by Committee on Pollution, National Academy of Sciences-National Research Council, to Federal Council for Science and Technology, *NAS–NRC Publ.* 1400 (1966), appendix 1, pp. 31–63.

[3] W. O. Pruitt, *Animals of the North* (Harper and Row, New York, 1967), pp. 1–5; 151–170.

[4] Personnel of Institute of Marine Sciences, University of Alaska (1968), private communication.

[5] C. Wahrhafig, "Physiographic divisions of Alaska," *U.S. Geol. Surv. Prof. Pap. No.* 482 (1965).

[6] O. J. Ferrians, Jr., compiler, "Permafrost maps of Alaska," *U.S. Geol. Surv. Misc. Geol. Inv, Map* 1–445 (1965).

[7] Population projections show wide ranges depending on the optimisms at the time of projection; present economic conditions justify an optimistic view.

[8] "Alaska's petroleum industry" (Inst. of Social, Economic and Government Research, University of Alaska, College, 1968).

[9] R. E. Haring and M. R. C. Massie, "A survey of the Alaska forest products industry," Res. Monogr. No. 8 (Inst. of Social, Economic and Government Research, University of Alaska, College, 1966).

[10] "The fur industry in Alaska" (Inst. of Social, Economic and Government Research, University of Alaska, College, 1966).

[11] "The gold mining industry in Alaska" (Inst. of Business, Economic and Government Research, University of Alaska, College, 1965).

[12] "Alaska fisheries industry" (Inst. of Social, Economic and Government Research, University of Alaska, College, 1965).

[13] "The nation's water resources," U.S. Water Resources Council (1968).

[14] An example of these in the Parson Engineering Plan, commonly known as NAWPA.

[15] During a prolonged cold spell in January 1969, dissolved oxygen dropped to 1.8 mg/liter [P. Frey, Alaska Water Laboratory, College (1969), personal communication].

[16] A. Calhoun and C. Seely, "Logging damage to California's streams in 1962," Island Fisheries Administration Rep. No. 63–2, Resources Agency of California (1963).

[17] A national policy for the environment, hearings before a joint House-Senate Committee, 90th Congress, 2nd Session, No. 8, 17 July 1968.

[18] A. J. Alter, Department of Health and Welfare, University of Alaska, College (1969), private communication.

[19] Personnel of Institute of Marine Sciences, University of Alaska, College (1968), private communication.

NATIONAL INDUSTRIES FOR THE BLIND SHOWS CONTINUED GROWTH; FEDERAL GOVERNMENT AIDS IN PROVIDING EMPLOYMENT FOR THE BLIND

Mr. RANDOLPH. Mr. President, thousands of blind Americans, people who once were ignored and shunted aside, are now productive citizens because of organizations like National Industries for the Blind.

Thanks to a coordinated effort by the Federal Government, NIB, and 79 workshops in 35 States, more than 5,000 blind men and women are earning wages turning out more than 300 high-quality products.

NIB was esablished in 1938 as an outgrowth of the Wagner-O'Day Act, which I voted for when a member of the U.S. House of Representatives in 1938. Its provisions offered the Federal Government as a market for products manufactured by the blind.

According to the annual report of the NIB, sales during the past year amounted to $49.2 million, of which 45 percent were made to the Federal Government. Employees of the affiliated shops earned an all-time high of $9.2 million for their labors.

One of the most significant developments in the history of NIB occurred last year when the Federal Government agreed to purchase all of its ball-point pens and refills from the organization. This single agreement amounts to 70 million units a year, resulting in sales of $3.3 million for NIB organizations.

National Industries for the Blind functions under the leadership of Jansen Noyes, Jr., chairman; and Thor W. Kolle, Jr., president. Its national operations are directed by Robert C. Goodpasture, executive vice president, whom it was my privilege to join this fall when we were speakers at a dinner in Morgantown, W. Va., recognizing community efforts to improve employment opportunities for the handicapped.

I am gratified that NIB, whose affiliated organizations represent 95 percent of the productive capacity of all workshops for the blind, is prospering under the leadership of such men.

This coordinating organization is providing another vital service to help the blind overcome their handicap and be useful members of their communities.

I have long held a concern for the welfare of the blind and believe that if given opportunities, free of prejudice and misconception, they can stand on their own feet. To further improve the chances for the blind, I have this year introduced a bill to amend and update the Randolph-Sheppard Act, which I helped to write 33 years ago as a member of the House of Representatives. It is under this program that the familiar vending stands with over 3,300 blind operators in public and private buildings are made possible, and I believe the improvements are needed during this Congress.

The National Industries for the Blind and its affiliated workshops are providing an important humanitarian service. I hope that their number will grow and that the sightless people they serve will continue to prosper in the years ahead.

SENATOR MURPHY STRONGLY URGES ADDITIONAL FUNDS FOR DROPOUT AND BILINGUAL PROGRAMS

Mr. MURPHY. Mr. President, in my statement before the Senate Appropriations Committee, I urged the funding of the dropout prevention program at the $24 million level and full funding of the bilingual program.

I was the author of the dropout prevention program and a cosponsor of the bilingual program. I think they are two of the most promising education programs that we have in the country.

I do hope that Senators will read my testimony and that they will agree with me that the additional funding that I recommended is fully justified.

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

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

TESTIMONY BY SENATOR MURPHY

Mr. Chairman. First, I want to thank the Subcommittee for giving me this opportunity to testify again this year. I want to discuss and strongly urge increased funding for the Dropout Prevention and the Bilingual programs. I believe that these two programs will prove themselves to be among the most significant, far-reaching, and wise investments that this nation has ever made.

Last year, when the House failed to provide a single cent for either program, I testified before this Subcommittee making a personal plea that the "shortsighted" action of the other body be reversed. The Committee, realizing both the magnitude of the problems and the merits of these two programs, responded, and in the HEW Appropriations measure passed by the Senate last year included $20 million for the Dropout Prevention program and $10 million for the Bilingual program. We were able to retain only $7.5 million for the Bilingual program and $5 million for the Dropout Prevention program in conference with the House.

This year, the House has come around somewhat and in the Labor/HEW Appropriations bill passed by the House, $10 million was provided for the Bilingual program and $5 million for the Dropout Prevention program. Given the size and seriousness of the problems to which these two programs are addressed, the sums provided by the House are clearly inadequate.

I am fully aware of the fiscal problems that we are facing, but nevertheless I believe that we must increase the funding of these two programs. I strongly urge $24 million for the Dropout Prevention program, which is the same figure recommended by both President Johnson and President Nixon in this year's budget. For the Bilingual program, I strongly recommend full funding—$40 million—which is in excess of the budget of $10 million, but which is fully justified.

Mr. Chairman, I authored the Dropout Prevention program, which was added to the Elementary and Secondary Education Amendments of 1967. The program is aimed at preventing and reducing dropouts. It was drafted in consultation with some of the nation's leading educators, including Dr. James Conant. Members will recall that Dr. Conant warned the nation in 1961 that "social dynamite" was accumulating in our cities. The accuracy of his warning is now history. Much of this "social dynamite" results from those who drop out of school and who are out of work. At one time the dropout posed no problem since those leaving school were able to find jobs in agriculture and industry demanding frequently little or minimum skill or education requirements. The knowledge explosion and the technological advances in the country have dramatically altered our national picture. That is why it is so alarming that approximately one million students are dropping out of school each year. In our nation's fifteen largest cities, the dropout rate varies from a high of 46.6 per cent to a low of 21.4 per cent. As high as these percentages are, they are for the entire city district. To really comprehend the seriousness of the problem, it is necessary to focus on the poverty-area schools within these cities. In these poverty-area schools, seventy per cent drop out.

Mr. Chairman, it is these statistics and these schools which prompted me to author the Dropout Prevention program. It is these statistics and these schools which prompted me to label the dropout problem as the Achilles' heel of our educational system. It is these statistics and these schools which compel me to urge the Congress to substantially increase the funding of the Dropout Prevention program.

Mr. Chairman, the Dropout Prevention program is based on the premise that answers have not as yet been found which will make dramatic changes in the poverty-area schools. The program provides maximum freedom and flexibility at the local level for experimentation. Under the program local and state educational agencies submit innovative proposals which zero resources on a particular school or on a particular classroom in an effort to have a major impact on the dropout problem. Eligible schools must be located in urban or rural areas having a high percentage of children from low-income families and a high percentage of children who drop out of school. The local educational agency, in addition to securing the approval of the state educational agency, is required to identify the dropout problem, analyze the reasons the students are leaving school, and tailor programs designed to prevent or reduce dropouts. Furthermore, the most significant, the program requires objective evaluation.

Mr. Chairman, the Dropout Prevention program is a no-nonsense approach to education. Dropout prevention projects must spell out clearly their objectives. Having stated their objectives, they will be held accountable for achieving them. Most importantly, and I believe this is a first for the Office of Education, an educational audit will be done on each dropout prevention project. This educational audit will seek to determine, in terms of student learning, what the taxpayer is getting for his tax dollar. This educational audit will be done by an independent organization outside of the project and will attempt to verify the project's performance. This is in addition to intensive in-house evaluations that will be done on the Dropout Prevention program.

In the National Education Journal of December 1966, the following statement appeared with respect to educational change and reform: "One often gets the eerie impression of huge clouds of educational reform drifting back and forth from coast to coast and only occasionally touching down to blanket an actual educational institution."

The Dropout Prevention program is causing educational waves. The Dropout program is "touching" actual educational institutions. The Dropout Prevention program will produce change, will bring about reform that will not only touch the particular educational system involved but also educational programs throughout the country. Although dropout projects are now underway, I would like to discuss two of them so that the Committee might judge their significance and the momentum of their educational waves for improvement in our educational programs.

The project perhaps that has generated the most national interest is the Texarkana one. In this program, the school districts of Texarkana, a Texas and Arkansas border community, have called on private industry in an effort to raise basic levels of potential dropouts. The school system has entered into what is called a performance contract with a private corporation to bring potential dropouts up to grade level in academic performance. As the name of the contract implies, the companies must perform or they do not get paid. In addition to this phase of the project, the Texarkana project is experimenting with a system of rewards and incentives for students. For example, successful students will receive coupons redeemable for merchandise and students who successfully complete two grade levels of achievement will receive transistor radios.

Another exciting project, Project STAY, in St. Louis, Missouri, places great emphasis on the work-study approach. St. Louis found that a desire to work and earn money and a lack of interest in or dissatisfaction with the school and the curriculum were among the major reasons for dropouts. In its attack, the community and the real world have been made part of the curriculum. Industry has warmly responded by providing positions wherein skills may be acquired, where the relevance of the classroom can be both seen and tested by the student and the system.

Some of the approaches are very unconventional, Mr. Chairman. For example, twenty students have been assigned to the McGraw-Hill Publishing Company where they will receive training in various job areas within the plant, including the operation and production of machinery used in the printing business. A teacher will accompany the students. This is rather unique because they will receive both academic instruction and job training here. For these students McGraw-Hill will be their school, home and their work assignment. This meant that the State Department of Education of Missouri had to relax somewhat their course requirements to permit this experiment. This they did.

The school system also has leased a Sinclair Oil service station. At this station, students will receive on-the-job training leading to such jobs as mechanics, service station management, and even to service station ownership. The Sinclair Company has provided a trailer which will be located at the gas station for conducting demonstrations of functions of the service station business.

In addition, the City of St. Louis has purchased an apartment building with local funds and 64 students—32 in the morning and the other half in the afternoon—will learn skills useful in construction work under the supervision of industrial arts teachers. After the apartment is rehabilitated, it will be returned to the City of St. Louis, which will then use the building to help solve some of the housing needs of the city. This may have potential both for skill acquisition and city rehabilitation. The union and real estate interest has responded well to this educational pioneering.

The interest and potential of the program, Mr. Chairman, can be seen by the fact that over a thousand requests from local educational agencies to submit preliminary Dropout Prevention programs has been received by the Office of Education. To fund all of these programs would take over $700 million. Of course, I am not recommending the funding of all of them. The Dropout Prevention program was not intended to take care of all the dropouts. Rather, its intent was to identify and attack some of the worst situations in the country by establishing highly visible demonstration projects that are large enough to have a significant impact, while at the

same time enough in number to be carefully monitored and evaluated so that, insofar as possible, success could be assured. Thereafter, it was hoped that the success of the program would be duplicated in other sections of the country. This educational R & D effort, the Dropout Prevention project, then are live local educational laboratories whose work has both great national interest and implications in solving one of the most persistent problems in American education.

Mr. Chairman, in my testimony before this Committee last year, I cited the growing realization of the relationship of education and income. I cited a study by Dr. Harold Kastner, a consultant for the Florida State Office of Education which divided individuals based on the 1960 census into levels of educational achievement as follows: Less than 8 years, 8 years, 1 to 3 years of high school, and 4 years of college. Dr. Kastner then projected the aggregate income gain if the individual had been able to complete the next income level. If those who had not completed the eighth grade and had been able to do so, and if those who had completed the eighth grade had been able to complete 1 to 3 years of high school, the national income would have increased annually by 6.5 per cent. A 6.5 per cent increase would have added $50 billion to our national wealth. These calculations help convey the monetry costs to society.

In addition to the earning loss to individuals and tax losses to the country, the dropout reappears in our crime statistics, on our juvenile delinquency rolls, in our corrective and penal institutions, and on our welfare rolls.

The investment of $24 million in this program with its great promise and potential is thus a small amount of money compared to the total money costs and waste of human potential. I am convinced that an investment of $24 million might save society billions of dollars in keeping dropouts from being a burden—or as the crime statistics indicate, even a menace—to our society.

Now, Mr. Chairman, I would like to turn to a second program that is so important to California and the Southwestern states, the Bilingual Program.

I cosponsored the Bilingual Education Act which was added to the Elementary and Secondary Education Act of 1967. Congress should be particularly proud of this program, for it is an excellent example of Congressional initiative. The bilingual program, the Committee will recall, was enacted over the opposition of the executive branch in 1967.

There are over five million Mexican-Americans in the United States located primarily in the southwestern states. My state is proud of the fact that more Mexican-Americans, 1.5 million as a matter of fact, live in California than in any other state. The Mexican-American, the nation's second largest minority group, faced the same problems of poverty and discrimination as other minority groups; but in addition they have a language handicap. For the typical Mexican-American child grows up in a home where the parents speak little or no English. Naturally, the language spoken in the home, Spanish, becomes the child's language. This Mexican-American child, often from a low income family, then enters school and runs into the language barrier.

Senators, for a minute, imagine what it would be like if you or your youngster were to enter the first year of school where the language of instruction was different from the one you used and spoke at home. You would not only have to master a new language but also master a subject matter in the new language. Would it come as a surprise if you became frustrated and fell behind, discouraged and dropped out? The answer to this question helps to explain the education deficiencies of Spanish-speaking children and others whose dominant language is other than English.

The education statistics for the Mexican-American are to put it mildly, shocking. They show:

1. That one million of the 1.6 million Mexican-American children entering the first grade in the five Southwestern states will drop out before they reach the eighth grade.

2. In my state 50 percent of the Mexican-American youngsters drop out by the eighth grade.

3. That by the time Spanish-speaking youngsters have reached the third grade over 89 percent of them have repeated one or more grades.

4. That the average number of years of school completed for individuals with Spanish surnames is 7.14, for non-whites, 9, and 12.14 whites. Significantly, over the past 30 years, while the education gap between whites and blacks has been closing, the education gap between the Mexican-American with respect to both blacks and whites has increased.

5. That in my state, Spanish surname students comprise 14 percent of California's school age population but less than one-half of one percent of the students at the University of California's seven campuses are Mexican-Americans.

6. That Mexican-Americans account for more than 40 percent of the students classified by school districts as "educable retarded".

These facts, as the statistics so dramatically illustrate, show that the schools have not been communicating with Spanish-speaking youngsters. No communication—no learning! It is as simple as that.

Let me go back for a moment to the last statistic I cited. A study done this year for the California State Department of Education showed that Mexican-American youngsters, labeled by the school system as "educable retarded" made remarkable increases in I.Q. test scores when such tests were administered in Spanish. This study, which I understand was the first of its kind in the nation, saw some childrens' I.Q. increased by 28 points with the average climbing 13 points. These 13-point average increases incidentally, would have placed these youngsters above the mentally retarded level. Children below this level in my state are placed in special classes whereas above the level, they are part of the regular classes.

One wonders how many of the Mexican-Americans who make up the 40 percent of the educationally handicapped in California would be in regular classes had the test been administered in Spanish? And, how many of the large number of Mexican-American dropouts could be prevented if we substantially increased the funding of the Bilingual Education Program. I believe many, and that's why I have been such a strong advocate of this program.

The Bilingual Education Act is a commitment to reverse these statistics, to provide a solution to the education problems of Spanish-speaking children who in fact do not have an equal opportunity, an equal chance because of their inability to speak English.

Since the first project under the bilingual education program was not funded until May of this year, we naturally, do not have objective evaluations from these projects. There has, however, been studies of what happens when we force learning in a language that is unfamiliar to the youngster as well as evidence from bilingual programs started prior to the federal Bilingual Education Act.

First, it is interesting to note that Russia seems to have a more enlightened policy in its approach to this problem than we do. Fifty percent of the Russian population have a mother tongue other than Russian. Russia in 1938 reversed its former policy of insisting that instruction be in Russian and permitted instruction in language other than Russian. As a result, a great increase in both literacy and the use of the Russian language occurred. Experimental programs in such countries as Sweden, Mexico and the Philippines indicate similar results. In the Philippine ILOILO experiment begun in 1948, experimental groups were taught reading, math and social studies in their local language in the first and second grades. At the third year, they were switched to instruction in English. Within six weeks, the performance of the experimental group in all subjects tested, including English, exceeded a control group who were instructed only in English beginning in the first grade.

Last year, I made reference to the Puerto Rican experience where, in effect, the United States attempted to impose the English language, sometime to the exclusion, sometime along with the mother tongue of Spanish. Columbia University researchers gave tests to some 69,000 youngsters to make a comparison between those who had been instructed in English, which was foreign to them, and those who learned through Spanish. They then compared both group scores with youngsters from the United States. They found that Puerto Ricans taught in English were markedly retarded. Those, however, taught in Spanish, not only equalled but exceeded U.S. students on the Mainland. Columbia University researchers attributed this astonishing result to the fact that the "facility with which Spanish is learned makes possible the early introduction of content into the primary curriculum".

Mr. Bruce Gaardner, former chief of the Modern Language Section, Office of Education, told the Bilingual Education Committee in 1967 "now, this has extraordinary implications. What they are saying is that because the authoritarian academicians over the years, over the centuries, always adjusted the writing system of Spanish to make it correspond to the spoken language, there is a very close match between the Spanish writing and Spanish sound. We did not do it in English. We could have, but we did not. They did it in Spanish. They did it in Spain. Therefore, there are no reading problems, as we know them in Spanish-speaking countries. The extraordinary implication is that if the Spanish-speaking children of our nation were allowed to use Spanish as one of the mediums of instruction along with English, not only would their handicapped bilingualism disappear, but there is a strong likelihood that they would have a decided advantage over their English-speaking schoolmates simply because Spanish is an easier language to work with in the elementary schools."

The Indian Education Subcommittee on which I serve came across some interesting facts that are instructive along these lines. In the 1800's, prior to the Federal Government taking control of the Cherokee affairs, the Cherokee Indians, using their native language, and bilingual materials, were able to achieve a literacy rate of 90 percent which, incidentally, was a higher literacy rate than the white population of Texas and Arkansas. Today, following the Federal Government's taking over, the picture is bleak as 40 percent of the Cherokees are functionally illiterate and their school dropout rates in public schools are as high as 75 percent.

In my State of California, I examined a report of the Marysville, California School District after the second year of an experimental bilingual program. The report said: "analysis of the data tend to support the hypothesis that Spanish-speaking pupils are better able to learn where they use their native language and have systematic instruction in English as a second language".

Mr. Chairman, these, then, are the limited objective data that are available. I am proud to say that the Bilingual Program, like the Dropout Program, holds schools accountable for results. Spanish-speaking youngsters in the Bilingual Program must do as well as Anglos in the fundamentals while they are learning English as a second language. It is my understanding, based on discussions with Dr. Leon Lessinger that we will have at the

end of this fiscal year some of the hard objective data that the Appropriations Committee naturally is very interested in. However, there is substantial subjective evidence that the bilingual approach is working. I have talked to many teachers, to students, and to parents and the reports that I have received indicate that the pupils are doing better, are happier, have more confidence and are more willing to participate in their class where their language and heritage is an integral part of the school.

Mr. Chairman, I asked my staff, in cooperation with Dr. Eugene Gonzales, of the California State Department of Education, to contact some of the bilingual project directors in California and share their up-to-the-minute thoughts with respect to the Bilingual Program. I ask unanimous consent that this be made part of the record at the conclusion of my testimony. (See exhibit 1.)

So, Mr. Chairman, insofar as the second largest minority group in this country, the Mexican-Americans, we seem to have the educational breakthrough that we all are looking for. The Bilingual Education Program offers the hope, based both on limited objective evidence available, and considerably more subjective evidence of remedying the sad educational statistics that I cited earlier. With the means at hand, we are doing so little.

Furthermore, we should be supporting the Bilingual Program not only because of its great potential of eliminating a national liability, but also because bilingual should be regarded as a national treasure, one that should be developed for both a better America and a better world. Modern means of transportation are, in effect, shrinking the distance between nations and the world's peoples. We can expect in the 1970's travel between peoples of the world unparalleled in the history of mankind. Bilingual Americans are and will become even more a great national asset. Rather than allow such an asset to waste it should be developed to its fullest potential.

My city of Los Angeles, where the largest concentration of Mexican-Americans in the nation is found, was not funded under the Bilingual Education Act despite the obvious critical need. Applications from California alone exceeded the national appropriation for the Bilingual Program last year. In total, 315 applications from 40 states added up to $41 million was received by the Office of Education for Fiscal Year 1969. It is estimated that for this fiscal year that between 500–600 applications will be received.

The Senate should once again seize the initiative and substantially increase the funds available to the Bilingual Education Program. Although I believe that the program should be fully funded at the $40 million figure in view of the magnitude of the problems, and of the program's potential; if the Committee is unable to do that, I believe the bare minimum, even given the real fiscal problems that we face, we should provide this year is $30 million.

In conclusion, I would ask unanimous consent that a floor statement I made on October 13th on my amendment No. 231 to H.R. 13111, providing an additional $20 million for the development of personnel in vocational-technical education be printed in the record. (See exhibit 2.)

EXHIBIT 1

RESPONSE OF PROJECT DIRECTORS IN ANSWER TO TELEPHONE QUESTION CONCERNING ITEMS THAT COME TO MIND AS A RESULT OF THE BILINGUAL PROGRAM

BARSTOW

Mr. CHAVEZ. There is a need for more in-service training for both teachers and aides; the co-mingling of attitudes so we could have a cohesive program; an awareness on the part of the teachers to problems which were otherwise hidden from them. Learning as a cognitive process is the same in Spanish as in English. This is what we would primarily be interested in.

BRENTWOOD

Mr. YAÑEZ. Actually the parents have been coming to the school. We had an open house with almost 90% turn-out. Mexican-American people who had decided to come to school have been coming to our dinners. A Mexican lady said, "We are glad you are here because we have somebody with whom to communicate." Before she had never attended any meeting. The parents are more relaxed about the fear their children will come to school and not be understood. More of the children are coming to school with smiles rather than grim looks. Our project had a page spread in the Brentwood newspaper. I feel it is a tremendous program; I had been in the classroom for fourteen years and feel this is the right direction to go, especially when you have a 40% Mexican-American enrollment in your schools. We are setting up a barbecue; we had a breakfast and open house; I spoke to the Lions Club. (Not Title VII but the Brentwood program is to be part of a movie. Officials in Washington phoned and asked if they would be in the movie. They are not telling the story of Title VII but they want to show how we teach the Spanish-speaking in America and how we treat the Spanish in Brentwood.)

The children were timid at first. It is a good feeling trying to get the people involved and it has affected the attitude of the parents and children. The parents feel now that the children might finish school and amount to something. The program has made a tremendous impact in Brentwood and I am trying to let the people know what is happening.

CALEXICO

Mr. LOPEZ. 1. We are trying to set up a truly bilingual situation. This is very difficult because we do not have any ESL two-language level proficiency. In our program we have one-third English speaking, one-third bilingual with greater proficiency in English, and one-third Spanish speaking. That is the makeup of the class and we have one teacher and one aide. The teacher has given instruction to each level but as far as language is concerned there are no materials available so we are in the process of developing a curriculum. We want to make certain the children are keeping abreast.

2. We need help in the writing of curriculum because teachers do not have the expertise to write curriculum. . . . We pursue the challenge; there is a Spanish speaking need. Before the Spanish-speaking students were put aside where we would teach them English. Now we put them all together in the classroom with English speaking students and it creates a challenge to the classroom teachers simply because of the different levels of language proficiencies in English and Spanish. Another problem is to find people who can find the time to evaluate. There are a lot of proposals so it is difficult to spend the time that is required. We do have the evaluators at least two days of the week for the rest of the year because the evaluator has to be involved in classroom development.

Through this particular type of program we have actually developed a greater cooperation or socialization with all three different levels of the speaking groups. Previously the three distinct groups would segregate themselves, now they all socialize together. We do need some more time for the development of curriculum. All of the curriculum development should be put together in one little soup kettle and should be used by all. Teachers developing materials are basically pack rats, they don't like to share discoveries.

CHULA VISTA

Mr. JUAREZ. I notice a growing awareness on the part of school personnel and community people about the needs of the youngsters this program is intended to reach. This is perhaps the most hopeful thing.

Secondly, since we have been reviewed in the South Bay area we have found that the existing resources are very numerous and it is tapping the youthful environment. There is an awareness and uniqueness to the bilingual and bicultural environment that exists here. The inter-district plan has permitted the people involved to begin to communicate about areas of community concern and teachers have met in teacher sessions. We have been able to have dialogue between elementary, junior high school and high school teachers for the kind of instructional program that is needed in a bilingual program.

One of the things that holds much promise is a growing cooperation on the part of the school and home as it relates to the learner that we are going to reach. This will develop into a positive thing that has come out of the program so that the school and the home will both be communicating and both be promoting the instructional growth of the student.

COMPTON

Mr. GOODMAN. 1. We have had a tremendous community response; children who have never responded before in the classroom are now bubbling. Parents and aides have noticed children beginning to talk, in fact you can't shut them up. By using the language of communication we have actually opened up the youngsters. The children now respond in a normal classroom as regular normal children when Spanish is used as a language. This has been noticed by teachers, aides, and parents. We thought of taking one child to the principal, but realized that he was simply overly enthusiastic; the children are communicating.

2. Teachers who formerly had these youngsters have remarked they didn't know the children could respond. The children are happy; attending school regularly; learning their ABC's in Spanish, and learning them quickly. We have had a tremendous success with the program. These observations come from teachers other than bilingual teachers; they come from bilingual aides who worked with the youngsters in a regular classroom state; this became notable the third day of the program. We notice these factors becoming very distinct.

The children in the bilingual program respond; they respond in Spanish. They have been characterized as being silent in the English classroom but they are not that way in the Spanish classroom; they communicate and interact; they do not feel stereotyped. This is established by bilingual teachers, aides and other teachers. The children appear to be learning at a faster rate in Spanish since we are teaching the basic subject matter in their language. They surprise us; they pick up their numbers faster in Spanish. Some of the materials have stimulated them. English is taught as a second language. It appears that as we give the instruction in Spanish, the transference into English is extremely easy. They pick it up easily. I have worked before under ESL and it was very difficult because you were not working with the Spanish language. . . . The struggle we had when we worked only with English is gone. We use ESL techniques but both teachers have remarked that the youngsters pick up English so quickly. We did not expect this influence upon the other language to be so quick. The children are aware that they live in an English speaking country. They continue to ask in Spanish how to say the same thing in English and we discover that once they have a little word in Spanish, the English word slips right in. We think the program has been very successful so far. The teachers are thrilled with it. There is so much to be done that the program development has slightly overwhelmed us; we unlocked a reservoir; we have touched a linguistic resource. We have Spanish speaking parents

born in Compton who say they wish they had this opportunity. It is too early to measure but we are developing measurement devices; we can only tell of what we have seen. This information comes from other than classroom teachers. The bilingual teachers are amazed; they had no idea how vibrant and alive, very active these children could be—just normal Ameriacn youngsters. The overwhelming factor is that they are so happy; very happy. It appears the home is quite happy. The parents decided. The program has its problems. Our concept in Compton is to develop original curriculum material as it pertains to the child. It is original; because of my background we actually develop our lesson from originality. The material that I was able to get are Spanish language books developed for children who speak Spanish and live in a Spanish speaking environment. We do not use dual English-Spanish books. The youngster will be taught to read and write. In the English classes they will be taught from English language materials that we use in our own schools. We will not use translated materials. We will use only foreign language materials that have been successfully used in Mexico and Latin America. The curriculum material will be original and designed for Spanish speaking children who live in the United States. It is really bilingual. Both of our project teachers are teaching Spanish daily in our high school. Teachers in the school have asked to borrow our materials already to help the youngster who is not in our program.

EL MONTE

Mr. RODRIQUEZ. My immediate reaction is something that one of the parents said the other day. This parent is of Mexican ancestry but speaks nothing but English at home. Without realizing the child was growing up without hearing Spanish. After being in his class for a few weeks the child goes home speaking Spanish and wants to speak nothing but Spanish. The first thing she learned was how to greet her grandfather in Spanish. They were thrilled. (I actually talked to the mother in the sentences preceding this—she was in Mr. Rodriquez's office and was so pleased with her little girl's progress, Bernice.)

When we spoke to parents while we were organizing the class we interviewed maybe all thirty of the parents of the children in our class and half of the other class. Not one parent objected to the program; they all wanted their child in it. We haven't run across one who has held back; there is no negativism. The children go around singing Spanish songs they learn in class. We have a parents' meeting every Wednesday from 1:30 to 2:30. The teachers follow through on some of the lessons for the week and carry it on to the parents. A child brought home a painting and the parent scolded her so the teachers carried on a painting class. They indicated that you should praise everything a child brings home. We discussed the program; we had a finger painting exercise so the lesson was reinforced. We have to encourage, not discourage. We ask them to discuss—tell me about it. We will bring the child out and have him become expressive.

We decided to put out a little newspaper every two weeks. (The lady in the office to whom I spoke—Bernice) has a daughter who is a high school senior who is quite artistic who is going to draw a cartoon for the newspaper. We plan to send the people at home stories of what is going on in class in both languages.

Have you heard of TV Education Channel 28 Ahora/Today. What is being done with the Mexican American today will have a little program on the bilingual program.

FRESNO COUNTY

Mrs. JOWETT. 1. At the present time it would appear to us that the instructional materials that we are using indicate that progress is being made with the children that is either equal to or above what would ordinarily have been expected and was evidenced in previous years. We have only been in the program a month.

2. We are finding that the majority of the children involved in the program seem to be able to work with a greater degree of independence than we noted before.

3. The interest in the second language or learning Spanish is high and the response on the part of the Mexican American children, although they are not necessarily proficient in Spanish, is very good. The Anglo children have also evidenced interest in learning another language although we have not been in this phase of the program long enough to form any kind of definite opinion, it appears that the Anglo children are responding in much the same manner as the Mexican American children who are not proficient in Spanish. We are beginning to see more interest on the part of the community as we have had an opoprtunity to meet with community representatives.

GONZALES

Mr. LICANO. The most important item—the kds are really responding to the program. We had a similar program without Title VII but it wasn't as organized as this one and the kids are really responding and doing very well up to this point. It wouldn't be possible without funds to provide the materials and personnel for the program.

HEALDSBURG

Mr. KATELEY. 1. This is meeting one of the needs that we have had in California in districts that have had a high percentage of Mexican-American children.

2. Being new we don't know how well it will work. The funding level doesn't seem nearly enough to do the job envisioned but it is a job that is really a priority item to attack.

LA PUENTE

Mr. KEOHANE. The information was given by Mr. Clonts, Assistant Superintendent, because of Mr. Keohane's illness.

1. We have employed thirty bilingual parents who are providing instruction to some 900 students since September 1.

2. More Spanish culture is being taught in the primary grades as a result of this project.

3. More of the Mexican-American parents are inter-acting with the principals and teachers in the schools through parent conferences and coming to hear about the bilingual program.

Our project has several objectives; to speak Spanish and English; and to get the school and the Mexican-American community to act together. We have been able to do this by taking these thirty parents, have people come to them and have them go into homes. Shortly we are starting the third phase in which Mexican high school students will be tutoring in homes in the evenings and after school. With this increased emphasis on the bilingual project and people pushing the Mexican culture as part of the study we have been buying more materials relating to the Mexican-American culture. We discuss the textbooks with parents and students. One is *Mexican-American—Past, President and Future* by Julian Nava. These kinds of materials are used more in the classroom as a result of this program. Also ESL material is being used.

One of the good things about the program is the fact that good evaluation techniques are built into it so that at the end of a year, or five years, we will know whether we accomplished what we set out to do.

LOS NIETOS

Mr. GRIJALVA. An item that immediately comes to mind is the number of mothers and aides that we have involved in our program; also, the number of volunteers has been exceptional. We have people from Whittier, from the U.C.L.A. Nursing corps, people from the Child Guidance Center and a child guidance off-campus group from one of the high schools has affiliated itself with us. We have seven volunteer parents involved in the program. Our professional evaluator has tested the program. The reaction has been tremendous. A lot of bright-eyed, bushy-tailed children are being encouraged at just the right age.

This will show up in evaluation in the future. I have been tremendously impressed with the volunteer program. We have the list documented with signatures and the hours and the reports are filed with Head Start.

UKIAH

Mr. DE LA PENA. There has been a lot more concern expressed for the Mexican-American child and the Indian child. We have had teachers call us about a certain child and our office has been sort of a place where teachers having problems with the Mexican children have been calling to see what is going on. We are now in the planning stage; we can't actually do anything yet. My reaction is that there is considerably more interest in the Mexican American child and the problems of the Indian child. It seems that all of a sudden the Mexican-American child and the Indian child exist; before they were a non-entity.

SAN FRANCISCO

Mr. CHEW. The project is going very well in terms of the objectives of the original program, to help 25 Chinese children. The kids are learning English and they have nowhere to go but up because they all started with zero. We have 25 first graders who have all been here less than two years in a self-contained class. We use English and Chinese to teach. We begin with conversational English to help students with their understanding like stating in English to get in line, close the door, etc., by constant repetition using sentences and commands with the action. The products are the children themselves; they are even able on their own to say please give me a pencil, etc. We work on their vocabulary and sentence structure. We don't teach grammar as a subject, we hope they will learn grammar by constant usage of English. We have arranged some trips to schools and other places so they will learn about the needy communities, etc. Most are students from the Chinese Ghetto in Chinatown. We try to open their vistas. In addition to the audio-language English the children do have a regular schedule which will cover other subject matters such as music, reading, writing, spelling, math and social studies.

FRESNO CITY

Mr. ALLISON. My understanding was that Senator Murphy wanted a "grass roots" reaction on the impact so far of Title VII. So far, as happens in any new program, we are working out the bugs and annoyances that come with implementing a new program such as we are putting into Winchell School. To date the best and most encouraging reaction has been the reaction of the parents of the childern in the program in last week's "Back to School" night. There was a good deal of favorable comment among the parents of the children in the four classes. In fact the effect upon the four Title VII teachers was, according to Principal Bill Hansen, to reassure them that what they were doing was producing positive results and attitudes in the community. The teachers had felt somewhat insecure because of the profound change in the curriculum of the bilingual program. Special pleasure was expressed by some Mexican-American parents that their language and cultural background was being emphasized. One parent, obliged to move to another area of Fresno, was asking how he could get an inter-district transfer so that his child could continue in the bilingual program. This is a tentative and subjective impression but we were very pleased with this reaction among the parents.

EXHIBIT 2

STATEMENT OF SENATOR GEORGE MURPHY, REPUBLICAN, OF CALIFORNIA, ON INTRODUCTION OF AN AMENDMET TO LABOR-HEW APPROPRIATIONS BILL PROVIDING ADDITIONAL FUNDS FOR DEVELOPMENT OF PERSONNEL IN VOCATIONAL EDUCATION

Mr. President. I rise today to offer an amendment to H.R. 13111, a bill making appropriations for the Departments of Labor-Health, Education, and Welfare for fiscal year 1970. My amendment is very simple. It will have the effect of increasing by $20 million the total amount of funds made available for Parts C, D, and F of the Education Professions Development Act, with the additional $20 million earmarked for the development of personnel in vocational-technical education. Currently the U.S. Office of Education has indicated an intention to spend only $5,750,000 for training vocational education personnel. There is ample evidence that this sum is totally inadequate, and my amendment proposes to earmark the additional funds so that our educational system can begin to attract new personnel to the field of vocational-technical education, and in order that existing vocational personnel might be upgraded and retrained.

Mr. President, my colleagues in the Senate who are concerned about the problems posed by increased inflation may question my introduction of this amendment. I share their concern and I must admit that I have been hesitant about supporting increased spending at this time. I am, however, persuaded that there is an overwhelming and critical need for additional training funds to meet the personnel needs in vocational and technical education. These needs are especially severe in my own state of California.

I introduce my amendment at this time in order to bring this matter to the immediate attention of my colleagues. The Senate Labor-HEW Appropriations Subcommittee, so ably chaired by the distinguished Senator from Washington, Mr. Magnuson, will begin hearings on H.R. 1311 this month. In the interim, however, I hope that the other members of the Senate will investigate the training needs for vocational-technical personnel in their own states and will come to the support of my amendment.

There is no lack of facts to substantiate the need for increased and improved vocational technical education programs throughout the country. These facts have been presented to Congress before, and they clearly and persuasively indicate that education in the United States does not meet the needs of the majority of American youth. For example:

80% of American youth in 1966 dropped out of school before graduation from college, but less than 20% had acquired skills with which to enter the job market.

60% of the students attending high school left to enter the world of work rather than going on to college, yet less than one in four was enrolled in a vocational education program while in high school.

In light of these facts our national educational priorities have been incorrectly set:

14 federal dollars were invested in universities in 1966 (proportionately more in subsequent years) for every one dollar invested in vocational education programs.

4 federal dollars were invested in remedial training programs during that same year for every one dollar invested in preventive vocational education programs.

To correct this imbalance, Congress voted last year to authorize an expenditure of over $750 million beginning in Fiscal Year 1970 for a new and improved vocational education program. I am pleased to have been the author on the Senate side of Part G of the 1968 Amendments which provides funds for cooperative vocational education programs. This technique for preparing persons for work has much potential, and is a great untapped resource for vocational education, as well as for other education.

Aware of the fact that neither innovation nor expansion can occur unless there is sufficient professional teaching and administrative personnel, Congress made provision in the 1968 amendments for the training of vocational education personnel. The training component of the 1968 Vocational Education Amendments (an amendment adding Part F to the Education Professions Development Act) authorized a 1970 expenditure of $35 million for training purposes. I ask unanimous consent, Mr. President, that a fact sheet describing the components of Part F be included in the Record immediately following my remarks.

Those of us in the Senate who worked to perfect the Vocational Educational Amendments of 1968 were hopeful that the newly authorized programs would be adequatly funded in 1970. We were heartened when the House Appropriations Committee increased President Johnson's and President Nixon's budget allowance for vocational education, and we were even more encouraged when the full House of Representatives voted to add more than $131 million to the Committee bill, making a total of $488 million.

Mr. President, neither the House Committee nor the full House, however, increased the funds for the training of vocational education personnel—and these are key people who must administer the $488 million of programs and staff the schools. The thrust of the Vocational Education Amendments of 1968 is to modernize vocational-technical training, to make it available to individuals, and areas, not now being served. These changes cannot take place unless there is an adequate supply of trained teachers, coordinators, and administrators. The new vocational education programs may be doomed to failure if Congress does not act now to provide additional training funds for vocational personnel. New institutions can be built and new teaching methods devised, but the schools cannot operate and the new curricula cannot be implemented without an increased supply of adequately trained vocational and educational personnel.

The needs for training and retraining vocational and technical education personnel are just as startlingly clear as the needs for establishing new and better schools. The facts are these:

Enrollments in the public vocational-technical education program are rising and will continue to rise at an accelerated rate, requiring many new teachers. Information available to the Office of Education indicates that enrollments in public vocational-technical education programs will probably reach 8,555,000 in 1969 and increase to 17,250,000 by 1975. Past experience has shown a teacher-student ratio of about 1:50 which would mean that the 1969 teaching force would be approximately 171,400. If the ratio remains the same, the teaching manpower requirement in 1975 based upon the above enrollment projections would be 345,000. Other professional and para-professional support personnel needed to staff vocational education programs throughout the country would be in addition to the above estimates.

Producing additional teachers is a problem since most universities do not offer the proper teacher training programs in vocational-technical education. Although universities and colleges in most States offer teacher training in vocational education areas such as homemaking, industrial arts, agriculture, and trade and industrial education, few offer training in teaching the more technical occupational skills and in new and emerging occupational areas. Very few universities and colleges offer comprehensive advanced degrees designed to develop leadership personnel for vocational-technical education.

Further, the problem of shortage is compounded by the fact that many states have not had the staff or financial assistance necessary to properly assess their needs. The State boards of vocational education, in nearly one-half of the states have not been able in the short time since the enactment of the vocational education amendments to submit a prospectus or plan to make them eligible for funding under Section 553 of Part F. This includes some states which most desperately need to update and expand vocational education programs.

In the states which have accomplished this assessment, however, the response has been overwhelming. Tentatively eligible requests for financial assistance from educational agencies and institutions for 1970 Fiscal Year funds from states which have submitted a plan as of August 1 deadline totalled $34,-772,633, or slightly under the amount of the authorization. These facts underscore the need for massive financial and technical assistance to institutions of education and state boards of vocational education if these training needs are to be met.

So that you may fully appreciate the need for training additional vocational technical education personnel and for retraining presently employed staff, I would like to present a case study by bringing to your attention the problems faced by the State of California in the area of recruiting, training and retraining vocational-technical education personnel.

The information and statistics I am about to present were supplied by the State Department of Education in California.

The State of California currently has some 9,500 vocational and technical education teachers who will be attempting to meet the skill development needs of approximately 1,000,000 secondary, post-secondary, and adult students in California. Earlier in my remarks, Mr. President, I quoted Office of Education figures which indicated that the usual ratio of students to teachers, nationwide, was 50 to 1. In California that ratio is close to 100 to 1, an appalling state of affairs. We cannot deny that the shortage of personnel is a very severe problem.

It is not the only problem, however. Two additional factors compound the issue. One problem revolves around the fact that our rapidly advancing technology has left currently employed teachers far behind in up-to-date knowledge of their subject matter. Recent studies, entitled, *Profiles of Trade and Technical Teachers*, by Melvin L. Barlow and Bruce Reinhart, substantiate this claim. The median age of trade and industrial education teachers employed in 1966–67 was 45.9 years, and the median age when they began teaching was 36.8 years. The majority of these teachers at that time, and I am certain that the situation has not changed, had been away from active participation in the occupation for which they were giving instruction for approximately 8 years. The study concludes it was safe to assume that many of them had "not kept current with changes occurring in the technology of teaching." A second study completetd in 1969, in which 286 leaders responsible for vocational educational programs at the local level in California were contacted, found that the highest priority for the improvement of instruction was "the maintenance of teacher exposure to the latest developments in their subject area, both technical and pedagogical."

The second problem concerns the fact that existing vocational education personnel are simply not adequately trained to cope effectively with the special needs of the major minority groups within the State—the Mexican-Americans, Negroes, and others—who constitute enrollments in vocational education in increasing numbers. A study currently being completed by the University of California underscores this fact.

The State of California Department of Education is very concerned about these problems and desires to take immediate steps to meet the needs of retraining existing personnel and recruiting and training new teachers. They desperately need additional

assistance, however, in order to accomplish this.

The State Department of Education has outlined the vocational-technical education needs of the State of California and carefully constructed a plan of operation to meet those needs. This plan, I have been informed by officials in California, was submitted to the Bureau of Educational Personnel Development for funding. In order to be implemented the California plan requires an expenditure of over $4 million during the next three years, with $892,000 needed for 1970–71. Over this three-year period, nearly 2,000 persons would be trained or retrained. Overall the emphasis would be on improving the quality of teaching in vocational education areas, alleviating the shortage of qualified teachers, and developing a cadre of "master teachers" to teach in places where there are high concentrations of disadvantaged, handicapped, and minority students.

Mr. President, at the current level of resource allocation, there would be no hope of funding the California State Comprehensive Plan. The three-year request submitted by the State of California by itself is nearly ⅘ of the total request for Part F in 1970.

At the present level of funding—$5,750,000—I have been informed (and somewhat reluctantly) that the Vocational Education Training Branch of the Bureau of Educational Personnel Development could fund projects under Sec. 552 involving 160 persons, projects under Sec. 553 involving 3825 participants, and continue projects from 1969 involving 70 teachers. If my amendment were adopted and $20 million was made available to the Vocational Education Training Branch, however, the situation would change. Instead of 4055 participants nationwide, projects could be funded in which 13,495 persons were trained or retrained to be vocational technical education teachers. This is a substantial number and would constitute a good effort to meet current needs.

Mr. President, the failure of American education to meet the job entry needs of today's youth continues to constitute a serious waste of human resources. Vocational education must become an integral part of the educational experience of those students who are planning to enter the job market without continuing their education at the college level. It cannot and should not be assigned a second-class status. The need for vocational education experience is particularly acute for the members of minority groups, for the handicapped, and for those seeking to break the cycle of poverty. For these people the lack of job entry skills may prove the crucial obstacle in a society with an increasing demand for a skilled labor force and an ever-decreasing need for unskilled workers. The proposed level of funding for vocational personnel funding is too low to make an impact, too inadequate to begin to meet the vocational education training needs.

One of the most important and rapidly growing educational institutions in our society is the junior college. These institutions, many of which call themselves comprehensive community colleges, have developed at the rate of one per week, and they offer unusual opportunities to prepare persons for the world of work by offering the 13th and 14th year of education. California, as my colleagues know, has been the pioneer and leader in the community college movement. The last time I checked, there were approximately 90 community colleges in the state, and it was expected that there would be 100 by the early 1970's. Of the total student freshman and sophomore population in California, approximately 85 per cent are enrolled in community colleges. Secretary Finch and the Administration are aware of the importance of community colleges.

Professor John Nealon of Rutgers University, in a recent study, entitled, "The Outlook for Adequate Faculty in Public Postsecondary Vocational Education," reported: "The essential facts are that of the entire working force, less than 15% have baccalaureate or advanced degrees. The balance are employed in the occupational areas where the formal education required of the average worker is shifting upward at an increasing rate. A 12th grade education soon will no longer suffice and the great body of our working force will require one to two years of postsecondary training to be considered for the more desirable and higher paying paraprofessional positions."

Professor Nealon developed statistics showing the types and number of teachers that must be prepared for vocational education programs at the postsecondary level alone. He finds that by 1974 we must almost double our present efforts in preparing personnel for postsecondary programs of vocational-technical education.

The Vocational Education Amendments of 1968 was a landmark bill charting a new direction for vocational education. Educators with whom I have spoken are challenged by both the Act's great potential and the societal problems to which the bill is addressed. But as magnificent a blueprint as it is, the key to the Act's success will not be its form, but its implementation. And this means that meeting the personnel needs is crucial to the success of the entire vocational education program. We simply cannot vote funds for bricks and mortar, experimental programs, books and equipment without providing adequate money to train teachers to serve in those schools to run those programs to use that equipment.

An appropriation of $20 million for the training of vocational education personnel will be a move in the right direction.

Mr. President, I ask of my colleagues that between now and the time H.R. 13111 is reported to the Senate floor, they investigate the situations in their own states. I am certain that each of you will find the shortages just as acute, the inadequacies of present vocational and technical education personnel just as severe as those I found in California. I believe there will be unanimous agreement as to the critical nature of this problem. I hope the Senate will support an appropriations of $20 million for vocational education personnel training for Fiscal Year 1970.

LEAD-BASED PAINT POISONING

Mr. KENNEDY. Mr. President, last Friday, I introduced a bill designed to encourage local communities to develop and implement intensive programs to eliminate the dangers of lead-based paint poisoning. This is a disease that tragically affects more than 200,000 children in the United States each year. My bill will make funds available to eliminate that hazard for many residents of our Nation's slum neighborhoods.

On Sunday, December 7, the Washington Star reported on the hazards of lead poisoning in an article written by Peggy Thomson. Miss Thomson has presented a stirring but grim picture of the incidents of childhood lead poisoning in Washington, D.C. I am pleased to ask unanimous consent to have printed in the RECORD her very revealing presentation carried by the Washington Star.

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

LEAD POISONING: CHILD KILLER

(By Peggy Thomson)

Linda Peterson, at five, is a sparkly-eyed runabout who holds up a cup when she wants bread and growls in special ways to call her twin sister or her brother. She has recently learned to say Mommy and Daddy and to feed herself with her hands, though these are things she did easily when she was one and a half.

Linda became ill in the summer of 1966. She began to stagger about like a drunk, couldn't keep food on her stomach. One doctor prescribed for an ear infection; another, at Freedman's Hospital, for a sore throat.

When Linda's mother appealed to Childrens Hospital, her daughter was admitted for tests, and then fell into a four-day coma. The diagnosis was acute lead encephalopathy brought on by Linda's eating of leaded plaster and paint.

A recurrence later in the summer left Linda blind (her vision is still severely impaired), unable to walk or to talk. She has been subject since to what her mother calls sieges, when she foams at the mouth and jumps up and down. Though Linda has improved slightly over the past two years, the damage is permanent.

It's such a familiar story, give or take a detail, that people who care about lead poisoning aren't so much saddened as enraged. A man-made preventable disease, without even a bad gene or a virus to blame, goes on hitting children like Linda year after year.

Two things make lead poisoning a disease of the slums. One is that paint, flaking from old walls, is apt to be high in lead (though top coats from the last 20 years were probably done with lead-free paint).

The other is that children from the old housing, "lead-belt" areas tend to have pica, which is an appetite for things that are not food. A classic study on pica was made during the mid-Fifties at Childrens Hospital, linking the disease with emotional needs. Mothers of children with pica, it was found, either worked away from the home during the day and or were themselves dependent, perhaps depressed, persons, many of whom had pica and followed a Southern practice of eating clay and starch.

While infants normally explore the world by mouthing, many poor city children go at it compulsively and much beyond infancy, eating paper, string, putty, cloth or ashes. By preference, the children may concentrate on paint and plaster sweetly flavored with lead acetate. If they do, they need to take in only a small amount regularly—say a chip the size of a postage stamp several times a week for two months—to have downed a lethal dose.

Linda, according to her mother, not only ate the crumbles of plaster and paint that fell from behind the radiator, she chewed her way along the living room window sill and up and down the door jamb. To this day Linda swoops down on bits of broken glass. She swallows cigaret butts, matches, newspaper, when she can get them. And she shoves a chest over to her bedroom window to reach the paint around the upper panes.

No one caught the early signs of Linda's poisoning. There may not have been any. Or there may have been irritability, drowsiness, a little constipation or diarrhea—a cluster of symptoms as one doctor remarked that could describe half the city's kids in summertime.

In the advanced stage the symptoms mimic those of other diseases, so that only a doctor attuned to the possibility of lead poisoning finds it and even he must order a specific test for lead to be sure. Most doctors, perhaps nine out of ten, don't think of lead even when a child enters the hospital in a coma or convulsions. They may treat the child for seizures and send him home again when he gets well.

A further troublesome characteristic of the disease is that it keeps an unpredictable time table. It goes from gut to soft tissue to bone and may then be released into the blood quite suddenly, setting off an acute attack when the child hasn't swallowed any lead for months.

Once the disease is spotted for certain, however, the treatment is known. The patient should be hospitalized, thus removing him from the source of lead; then he is given a series of injections of agents which draw lead from the blood into the urine.

Even with the best treatment though, five percent of the hard-hit children die. One quarter of the children who recover are brain damaged. And virtually all who have recurrences are, like Linda, severely brain damaged. The reason for recurrences is not hard to spot. Once the children are released, lead-free, from the hospital, they return to the environment in which they first contracted the disease, and resume their old habits.

Because this deceptive disease has roots in rundown housing and poverty it takes a combined medical-legislative-administrative program to combat it. No such program has been undertaken in the Nation's Capital, though there are some signs that the pressure of publicity and legal action is beginning to get to the city's bureaucracy.

Childrens Hospital almost alone has been vigilant. The D.C. Department of Health has been slow to act either to alert health professionals and the public or to initiate a screening program among the city's 50,000 one-to-six-year-olds living in dilapidated housing. The Department of Licenses and Inspections has been slower, dragging its heels on even requesting regulations against lead paint from the City Council.

The few doctors and health officials working on the disease (none of them full time) are out of touch with each other for long periods of time. During the first half of this year, Washington's minimal procedures for attacking the disease broke down. Almost no one seemed to notice.

Most cases of lead poisoning go undetected. Estimates from a Rockefeller University conference on lead poisoning in New York last spring were that 225,000 children in the country are affected and that in New York City alone, where 700 children were treated last year, there are 5,000 children "endangered" by the lead level in their blood and 20,000 others "debilitated" by it.

In Washington, lead poisoning isn't even a notifiable disease—doctors don't have to report cases the way they do measles, for example. The Public Health Department doesn't know even how many *diagnosed* cases there are. Its books do show that for 1968, when its lab handled all the lead level tests for the city, 55 children from Childrens had dangerously high lead levels, eight from D.C. General and one from Freedmen's.

Childrens, which at least keeps a count, says it had 45 actual cases last year and 30 through September of this year. At D.C. General, Dr. T. Reichelderfer, chief of pediatrics, said in November, through his secretary, that he did not know how many cases he had either last year or this.

The guess offered by Malcolm Hope, associate director for environmental health in the Public Health Department, is that Washington has 500 lead poisoned children, more than 400 of whom, *if* his guess is correct, are unknowns.

When Rochester's Dr. Evan Charney addressed a lead workshop in St. Louis last year, sponsored by the Scientists' Institute for Public Information, he said flatly that the number of cases in a community depends on how hard people look. "If you live in an American city with a slum population and you don't have many cases of lead poisoning," Charney said, "then your health department isn't doing its job."

Some 15 years ago Childrens Hospital began its research into the causes and treatment of lead poisoning. One result was the hospital's pica clinic, set up by Dr. Reginald Lourie in 1955.

The new clinic's routine was to seek out children with pica and to test them for lead. Beyond medical service it offered help to the mothers in coping with their children's problem (in some cases funding nursery schools) and help in moving or getting rid of the paint hazard. Within the first years the number of cases seen at the hospital tripled. The number of deaths stayed about the same, but there were fewer and less severe recurrences.

Today the pica clinic continues to meet two Friday afternoons a month with about six patients and their mothers, and the staffs of the two Comprehensive Health Care clinics around the corner from the hospital follow their own pica cases with the same procedures.

Childrens still isn't doing enough, according to some. Dr. Fred Solomon, a pediatric psychiatrist at Howard University, charges that "it's professionally irresponsible for a hospital to do these marvelous studies and then to keep treating a preventable disease without trotting down to Congress to do something about it."

Dr. George Cohen, the likable, generously mustachioed physician who has headed the pica clinic for its 14 years, finds the accusation fair enough. He adds, though, that like everyone else working on lead poisoning he is very much part-time. And that by temperament he's "not a grantsman or a proselytizer. I've learned that about myself. I like to do the work."

He isn't convinced either that legislation is all that successful. "In Baltimore where the landlord can be forced to repaint," Cohen points out, "the family often moves out during the mess and then the whole matter may be dropped unless another child moves in and gets poisoned too."

Dr. Cohen thinks the answer is education—raising the level of suspicion throughout the community. That, and catching cases early. Cohen is embarked now on a pilot project to screen 100 siblings and neighbors of his present patients to learn whether in apparently symptom-free children he picks up enough evidence of lead poisoning to make a mass screening worth while.

And he is experimenting with testing techniques using hair and fingernails in the hope that he will come up with a simple, inexpensive indicator for lead poisoning that doesn't apply to 100 other things. The present test—to take a sample of blood or urine and analyze it for lead content—apparently is reliable but, as Cohen points out, it takes sophisticated equipment, highly trained technicians and about a full day to run the test in a laboratory. And the logistics of obtaining samples from large numbers of toddlers are imposing.

Dr. Jane Lin-Fu, of the Children's Bureau of the Department of Health, Education and Welfare, says her office is seeking the same ammunition by funding research into a micro-technique based on a finger prick of blood. She agrees with Cohen's priorities. "Until we get an instant mashed potato sort of thing," she says, "everyone's hands are tied."

It is worth pointing out, however, that one city, Chicago, has carried out a successful mass screening program using the present chemical blood test. Since 1966, Chicago has tested 160,000 children. Chicago simply put its manpower to the task, sending workers into the streets from 10 urban development centers to collect children for testing at public health clinics that are kept open nights and Saturdays.

Between 1955 and late last year the pica clinic at Childrens was about the only positive step made to combat the disease in the entire city. This, in spite of the fact that within the health bureaucracy there are individuals concerned about the disease and aware of the long-time, useless spinning of administrative wheels.

One of these individuals is Dudley Anderson, chief of accident prevention at the Public Health Department. Anderson came to Washington from Baltimore, which started moving against the problem 20 years ago. (Modestly, to be sure—at that time lead paint had to be removed from the building in which a child had died from the disease.)

Anderson, though, admits he finds the bureaucratic machinery hard to move on the simplest of matters, and lead poisoning, whatever else it is, is not a simple matter. In 1966 Anderson and the Health Department's lab chief submitted a $160,000 project, half the money to go for research in lead poisoning, half for a large-scale screening. The department turned down the request. Anderson says the disease simply did not have the appeal to win priority. "Here," he says, "we are always robbing Peter to pay Paul."

Labs chief Dr. G. W. H. Schepers has a less resilient attitude. A pathologist with a background of published lead research, Schepers has long been distressed by the increase of lead in the evironment. In normal brain tissue over a 30-year period he calculates it to be tenfold. He is scornful of the three grams of lead per gallon which "our badly made cars" spew into the city air. He speaks bitterly of the department's refusal to fund the research and screening project and of the meager use to which his lab has been put for testing lead levels.

In 1968 his chemist received 500 blood and urine samples for such tests, 450 of them from Childrens. "Now you know that's ridiculous," he says. "We should have handled ten times as many. I can only think," Schepers adds acidly, "people aren't much interested in lead."

One person more than casually interested in lead is a young doctor who doesn't even work in the field. He is Dr. John Mills, 29, a virologist at the National Institutes of Health and a member of the Medical Committee for Human Rights, a loosely structured group of activist health professionals characterized by Dr. Cohen as "good young fellows who don't mind kicking up some sand."

Mills simply assigned himself the task of shaking up the bureaucracy. It is to him, more than to any other individual, that credit is due for getting the District government to move—though the movement has been very slow indeed.

Mills participated in a successful stratagem to end run the bureaucracy by taking the matter to the courts. A young lawyer told the doctor of the tragic and typical case of Linda Peterson, and of the need for sharp medical facts. Mills went to the Peterson apartment, scraped paint chips from the walls with a pocket knife, and then had the paint chips tested for lead. He passed on the relevant medical information to the attorney, Herbert Muriel III. Last April, in the U.S. District Court for D.C., Muriel won from the landlord $70,000 in damages for his client.

Muriel says now that although he knew of only two similar cases prior to his and none in Washington, he never had any doubts about the case. "Article 260 section 2605 of the D.C. housing regulations states that a landlord must remove loose or peeling wall covering or paint on interior surfaces."

Muriel also remembers with a kind of wry amusement taking a deposition from the landlord. "When I asked her, 'Do you own the property at 5509 9th St. NW?' she had to ask her lawyer, 'Do I?' before she answered, 'Yes.' "

The money won in court will not undo the damage done to Linda. It may, in fact, be eaten up by the costs of putting the child in an institution, should that become necessary. But even the threat of such damage suits may convince a lot of landlords to remove the old lead paint.

In a more direct approach, more than a year ago Mills brought together Dr. Cohen, officials from Public Health and from the housing division of the Department of Licenses and Inspections—the people who work on lead poisoning in the city but who hadn't talked to each other for months. "I thought

it would be useful," Mills says, reviewing what he did, "to put together a program graded from Essential to Wouldn't-It-Be-Nice."

Among suggestions for the future were: city regulations against lead paint, public information, pica clinics for all D.C. hospitals serving children, mass screening or at least a screening of all one to three-year-olds coming from old houses who are presently hospitalized or who are being seen in clinics.

Agreed upon as immediately essential was a reporting system: all cases of lead poisoning to be reported by doctors to the housing inspectors who then would collect paint samples for testing at the Public Health lab and, where necessary, order the landlord to remove the lead paint.

The procedure was circuitous. But at least it gave doctors some control over their patients' environment. (Health would like to have done the whole job up to action against the landlord but lost out to Inspections, which claimed the exclusive right to go into the homes.) This was in November, 1968. Eight months later this "immediately essential" procedure had not begun to work.

In July Dr. Bonnie Peacock, serving her first year with the Child Health Center on W Street near Childrens, got it started by threatening a tantrum. She demanded to be told what the city's health officials would be willing to recognize as an emergency if not what she had at the time.

What she had, at Childrens, were four patients, all suffering from lead poisoning and all from the same address—1330 U St. NW. She had Maurice Peele, Melissa Johnson and the two Cooper children, MacArthur Jr., and Natalie, 18 months old and hospitalized for the third time in six months. Dr. Peacock also was treating 16 other patients for lead poisoning at the time. Over the past eight months she had requested paint analyses from the Health Department lab for each one, without getting a single response.

Both Cooper children were ready to be released though it was unthinkable to return them to their apartment. The mother had broken down over the suggestion of a convalescent home. The family hadn't money for a move. And the landlord, Leslie Hayes, at a request for repairs had in turn hollered at the Coopers that he wasn't their babysitter, sent a painter to spray over the flaking radiator with a $1.10 can of paint, and threatened to raise the rent or put the family out.

Dr. Peacock's explosion surfaced the news that the Department of Licenses and Inspections had assigned only one of its housing inspectors to collect paint samples. He was away on two weeks leave. (This inspector later explained to a reporter his backlog of paint requests by saying he only did them in the course of other inspections in the same neighborhood. "I'm not supposed to use a lot of gas," he said.)

Anderson, at Health, was appealed to next. He had no authority to enter a home, but he arranged for the health lab's analytic chemist to accompany an inspector to the U Street address and to show him how to collect samples.

Within two days the teaspoonfuls of paint were slipped into envelopes, labeled and tested. The lab chemist leached out the lead content, measured it with an atomic absorption spectrophotometer and telephoned his findings: for the Coopers' apartment, four percent lead. (One half teaspoon of that contains 220 micrograms of lead, or 40 times a child's safe absorption, though the body in any case can't absorb anywhere near that much lead at one time.)

Under broad regulations against hazardous conditions, the L&I department ordered the landlord to remove within 18 days all the paint from the bedroom windowsill and the living room walls, which were found on repeat tests to be 16 percent lead. The landlord, declaring himself to be a sorely injured party, complied.

The landlord has a point. In many cases he didn't put on the offending paint. And getting it off is both tricky and expensive. Sanding sends up a cloud of toxic dust. Burning makes fumes and is a hazard in itself. The method favored by George Erickson at the Department of Housing and Urban Development, who seems to have done the only effective worrying about the problem in the city, is to use a water rinsable solvent, then apply a steamer (the kind that's rented for wallpaper removal) and scrape off the loosened paint with a wide knife. He thinks the technical people ought to come up with something better. Paint removal, his way, costs about $100 a room.

The case for a city-wide paint removal program, however, is compelling not only from the humanitarian point of view. It also would make economic sense. A Baltimore chart lists costs as: paint removal for a row house from $250 to $1,200; treatment for lead-poisoned child $1,800; treatment of a child with moderate brain damage $17,000, or severe brain damage $222,000.

Under the circumstances some kind of tax credit might be an appropriate incentive to the landlord, health officials feel, or a large-scale paint removal job covering a neighborhood might be contracted out to local labor. "We can't rule that out," says one official, "just because we'd be improving somebody's property."

Just as Dr. Peacock's agitated call a number of things have happened here, including a lively flow of paint chips through the health lab and a series of seminars put on by Public Health for the housing inspectors. At the first of the seminars Carroll Swanson, acting housing administrator, announced that paint inspections would get top priority and that inspectors would be trained to spot pica or chewed paint in the course of their rounds and to make referrals to the Public Health nurse.

Swanson has also announced that his department is drafting for the City Council regulations requiring the removal of lead paint where it's accessible to children. The date when these may be expected has been moved up several times, to Jan. 1.

Thus there are some signs that Washington is moving against what has been called the silent epidemic. But Washington, just as other cities, has a long way to go.

The disease now is well enough known that bills to combat it have been introduced in Congress. Rep. William Ryan, D-N.Y., has introduced three bills in the House, one to fund lead poisoning detection and treatment programs, the other two having to do with eliminating lead paint from old housing. In the Senate, Sen. Ted Kennedy, D-Mass., is sponsoring similar legislation.

But the disease still is so little known that these bills are given very little chance to be enacted into law.

Meanwhile, there will be more cases like that of Linda Peterson. Many of them—perhaps most of them—will go completely undetected or will be diagnosed incorrectly.

It is pertinent to recall a report written by Dr. Lourie of Childrens Hospital, over a decade ago. "We saw the same children over and over again being brought in for de-leading," Lourie wrote, "and each time with evidence of more residual brain damage. We were seeing mental retardates and institutional vegetables created right under our eyes."

And it is pertinent to recall that, as of now, many children suffering from the disease are not even lucky enough to be taken to Childrens Hospital.

THE NEW CONSERVATION

Mr. NELSON. Mr. President, on November 19, 1969, I introduced the Environmental Quality Education Act, which now has the cosponsorship of 14 Senators. The main purpose of the proposed legislation to emphasize the educational side of our environmental crisis. We cannot improve the quality of our environment and our lives by simply relying on technological solutions. We have to increase our understanding of this crisis and expand the conservation constituency through bold and innovative programs in education. We have to establish the goal of developing a new conservation ethic.

This implies that attitudes and values are in need of review, change, or revision. Education, I believe, is the best way to encourage such a change in a democratic society.

Dr. Lynn White, Jr., has touched on many of these crucial values which demand soul-searching in his provocative article entitled "The Historical Roots of Our Ecological Crisis," published in Science magazine.

Dr. White maintains that many facets of our ecological crisis are rooted in or derived from our Judeo-Christian heritage. He says:

> By destroying pagan animism, Christianity made it possible to exploit nature in a mood of indifference to the feelings of natural objects. What we do about ecology depends on our ideas of the man-nature relationship.

But the ecological crisis will continue, he concludes, until we reject the idea that nature has no reason for existence save to serve man.

Man has the capacity to distort and destroy his environment to the point where he will, in a short time, eliminate himself. Man is an endangered specie. He is part of the environment. He can no longer exploit, manage, and use our natural resources with the same impunity as in the past.

Human ecology, the heart of a national program in environmental education, will improve the quality of our lives by teaching us how to listen to the environment and heed its warnings. This is the path to the new conservation.

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

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

THE HISTORICAL ROOTS OF OUR ECOLOGIC CRISIS

(By Lynn White, Jr.)[1]

A conversation with Aldous Huxley not infrequently put one at the receiving end of an unforgettable monologue. About a year before his lamented death he was discoursing on a favorite topic: Man's unnatural treatment of nature and its sad results. To illustrate his point he told how, during the previous summer, he had returned to a little valley in England where he had spent many happy months as a child. Once it had been composed of delightful grassy glades; now it was becoming overgrown with unsightly brush because the rabbits that formerly kept such growth under control had largely succumbed to a disease, myxomatosis, that was

[1] The author is professor of history at the University of California, Los Angeles. This is the text of a lecture delivered December 26, 1966, at the Washington meeting of the AAAS.

deliberately introduced by the local farmers to reduce the rabbits' destruction of crops. Being something of a Philistine, I could be silent no longer, even in the interests of great rhetoric. I interrupted to point out that the rabbit itself had been brought as a domestic animal to England in 1176, presumably to improve the protein diet of the peasantry.

All forms of life modify their contexts. The most spectacular and benign instance is doubtless the coral polyp. By serving its own ends, it has created a vast undersea world favorable to thousands of other kinds of animals and plants. Ever since man became a numerous species he has affected his environment notably. The hypothesis that fire-drive method of hunting created the world's great grasslands and helped to exterminate the monster mammals of the Pleistocene from much of the globe is plausible, if not proved. For 6 millennia at least, the banks of the lower Nile have been a human artifact rather than the swampy African jungle which nature, apart from man, would have made it. The Aswan Dam, flooding 5000 square miles, is only the latest stage in a long process. In many regions terracing or irrigation, overgrazing, the cutting of forests by Romans to build ships to fight Carthaginians or by Crusaders to solve the logistics problems of their expeditions, have profoundly changed some ecologies. Observation that the French landscape falls into two basic types, the open fields of the north and the *bocage* of the south and west, inspired Marc Bloch to undertake his classic study of medieval agricultural methods. Quite unintentionally, changes in human ways often affect nonhuman nature. It has been noted, for example, that the advent of the automobile eliminated huge flocks of sparrows that once fed on the horse manure littering every street.

The history of ecologic change is still so rudimentary that we know little about what really happened, or what the results were. The extinction of the European aurochs as late as 1627 would seem to have been a simple case of overenthusiastic hunting. On more intricate matters it often is impossible to find solid information. For a thousand years or more the Frisians and Hollanders have been pushing back the North Sea, and the process is culminating in our own time in the reclamation of the Zuider Zee. What, if any, species of animals, birds, fish, shore life, or plants have died out in the process? In their epic combat with Neptune have the Netherlanders overlooked ecological values in such a way that the quality of human life in the Netherlands has suffered? I cannot discover that the questions have ever been asked, much less answered.

People, then, have often been a dynamic element in their own environment, but in the present state of historical scholarship we usually do not know exactly when, where, or with what effects man-induced changes came. As we enter the last third of the 20th century, however, concern for the problem of ecologic backlash is mounting feverishly. Natural science, conceived as the effort to understand the nature of things, had flourished in several eras and among several peoples. Similarly there had been an age-old accumulation of technological skills, sometimes growing rapidly, sometimes slowly. But it was not until about four generations ago that Western Europe and North America arranged a marriage between science and technology, a union of the theoretical and the empirical approaches to our natural environment. The emergence in widespread practice of the Baconian creed that scientific knowledge means technological power over nature can scarcely be dated before about 1850, save in the chemical industries, where it is anticipated in the 18th century. Its acceptance as a normal pattern of action may mark the greatest event in human history since the invention of agriculture, and perhaps in nonhuman terrestrial history as well.

Almost at once the new situation forced the crystallization of the novel concept of ecology; indeed, the word *ecology* first appeared in the English language in 1873. Today, less than a century later, the impact of our race upon the environment has so increased in force that it has changed in essence. When the first cannons were fired, in the early 14th century, they affected ecology by sending workers scrambling to the forests and mountains for more potash, sulfur, iron ore, and charcoal, with some resulting erosion and deforestation. Hydrogen bombs are of a different order: and fought with them might alter the genetics of all life on this planet. By 1285 London had a smog problem arising from the burning of soft coal, but our present combustion of fossil fuels threatens to change the chemistry of the globe's atmosphere as a whole, with consequences which we are only beginning to guess. With the population explosion, the carcinoma of planless urbanism, the now geological deposits of sewage and garbage, surely no creature other than man has ever managed to foul its nest in such short order.

There are many calls to action, but specific proposals, however worthy as individual items, seem too partial, palliative, negative: ban the bomb, tear down the billboards, give the Hindus contraceptives and tell them to eat their sacred cows. The simplest solution to any suspect change is, of course, to stop it, or, better yet, to revert to a romanticized past: make those ugly gasoline stations look like Anne Hathaway's cottage or (in the Far West) like ghost-town saloons. The "wilderness area" mentality invariably advocates deep-freezing an ecology, whether San Gimignano or the High Sierra, as it was before the first Kleenex was dropped. But neither atavism nor prettification will cope with the ecologic crisis of our time.

What shall we do? No one yet knows. Unless we think about fundamentals, our specific measures may produce new backlashes more serious than those they are designed to remedy.

As a beginning we should try to clarify our thinking by looking, in some historical depth, at the presuppositions that underlie modern technology and science. Science was traditionally aristocratic, speculative, intellectual in intent; technology was lower-class, empirical, action-oriented. The quite sudden fusion of these two, towards the middle of the 19th century, is surely related to the slightly prior and contemporary democratic revolutions which, by reducing social barriers, tended to assert a functional unity of brain and hand. Our ecologic crisis is the product of an emerging, entirely novel, democratic culture. The issue is whether a democratized world can survive its own implications. Presumably we cannot unless we rethink our axioms.

THE WESTERN TRADITIONS OF TECHNOLOGY AND SCIENCE

One thing is so certain that it seems stupid to verbalize it: both modern technology and modern science are distinctively Occidental. Our technology has absorbed elements from all over the world, notably from China; yet everywhere today, whether in Japan or in Nigeria, successful technology is Western. Our science is the heir to all the sciences of the past, especially perhaps to the work of the great Islamic scientists of the Middle Ages, who so often outdid the ancient Greeks in skill and perspicacity: al-Razi in medicine, for example; or ibnal-Haytham in optics; or Omar Khyyám in mathematics. Indeed, not a few works of such geniuses seem to have vanished in the original Arabic and to survive only in medieval Latin translations that helped to lay the foundations for later Western developments. Today, around the globe, all significant science is Western in style and method, whatever the pigmentation or language of the scientists.

A second pair of facts is less well recognized because they result from quite recent historical scholarship. The leadership of the West, both in technology and in science, is far older than the so-called Scientific Revolution of the 17th century or the so-called Industrial Revolution of the 18th century. These terms are in fact outmoded and obscure the true nature of what they try to describe—significant stages in two long and separate developments. By A.D. 1000 at the latest—and perhaps, feebly, as much as 200 years earlier—the West began to apply water power to industrial processes other than milling grain. This was followed in the late 12th century by the harnessing of wind power. From simple beginnings, but with remarkable consistency of style, the West rapidly expanded its skills in the development of power machinery, labor-saving devices, and automation. Those who doubt should contemplate that most monumental achievement in the history of automation: the weight-driven mechanical clock, which appeared in two forms in the early 14th century. Not in craftsmanship but in basic technological capacity, the Latin West of the later Middle Ages far outstripped its elaborate, sophisticated, and esthetically magnificent sister cultures, Byzantium and Islam. In 1444 a great Greek ecclesiastic, Bessarion, who had gone to Italy, wrote a letter to a prince in Greece. He is amazed by the superiority of western ships, arms, textiles, glass. But above all he is astonished by the spectable of water wheels sawing timbers and pumping the bellows of blast furnaces. Clearly, he had seen nothing of the sort in the Near East.

By the end of the 15th century the technological superiority of Europe was such that its small, mutually hostile nations could spill out over all the rest of the world, conquering, looting, and colonizing. The symbol of this technological superiority is the fact that Portugal, one of the weakest states of the Occident, was able to become, and to remain for a century, mistress of the East Indies. And we must remember that the technology of Vasco da Gama and Albuquerque was built by pure empiricism, drawing remarkably little support or inspiration from science.

In the present-day vernacular understanding, modern science is supposed to have begun in 1543, when both Copernicus and Vesalius published their great works. It is no derogation of their accomplishments, however, to point out that such structures as the *Fabrica* and the *De revolutionibus* do not appear overnight. The distinctive Western tradition of science, in fact, began in the late 11th century with a massive movement of translation of Arabic and Greek scientific works into Latin. A few notable books—Theophrastus, for example—escaped the West's avid new appetite for science, but within less than 200 years effectively the entire corpus of Greek and Muslim science was available in Latin, and was being eagerly read and criticized in the new European universities. Out of criticism arose new observation, speculation, and increasing distrust of ancient authorities. By the late 13th century Europe had seized global scientific leadership from the faltering hands of Islam. It would be as absurd to deny the profound originality of Newton, Galileo, or Copernicus as to deny that of the 14th century scholastic scientists like Buridan or Oresme on whose work they built. Before the 11th century, science scarcely existed in the Latin West, even in Roman times. From the 11th century onward, the scientific sector of Occidental culture has increased in a steady crescendo.

Since both our technological and our scientific movement got their start, acquired their character, and achieved world dominance in the Middle Ages, it would seem that

we cannot understand their nature or their present impact upon ecology without examining fundamental medieval assumptions and developments.

MEDIEVAL VIEW OF MAN AND NATURE

Until recently, agriculture has been the chief occupation even in "advanced" societies; hence, any change in methods of tillage has much importance. Early plows, drawn by two oxen, did not normally turn the sod but merely scratched it. Thus, cross-plowing was needed and fields tended to be squarish. In the fairly light soils and semiarid climates of the Near East and Mediterranean, this worked well. But such a plow was inappropriate to the wet climate and often sticky soils of northern Europe. By the latter part of the 7th century after Christ, however, following obscure beginnings, certain northern peasants were using an entirely new kind of plow, equipped with a vertical knife to cut the line of the furrow, a horizontal share to slice under the sod, and a moldboard to turn it over. The friction of this plow with the soil was so great that it normally required not two but eight oxen. It attacked the land with such violence that cross-plowing was not needed, and fields tended to be shaped in long strips.

In the days of the scratch-plow, fields were distributed generally in units capable of supporting a single family. Subsistence farming was the presupposition. But no peasant owned eight oxen: to use the new and more efficient plow, peasants pooled their oxen to form large plow-teams, originally receiving (it would appear) plowed strips in proportion to their contribution. Thus, distribution of land was based no longer on the needs of a family but, rather, on the capacity of a power machine to till the earth. Man's relation to the soil was profoundly changed. Formerly man had been part of nature; now he was the exploiter of nature. Nowhere else in the world did farmers develop any analogous agricultural implement. Is it coincidence that modern technology, with its ruthlessness toward nature, has so largely been produced by descendants of these peasants of northern Europe?

This same exploitive attitude appears slightly before A.D. 830 in Western illustrated calendars. In older calendars the months were shown as passive personfications. The new Frankish calendars, which set the style for the Middle Ages, are very different: they show men coercing the world around them—plowing, harvesting, chopping trees, butchering pigs. Man and nature are two things, and man is master.

These novelties seem to be in harmony with larger intellectual patterns. What people do about their ecology depends on what they think about themselves in relation to things around them. Human ecology is deeply conditioned by beliefs about our nature and destiny—that is, by religion. To Western eyes this is very evident in, say India or Ceylon. It is equally true of ourselves and of our medieval ancestors.

The victory of Christianity over paganism was the greatest psychic revolution in the history of our culture. It has become fashionable today to say that, for better or worse, we live in "the post-Christian age." Certainly the forms of our thinking and language have largely ceased to be Christian, but to my eye the substance often remains amazingly akin to that of the past. Our daily habits of action, for example, are dominated by an implicit faith in perpetual progress which was unknown either to Greco-Roman antiquity or to the Orient. It is rooted in, and is indefensible apart from, Judo-Christian teleology. The fact that Communists share it merely helps to show what can be demonstrated on many other grounds: that Marxism, like Islam, is a Judeo-Christian heresy. We continue today to live, as we have lived for about 1700 years, very largely in a context of Christian axioms.

What did Christianity tell people about their relations with the environment?

While many of the world's mythologies provide stories of creation, Greco-Roman mythology was singularly incoherent in this respect. Like Aristotle, the intellectuals of the ancient West denied that the visible world had had a beginning. Indeed, the idea of a beginning was impossible in the framework of their cyclical notion of time. In sharp contrast, Christianity inherited from Judaism not only a concept of time as nonrepetitive and linear but also a striking story of creation. By gradual stages a loving and all-powerful God had created light and darkness, the heavenly bodies, the earth and all its plants, animals, birds, and fishes. Finally, God had created Adam and, as an afterthought, Eve to keep man from being lonely. Man named all the animals, thus establishing his dominance over them. God planned all of this explicitly for man's benefit and rule; no item in the physical creation had any purpose save to serve man's purposes. And, although man's body is made of clay, he is not simply part of nature; he is made in God's image.

Especially in its Western form, Christianity is the most anthropocentric religion the world has seen. As early as the 2nd century both Tertullian and Saint Irenaeus of Lyons were insisting that when God shaped Adam he was foreshadowing the image of the incarnate Christ, the Second Adam. Man shares in great measure God's transcendence of nature. Christianity, in absolute contrast to ancient paganism and Asia's religions (except, perhaps, Zoroastrianism), not only established a dualism of man and nature but also insisted that it is God's will that man exploit nature for his proper ends.

At the level of the common people this worked out in an interesting way. In Antiquity every tree, every spring, every stream, every hill had its own *genius loci*, its guardian spirit. These spirits were accessible to men, but were very unlike men; centaurs, fauns, and mermaids show their ambivalence. Before one cut a tree, mined a mountain, or dammed a brook, it was important to placate the spirit in charge of that particular situation, and to keep it placated. By destroying pagan animism, Christianity made it possible to exploit nature in a mood of indifference to the feelings of natural objects.

It is often said that for animism the Church substituted the cult of saints. True; but the cult of saints is functionally quite different from animism. The saint is not *in* natural objects; he may have special shrines, but his citizenship is in heaven. Moreover, a saint is entirely a man; he can be approached in human terms. In addition to saints, Christianity of course also had angels and demons inherited from Judaism and perhaps, at one remove, from Zoroastrianism. But these were all as mobile as the saints themselves. The spirits *in* natural objects, which formerly had protected nature from man, evaporated. Man's effective monopoly on spirit in this world was confirmed, and the old inhibitions to the exploitation of nature crumbled.

When one speaks in such sweeping terms, a note of caution is in order. Christianity is a complex faith, and its consequences differ in differing contexts. What I have said may well apply to the medieval West, where in fact technology made spectacular advances. But the Greek East, a highly civilized realm of equal Christian devotion, seems to have produced no marked technological innovation after the late 7th century, when Greek fire was invented. The key to the contrast may perhaps be found in a difference in the tonality of piety and thought which students of comparative theology find between the Greek and the Latin Churches. The Greeks believed that sin was intellectual blindness, and that salvation was found in illumination, orthodoxy—that is, clear thinking. The Latins, on the other hand, felt that sin was moral evil, and that salvation was to be found in right conduct. Eastern theology has been intellectualist. Western theology has been voluntarist. The Greek saint contemplates; the Western saint acts. The implications of Christianity for the conquest of nature would emerge more easily in the Western atmosphere.

The Christian dogma of creation, which is found in the first clause of all the Creeds, has another meaning for our comprehension of today's ecologic crisis. By revelation, God had given man the Bible, the Book of Scripture. But since God had made nature, nature also must reveal the divine mentality. The religious study of nature for the better understanding of God was known as natural theology. In the early Church, and always in the Greek East, nature was conceived primarily as a symbolic system through which God speaks to men: the ant is a sermon to sluggards; rising flames are the symbol of the soul's aspiration. This view of nature was essentially artistic rather than scientific. While Byzantium preserved and copied great numbers of ancient Greek scientific texts, science as we conceive it could scarcely flourish in such an ambience.

However, in the Latin West by the early 13th century natural theology was following a very different bent. It was ceasing to be the decoding of the physical symbols of God's communication with man and was becoming the effort to understand God's mind by discovering how his creation operates. The rainbow was no longer simply a symbol of hope first sent to Noah after the Deluge: Robert Grosseteste, Friar Roger Bacon, and Theodoric of Freiberg produced startlingly sophisticated work on the optics of the rainbow, but they did it as a venture in religious understanding. From the 13th century onward, up to and including Leibnitz and Newton, every major scientist, in effect, explained his motivations in religious terms. Indeed, if Galileo had not been so expert an amateur theologian he would have got into far less trouble: the professionals resented his intrusion. And Newton seems to have regarded himself more as a theologian than as a scientist. It was not until the late 18th century that the hypothesis of God became unnecessary to many scientists.

It is often hard for the historian to judge when men explain why they are doing what they want to do, whether they are offering real reasons or merely culturally acceptable reasons. The consistency with which scientists during the long formative centuries of Western science said that the task and the reward of the scientist was "to think God's thoughts after him" leads one to believe that this was their real motivation. If so, then modern Western science was cast in a matrix of Christian theology. The dynamism of religious devotion, shaped by the Judeo-Christian dogma of creation, gave it impetus.

AN ALTERNATIVE CHRISTIAN VIEW

We would seem to be headed toward conclusions unpalatable to many Christians. Since both *science* and *technology* are blessed words in our contemporary vocabulary, some may be happy at the notions, first, that, viewed historically, modern science is an extrapolation of natural theology and, second, that modern technology is at least partly to be explained as an Occidental, voluntarist realization of the Christian dogma of man's transcendence of, and rightful mastery over, nature. But, as we now recognize, somewhat over a century ago science and technology—hitherto quite separate activities—joined to give mankind powers which, to judge by many of the ecologic effects, are out of control. If so, Christianity bears a huge burden of guilt.

I personally doubt that disastrous ecologic backlash can be avoided simply by applying to our problems more science and more tech-

nology. Our science and technology have grown out of Christian attitudes toward man's relation to nature which are almost universally held not only by Christians and neo-Christians but also by those who fondly regard themselves as post-Christians. Despite Copernicus, all the cosmos rotates around our little globe. Despite Darwin, we are *not*, in our hearts, part of the natural process. We are superior to nature, contemptuous of it, willing to use it for our slightest whim. The newly elected Governor of California, like myself a churchman but less troubled than I, spoke for the Christian tradition when he said (as is alleged), "when you've seen one red-wood tree, you've seen them all." To a Christian a tree can be more than a physical fact. The whole concept of the sacred grove is alien to Christianity and to the ethos of the West. For nearly 2 millennia Christian missionaries have been chopping down sacred groves, which are idolatrous because they assume spirit in nature.

What we do about ecology depends on our ideas of the man-nature relationship. More science and more technology are not going to get us out of the present ecologic crisis until we find a new religion, or rethink our old one. The beatniks, who are the basic revolutionaries of our time, show a sound instinct in their affinity for Zen Buddhism, which conceives of the man-nature relationship as very nearly the mirror image of the Christian view. Zen, however, is as deeply conditioned by Asian history as Christianity is by the experience of the West, and I am dubious of its viability among us.

Possibly we should ponder the greatest radical in Christian history since Christ: Saint Francis of Assisi. The prime miracle of Saint Francis is the fact that he did not end at the stake, as many of his left-wing followers did. He was so clearly heretical that a General of the Franciscan Order, Saint Bonaventura, a great and perceptive Christian, tried to suppress the early accounts of Franciscanism. The key to an understanding of Francis is his belief in the virtue of humility—not merely for the individual but for man as a species. Francis tried to depose man from his monarchy over creation and set up a democracy of all God's creatures. With him the ant is no longer simply a homily for the lazy, flames a sign of the thrust of the soul toward union with God; now they are Brother Ant and Sister Fire, praising the Creator in their own ways as Brother Man does in his.

Later commentators have said that Francis preached to the birds as a rebuke to men who would not listen. The records do not read so: he urged the little birds to praise God, and in spiritual ecstasy they flapped their wings and chirped rejoicing. Legends of saints, especially the Irish saints, had long told of their dealings with animals but always, I believe, to show their human dominance over creatures. With Francis it is different. The land around Gubbio in the Apennines was being ravaged by a fierce wolf. Saint Francis, says the legend, talked to the wolf and persuaded him of the error of his ways. The wolf repented, died in the odor of sanctity, and was buried in consecrated ground.

What Sir Steven Ruciman calls "the Franciscan doctrine of the animal soul" was quickly stamped out. Quite possibly it was in part inspired, consciously or unconsciously, by the belief in reincarnation held by the Cathar heretics who at that time teemed in Italy and southern France, and who presumably had got it originally from India. It is significant that at just the same moment, about 1200, traces of metempsychosis are found also in western Judaism, in the Provencal *Cabbala*. But Francis held neither to transmigration of souls nor to pantheism. His view of nature and of man rested on a unique sort of pan-psychism of all things animate and inanimate, designed for the glorification of their transcendent Creator, who, in the ultimate gesture of cosmic humility, assumed flesh, lay helpless in a manger, and hung dying on a scaffold.

I am not suggesting that many contemporary Americans who are concerned about our ecologic crisis will be either able or willing to counsel with wolves or exhort birds. However, the present increasing disruption of the global environment is the product of a dynamic technology and science which were originating in the Western medieval world against which Saint Francis was rebelling in so original a way. Their growth cannot be understood historically apart from distinctive attitudes toward nature which are deeply grounded in Christian dogma. The fact that most people do not think of these attitudes as Christian is irrelevant. No new set of basic values has been accepted in our society to displace those of Christianity. Hence we shall continue to have a worsening ecologic crisis until we reject the Christian axiom that nature has no reason for existence save to serve man.

The greatest spiritual revolutionary in Western history, Saint Francis, proposed what he thought was an alternative Christian view of nature and man's relation to it: he tried to substitute the idea of the equality of all creatures, including man, for the idea of man's limitless rule of creation. He failed. Both our present science and our present technology are so tinctured with orthodox Christian arrogance toward nature that no solution for our ecologic crisis can be expected from them alone. Since the roots of our trouble are so largely religious, the remedy must also be essentially religious, whether we call it that or not. We must rethink and refeel our nature and destiny The profoundly religious, but heretical, sense of the primitive Franciscans for the spiritual autonomy of all parts of nature may point a direction. I propose Francis as a patron saint for ecologists.

SALUTE TO UNDERWRITERS LABORATORIES

Mr. SMITH of Illinois. Mr. President, permit me to ask that you grant me your attention for a few moments to discourse briefly on a subject having to do with life, liberty, and the pursuit of happiness. I shall not digress beyond that theme but do wish, because it is important, to trace the growth in the United States of the science and technology of preservation as it has a bearing on the welfare of all of the people of our great country.

If, as I stand before you, I seem more erect, or my chest expands beyond its norm, it will be the result of pride. For what I want to talk about originated in my own dear State of Illinois, whence it has grown to national and international importance.

It is a sad but true fact that our lives today are exceedingly complex: That the pressures on us all and the demands on our time are almost more than anyone can cope with. The days flee by with much left undone and only the most pressing matters handled. As a result, we fail sometimes, nay, frequently, to take cognizance of, to recognize, to appreciate how well off we are and why.

The fire siren in the night causes shudders of fear. But when the siren is silent there is no thought of fire. A burglary makes headlines. But when our possessions are secure in home or bank or store or museum, there is no news story.

Which, I ask, which, is the greater story?

Senators will not find in any compilation of statistics how many millions of people have had no accidents; how many billions of dollars of buildings and contents did not burn; how many homes, offices, and other places had no thefts.

I think there is no question as to which is the bigger story.

Happenstance? Not at all.

Will of God? I doubt it.

Planned? Yes. Definitely.

It came about in this manner:

In 1893, the world was dazzled by a spectacular display of a new kind of electric lighting which illuminated the interior and exterior of the buildings of the Great Columbian Exposition at Chicago—the first large-scale public use of Thomas Edison's invention: the incandescent electric lamp. The effect enchanted all who saw it, and those who only saw pictures or heard about it were also enthralled.

That, Mr. President, was the opening of a new era—a new era for better things for mankind.

But all was not completely serene at the exposition. The novel wiring and equipment caused sporadic fires. Especially vulnerable was the grand Palace of Electricity. Romanesque in design, indestructible in appearance, it was actually a flammable shell of jute fire and plaster, crisscrossed by a series of new and untried electrical hookups.

At this point in history there appeared on the scene an engineer named William Henry Merrill, who was hired to find the reasons for these electrical fires and to prevent them.

As well as being an excellent engineer, Merrill must have been a man of great foresight and imagination. Certainly he was a man with an idea for which the time was ripe.

Evidently he realized that this new form of electricity would revolutionize the world. Perhaps he also envisioned the enormous, emerging technological explosion which was to take place in many fields. At any rate, he had the wisdom to see the opportunity, yes, and the need, to employ science to limit the destructiveness of science.

So, after finishing his work at the Columbian Exposition, Merrill, with two assistants and $350 worth of scientific equipment, set up, over the horse stalls of a fire station in Chicago, a laboratory for the purpose of testing for safety. That was in 1894. Seventy-five years ago.

I stand before you relating this story for it is of great import. From that modest start 75 years ago has come the largest safety-testing organization in the world. I speak, of course, of Underwriters Laboratories, that unique and remarkably effective, independent public service organization which originated in my State, and from whose good works we all benefit in many ways, albeit unbeknown to most of us.

As I said at the beginning of this address, I would speak of life, liberty, and the pursuit of happiness. And that we should take stock of how well off we in the United States are, and why.

Senators will recall that in the last 75

years, our country has had the greatest social and technological development any country, in any time, has ever achieved. Our greater productivity has given us the highest gross national product and highest standard of living of any nation in the world. In our populous country, more people enjoy more comforts, conveniences, and pleasures than those in any other. As a people, we own more property, have more possessions, go more places than any other people in the world.

This means, of course, that we have more lives to lose, we have more property to burn or destroy, we have a greater exposure to the possibility of accidents. And taking all these factors into consideration, the remarkable and wonderful fact is that the United States is the safest country of all to live in.

Why? How did this come about?

Let me tell about it.

Simultaneously with the birth of Underwriters Laboratories 75 years ago, there has been developed in this country a safety network of highly specialized, related organizations and groups, the work of each of which complements, extends, and implements the work of the others. The eye, the center, the focal point of this safety network, on which the effectiveness of the whole depends, is Underwriters Laboratories.

The great contribution which Underwriters Laboratories has made to this outstanding national safety record begins with its exacting, technical work of developing safety standards that spell out how things you and I and our wives and children use, and should perform, if we are to give a good account of themselves and not, through some failure, endanger life, limb, or property.

It becomes apparent what a big order this is when we realize that the scope of this unique organization takes in, first, the prevention of the loss of lives and property by fire; second, the prevention of bodily injury and loss of lives from accidents; and, third, the prevention of loss of possessions by burglary, robbery, and theft.

To safeguard the public from this myriad of potential hazards, Underwriters Laboratories has, to date, developed and published 250 comprehensive safety standards on as many different broad subjects. These standards represent 75 years of work and untold thousands upon thousands of dedicated, expert man-hours, not only by UL engineers but by collaborating specialists in many fields of business, industry, and government. In the fields in which it works, no other safety organization in the world has produced so many standards to safeguard consumers.

The raison d'être for this great UL standard-making activity is, of course, the fact that for 75 years, more and more manfacturers of all sorts of devices, materials, and systems, wishing their output to be as free of hazard as is economically feasible, have sent their products to Underwriters Laboratories for tests to determine whether they meet the requirements of these widely recognized UL safety standards.

These standards are the guidelines for the extensive testing done by Underwriters Laboratories. To test such a vast variety and volume of products, UL has four large testing stations outfitted with the most modern scientific safety testing equipment in the world. These unique facilities are valued at $20 million—a far cry from Merrill's little $350 laboratory where it all started.

Staffing these facilities are nearly 2,000 trained and technical personnel, many of them professional engineers. This is the largest staff of its kind to be found anywhere, devoted exclusively to safety work. They test, in these facilities, upward of 26,000 new products each year.

One gets some idea of how extensively the work of Underwriters Laboratories protects all of our people when it is realized that today more than 800,000 different active catalog numbers of products in over 5,000 different categories have passed the tests and are being produced by 13,000 manufacturers. More than a million units of some single catalog numbers are produced in a year. And this has been going on in increasing volume for 75 years.

The third phase of UL's work, following standard making and testing, is inspection. The 450 UL inspectors, working out of nearly 200 U.S. cities and in 26 foreign countries, regularly visit the factories to determine that current production complies with the requirements of the safety standards. As many as 130,000 factory visits are made each year for the purpose of testing and inspecting products as they come off the production line, to check the manufacturer's own quality control procedure, and to supervise the placing of UL labels and insignia on products that pass. The number of products manufactured each year which carry the UL insignia to indicate they meet safety requirements runs into the billions.

The far-reaching results of Underwriters Laboratories work contribute importantly to the safety of all of us in the United States wherever we may be—at home, at work or at play. And our safety is further enhanced by the fact that the other Members of what I have called the safety network rely on and implement the findings of Underwriters Laboratories in such a way that throughout our great country we have a remarkable degree of safety for all our people.

We have fewer building fires because architects and engineers, in designing structures, specify materials and systems which have passed UL tests.

We have safer electrical installations because the National Electrical Code, the most universally adopted set of safety regulations in the land, calls for the use only of "recognized" wiring supplies and materials—which term is generally understood by contractors and inspectors to mean those which have passed UL tests.

We are safer wherever we reside or work or play because fire departments, building inspection departments, insurance inspectors, and other regulatory authorities of all divisions of Government throughout the United States, make an eflort to insist on products and materials which have passed UL tests.

We are wiser in our choices of what to purchase for enlightened consumers and most retailers know the meaning of the UL in a circle on appliances and many other consumer items.

And so it goes to increase our safety.

Time, the strictest judge of verity, has proved the correctness of Merrill's concept that science can limit the destructiveness of sience. As a result of what was started 75 years ago in my own native State of Illinois, as a result of the implementation of UL's work by the many members of the safety network, all of us in the United States are far safer than we might otherwise be.

I salute and congratulate Underwriters Laboratories on its accomplishments during its first three quarters of a century.

THE FOOTBALL SEASON CLIMAX

Mr. FULBRIGHT. Mr. President, I have observed that in recent days a number of Senators have risen to extoll the virtues of college football teams in their respective States.

I can well understand their pride, for indeed the teams of the University of Montana, Penn State, and the University of Michigan, among others, all have outstanding records.

I would merely point out, however, that we also play football in Arkansas.

I suspect that a number of Senators were reminded of this last week by the publicity surrounding the game between the University of Arkansas and the University of Texas. We were pleased to have a number of distinguished guests in our State for that game, including, of course, President Nixon.

To my regret the game did not end exactly as I would have liked, for Texas won by a 15 to 14 score. However, for much of the game it appeared that Arkansas would triumph, and it truly was a fitting climax for the 100th anniversary of collegiate football.

As as result of that loss, it was my pleasure to treat the Senators from Texas and their wives to a dinner of Arkansas pork spare ribs. I hope that next year we will be dining on Texas beef steak.

As a conclusion to their fine season, the Arkansas Razorbacks will meet the University of Mississippi in the Sugar Bowl on New Year's Day. I am sure that Coach Frank Broyles' team will once more perform in a manner which will make all Arkansans proud.

As Mr. Francis Stann, a sports writer for the Washington Evening Star, said:

> Arkansas-Texas was one game that lived up to its stupendous billing. It did little to further Penn State's claim to top ranking in the nation because if Texas is truly No. 1, Arkansas can't be far behind.

In addition to the Razorbacks, I would like to call attention to another fine Arkansas team—the Arkansas State University Indians.

For the second consecutive year the ASU Indians have won the Southland Conference championship. This year the Indians were undefeated in conference play. Last year they had no losses and only one tie in the conference.

I would like to point out that, as in

the case of Arkansas in the Southwest Conference, Arkansas State is the only non-Texas team in its league. However, I am pleased to note that the Arkansas teams are able to more than hold their own against the Texas clubs.

Coach Bennie Ellender's Arkansas State team will play Drake University in the Pecan Bowl on December 13 in Arlington, Tex. These two teams tied during the regular season and the bowl game should be a good one.

While I am on the subject of football, Mr. President, I would also like to offer my congratulations to Dan Pike of De Queen, Ark., and the U.S. Naval Academy; Terry Stewart of Fort Smith, Ark., and the University of Arkansas; and Charles Longnecker of Little Rock, Ark., and the U.S. Air Force Academy.

These three outstanding young men from Arkansas were among only 11 National Football Foundation Scholar-Athletes for 1969. They were selected for outstanding football ability, combined with academic achievement and leadership.

Along with all Arkansans, I am proud of the remarkable records that these three have made.

TOWARD AN HONORABLE PEACE

Mr. MURPHY. Mr. President, since President Nixon stated the administration's objectives and plans relative to Vietnam, a great many Californians have sent me letters and telegrams expressing their support of the President and our wonderful country. Their views on this most important matter are not dissimilar to those expressed by John P. Roche, whose column was published in the Washington Post of November 14, 1969, and by David Lawrence, whose remarks appeared in U.S. News & World Report of November 17, 1969.

It is a fact that those who so vocally oppose our distinguished President in the streets do harm to the honorable objectives of their duly elected representatives in their quest for a just peace and the self-determination of the people of South Vietnam and the free world. This has been most effectively expressed by Messrs. Roche and Lawrence. I ask unanimous consent that their columns be printed in the RECORD.

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

[From the Washington Post, Nov. 14, 1969]

IMPORTANCE OF NIXON VIET SPEECH LIES IN EFFECTIVENESS AGAINST HYSTERIA

(By John P. Roche)

Since my readers, whether favorable or critical, would hardly have been holding their breath awaiting my reaction to President Nixon's Vietnam address, I have held back comment until some perspective could be established. Needless to say, I thought it was a first-rate speech—serious, frank, and direct. I personally could have spared the side shots at the Johnson administration, but then I recall that in the early 60s we Democrats blamed everything but bad weather on poor Ike.

What was important about the President's speech was its effectiveness in countering the politics of hysteria that has dominated discussions of Vietnam these last three years. The critics of the war managed to seize the commanding rhetorical heights. A singularly talented lot, they have utilized with devastating effectiveness the best Madison Avenue techniques. We got the political equivalent of cigarette slogans—the "immoral war," the "corrupt and unrepresentative Saigon regime" etc. I actually heard a radio interview a while back which began with the commentator asking "How do you justify this vicious, immoral war?"

Of course, what disturbs most Americans about the war is not its alleged immorality. They have become increasingly disturbed by our seeming incapacity to win it. To put it differently, a substantial majority of our people became convinced that the United States government simply didn't know what it was doing. They are quite aware, as Mr. Nixon said, that the North Vietnamese cannot humiliate the United States. Thus they take refuge in bitterness and its Siamese twin, isolationism.

It is interesting in a mordant way to watch the historical growth of this sense of disillusionment. The Gallup rating on President Johnson's handling of the war took its first massive dip at the time of the Buddhist "riots" in the spring of 1966. (I put riots in quotes because I witnessed several of these events and I have seen better riots on any random Saturday night in South Boston, but the American journalists in Saigon really give these trivial demonstrations a ride.)

The real drop in confidence, however, came in the wake of the Tet offensive in January, 1968. In military terms, Tet was a shambles for the North Vietnamese, but politically it was a master stroke. Indeed, I argued at the time that this was its purpose, and evidence that has come in since confirms this judgment.

As the average American became more and more convinced his government was the prisoner of events rather than their master, his sense of rage and frustration increased. Simultaneously, the crescendo of anti-war sentiment went over the rational edge into the abyss of hysterics. And because the majority was sullen and bitter, the antiwar militants had the field virtually to themselves.

But what seemed, particularly to European observers, to be a massive antiwar movement in fact had two components: those who were antiwar (a quite small minority) and those who were opposed to losing the war. In political terms, the first priority for those supporting the war had been to divide these two segments. We tried but were unsuccessful, largely because the whole energy of the Johnson administration was devoted to putting out the fire, to coping with a savage, resourceful enemy that had gotten the jump on us in 1965. This is no excuse—excuses have no place in politics.

What President Nixon has hopefully accomplished is precisely the correct strategy. He has indicated to the "silent majority" that our government is in control of events, that we are not drifting from one desperate improvisation to another with no end in sight. If his analysis of the failings of his predecessor seems harsh, his courage in nailing his colors to the mast must be admired by all those who feel that our commitment in Vietnam cannot be betrayed without fearful implications for the future of world peace.

[From the U.S. News & World Report, Nov. 17, 1969]

WHO IS PROLONGING THE WAR?

(By David Lawrence)

The United States is militarily the most powerful nation in the world. Certainly a tiny country like North Vietnam would never have been able to deprive an American army of victory if the commanders of our forces had been permitted to use military strategy and air power in the customary ways.

Who interfered with our own military operations? Who in this country prevented our armed services from using their maximum strength? Who, indeed, must accept the responsibility for the long list of casualties? This would never have been so large if American forces had been authorized to employ the military means necessary to attain victory.

But ever since we went to the aid of the South Vietnamese, there have been pressures inside the United States. These have been called "political." Basically they were influences which catered to pacifist elements and sought to sway the uninformed citizens who never really knew how or why the war was being lost.

General William C. Westmoreland, who commanded U.S. ground forces in Vietnam for four years and now is Chief of Staff of the Army, revealed in an interview in this magazine on Sept. 29, 1969, some of the frustrations of our military commanders. He said:

"One of the interesting things about this war is that responsibility has been divided. I had the U.S. ground war in the South, Admiral Sharpe had the air war in the North. The political, psychological, economic factors implicit in this entire equation were vested in the Ambassador in Saigon and the Secretary of State. Also, operations were conducted in the territory of an ally who exercised sovereign authority over his land and his people and control of his troops.

"No U.S. authority short of the President had cognizance over the entire conflict. Therefore, the President had to get into all sorts of details. And he had many pressures brought to bear on him—numerous factors to consider: international opinion, domestic opinion, as well as the military situation. The war has been more than military. I'm not unaware of the many complex factors that had to be considered."

Psychological warfare is in some respects as important as military operations. The newspapers, radio and television are filled with pronouncements from persons, inside and outside of Congress, who have publicly denounced the foreign policy of their Government in the middle of a war.

In Hanoi, everything said in this country is studied carefully day by day. The Red Chinese and the Soviets also note that the United States seems to be wavering and apparently is unwilling to pursue the war to a military decision.

When President Johnson acceded to the wishes of the "anti-war" elements and announced that he would halt the bombing of North Vietnam in the hope of initiating peace negotiations, the enemy was sure that the critics of the Vietnam war within the United States were making headway. Hanoi concluded that it was just a question of time before America would have to acknowledge a humiliating defeat and withdraw from Asia altogether.

For more than a year now the United States has made every effort to get a constructive peace settlement. But North Vietnam has refused to negotiate meaningfully. Encouraged no doubt by both Peking and Moscow, Hanoi feels that it needs only to wait a year or two and all American troops will be withdrawn. Then the Saigon Government could be ousted and a Communist-controlled regime would take over.

Many people in America think that the Vietnam war is a remote affair and that the United States "has no business" in Asia. This is an erroneous concept because the underlying issues can make the difference between world war and world peace.

The safety of nearly every country—in Asia, Europe and Latin America—is at stake and will be threatened if Communism achieves a victory in Vietnam.

Speeches and statements being made day after day in the United States decrying American policy are giving "aid and comfort" to

the Hanoi Government and are prolonging the war.

The demonstrations by so-called "peace" groups are helping to prolong the war.

The carping criticisms by politicians who mistakenly think they are currying favor with the public are also prolonging the war.

The war could be ended honorably by the President if he were given the wholehearted support of the American people.

If we could develop right now a united America, the fighting in Vietnam would be promptly terminated. We could, for instance, announce the date of a cease-fire. If it were not respected, we would be able to retaliate immediately with maximum military power.

When the enemy becomes convinced that the United States means what it says and that the dissenters in this country are a small minority, peace will come soon in Vietnam, and we might well avoid World War III.

WASHINGTON TOURMOBILES

Mr. MURPHY. Mr. President, one of the prime duties of the Department of the Interior, National Park Service, is the presentation and interpretation of historic and cultural points of interest within the Federal Mall in Washington, D.C. The National Park Service envisioned a shuttle service that would provide transportation to points of interest on the Mall and also offer an accurate, comprehensive commentary on the Nation's Capital.

This program would help relieve the critical parking situation on the Mall, and at the same time it would tell of America's heritage to people from all over the world. From its inauguration date, March 17, 1969, to the present, more than 350,000 visitors have been carried by Landmark's Tourmobiles.

Mr. President, it is my understanding that the National Capitol Historical Society is planning to have the Tourmobiles include the Capitol in their routes, and I join that organization in the hope that this will soon be a reality. The Department of the Interior and the National Park Service are to be commended for creating this program, as is Landmark Services for implementing it.

I ask unanimous consent to have printed in the RECORD a description of the tour, and the schedules, as published in the Landmark Services pamphlet.

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

SIGHTSEEING IN WASHINGTON, D.C.

The newest way to enjoy our nation's heritage is aboard a Landmark Services Tourmobile!

Landmark Services offers a high calibre, convenient and inexpensive way for you to see the shrines, monuments, and historical points of interest that are part of our national heritage. To make your trip more interesting and meaningful, a specially-trained Landmark Services Narrator will be aboard each Tourmobile to point out sights of interest, fill in the historical background, and up-date you on what is happening in our government today. No advance planning is necessary.

A Tourmobile leaves frequently from designated stops—all day—every day. Get on and off as many times as you like at no extra charge. Landmark Services shows you Washington, D.C. the easy, enjoyable way.

Tourmobile stops are marked inside this brochure. The stops are designed to place you within easy walking distance of all major points of interest. Don't fight the congestion, just leave your car at your lodging or a nearby commercial parking lot (also indicated on map), or take a bus or taxi to any Tourmobile stop.

Landmark Services Tourmobiles operate daily except Christmas Day. 9:00 a.m. to 10:00 p.m. (April 15th thru Labor Day). 9:30 a.m. to 5:30 p.m. (Remainder of the year).

EAST MALL ROUTE STOPS

Smithsonian Building.
U.S. Capitol Area.
National Gallery of Art.
Museum of Natural History.
Museum of History and Technology.
Washington Monument.

WEST MALL ROUTE STOPS

Bureau of Engraving and Printing.
Jefferson Memorial.
Lincoln Memorial.
White House.
Washington Monument.

ALL DAY FARE

Adults, $1.
Children (2 through 11) 50 cents.
Prices and hours subject to change.

LEAGUE OF WOMEN VOTERS LAUNCHES NATIONAL VOTING RIGHTS CAMPAIGN

Mr. PROXMIRE. Mr. President, the ability and right of the women of the Nation to enter into the political arena on an equal basis with men was first recognized on a national level with the ratification of the 19th amendment to the Constitution. The vanguard of this movement was the National Women Suffrage Association, which is known today as the League of Women Voters of the United States.

The league's various actions throughout the years have dispelled the notion for all time that women are not able to participate in all forms of political activities. This organization has provided, and continues to provide, a valuable service to the American public through its political activities.

Recently I received an announcement from the League of Women Voters on its plan to make 1970 the "year of the voter." This project, I feel, typifies the value of the league in organizing the citizenry of this Nation to participate in political affairs. I wish the league the best in its worthwhile effort to make 1970 the "year of the voter."

I ask unanimous consent that the League of Women Voters announcement entitled "LWVUS Launches National Voting Rights Campaign" be printed in the RECORD.

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

LWVUS LAUNCHES NATIONAL VOTING RIGHTS CAMPAIGN

With the Year of the Voter as its theme, the League of Women Voters of the U.S. today announced that it will spearhead a national campaign during 1970, designed to emphasize the franchise as the basis of American democracy and to remove the remaining inequities in the nation's electoral system.

"There is still much unfinished business before we can reach the goal of full participation in the democratic process," Mrs. Bruce B. Benson, President of the national League, told a meeting of 19 major organizations who were asked to participate in the drive.

These organizations, and many other national and local groups who will be briefed on the Year of the Voter program, are being asked to "do their own thing" in the nonpartisan effort. "This means," said Mrs. Benson, "that those who are concerned during the coming year with strengthening the franchise, will have a framework in which to operate more effectively."

The League, which celebrates its 50th anniversary in 1970, decided to launch this public service activity rather than spend its time on "self-congratulatory birthday events." For 160,000 League members in 1,300 communities, the Year of the Voter will also be an opportunity to commemorate the 50th anniversary of woman suffrage (19th Amendment to the U.S. Constitution) and the 100th anniversary of Negro Suffrage (15th Amendment).

The Year of the Voter campaign culminates on November 3, 1970, when 34 senators, 435 congressmen, 30 governors and thousands of other state and local officials will be elected. "If public and private groups across the country support this effort," said Mrs. Benson, "we can have the largest off-year election turnout in history."

A special year of the voter logotype for use during the anniversary year, was commissioned by the League from New York graphics designer Beau Gardner. It will appear on publications, letterheads, postage-meter dies, newsletters and other community print media, tv spots and League Voter Service materials which are distributed throughout the U.S. The logotype will also be a central visual element in promotional materials produced specifically for the 50th Anniversary, such as buttons, bumper stickers and shopping bags.

"We are giving the logotype and background," said Mrs. Benson, "to all organizations who believe that the right to vote is the cornerstone of American democracy. Others are free to adopt the Year of the Voter logo as their own. Since intentionally, it embodies no visual elements identifying it with the League, it should prove effective for a variety of purposes and organizations.

The President, members of Congress and Governors will be asked to consider special Federal, state and local efforts supporting the Year of the Voter; and the cooperation of business and labor communities will also be sought.

Attending today's luncheon were representatives of the Republican National Committee, Democratic National Committee, National Governors Conference, Leadership Conference on Civil Rights, National Association for the Advancement of Colored People, National Urban League, American Civil Liberties Union, Civil Liberties Clearing House, U.S. Catholic Conference, National Council of Churches, Anti-Defamation League of B'nai B'rith, United Auto Workers, Committee on Political Education (AFL–CIO), Chamber of Commerce of the U.S., National Federation of Young Republicans, Washington Home Rule Committee, National Student Association, Public Affairs Council, and the Nation YWCA.

GOODELL TO OPPOSE GRAND JURY PRESENTMENT POWER ON SENATE FLOOR

Mr. GOODELL. Mr. President, yesterday the Senate Judiciary Committee reported the Organized Crime Control Act of 1969, to the Senate floor.

A provision of the bill would allow the grand jury, on majority vote, to submit a presentment to the court, first, concerning noncriminal misconduct, nonfeasance or neglect in office by a public officer or employee as the basis for a recommendation of removal of disciplinary action,

or second, stating that after investigation of a public officer or employee it finds no misconduct or neglect in office by him, provided that such public officer or employee has requested the submission of such presentment, or third, proposing recommendations for legislative, executive, or administrative action in the public interest based upon stated findings.

Such a presentment shall be submitted to the court who will approve and accept it for filing only if the above requirements are met, and if the report is based on facts revealed in the course of an authorized investigation and is supported by the preponderance of the evidence.

A presentment concerning noncriminal misconduct of a public official—first, above—can be accepted only if the named individual had been afforded an opportunity to testify before the grand jury prior to the filing of the presentment. Any other presentment must not be critical of a named individual.

The proposal also offers a procedure by which a public official may file an answer to a presentment critical of him, as well as providing machinery for an appeal of the presentment. At the appropriate time the U.S. attorney must deliver a true copy of the same to the appropriate agency for removal or disciplinary action against the named individual, but if a criminal action is pending the court may seal the presentment until the matter is disposed of.

If the court is not satisfied that all these requirements are met, it may direct that additional testimony be taken before the same grand jury or it may direct that the presentment shall be sealed and not be filed as a public record. Finally, this section defines public officer or employee as "any officer or employee of the United States, or any State or any political subdivision, or any department, agency, or instrumentality thereof."

Mr. President, this proposal causes me grave concern. I believe it to be unwise both as a matter of constitutional law and as a matter of public policy.

A presentment is a public charge of misconduct—not involving an accusation of criminal conduct—which carries the importance of a judicial document, but lacks its principal attribute—the right to answer.

It is frequently confused with an indictment, and the distinction between the two is usually lost on the public at large.

When released to the public it inflicts irremedial injury upon the reputation of the accused. It effectively denies him due process of law because he does not have a proper forum to respond to the charges.

Admittedly the bill now before the Senate makes an attempt to meet this problem by providing for the appearance of the accused before the grand jury. It also permits him to file a report in reply and to appeal if necessary. Yet, there is substantial doubt as to the practical effectiveness of these "protections."

The proceedings would still not be adversarial and the accused official apparently would have no right to counsel before the grand jury, no right to call witnesses on his own behalf, and no right to cross-examine his accusers. Thus only one side of the story would be effectively presented—that of the Government.

Historically, a potential accused who appeared before a grand jury was not afforded these rights because he would later enjoy them and the full protection of due process when the case was disposed of on the merits at trial. The accused named in a presentment does not have that opportunity.

The provision in the bill allowing for the filing of a report by the accused in answer to the grand jury's report would not have the dignity and force of the quasi-judicial condemnation by the jury; it would be considered by many to be merely the usual denial.

This proposal is directly contrary to existing Federal case law and policy which holds that the traditional function of the grand jury is to accuse individuals of crime and to protect the innocent. Federal law also authorizes grand juries to perform an important investigative function by aiding the Government with its power of subpena in complex, criminal investigations in a variety of areas, including organized crime and fraud, but such proceedings are conducted in secret and its findings cannot be disclosed, except insofar as an indictment is returned.

Illustrative of the present Federal law which holds that a grand jury is without power to issue a presentment is the case of *Application of United Electrical Radio and Machine Workers*, 111 F. Supp. 858, SDNY, 1953. In that case, a Federal grand jury was investigating labor unions whose members took the fifth amendment in answer to questions concerning alleged Communist affiliation.

The grand jury rendered a presentment detailing these facts and recommended to the NLRB that it revoke the certifications of the unions, and to the Congress that it amend the Taft-Hartley law. The grand jury indicted no one, saying that the evidence was insufficient.

While the report did not specifically mention anyone, the names of certain individuals were "leaked" to the press by the foreman and prosecutor. In a very forceful opinion, the court ordered the report expunged. The function of the grand jury, the court said, is, first, to accuse, and second, to protect the innocent. Such a report is not permissible, beyond the powers of the grand jury, and deprives the individual of the right to defend himself.

The grand jury being an appendage of the court, such a report is an abuse of the constitutional principle of separation of powers. The court then observed that once the grand jury determines whether there is or is not sufficient evidence to indict:

> It may not then issue a report based upon information derived during the course of its secretive inquiry, directed to the executive and legislative branches, which touches upon matters within their exclusive authority. The grand jurors, like the members of the judiciary, are not accountable to an electorate. Their hearings, being secret, are not amendable to informed evaluation by the public and are unsuited to make the determinations which our Constitution has allotted to the executive and the legislative. (III F. Supp at pp. 864–865)

The great weight of authority is that such presentments exceed the power of the grand jury, 111 F. Supp. at page 866, citing numerous authorities. While many State courts have allowed general presentments which do not single out individuals, they have uniformly condemned specific censure by the grand jury, the same, at pages 867–868 citing cases and authorities.

The court recognized that it was not dealing with presentments of a general nature touching on conditions in the community. This type presentment may serve a valuable function and may not be amendable to challenge, the same at page 869.

Finally, the court stated that the disclosure of the presentment and of the names of the individuals involved violated rule 6(e), Fed. Rules Crim. Proc., regardless if the disclosure be considered as unofficial acts of individuals or as an official act of the grand jury as a body:

> In sum, constitutional considerations, the Federal Rules of Criminal Procedure, persuasive State authority, *public and private interest*, lead me to hold, as I do, that the issuance of the report in question was (1) beyond the power of the Grand Jury and (2) was in violation of the secrecy requirement." (Id. at p. 869) (Emphasis supplied)

The provision also raises another serious constitutional issue, in addition to the question of the due process rights of the accused.

A Federal grand jury's report against local and State officials is a clear intrusion into local matters if no Federal law has been violated. It may represent an unconstitutional infringement upon the sovereignty of State and local governments.

This problem—a Federal grand jury reporting on noncriminal conduct of State officials—appeared in the case of *In re Petition for Disclosure of Evidence Before Oct. 1959 Grand Jury*, 184 F. Supp. 38 (ED Va., 1960). Here, the grand jury was told to only indict or ignore the individuals under investigation.

Instead, the grand jury said that although it did not have enough evidence to indict, the evidence they did have on named State and local officials was requested to be sent to the city mayor and State Governor.

The court, on motion to expunge, said that although the grand jury felt "morally compelled" to bring a serious issue to the attention of the authorities, it should only have asked that the evidence be turned over to local officials without saying more.

The court felt that, first, the tenor or purport should not have been made known since it violated the secrecy of the grand jury proceedings, and second, it was an infringement upon the provinces of State and local governments. It is of note here that the city wanted the evidence for administrative disciplinary action only, while the State wanted the evidence for criminal prosecution purposes.

Rule 6(e), the court continued, in referring to "preliminary to or in connection with a judicial proceeding" did not refer just to Federal proceedings but to State proceedings as well.

In this light, the court expunged every-

thing except the recommendation that the evidence be forwarded. Accordingly, the State was able to have access to the evidence but only after the Federal prosecution was terminated and then only for the purpose of an independent inquiry rather than as evidence itself.

The court made a final and appropriate observation that since rule 6(e) does not apply to witnesses themselves, the State if it desired—and it is only their province to decide—could call these witnesses before its own grand jury.

Another case highlighting the jurisdictional issue is *In the Matter of The Report of the Grand Jury*, 4 U.S. DC Hawaii 780 (1911). In an investigation of two teachers regarding immoral practices in a local high school, the Federal grand jury found no facts upon which to base an indictment but contrary to the court's instructions filed a presentment condemning the witness' failure to testify and concluded by saying the teachers were unfit to teach.

Observing that there is no question of the worthy motives or good faith of the grand jurors, the court expunged the report on the grounds it, first, violated the secrecy of the grand jury, and second, commented on matters outside the jurisdiction of the court.

Supporters of this provision argue that the National Crime Commission appointed by President Johnson recommended that Federal grand juries be authorized to issue such reports.

Its task force report on organized crime, however, does not support or go as far as the proposed bill. The report merely states—at page 16—that "when a grand jury terminates, it should be permitted by law to file public reports regarding organized crime conditions in the community."

The recommendation restricts the use of a report to organized crime conditions only, and in a presumably general context, without naming specific individuals.

The Organized Crime Control Act of 1969 contains many useful provisions which will increase the capacity of law enforcement officials to cope with the powerful, resourceful and elusive organized criminal elements that pose such a serious threat to the welfare of the Nation. I will support these provisions.

I cannot, however, support those portions of the bill which relate to grand jury reports. They represent a serious erosion upon individual liberties—long protected in the Federal system—of those suspected of serious wrongdoing. I shall therefore introduce an amendment to strike these provisions from the bill on the floor of the Senate, and ask for the support of my colleagues in this effort.

POLLUTION OF THE ENVIRONMENT

Mr. MOSS. Mr. President, for several years I have been calling attention to the fact that we are polluting our environment in the United States. Our waters are polluted, our skies are polluted, and solid wastes dot the landscape. Even in the beautiful State of Utah, which I represent, we have water and air pollution which is creating for our people severe environmental problems.

One of the fine communities of our State, some 30 miles distant from Salt Lake City, is Tooele. It is located in the valley west of the Salt Lake Valley and is generally considered to be in the wide open spaces. But smog has come to Tooele. The Tooele Transcript, published in that city, has set forth in an editorial the problems that confront us as the result of air pollution. I commend the Transcript for its alertness and forthrightness in calling attention to this problem and 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:

[From the Tooele (Utah) Transcript, Dec. 5, 1969]

SMOG CAUSES A BITE WITH A DEEP BREATH

There's a bite to the air we breathe these days and much of the beauty of Tooele's valleys and hills is hidden by a cloud of smoke that spills around the point of the mountain into our area.

Air pollution control is no longer something for health officials only to worry about. Atmospheric conditions over the last couple of weeks have clearly shown it to be a problem of concern to every citizen.

The seriousness of the problem is pointed up by the events of the last few days. Some drug stores in the Salt Lake Valley have reported an increase in sales of drugs for respiratory ailments. A rash of traffic accidents have been reported, and Wednesday an $850,000 jet aircraft crashed and burned. These accidents may have been related to poor visibility because of the smog.

The time has come for residents of this area to let authorities and those who may be contributing to the contamination know that they want something done to stem the problem.

Because automobiles are one of the major causes of air pollution it should be made illegal for buyers of new cars to remove exhaust control devices. Periodic inspection and a system of fines could insure that the devices would be kept in operating condition. Hydro-carbons in the form of unburned fuels are the principle offenders here.

Such devices do add to the cost of operating a vehicle, but the last few days have shown that not using them costs in other ways.

Tooele City officials should accelerate their search for an adequate garbage dump and bring an end to the burning of refuse.

Emissions from Kennecott Copper Corporation operations are clearly one of the major causes of air pollution in this area. Perhaps as much as 300 tons of sulphurous fumes escape into the air each day from Kennecott plants. Most of this is in the form of sulphur-dioxide or sulphur-trioxide.

Sulphur-trioxide is not particularly harmful. It just fogs up the place. But sulphur-dioxide is harmful when inhaled. It causes a chemical reaction in the mouth and throat which forms sulphuric acid. This is what has caused the burning sensation often felt in recent days.

Kennecott officials and officials of other industries have stated that effluents from their plants are of great concern to them. What the public wants to know is what is being done to reduce them. Maybe these companies—including the smelter near Tooele—are doing all they can do and they must be given credit for what has been accomplished. But every area where possible contamination may originate must be explored and solutions sought. And the public should be informed of every action taken.

A GIANT IS LEAVING THE SENATE

Mr. BROOKE. Mr. President, the December issue of Nation's Business contains an excellent and deserved tribute to our friend and colleague, the distinguished senior Senator from Delaware.

JOHN WILLIAMS always merits our deepest respect and attention, but his efforts in the last few weeks have truly been gargantuan. He has detected and helped to correct innumerable flaws in the tax bill. He has stood on the floor of the Senate day after day, defending the public interest and serving as a beacon and a guide for many of his less fiscal-minded colleagues. Seldom has he deserved our praise more than at the conclusion of the consideration of this lengthy and complex tax proposal.

It is for this reason that I take particular pleasure in asking unanimous consent to have printed in the RECORD the text of the article entitled "A Giant Is Leaving the Senate."

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

A GIANT IS LEAVING THE SENATE

When John J. Williams decided in 1946 he wanted to run for the U.S. Senate, he was a small town Delaware feed grain merchant without political experience, a following or connections in his party's state organization.

"I couldn't use that old line about my friends urging me to run," he recalls candidly. "I don't remember anybody ever asking me. In fact, most of my friends thought it was a pretty farfetched idea."

And the assumption by a 42-year-old novice that he could enter state politics at the top certainly didn't sit well with Delaware's Republican leaders.

"I had never met the state chairman," Mr. Williams says. "He was a little peeved that someone would be so brash as to announce a Senate candidacy without talking to him. But I went into it on the principle a man has a right to seek office in this country without the consent of anybody."

Most politicians, when asked why they pursue public office, come up with high-flown answers about service to nation and mankind, etc. John Williams' explanation is far more direct: "I thought I'd like to try it and I did."

"Oh, I'd been pretty concerned as a businessman about the trend in the country toward too much centralization of power in Washington," he adds. "But I didn't have any great, noble drive."

Drive or no drive, he began traveling around the state, working long, gruelling days, to make himself and his views known.

Veteran Delaware Republicans, anticipating a Democratic victory, had shied away from making their party's Senate race. By the time they sensed that a Democratic success might not be inevitable after all, that the national mood was for a change after the long Depression and war years, Mr. Williams was well ahead for the nomination.

He went on to defeat the Democratic incumbent by nearly 12,000 votes out of 113,500 cast.

Sen. Williams had entered the feed grain business with his brothers immediately after finishing high school and leaving the family farm. Now, a brother took over responsibility for the store.

"There was nothing big about it, but we made a living," the Senator recalls. "He did

all right after I left, so I guess I wasn't as important as I thought I was."

INTO THE BIG TIME

In Washington, the political novice and small businessman, lacking a college education and possessing a speaking style that ranged from an almost inaudible whisper to a rasp, joined a body composed mostly of lawyers or professional men—men long on political experience, on education, on knowledge of big business and finance, and on dramatic oratory.

But it was the grain merchant from Millsboro, Del., who was to rock the Truman Administration with disclosures of staggering corruption in the Internal Revenue Service and elsewhere in government, who was to assail the conduct of Sherman Adams in another Administration and was to bring about the downfall of Bobby Baker in still another. And John Williams' grasp of high-level economics and tax policies acquired through long, hard work and study, was a major factor in forcing Lyndon Johnson to surrender and accept spending limits in return for Congressional passage of the 10 per cent income tax surcharge.

Now, at 65, Sen. Williams has announced he will retire when his present term ends in 1970. He is approaching the final year of his Senate days, working and fighting as hard as ever for causes he has championed from the moment he arrived—honesty, efficiency, and economy in government.

He has earned a title given few others in the nation's history: "The conscience of the Senate."

In the late 1940's, information came to Sen. Williams of graft in key federal tax offices across the country. He began digging, but, in his unflagging insistence on accuracy and fairness, it would be more than two years before he made his first speech on the subject.

The trail led slowly but inexorably from lesser lights in regional offices to the highest echelons of Internal Revenue, the Justice Department and the White House itself. Resignations, indictments and convictions followed.

But party lines play no role in Sen. Williams' outlook on governmental ethics.

Sherman Adams, known as the "assistant president" during the Eisenhower Administrations, came under fire in 1958 for accepting gifts, including a $2,400 rug, from an industrialist having problems with government agencies. Sen. Williams was as outspoken as he had been when a Democrat was in the White House. "There can be but one code of ethics for public officials," he told the Senate.

"I condemned the deep freezes," he said in a reference to a famous gift to a Truman aide, "and I will not defend the rugs now."

ENTER THE BAKER CASE

It was a brief, newspaper account of a civil suit that launched the Senator on one of the best-known of his many battles against corruption in government. A disgruntled owner of a vending machine company had filed suit against Robert G. "Bobby" Baker, secretary to the Democratic Senate majority. The owner said he had paid Baker for help in obtaining a contract that went somewhere else.

"I wasn't interested in where any contract went," Sen. Williams recalls, "but I did want to know why a Senate employee was being paid to get somebody a contract."

He began digging into the affairs of Baker, the ex-page who had risen to the influential secretary's post under the patronage of the majority leader at the time, Lyndon B. Johnson of Texas. The Delaware Senator wanted to know whether Baker had used the job to further what turned out to be extensive, outside business interests.

"It just descended like an avalanche," Sen. Williams says. "In a short period of time I had developed enough information that I was convinced something was bad."

He took it to Senate leaders, suggesting a meeting with Baker. "I wanted to outline the things that bothered me and Baker could respond. Then I—and they—could evaluate his responses." Baker could not be reached for an initial meeting.

A second meeting was arranged after a firm pledge from Sen. Mike Mansfield, Mr. Johnson's successor as majority leader, that Baker would be there. But Sen. Mansfield arrived alone, downcast. Baker had resigned.

"We can't stop here," Sen. Williams commented. He insisted on the full-scale investigation that led to Baker's conviction of income tax evasion, theft and conspiracy to defraud the federal government. The shock waves set into motion by the Baker case launched a new era of concern on Capitol Hill about standards of conduct expected for Congressional members and staffs.

The Senate adopted a code of ethics providing for a combination of public and private reports on financial interests. Sen. Williams says that development was "a giant step forward," but more should be done.

"IT'S HOW YOU GOT IT"

He advocates establishment of procedures, with proper safeguards, for evaluating Congressional income tax returns when doubts arise. He sees little value in a proposal pressed frequently by Senate liberals to require public disclosure of financial holdings as of a given date each year.

"It's not what you own, it's how you got it," the Senator says. "The tax return is the key."

Sen. Williams has been constantly at work on issues less-publicized than Capitol Hill ethics.

He has clashed with government officials repeatedly as he has issued well-documented broadsides of waste and inefficiency in housing, agriculture, public works, welfare and many other programs.

A mark of the fairness that has won him high praise from other Senators in both parties in his unfailing practice of giving advance notice to anyone he intends to talk about in connection with inefficiency or dishonesty.

The accomplishment Sen. Williams ranks as the high point of his career as a legislator was the passage in 1968 of the bill making spending cuts the price the Johnson Administration had to pay for approval of the 10 per cent income tax surcharge.

"I'm certainly not proud to have a tax attached to my name," says Sen. Williams, co-author of the bill. But he seen a far more overriding consideration: "I am thoroughly convinced that if Congress had not acted on both taxes and spending—they had to be tied together—the American dollar would be gone today."

He adds a cautionary note: "We're not out of the woods yet. Merely raising taxes and putting the money into the government spending stream further aggravates the situation."

Conceding that spending limit loopholes later eroded the impact of the original bill, Sen. Williams says that's why he fought all the harder in 1969 not only for greater cuts but for ironclad assurances they will be made.

NOBODY'S PERFECT

Looking back over his years in the Senate, would he have done anything differently?

"Oh, goodness, yes," he responds quickly with a smile. "You make a lot of mistakes. I often wonder what I was thinking about on some of them."

(His candor once threw off a Democratic opponent who declaimed from a campaign platform that he just couldn't understand how Sen. Williams had voted the way he did on a certain issue. The Senator's reply: "I don't understand why I voted that way either. At the time it seemed to be the right thing to do—but it wasn't.")

One place where Sen. Williams will leave no mark after 24 years in the nation's capital is the party-going scene which many of his colleagues frequent. While his mail is heavy with the invitations that all Senators—particularly senior members—receive to cocktail parties, dinners, receptions, diplomatic functions and the like, he rarely attends any of them.

He lives quietly in Washington throughout the week and spends his weekends in Delaware, often at favorite hunting or fishing sites.

The Williamses have a daughter and three grandchildren. When he came to the Senate, Sen. Williams boasted of being "the youngest grandfather" in the membership. The passage of time has enabled him to escalate to the claim of being "the youngest great-grandfather in the Senate."

His decision to retire was made in characteristically direct fashion—he cited his long-held view that no Senator should embark on a new term after 65.

The Senator has no specific plans for retirement years—that feed grain business no longer is in the family—but guarantees, "I'm not going home and prop my feet up. I'm not going to lose interest."

He's concerned about the nation's future, and holds that violence and anarchy, on campus or city street, "cannot be defended or tolerated and must be dealt with affirmatively."

At the same time, he adds, "we adults have to recognize that, as we start to correct the situation, we have to look at our own houses.

"When men holding high positions of trust betray that trust, we are creating in the minds of young people an element of doubt about the moral standards we are following ourselves and are asking them to follow."

RESPECTFUL OPPOSITION

John Williams is a conservative by anybody's yardstick.

But it was one of the most liberal of liberal Democrats, William Proxmire of Wisconsin, who said of him:

"I feel he is the one member of this body who is its most able sentinel. I hope . . . that this remarkable man will reconsider his decision to retire."

And another Democrat, Majority Leader Mansfield, summed up Sen. Williams' career in a fashion that will draw little dissent from those who have followed it:

"He has been a giant and his departure from the Senate will leave a void that will be almost impossible to fill."

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

Mr. BROOKE. I yield.

Mr. TALMADGE. Mr. President, I had occasion to read that article, and I wanted to have it printed in the RECORD also. I compliment the distinguished Senator from Massachusetts for having done so.

Mr. President, I have served on the Committee on Finance for 11 years with the distinguished Senator from Delaware. I know of no member of that committee who is more knowledgeable, more sincere, or more dedicated in the field of taxes and other matters over which the Committee on Finance has jurisdiction. His retirement from the Senate at the completion of his term will be a tragic loss to this body and a tragic loss to our country.

I join the Senator from Massachusetts in commending the services of the distinguished ranking minority member of our committee.

Mr. BROOKE. Mr. President, I certainly thank the able and distinguished Senator from Georgia, for whom we all have great respect. His very kind and appropriate remarks are most welcome.

THE RACE TO SAVE THE COUNTRY'S CAPACITY FOR DEFENSE

Mr. GURNEY. Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled, "U.S. Leaders Engage in Race To Save Capacity for Defense," written by Mr. William S. White.

The article, published in the Washington Post of Saturday, November 29, 1969, concerns what Mr. White calls "the grisly allegations that American troops murdered 109 civilians in the South Vietnamese village some 18 months ago."

Mr. White states his fear that this incident may be used as a vehicle for "denuding the Nation of the power to defend peace with justice."

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

U.S. LEADERS ENGAGED IN RACE TO SAVE CAPACITY FOR DEFENSE

(By William S. White)

The Nixon administration, the highest officers of our armed services and the leaders in Congress on military affairs are all now engaged in a desperate race with time and fate to save this country's whole basic capacity for national defense.

This is the crucial meaning of President Nixon's sudden decision to renounce any use by the Unted States of bacteriological weapons in any circumstances and to bring to life a long-moribund international accord of 1925 that would pledge its signers against any first-strike use of poison gas.

That the President's action is substantially important in its own right is, of course, obvious and undeniable. Still, to keep the thing in perspective it must be added, first, that the United States never intended to use germ warfare and, second, that gas as an effective weapon has, in fact, been outmoded and essentially irrelevant since World War I. Moreover, no informed man in Washington can doubt that Mr. Nixon was moved to undertake these dramatic commitments by considerations not solely confined to their own merits.

He was motivated as well, in this columnist's understanding, by a most urgent need to help still the open-ended antimilitary clamor arising from the grisly allegations that American troops murdered 109 civilians in a South Vietnamese village some 18 months ago.

For these frightful charges—and all should withhold final judgment upon them until the sworn processes of justice have run their full course—have inflicted upon the entire American military establishment the most destructive psychological wounds it has ever known. For they have cropped up as an ugly climax to what was already a campaign of unexampled vehemence within the largely pacifist-minded new left to discredit the very concept of using, or even having, military force in the contemporary world.

Already, too, thousands upon thousands of collegiate young men had been openly demeaning military service itself, often from the sanctuaries of personal exemption from the draft. Already, too, American officers who had repeatedly put their lives on the line in this country's defense had been regularly undergoing from New Left senators a form of hostility and contempt never before seen in our national life.

Now, the stories of the horror of that hamlet in Vietnam have set off a public revulsion that is entirely understandable—but which in the high emotionalism of these current days could readily be carried beyond all reason and into a spirit of condemnation of the very existence of an adequate defense structure.

Thus it is that if these stories turn out to be indeed true, the men responsible will have done the honorable profession of American arms incomparably more harm than any Benedict Arnold ever did.

The most far-out of the peace-at-any-price forces, here and abroad, have instantly and predictably seized upon these unthinkable allegations as somehow proving that the entire American policy of assisting a tortured and invaded South Vietnam is at best futile and at worst actively evil. There is no logic here—but there is passion in plenty.

They cry out in the American Senate and they march and "demonstrate" in London and elsewhere against the interests of a whole country, a whole people and a whole Army whose true record in its totality has been one of gallantry and self-acrifice. They do not cry out, they do not "march," here or elsewhere, against the wholly confirmed murder of countless thousands of South Vietnamese civilians by the Communists.

Now, this is not said to condone, by so much as a chemical trace of excuse-making, what on first information seems to have happened in the province of Quang Ngai. For it is, of course, perfectly true that no amount of Communist savagery can justify savagery on our side. And yet it will be the saddest day in our national story if this dreadful episode should become the excuse and the vehicle for denuding this nation of the power to defend peace with justice. This is the nature of the problem now.

ALTERNATIVE TO PRETRIAL DETENTION

Mr. ERVIN. Mr. President, the issue of preventive detention has evoked wide editorial comment since the introduction of the administration's proposal, embodied in S. 2600, that supposedly dangerous defendants be imprisoned for 60 days prior to trial.

Two of the most penetrating editorials have been published in the New York Times, one on July 16, just after S. 2600 was introduced; the other on November 26. These editorials quite correctly emphasize the important, underlying fact that the clearly constitutional, as well as practical, solution to the problem of crime on bail is speedy trial rather than preventive detention.

As the earlier editorial appropriately points out, the trial of any criminal suspect believed dangerous can be accelerated while we pursue the long-range goal of major court reform so necessary in guaranteeing speedy trial for all. It also properly suggests that prison reform must accompany court reform. Our jails and prisons are plagued by problems of assaults, narcotics, and homosexual rape, as well as general turmoil and unrest. Preventive detention would subject an untold number of individuals, many of them innocent, to these problems and would increase, rather than reduce, and existing criminal tendencies.

The second editorial singles out one of the ways in which S. 2600 would radically alter our traditional concept of criminal justice in this country. That editorial cogently points out that preventive detention would reverse the fundamental premise that a man is innocent until proved guilty.

Mr. President, because these New York Times editorials are so apropos of our consideration of the preventive detention issue, I ask unanimous consent that they be printed in the RECORD.

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

[From the New York Times, July 16, 1969]

LAW, ORDER, AND CIVIL RIGHTS

The Nixon Administration's proposal for preventive detention of "dangerous" defendants in Federal criminal cases reflects the same disturbing tendency to bypass constitutional rights that has flawed some other recent Administration moves in its crusade for law and order.

Like the Justice Department's assertion in Chicago last month of unfettered powers to eavesdrop in national security cases, the preventive detention bill seeks to curb criminal activity by means that threaten the innocent. Reacting to widespread opposition to the eavesdrooping claim, Attorney General Mitchell appeared to retreat somewhat in this area Monday when he told a news conference he's phasing out a lot of electronic eavesdropping in the national security field.

But the President again risked infringement of civil liberties when he asked Congress to give Federal narcotics agents authority to break into residences unannounced to seize drug evidence quickly.

The detention bill would permit the imprisonment of a suspect for up to 60 days without bail if a judge found a "substantial probability" that the defendant was guilty as charged, and also determined after a hearing that release of the defendant would be a danger to the community. Among those who could be detained are narcotics addicts charged with any crime of violence; persons charged—but not necessarily convicted—with two violent crimes; and others charged wtih such "dangerous crimes" as bank robbery or the sale of narcotics.

In spite of an attempt to provide safeguards, this measure directly contravenes the principle that a man is presumed innocent until proved guilty, which is at the heart of American criminal law. It extends discretionary power to judges that perilously skirts guarantees that were carefully spelled out in the Bill of Rights to protect the innocent. The pertinent amendments—the Fourth through the Eighth—were based on bitter experience with governmental abuse in criminal cases dating back to Magna Carta days.

The problem of crimes committed by suspects while free on bail awaiting trial is a serious one. It has become more acute recently, partly because of bail reforms that limit—but do not entirely prevent—the practice of imposing prohibitive bails, but principally because court congestion has caused prolonged delays between indictment and trial.

The surest way to ease this problem of potentially dangerous criminals at large, without perverting justice, is to reform the court system so that all defendants receive the speedy trial to which they are entitled under the Constitution. Pending such long overdue reform, the cases of suspects deemed dangerous could be advanced on court calendars to minimize delays in meting out justice.

Beyond this, the danger from criminals on bail is related to the larger problem of failures of the correctional system. Too many men revert to anti-social behavior even after they have theoretically discharged their debt to society. Prison reform must go hand-in-hand with court reform if the public is to be spared the compound dangers of repetitive offenses.

[From the New York Times, Nov. 26, 1969]

GUILTY—UNTIL INNOCENT

The confrontation between the Administration and the Senate Judiciary Subcommittee on Constitutional Rights over pre-

ventive detention is a classic example of totally opposite attitudes on criminal justice today. Reduced to plain language, the Administration wants to change the system so that an accused person is guilty until proved innocent.

Attorney General Mitchell is pushing hard for amending the Bail Reform Act in order to cut down crime, especially in Washington His proposal would empower a judge in any Federal jurisdiction to lock up a defendant without allowing bail on the broad and highly personal grounds of being a "danger to the community." Under the amendment, suspects with a past criminal record would be a prime target for turnkeys, but so would other defendants where there is a "probability" of "ultimate conviction."

Senator Ervin of North Carolina, chairman of the Constitutional Rights Subcommittee, is strongly opposed to this simplistic solution to ending crime in the streets. He believes that the Administration bill is a punitive measure that affords no protection but merely convicts and imprisons without due process, violating sections of the Bill of Rights guaranteeing access to counsel, opportunity to participate in preparing a defense and reasonable bail.

The increasing national rate of criminal activity is appalling. But speeding up the trial process represents a better answer than pretrial imprisonment to the danger that a freed prisoner may commit a crime while out on bail. More prosecutors and judges should cut the delay between indictment and trial.

The constitutional rights of accused persons cannot be nullified because the wheels of justice grind too slowly. Unquestionably, there are specific situations in which public safety requires that an arrested person be kept in custody, but the most rigid limitations must be put on the judicial exercise of such detentive authority. The Mitchell proposal is too wide open to abuse to meet that requirement. It reverses the basic judicial concept of innocence until found guilty after a court trial.

FINANCIAL NEEDS OF PRIVATE UNIVERSITIES

Mr. PERCY. Mr. President, Dr. Edward H. Levi, president of the University of Chicago, submitted a state of the university message to the university trustees on November 4 of this year. To obtain educational excellence in an institution of higher learning a superhuman burden is placed upon its officers and faculty. These men are required to assume the role of financier, architect, planner, negotiator, arbitrator, sales manager, and almost every other phase of professional life. One wonders how university officials have the time to devote attention to the issues of education in the midst of these other responsibilities. They manage to do so, however, while also succeeding in developing an improved physical plant, new course structures, improved student relationship, and expanded services to government and humanity. The problems are almost beyond comprehension, at times, and, as this report so starkly indicates, the central problem, perhaps, or the "nitty gritty" of the university administrators' life revolves around trying to make financial ends meet.

We in the Senate have been struggling these past weeks in an effort to enact tax reform legislation. On many occasions this debate has turned to the subject of charitable and educational giving and the issue of tax benefits claimable by those who give to charitable and educational causes. The tax bill contains many provisions for closing loopholes through which taxpayers can avoid shouldering their fair share of the cost of government. This is all to the good. At times, however, efforts have been made to apply stronger sanctions against potential givers than were warranted by the facts or justified under the benefits that would be obtained by society.

We must weigh the value that will be received by a charitable or educational institution against a benefit received by one donating money or property to such an institution. Whenever I felt the former overweighed the latter, I supported efforts to benefit education and charitable enterprises. The message by Dr. Levi was an important factor in helping me determine my course of action because it demonstrated how essential it is to encourage adequate giving to these private, independent, innovative institutions.

As Dr. Levi stated:

> The strength of the university is in the individual scholar, the individual student, the tradition of scholarship, the precious and mysterious collaboration which sometimes occurs among scholars . . .

I might add that the strength of a free society depends upon the strength and independence of its institutions, especially those devoting themselves to educational pursuits. As I have frequently indicated, Government is generally unable to assume as capably the vital functions performed by these institutions and individuals. It is having a difficult enough time attempting to perform its present tasks. Yet, to maintain the strength of these private institutions costs money now, and will require vastly expanded sums in the future.

The financial burdens upon the University of Chicago, as presented by Dr. Levi, clearly demonstrate this need for adequate funds and the problems in obtaining them. Ten years ago, the university's endowment income was greater than faculty salaries; today, it barely goes half way in meeting costs. To meet current operating costs, gifts, endowment, and sundry income make up 52 percent of the budget. In 1959, the university counted on receiving $7,186,000 in gifts to support the budget; this year, to balance the budget will require over $19,000,000 in gifts.

There is a widespread belief that in a society of general affluence, such as ours, and under conditions where federal support is substantial, private universities lack any major financial problems. Nothing could be further from the truth. Educational institutions, if they are to perform their true mission, are unable to take advantage of technological breakthroughs like businesses in order to achieve economic growth. There can be no hope of keeping abreast of general economic growth. The need to maintain a low teacher-student ration, pay adequate salaries to attract competent faculty, and expand into new educational fields means that costs are going to keep rising, faster than returns on investment income can support.

Mr. President, we must strive to preserve the incentives for individuals to give to private educational and charitable institutions. It is for this reason that over the past several weeks of tax debate I have introduced and supported legislation designed to prevent a tax being imposed on foundations, requiring a substantially larger payout by foundations currently to educational and charitable activity and preserve the incentive for private philanthropy which I consider an essential point of the genius of our private sector. Through such means we will be able to maintain a free society.

Because of their general application to all private institutions of higher learning, I ask unanimous consent that Dr. Levi's statement be printed in the RECORD.

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

AN ADDRESS BY EDWARD H. LEVI, PRESIDENT, UNIVERSITY OF CHICAGO, NOVEMBER 4, 1969

The Statutes of the University provide for the Senate to meet not less than once a year to hear a report from the President and to discuss matters of University interest.

Changes in the last 10 years give some perspective on the nature of our University and its problems. During the period, faculty size increased by 45 per cent; students by 40 per cent. Increases were general, though uneven, throughout most of the University. Within the Divisions, the largest increase in both faculty and student numbers was in the Humanities. The smallest increase in student numbers was in the College and in The Pritzker School of Medicine. The smallest increase in faculty numbers was in the Divinity School and in the Physical Sciences. Eighteen major buildings were completed. Among them are the Wyler Children's Hospital, Searle Chemistry, the Laird Bell Law Quadrangle, the Center for Continuing Education, Woodward Court, the A. J. Carlson Animal Research Facility, the new High School Building, Pierce Tower, the completely redone Cobb Hall, Goldblatt Pavilion, the Astrophysics and Space Research Building, Social Service Administration, the Mott Building, the High Energy Physics Building, and the just dedicated Hinds Research Laboratory. During the 10 years, the University spent more than $70 million in building construction. Four new buildings are now going up: the Regenstein Library, the Social Services Center, the Pick International Studies Center, the Ben May Cancer Research Laboratory. For student housing, in buildings constructed and acquired, the University spent more than $23 million.

At the beginning of the 10 year period, it was reported that endowment income exceeded the salary commitments for the tenured faculty. In 1959 total faculty compensation for professors and associate professors was $6,761,000. Endowment income was $6,939,000. This comforting proportion, if that is what it was, no longer exists. Total faculty compensation for professors and associate professors today is $18,377,000, and endowment income is $11,632,000. Total faculty compensation for all ranks at the University is now $25,661,000. In 1959 it was $9,353,000. During a period when endowment income increased 68 percent, the total budgets went up 148 percent; student fee income went up 189 percent and student aid 394 percent. Total faculty compensation rose 174 percent, average faculty compensation 91 percent, with the greatest percentage increase at the instructorship level. I am sure it will sur-

prise many of our faculty to know, either because they regard the figure as too high or too low, or just plain mythical, that the average faculty compensation with fringe benefit is now $22,072. In 1959 it was $11,560. We, apparently, stand third among the universities of our country in faculty salary level, and perhaps somewhat higher if the comparisons are made more precise. A few years ago we stood second.

As is well known, the period was a time of substantial increase in government contracts and grants for research. Over the 10 years, the regular budget of the University, from its unrestricted funds, rose 149 percent. Restricted funds increased 97 percent, while government grants and contracts went up 247 percent. Of the three divisions where government contracts and grants are largest, the greatest increase—582 percent—was to the Biological Sciences; then a 500 percent increase to the Social Sciences, and a 269 percent increase to the Physical Sciences. The ranking is somewhat different for increased expenditures from the University's own funds, including restricted funds, where among the Divisions and the College, the greatest percentage increase went to the College, then next to the Humanities, then to the Physical Sciences, the Biological Sciences and the Social Sciences. In 1959, 21.55 percent of the total adopted budget was for expenditures to be made possible through government grants and contracts; an additional 5.11 percent came from overhead allowances, largely governmental. The comparable figures for the adopted budget this year are 28.41 percent and 5.04 percent. An overview of the sources of income which make possible the University's total budget is as follows: government and overhead, 33.45 percent; tuition, 18.70 percent; patient fees, 18.66 percent; gifts, 16.43 percent; endowment and sundry, mainly endowment-like, income, 12.76 percent. In 1959, that endowment and sundry, mainly endowment-like, income amounted to 18.82 percent.

The figures on the sources of income for the total budget serve to emphasize, of course, the importance of federal support for individual faculty research and which frequently provides student support. But they also indicate the great dependence upon private funds, where gifts and endowment and sundry, mainly endowment-like, income amount to almost 30 per cent of the total budget. This point is made sharper if attention is focused on the sources of income which make possible the University's regular and restricted budgets.

If we leave out self-balancing funds and expenditures for the hospitals and clinics and the Industrial Relations Center, and only include federal funds for faculty salaries and overhead, the picture is as follows: tuition 32.67 per cent; gifts 27.51 per cent; endowment and sundry income 24.31 per cent; overhead, largely governmental, and government support to faculty salaries, 15.51 per cent. Thus gifts, endowment and sundry income amount to almost 52 per cent of these budgets.

It is no pleasure for me in a general talk on the state of the University to give so much weight to these figures. I do so only because of their overwhelming importance. The reality which we must face is shown by the following: In 1959 we counted on a total of $7,186,000 in gifts to support the budget. Of this amount $1,752,000 was projected as unrestricted for the purposes of the regular budget. We ended that year with a surplus of $325,000. This year, in order to balance the budget, we must project $19,328,000 in gifts, of which $9,328,000 would be for unrestricted purposes. If $9,328,000 is required, in order to arrive at that figure, it appears likely we may have to use $5,690,000 from the $25 million challenge grant which was given to us by the Ford Foundation. Indeed, in order to get $6,751,000 in unrestricted gifts last year, we had to use $4,269,000 from the Ford challenge grant. If we have to use $5,690,000 from the Ford challenge grant this year, and let us hope this proves to be unnecessary, that will almost use up what remains of the entire $25 million from Ford. A hole of $5,690,000 in our budget in future years, even at current levels, is the equivalent of 20 per cent of the regular budget of the College, the Divisions, the Schools and the Library.

Another point must be stressed. The budgets of which I have been speaking do not include capital expenditures. They never have. These funds must be raised on their own outside the budget. Emergency capital expenditures which must be made—and there always seem to be some—unless otherwise raised are a call upon those same unrestricted gifts needed to maintain existing budgets. Desperate pleas for the University to complete the amount required to put up a building, which has been only partially financed, are also a call upon these same funds unless other gifts are raised or restricted funds can be tapped for this purpose. A good example of the problem of getting financing for new buildings is the Basic Biology Building, much needed, much planned. This is now estimated to cost $13 million, of which $5,480,000 has been raised. I do not wish to make us more miserable by pointing out in passing that most new buildings, when completed, do not carry with them, nor do they engender, funds for their maintenance.

This may well be the financial situation of the private university of quality in the United States in the year 1969. This is, in any event, our present outlook. It is a difficult picture to present. The figures are, of course, complicated, subject to interpretation. They inadequately reflect complexities and nuances. There is a wide-spread belief that because the society is affluent, private universities cannot really find themselves in this kind of a bind. There is a natural hesitancy, although I find myself not sharing it, to give news which might be regarded as discouraging either within the institution or to potential donors. Donors, it is said, do not rise to the opportunity of giving money for deficits. It has sometimes been suggested that if private universities were brighter in the way they invest their funds, capital gains would have done much to close the gap. Our university has, indeed, divided its funds to permit more adventuresome investments with possible payouts above a lower annual income when this is not prohibited by the terms of the gift. But this kind of enterprise will not greatly diminish the necessity for added gifts and additional income. There is also a widespread belief, sometimes shared by faculty, that because of the rise of federal support, private institutions do not have a special financial problem. But we do have. Compare the extraordinary effort to build 18 new buildings on this campus for $70 million over a 10 year period with the almost instant campuses which have been able to arise within some state systems. The partnership which state and private institutions have, and should have, in our system of higher education ought not obscure the fact that between them, sources of funds are somewhat different; problems and strengths are not always the same.

The general burden which is upon the University is that its productivity increases more slowly than does productivity in the economy as a whole. William G. Bowen, Provost and Professor of Economics and Public Affairs at Princeton University, studied combined data furnished by Chicago, Princeton, and Vanderbilt, and information supplied him by the Office of Education for private universities in general. He found that the cost per student over the 10 year period from 1955 to 1965 in the three universities combined showed an average annual rate of increase of 7.3 per cent, and that the data for all private universities indicated an average annual rate of increase in cost per student of 8.3 per cent.

"At the root of the cost pressure besetting all educational institutions," Professor Bowen writes in a study published by the Carnegie Commission on Higher Education, "is the nature of their technology. Over the long run, even if the universities were to have the most progressive leadership and were to shed many of their conservative biases, the odds seem slim indeed that they can hope to match the remarkable record of productivity growth achieved by the economy as a whole . . . And it is the ability of the universities to keep pace, year after year, with economy-wide productivity gains which is crucial for their cost position."

He concludes: "the economic implications of the technology of education would lead us to expect costs per student to rise inexorably, even if universities avoided all temptations to embrace new fields and new techniques, to accept broader responsibility in the world at large, to educate more graduate students relative to undergraduates, and to do more research."

And this cost problem falls most heavily upon the major private universities. "The conscientious supervision of a student's independent work is the essence of high-level graduate education, and it is an important element in the undergraduate preparation of highly qualified students . . . it is hard to see how any significant savings in faculty time are to be achieved here. In short, the very nature of the educational mission of the major private universities makes it unlikely they will benefit to any great extent from whatever technological innovations do occur. The same comments can, of course, be applied to other institutions which emphasize graduate education or the small group mode of undergraduate instruction characteristic of many liberal arts colleges."

Our present state, our quality, our financial situation—the fact we are here—are the results of decisions made to attempt to reinvigorate the University as the Institution it had always been, after the forced budget cuts of the early '50s, the flight of the faculty, the struggle to exist in the community. The question was whether the University could continue to attract faculty, begin to rebuild facilities and add new ones, do the things it ought to do within the community, and maintain that excellence in teaching and research without which there would be small reason to have a University of Chicago. Departments of undoubted eminence required reassurance; new areas of inquiry consistent with the basic interdisciplinary unity of the University had to be developed. Weak departments needed to be convinced the fault lay within, not without. These efforts gained considerable momentum and success by 1959. With the leadership of President Beadle, they were strenuously renewed. To these efforts, essentially efforts of the faculty, we owe the University's present undoubted ability in most of the traditional disciplines, and its equal primacy in some areas further developed during the period, such as nonwestern studies. Of course, we have many inadequacies of varying degrees of seriousness, including sometimes ourselves. It is perhaps small comfort to realize a satisfied university is not a good one. The opportunity for much that has been achieved came because of the success of the $160 million campaign for funds made possible by the Ford Foundation's $25 million challenge grant and the efforts of members of the Board of Trustees and friends of the University. Of course, it was realized the end of this money-raising effort would find the

University with important unmet academic needs and continuing financial pressures. It was, perhaps, good it was not fully realized how acute these might be in part, because of the special vicissitudes of this period. But the $160 million drive was projected as only the first leg of an effort to raise $360 million. We have $200 million to go, and this, whether we can obtain it or not, may be too little. I should remind you that with or without a drive, our present level of operations requires us to raise $20 million a year to keep going, and without the Ford challenge grant, we are not now achieving this.

During the last year we have continued to build upon the strength which prior successes have made possible. The Physical Science Division now has the excellent new facilities for Chemistry and Geophysics, along with the new Astrophysics and Space Research and High Energy Physics buildings. Looking at Psychology and the divisiveness which seemed to overtake it as soon as it moved into the first adequate quarters it ever had, one is churlishly reminded that new buildings need not a department make. But I am sure these new facilities have already helped greatly—even with Psychology. I am told that Far Eastern Languages is positively enjoying its tenancy in one of the buildings vacated by Geophysics.

This has been a year when we have been unusually hurt through faculty losses due to death, retirement or resignation. This has been the case, for example, in Political Science, Economics, Middle Eastern Studies, History, and Divinity School, Physics, the Biological Sciences, including among other areas, Surgery, Physiology, Biophysics, and Medicine. But remarkable new appointments have been made last year and this, and that, after all, is the ultimate test. Moreover, there is the happy indication, as in History, Economics, Political Science, Law, Education, the Divinity School, Business, Mathematics, Physics, and Astronomy and Astrophysics, of increasing success in finding young scholars of unusual accomplishment. This last list is not intended to be exhaustive. It spells good fortune for the University if there are major or, for that matter, any omissions.

The strength of the University is in the individual scholar, the individual student, the tradition of scholarship, the precious and mysterious collaboration which sometimes occurs among scholars and cannot be measured in time spent or under the banality of communication. It has been the good fortune of the University to have had many great scholars throughout the years. We have them now. As colleagues, we value them—young or old—sometimes for their wisdom, always for their insight; when they have it. Fortunately we do not always know who the great scholars are—in addition to a Chandrasekhar, a Zachariasen, a Huggins, a Mulliken, a Beadle. I would name others—they come readily to mind—but the longer the list the greater the trouble I will be in if there are obvious omissions. We surely do not know all those who will become great scholars. This helps us to approach each other with civility, tolerance and skepticism. In any event, I believe it is correct to state that this institution knows a university begins with the individual.

But even though a university should not have all the facilities it craves, physical arrangements, access to materials and special equipment can shape or can be indispensable to the work of the scholar and the education of the student. In our expectation, the Regenstein Library already casts a glow. Graduate students may once more become accustomed to that kind of individual inquiry and study which proper library arrangements encourage, and which we have not had in many years. Even when we complain, which we frequently do, we are fortunate in the availability of many facilities within and without our institution, such as the still functioning Fermi Institute cyclotron, extending its borrowed time, Argonne's ZGS, the 12-foot bubble chamber which began operating at Argonne last month, the coming National Accelerator Laboratory at Batavia. These are only a few examples. The hospitals and clinics are another. To one who works in a field where, despite the commotion about the behavioral sciences, a library is the main requisite, there is sometimes a particular awe in knowing such things as the unique development and use of electron microscopy now taking place, to be aware of the seven instruments relaying information on particles in space, to see the lunar samples, realizing how they were obtained and brought back for analysis. One might feel book-bound, even miniaturized.

I suppose I mention these quite random examples of special facilities, as a preface to making the point that even this university, or perhaps particularly this university, cannot have all the facilities it wants or could well use. It cannot have all the faculty it would like to have. It is quite proper that a flow of memoranda, pointing out our present limitation, should come from faculty and department chairmen and from students. Distinguished departments frequently point out they have achieved great distinction with a faculty too small in numbers, if comparisons are made to departments elsewhere. The complaint is made so often one wonders whether it does not describe a cause for excellence. We are reminded continually that our computing capacity falls far short of that available at many smaller institutions.

We are continually being told that if the University wishes to maintain a strong position in a particular area, we must be willing to take on major capital costs. This university, whatever its future, need not cry out for sympathy. There is virtue in some of our limitations. We have been and are a small university; the expansion of the last ten years preserves this quality. We are the most unified, the least aggregated, of the major private universities. We are a combination of college, graduate divisions and professional schools, which unlike a frequent model, does not rest upon a mass of undergraduates to pay the bill. We entered graduate work from the very beginning, and not in response to government contracts, because we thought there was a special place for a unified institution which would seek to increase and transmit knowledge. There is a price for this attempted unity. It imposes a limitation on size. It forces a persistent questioning as to the relationship of old and new activities to the University as a whole. We learned long ago that we could not do everything, and we discovered that because of this limitation we could do a good deal. This does not mean that at times we have not departed from this kind of ideal conception. Moreover, many of our unmet needs and deficiencies are not only serious, they are notorious. The record of the last years carries a triple and probably perennial message: an extraordinary amount can be accomplished; everything takes so long; an enormous amount remains to be done.

This year, upon the recommendation of the Dean of the College and of the College Council, the size of the College's entering class was reduced from 730 to 500. The action was primarily taken because of shortages in space in the University residence halls, the desire to undouble 133 rooms to single occupancy, the felt necessity to create better quarters for head residents in six of the undergraduate residential houses as part of a long-term program to induce faculty to take part in the cultural life of these houses. The shortage and inadequacies of our residential facilities have been known for a long time. Ten years ago about half of our student body commuted to the University from the homes of their parents. I remember a detailed explanation from one of the University's leading social scientists why this would always have to be the case.

But today this is true for only about 3 per cent of our student population. More than 40 per cent of our students live in University residence halls or University apartments, and an equal number find housing for themselves in the immediate neighborhood of the University. There have been changes also in what is regarded as attractive or suitable housing. The University began planning for more adequate residential units at least 7 years ago. Innumerable faculty and student committees have passed upon a variey of plans. The projected student village, which has been frequently approved, would give a considerable segment of the student body the kind of housing they seem to favor. We need some donors. I do not know whether to be depressed or encouraged by the fact that it took about 25 years from the time of initial planning to the beginning of the construction of the Regenstein Library.

The reduction in the size of the College gives to the faculty of the University an unusual opportunity to work with undergraduates in small groups. This should be one of the characteristics of undergraduate training at Chicago, as indeed it should be, and frequently is, at the graduate level. I am not sure I know what a small group is, and I am not specifying a particular method of instruction. What is important is the ability to reach and work with the individual student, and this can be done in a number of ways. A growing number of undergraduates are taking part in research activities with senior faculty with what are described as surprisingly excellent results. There should be more such possibilities.

In the autumn of last year, the Committee of the Council began discussing looking toward the broadening of the University Senate which then consisted of professors, associate professors, and those assistant professors who had completed three years' full-time service on academic appointments. The faculty Council voted to recommend the inclusion of assistant professors who had completed one year's full-time service on academic appointments at any rank. The change was approved by the Board of Trustees prior to the election of the present Council. The Council, created in 1944 and consisting of 51 elected members, has been a unique institution in the governance of a university. It was an attempt, and I believe a successful one, by the Board of Trustees, after consultation with the President and a faculty committee, to build what the Trustees described as "a coherent scheme of administration." The Statutes describe the Council as "the supreme academic body of the University, having all legislative powers except those matters reserved to the Board of Trustees, the Office of the President, or the other Ruling Bodies." It has "jurisdiction over (1) matters affecting more than one Ruling Body, and (2) any action of any Ruling Body which substantially affects the general interest of the University." In setting up the Council, the Trustees also provided for an elected Executive Committee, 7 members of the Council chosen annually by the Council, with an elected spokesman who serves as the channel of communication between the Committee and the Council. This Committee meets every two weeks during the autumn, winter and spring quarters, frequently more often, and again according to the original plan, the President is required to keep "the Committee informed as far as practicable on all matters of general University interest." For some reason, other institutions are now showing intense interest in how the Committee and the Council function. They have functioned well.

Two years ago I urged the Deans to encourage the creation of effective student-faculty committees or councils in all of the

academic areas of the University. The Council has strongly and repeatedly endorsed this proposal. More than 60 of these committees are now in operation. Their importance depends, of course, on how they are used and the amount of faculty and student involvement in their work. It goes without saying that the exchange of views and the process of deliberation among faculty and students will not work if the faculty does not play a full role. The committees represent a necessary opportunity for mutual enlightenment, and they can contribute greatly to the programs and operations of the University.

This has been an interesting year. Some overall impressions remain. They are not startling. I trust they go beyond particular issues. The coherence and direction of this University depend upon its faculty. The institutional arrangements which have been perfected make this clear. It could hardly be otherwise in view of the kind of university this is. The institutional arrangements go beyond the Council to the other Ruling Bodies, the Schools, the Divisions, the College, and to the Departments and Collegiate Divisions. The exercise of responsibility by the faculty depends upon these bodies having regular meetings, and not just in time of stress. The greatest number of College faculty now have joint appointments in some other academic unit. Partly as a consequence of this, some departments are now much larger than they were. These departments must find new ways of achieving understanding and interchange among their members. There is much work to be done. No one can look at higher education today without wondering about the correctness of much of the structure which has been created. It is perhaps natural that some of the most thoughtful inquiries into our present forms of education and direction for research have begun in some of the professional schools. There is a sense in which these schools have assigned tasks. They are aware of problems to be solved—problems which affect the well-being of society, of mankind, of individuals. They are reminded continually of the inadequacies of our knowledge. They cannot be satisfied with a training of students which merely duplicate their predecessors.

The pressures they feel must be upon all of us. The University as a whole and each of its areas in some ways must share these concerns. We must give constant thought to the kind of contribution—the kind of advancement of knowledge and understanding—which can be made from here. Because we cannot do everything, we must select those things we can do and which make a difference. This means we must know ourselves and the kind of institution which this can become. It means we must overcome a defeating self-pride.

I would not be true to myself or to you if I did not state my admiration for this faculty, collectively and individually, for the members of the Council and the Deans, Masters, and Chairmen who have carried a greater administrative burden than anyone would have known. Three great Deans have won the right to shed this burden. Two of them, Wayne Booth and Alton Linford, have returned to scholarly pursuits. The third, George Shultz, perhaps finds his arduous duties as Secretary of Labor as even something of a vacation.

Universities must respond and change. Their greatness, if they have it in any measure, is not to be found in their ability to express a popular will. They are very much of the society, but they are also separate from it. They are in themselves places of criticism, discovery, and dissent. They must often go it alone, just as the individual scholar must find his own way. They may not be the most important institutions in the world. If they lose their character, they have no importance at all.

I have taken pains to describe to you some of the practical difficulties which this University must face. We should not be fearful for this University's future. We should, rather, hope that in our hands it will continue to be worthy.

SMALL BUSINESS SUBCOMMITTEE TO CONDUCT STUDY OF FRANCHISING

Mr. WILLIAMS of New Jersey. Mr. President, I invite the attention of Senators to two timely, important articles entitled "A Business of Your Own—The Growth of Franchising," and "Hard Work, Long Hours, a 15-Percent Return," published in U.S. News & World Report of December 8. I ask unanimous consent that the two articles be printed at the conclusion of my remarks.

I say these articles on franchising are timely and important because over the last several years the franchising system of doing business has experienced phenomenal growth. Franchising now accounts for $90 billion per year in annual sales. This is slightly more than 10 percent of our entire gross national product.

I was amazed to learn that there are over 600,000 franchised businesses in this country, most of which are small. Because of the enormous recent growth of franchising and the many implications it has on our entire economy, I have scheduled hearings on franchising before my Small Business Subcommittee on Urban and Rural Economic Development for January 20, 21, and 22. To my knowledge, no committee of Congress has ever before attempted a truly broad study of the entire franchising field. We will make every effort to explore the franchising concept in our effort to make small businessmen and potential small businessmen better informed and intelligently cautious in their franchising aspirations.

The subcommittee will hear witnesses representing the International Franchise Association, the National Association of Franchised Businessmen as well as representatives from Federal regulatory agencies, celebrities from the television, motion picture and sports world, and small businessmen who maintain and operate their own franchised business. One thing we want to determine is whether franchising can establish an effective formula for enabling the local small retailer to stage a comeback.

Mr. President, I commend the editors of U.S. News & World Report for their excellent treatment of this complex subject. We can all benefit from a thorough reading of these articles, which serves as a timely preface to our January hearings.

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

A BUSINESS OF YOUR OWN—THE GROWTH OF FRANCHISING

For millions of American families, a long-cherished dream is to have "a little business of our own."

Now that dream is sparking a whole new industry—franchising—that is changing the face of retailing in this country.

The explosive growth in franchising shows up in a host of businesses. They run the gamut from hamburger, chicken and pizza drive-ins to beauty salons, nursing homes, car washes, carpet-cleaning stores and mobile-home dealerships.

Scarcely a community across the United States has escaped the retailing revolution.

There are franchises to sell ice cream, burglar alarms, household pets, auto supplies, doughnuts, income tax services and bridal accessories.

Almost every day the papers hold out fresh lures for the individual who wants to be his own boss. For example—

A physician in Sacramento, Calif., hopes to franchise a method he has developed for permanently sewing hair to bald scalps.

An auto-racing driver is launching a network of retail service centers for owners of foreign cars and "personal" American cars.

A New England executive talks of franchising a chain of "mini-theaters"—highly automated movie houses with low overhead and limited seating capacity, but showing first-run films.

A New Jersey firm offers franchises for the sale of its health-promoting whirlpool baths.

A company in Texas is looking for people to market its program for "motivation, personal development, sales training and management development."

HOW IT WORKS

Franchising basically is a system under which an individually owned business is run as though it were part of a large chain.

The small enterpriser signs an agreement and pays a fee for the privilege of using the parent company's trade marks, designs, equipment, products and management know-how. The parent company is called the "franchisor," the individual operator the "franchisee."

When a company's brand name is nationally advertised or widely known, the franchised store, it's claimed, has "instant" pulling power—something that might take years of promotion and investment for a man starting from scratch.

Says Jerry Kosseff, head of Franchise Analysts & Consultants, a Los Angeles firm: "Nine out of 10 persons who start businesses without the help of franchising fail. But 9 out of 10 who do have franchising help succeed."

" 'Get-rich-quick' schemes are nothing new to the business world," says Harry Winokur, founder and president of Mister Donut, a 14-year-old enterprise. However, he asserts, "The basis of franchising is so sound that companies which adhere to its principles and have salable products will continue to grow at a faster pace than the economy."

Partly for this reason, the Small Business Administration in Washington is showing increasing interest in the franchise idea. It recently granted $50,000 to the University of Wisconsin's graduate school of business to study the impact of franchising on small business and the general economy.

SBA has published a series of pamphlets for people interested in starting their own businesses, and for small manufacturers eager to expand sales through franchised outlets.

Other franchising developments are stirring in Washington.

The U.S. Department of Commerce has just issued a booklet listing nearly 300 firms with franchises "available to qualified persons regardless of race, color or national origin."

The Justice Department and the Federal Trade Commission are preparing reports for Congress on the pros and cons of franchising.

Bills are pending in the House and Senate to provide a greater degree of protection for holders of franchise contracts. Some franchisees have complained that their contracts were canceled just when they had built up prosperous businesses.

A nonprofit trade group, the National As-

sociation of Franchised Businessmen, Inc., has been set up in Washington to provide "assistance, information, or consultation" to existing investors or potential investors in franchised businesses.

ANCIENT HISTORY

Franchising is no newcomer to the American business scene. One of the oldest firms in the country, the F. W. Woolworth Company, for a time after its founding 90 years ago franchised its stores. The big auto and tire companies long have franchised most of their dealers.

Just in the past few years, however, franchising has rocketed to boom levels.

Some date the surge of development to the years just after World War II, when GI's returning from military service wanted to get into business for themselves, and often were able to do so with Government loans.

In any case, the system has grown to the point where almost 30 cents of every retail dollar is spent through franchised channels—about 90 billion dollars a year, all told.

How does a typical franchise operation work out in practice?

Suppose you have just invested in a popular franchise: an agreement with a nationally known doughnut firm to run a retail shop in your community.

You pay a franchise fee—in a range of $7,000 to $12,000—for the right to use the firm's trade name and its promotional materials.

You rent a shop—with advice from the parent company as to the location and interior layout—and buy from the franchisor the equipment for making doughnuts. You might also agree to buy ingredients, paper bags, cartons and other supplies from the parent firm.

Your contract provides that you must follow instructions in detail.

In return, the franchisor agrees not to sell a similar franchise to anyone in your immediate neighborhood. He promises, also, to give you marketing help, advice and training, and to answer questions that may arise as you go along.

If you are fortunate, and everything goes according to plan, within two or three years you should be getting an annual income of anywhere from $15,000 to $20,000 from a shop of typical size, after paying all expenses of the business, says the management of one national doughnut firm.

THE PITFALLS

While the franchising boom has produced some remarkable success stories, it also has created pitfalls for the unwary.

Some communities have become saturated with franchised stores, particularly those in the fast-food field. Newcomers find choice locations gone and competition rough.

"If you don't have the sites to put up your stores, you're out of business," according to Donald King, a real estate specialist who is executive vice president of Mister Donut. The reason, he adds, is the "terrific competition to get good locations. Everyone wants the same spots, and not too many good ones are available. The key is to know which is the right one for your future franchise, and then lease it at the right price."

In some instances, it's suggested, companies were organized primarily to unload franchises on unwitting buyers.

The attorney general of Michigan, in a complaint filed late in October against a cosmetics firm, accused the company of defrauding Michigan residents. The complaint charged the company with "concentrating on the sale of franchises rather than on the sale of cosmetics."

Income-reporting practices of some franchising companies have come in for criticism by financial authorities.

Leonard M. Savoie, executive vice president of the American Institute of Certified Public Accountants, said on November 18 that the promotion and sale of some franchises, and the financial reports on their operations, have led to "certain overindulgences." He referred specifically to financial statements which report as current income fees that are due to be collected over future years. This can lead to overstated income by the parent firm, he added.

Supporters of the franchise system assert that it represents the "last frontier" of the independent businessman.

At a time when economic assets are tending to be concentrated in big business concerns, they say, franchising gives the small operator access to top-quality advice and managerial talent.

Franchising, it's contended, is one way to keep competition alive at the retail level. It is seen, too, as a method for developing business opportunities and jobs for the economically disadvantaged and for minority groups.

THE CURRENT OUTLOOK

Several trends stand out in today's franchise operations.

One is a move toward diversification by franchise managements.

For example, Mutual Franchise Corporation, of Boston, started as a chain of fast-food, self-service restaurants.

Recently, it moved to acquire Mobile Brake Sales and Service System, a specialized brake-relining service.

AAA Enterprises, Inc., a franchisor of mobile-home dealerships, has expanded into the retail carpet business, and also operates a franchise chain for the preparation of income tax returns.

A second development is a big increase in the number of franchise firms that are "going public." About 75 franchising companies now have stock that is publicly held, according to a recent estimate, and many more new franchise-company stock issues are in registration at the Securities and Exchange Commission.

Still another recent development has been the use of big names in the sports or entertainment fields to head up newly organized franchising ventures. Some of the more volatile issues in the stock market lately have been such "celebrity-sponsored" enterprises.

Ahead, experts predict, is expansion into many service operations, including financial, real estate and advertising.

"Franchising has had its share of growing pains," says David Slater, president of Mutual Franchise Corporation. "Right now, it is plagued by tight money, heightened competition and rising costs.

"Still, I can't think of an area with more promise for people who are willing to work hard and stick with a venture until it begins to pay off."

HARD WORK, LONG HOURS, A 15-PERCENT RETURN

(Interview with Dr. Charles L. Vaughn, executive director, Center for the Study of Franchise Distribution, Boston College)

Q. Dr. Vaughn, why are we hearing so much about the franchise business these days?

A. For one thing, we have seen some spectacular rags-to-riches developments in this field. They involve names that people are familiar with—McDonald's hamburgers, Kentucky Fried Chicken, Midas Muffler, Howard Johnson's restaurants and motor lodges—and scores of others.

Then, too, franchisors are good at publicizing their activities. Some of this exuberance has spilled over into the stock market, where stocks of some firms offering franchises have been active—not always for sound reasons.

Basically, though, I think franchising keeps making news because it is a way for the little fellow to get started in his own business—often with modest capital and with a good chance for success.

Q. Is this a new idea?

A. No. Franchising goes back to the early years of this century, though the emphasis has changed recently. The first franchisors were production men—auto makers, soft-drink manufacturers, oil producers—who were looking for a way to get their product to market.

In the case of Coca Cola, franchises to bottle and sell the drink were practically given away in the early days just to get the product to consumers. It's only in recent years that franchising has started to boom at the retail level.

Certainly the most successful developments in the fast-food field—hamburgers and fried chicken—offer little that's new in terms of product. But selling them has been given a new twist through standardization of quality and taking the product out to where consumers are—along the highways and in busy shopping areas.

Q. How fast is franchising growing?

A. We estimate the annual growth rate, over all, at about 10 per cent. The food field seems to be growing the fastest. The number of retail outlets there is increasing at a rate of 20 to 25 per cent a year.

Q. How big is the franchise business now?

A. All told, there are close to 600,000 franchised outlets in the U.S. They include auto dealerships, gasoline service stations, stores offering auto products and services, and such other types of retail outlets as restaurants and snack shops, pet stores, and a wide range of service-type businesses.

Q. Is there danger that the market for some of these things will get saturated—just too many outfits competing for the consumer's dollar?

A. It is getting harder to find good locations for some kinds of businesses, but I don't agree that we are approaching saturation. Remember that back in the early 1950s people were saying we had about reached the limits of ownership of television sets. Yet today we have households where there are two or three sets. The same can be said for car ownership and even home ownership. We're finding more and more families in the market for a second home—a vacation property. As long as our population continues to grow and our standard of living continues to rise, I think there will be a continued expansion in many lines of franchising.

Q. Are there dangers for the individual who is thinking of investing money in a franchised business?

A. Yes, there are many pitfalls, and the man who is thinking of getting into a franchised business needs to be aware of them:

First, a person taking out a retail franchise has to be prepared to work hard—put in long hours and maybe work a six or seven-day week. In that respect, franchising is no lazy man's way to get rich quick.

Second, a franchise holder has to be willing to follow instructions. That is one of the contradictory things about franchising: The big appeal lies in having your own business, but the chances for success are greatest when you hew strictly to the line your boss, the franchisor, has laid down. Many big franchising companies have told me they do not want to do business with a fellow who goes off on his own, who tries to develop new ways of doing things. The parent company has worked out products and processes and marketing plans that it has tested under all sorts of conditions. It doesn't want one of its franchisees upsetting the applecart.

Q. Does the parent company have close control over the people it licenses?

A. Yes. The franchisee has to sign a contract that spells out the terms under which he will operate. Generally, he must make a continuing payment—a royalty—that amounts to a percentage of his annual gross sales.

After two or three years in business, a man may tend to forget how he happened to

get started in it. He may not realize that he owes much of his success to the advice and supervision and quality controls of the franchisor. If he had gone into business on his own, the chances are 2 to 1 that he might have failed in a couple of years.

Q. Why do you say the man who operates a franchised business has a better chance for success than the man who has started out on his own?

A. The parent firm offers a great deal of know-how: management assistance, advice on hiring help, how to keep books, how to maintain strict standards of quality.

Often it provides a financial backstop that the man starting a business on his own can't get.

In the case of the better-known franchising setups, the businessman gets the benefit of an established name—something that can be a very valuable property.

Q. Would you suggest that the man who is going to invest money in a franchise get legal advice before he signs a contract?

A. Absolutely. He should consult his lawyer and his banker and perhaps an accountant. He may want to check with his local Better Business Bureau as to the reputation of the company with which he is considering signing up.

You will find that any reputable franchisor will be more than willing to give a prospective licensee the names of some of his franchise holders. I usually suggest that the prospective investor take a list of names and make a random selection out of that list—not just go to names the franchisor selects.

Q. What should he ask these people?

A. He will want to find out whether they are satisfied with their working arrangements with the parent company, how hard they have to work, what the drawbacks of the businesses are as well as the advantages. He will want to satisfy himself that the parent firm is stable and well financed, that its product has wide consumer acceptance, that the company has had experience in dealing with independent businessmen.

CHECKLIST FOR GOING IT ALONE

Q. Where can a person go for information about opportunities in franchising?

A. A basic source is a booklet published by the U.S. Department of Commerce: "Franchise Company Data." It is supplied free, and it lists some 250 to 300 franchise businesses and describes each one briefly. It also contains a checklist of points for a prospective franchisee to keep in mind. It's important to note that this booklet is in no sense an endorsement of any of the firms listed, nor does it offer any guarantees of success in any particular field.

Then there are many current books and magazines devoted to franchising. Here at Boston College Center we have published a folder that describes our activities and lists sources of information about the franchise field.

Q. What sort of return on investment can a person expect from putting money into a franchise?

A. We have been trying to work out some estimates, but there is no strict rule of thumb. One of the big fast-food chains says that after the first year or two in business, the franchise holder ought to get an annual return of 14 or 15 per cent. But this company also cautions that this sort of yield presupposes hard work, long hours and strict attention to detail.

Q. Does franchising offer a way for minority groups with limited capital and experience to get a start in business?

A. Yes. Franchisors are accustomed to dealing with untrained people who need advice and guidance and close supervision.

Often the two barriers that Negroes find when they try to get into business are lack of capital and lack of knowledge of where to turn for advice and assistance. On the latter score, franchise companies generally are top-notch. Their executives are not business-school theoreticians; they have been through the school of hard knocks. They are men who know how to train people for a specific type of retail venture.

GETTING STARTED ON A SHOESTRING

Q. Is shortage of capital a hindrance for people who would like to start a franchised business?

A. It is a problem, but steps are being taken to improve that situation.

For example, the Small Business Administration has been relaxing its lending policies, particularly to help members of minority groups. And when you have a nationally known name on a franchise operation, you'll usually find a lender more willing to put up some money than if you were starting a business from scratch with just your own name on it.

Q. Suppose a man has bought a franchise and after a year or two wants to get out of it. Is that hard to do?

A. One characteristic of franchising, as opposed to a company-owned outlet, is that the franchisee can sell his business to someone else. In that sense, he is an independent entrepreneur. Usually he can find a buyer to take over his business, or in some cases the parent company will help him find a buyer. Generally, however, the parent firm has to approve the buyer.

Q. Do you find interest in the franchise field growing?

A. Yes. We get inquiries here at the Center from all over the world—France, Australia, Finland, even from Czechoslovakia and some of the other Iron Curtain satellites.

Every spring we sponsor an international conference on franchising. The next one will be April 2–4, 1970, and already we are getting inquiries and requests for information. Last year we had 700 registrants when we had planned for only 300. Next year we expect about 1,000 registrants, although we may have to limit attendance.

Q. What specific advice would you offer the person trying to decide whether to take on a franchise?

A. Basically, he needs to size up his own risk quotient. That boils down to answering three questions: How much risk can he afford? How much risk is he willing to take? And what sort of return can he expect to get from that risk?

The man who is getting along in years—say, 50 to 55 years old—can't afford to take as many chances with his capital as the man in his 30s who still has time in his working years to recoup losses he might suffer.

There are plenty of risky franchises being offered today, and on some of them a man might as well put his money into a Las Vegas slot machine or bet on a horse. I would be leery of a new firm offering franchises with no record of accomplishment and no tested market for its product.

Only after weighing the risks and the possible rewards should an individual venture into franchising. But I am convinced that this is a field that still has great growth ahead and that offers opportunity for the man who is willing to give his full time and attention to a business he is temperamentally suited to run.

DRAFT REFORM

Mr. KENNEDY. Mr. President, since I last placed in the RECORD a number of items relating to the establishment of a lottery for determining the order of induction into military service, a number of important evaluations of it have appeared in the press. I think it important that they, too, be generally available in one place to Senators. Consequently, I ask unanimous consent that these materials be printed in the RECORD.

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

[From the Washington Post]

MARYLAND UNIVERSITY STUDENT SAYS DRAFT LOTTERY SYSTEM WAS RIGGED

(By Aaron Latham)

A University of Maryland student claims that, statistically speaking, the draft lottery was rigged so that those born in the first half of the year won and those in the second half lost.

Brian Reid, a mathematician who ran a computer check on the lottery results, said yesterday that draft officials evidently placed the dates in the big glass bowl in chronological order with January buried at the bottom and December on top.

When the numbers were drawn Sunday, December birthdates fared the worst with an average ranking of 121. November was close behind at an average of 149, October at 182 and September at 157.

The average January ranking was 201, February 202, March (which had the highest average ranking) 226, April 203, and May 208.

Reid says that there are "between five chances in a thousand and five in a hundred thousand that the draw was actually a random selection." Those are the odds that each birthday had exactly the same chance as every other.

Meanwhile the Los Angeles Times reported that John E. Ware, a student at the University of Southern California, conducted a similar statistical analysis and came up with the same results.

He concluded that the results were "too unusual, too bizarre," to have depended entirely on chance.

The draft next year will be based on the Washington lottery, with those whose birthdays were drawn first called first.

Reid says that the draft officials fell into the same trap that many television shows do: they assume that by putting cards in a drum and stirring them they will get a random sampling.

The birthdates drawn Sunday, each encased in a plastic capsule like the prizes in a gum machine, were placed in a glass bowl and stirred with a spade. He says that this is not good enough to give everyone an equal chance.

Ware says that in lotteries, as in the shuffling of cards, "Too many things are biased, too many things can occur."

Both Reid and Ware agree that it would have been more equitable to base the draft on a table of random numbers generated by a computer.

Reid is a 20-year-old senior physics major and his birthdate, Oct. 6, was ranked 87th. Ware is 27.

[From the Washington Post, Dec. 4, 1969]

CHURCH LEADERS PLAN AID TO DRAFT RESISTERS

(By William R. MacKaye)

DETROIT, December 3.—The General Assembly of the National Council of Churches tonight narrowly defeated a proposal that the agency accept and "hold in trust" a draft card proferred by a 21-year-old draft resister.

Delegates agreed 228 to 184 to accept the card, which was offered by James D. Rubins, a student at Hope College in Holland, Mich., in the face of legal opinion by counsel that the action would be a violation of the selective service act.

But council president Arthur S. Flemming, in response to a point of order, ruled the measure had lost for lack of the two-thirds majority required under the rules.

Flemming's ruling stirred repeated efforts

by the measure's backers to find some technique by which they could associate themselves with what many called Rubins "act of conscience."

Finally Flemming ruled that council procedures permitting the formal recording of minority dissent would permit the preparation of a document on which delegates and others could subscribe themselves as individuals supporting the young Reformed Church member.

The document is to be readied for signatures Thursday.

Earlier the council, in another demonstration of the increasing opposition to the Vietnam war among its constituent members, called for an international investigation of atrocities against Vietnamese civilians allegedly committed by American servicemen.

The delegates also said they would welcome a congressional investigation, but they said the "belated" Army investigation now under way "is quite inadequate."

The tone of the debate on the war was set during the morning by a speech delivered to the assembly by former ambassador to Japan Edwin O. Reischauer.

Reischauer asserted that American policy toward Asia in general and Vietnam in particular has been deeply corrupted by racism.

As evidence of what he termed the "good mentality" to which governmental officials have succumbed, Reichauer cited the charges filed against 1st Lt. William L. Calley Jr. in connection with the Mylai incident.

The specifications, said Reischauer, charge the officer with responsibility for the deaths of "Oriental human beings."

"What is that adjective doing there?" he asked.

"We have to correct this sort of thing before we can play the sort of role we must play in the world."

Stressing that he has opposed the war for a long time, Reischauer urged other war critics in the council and elsewhere not to overact and force abandonment of the "useful residual roles" the United States may still have in Southeast Asia.

In still another action related to the war debate, an ad hoc committee of the council described a move to create a joint committee sponsored by the National and Canadian Council of Churches that would minister to draft resisters and deserters who have taken refuge in Canada and their families.

Council members reported that an estimated 50,000 draft-age Americans are now in Canada and that about 30,000 are in the process of acquiring permanent residence status there.

A resolution asking the council to give its official blessing to the pastoral project is to be brought before the assembly Thursday.

Preoccupation with the Vietnam issue, particularly the protracted and sometimes passionate debate on the request that the council accept Rubins draft card, tended to overshadow a reiteration by James Forman of his call for reparations for black people.

Foreman, who has played little part since July in the reparations program backed by the Black Economic Development Conference, told the delegates they were deceiving themselves if they thought the reparations demand would wither away.

"People who believe in the Black Manifesto will forever be a plague on the racist white churches and Jewish synagogues," he said.

He spoke with particular harshness of efforts he said some predominantly white churches had initiated to persuade "house niggers" in their denominations not to back the Manifesto demands.

This effort, he declared, has been "most blatant" in the United Methodist Church, the mainly white church that has the largest Negro constituency.

Foreman also charged that the FBI is seeking to obtain indictments against every officer of the Black Economic Development Conference "on orders of Attorney General John Mitchell.

(Federal grand juries in Detroit and South Bend, Ind., acting under the direction of Justice Department officials, are known to have subpoened and questioned church leaders and others about the conference's activities.)

[From the New York Times, Dec. 4, 1969]

QUESTIONS AND ANSWERS ON DRAFT

(By David E. Rosenbaum)

WASHINGTON, December 3.—Since the draft lottery was conducted Monday night, the national Selective Service headquarters, local draft boards and newspaper offices have been deluged with telephone calls from persons with questions about their draft status.

Following are some of the most frequently asked questions and their answers:

Q. Who was affected by the lottery?

A. Men born between Jan. 1, 1944, and Dec. 31, 1950. In other words, men who have had their 19th birthday by Jan. 1 but not their 26th.

Q. Who will be affected by future lotteries? A. Only men whose 19th birthday occurs in the calendar year in which the lottery takes place. They will be liable for the draft in the following year—the one in which their 20th birthday occurs.

Q. So the talk about drafting only 19-year-olds is not precisely correct.

A. Right. Men without deferments will be vulnerable to the draft in the year in which they have their 20th birthday. Some, therefore, will have passed their 20th birthday when they are drafted. But the period of liability to the draft is only one calendar year.

Q. What happens if I do not have a deferment and I am not drafted in the year I am in the pool.

A. Then you will be safe from the draft forever. At least unless there is a national emergency.

Q. In what order will men be drafted?

A. They will be drafted in the order their birthday was picked in the lottery. Men born on Sept. 14 were assigned No. 1 because that date was picked first. They will be the first to be drafted. Nov. 9 was the 80th date picked, and men born on that day received No. 80. They will be drafted after men with No. 79 and before men with No. 81. Within a given birthday, men will be drafted in the order in which the first letter of their last name was picked in another drawing.

Q. What about men with deferments? Will they be drafted anyway? A. No. Men with deferments will not be drafted as long as they have deferments.

Q. My birthday is on Feb. 11. I am 20 years old and was assigned No. 150 this year. Now I have a deferment and will not be drafted in 1970. Will I be assigned another number in next year's lottery to apply in 1971? A. No. Absolutely not. You, like all men now between 19 and 26, will retain always the number you drew Monday night.

Q. Well, what happens when I lose my deferment in some future year? A. You will go into the draft pool with the number 150, even though men in future lotteries with Feb. 11 as a birthday will have a different number.

Q. Is there any way I can get my number changed? A. No.

Q. What happens if I lose my deferment in June and the number 150 has already been passed in the sequence?

A. You will be drafted just as soon as you pass physical examination and are otherwise processed. In other words, you will be drafted almost immediately.

Q. What if when I lose my deferment in June my number, No. 150, has not been reached in the sequence? A. You will not be drafted until the number is reached.

Q. I will be 26 years old in March, 1970. Will I be drafted if my number has not been reached by my birthday but is reached later in the year? A. No. Once you pass your 26th birthday, you are free from draft liability.

Q. What if my number is reached and I receive my induction notice just before my 26th birthday? Can I appeal the induction notice, which will take time, until after my birthday and then escape the draft?

A. Once you start the appeals process, you are liable for induction even if your birthday is passed by the time your appeals are exhausted.

Q. What if I keep my deferment past my 26th birthday? Is my period of liability extended? A. No. If you have a deferment on your 26th birthday you are safe from ever being drafted unless there is a national emergency.

Q. What about the rule that if you have a deferment your period of liability is is extended until you are 35 years old? A. This is technically true. But all men who are under 26 must be taken before any man 26 or over is taken. There are enough men under 26 to assure that men over 26 are not drafted.

Q. I have been hearing a lot about a loophole. I have a deferment, and my number is 165, which means I am a real borderline case. My number may be reached in the sequence and may not be. Can't I wait until late in the year and if it looks as if the number will be reached keep my deferment to wait for another year when the number might be reached? And if it looks as if 165 will not be reached, couldn't I drop the deferment, enter the pool and if I am not drafted be home free?

A. You can try all these things, and it might help. But by the time it is late enough in the year for you to know whether your number is going to be reached, it will probably be too late for the draft board to remove your deferment and change your classification to 1–A. This procedure often takes several months. If your status wasn't changed until after the first of the next year, you would have to take your chances in that year.

NATIONALLY OR LOCALLY?

Q. What numbers are likely to be called?

A. Pentagon experts say that the first third —numbers 1 to 122—are certain to be called; the last third, 245–366, certain not to be called; and the middle third not certain one way or the other. One expert who has done careful calculations believes the cutoff number will be somewhere between 165 and 195.

Q. Is the sequence applied nationally, or is it my place in the sequence within my own draft board that counts?

A. It is the sequence in each local board that matters. But the cutoff number between those who are drafted and those who are not will not vary much from board to board. This is because draft quotas are allotted to each draft board on the basis of the number of 1–A's in that board.

Q. In what order will conscientious objectors be called to report for civilian work? A. They will be called in the same sequence as the draft sequence.

Q. If I am in graduate school without a deferment, can I have my induction postponed until the end of the school year when my number is called? A. Yes. But you will be taken at the end of the school year.

Q. What if I am an undergraduate without a deferment? Can I finish the school year before I report for induction? A. Yes.

Q. What will be the size of next year's draft pool? A. About 850,000 men will be eligible for the draft in 1970.

FUTURE POOLS

Q. What about in future years? A. It is expected that pools in the few years after 1970 will contain about 700,000 men. But this is a less precise than the 850,000 figure.

Q. Then wouldn't my chances of being drafted be less next year than in future years because the pool is bigger? A. Possibly. But it is also possible that draft calls will be lower in future years, especially if President Nixon is successful in scaling down the number of American troops in Vietnam.

Q. How many men will be drafted in 1970? A. About 250,000.

[From the New York Times, Dec. 3, 1969]

DRAFT BOARDS ARE PREPARING TO IMPLEMENT LOTTERY PLAN

(By David E. Rosenbaum)

Special to the New York Times

WASHINGTON, December 2.—With hundreds of thousands of young men having learned their place in the draft sequence from last night's lottery, draft boards began today preparing for the January call-ups.

The 12,500 men to be drafted next month—those whose birthdays were among the first drawn in the lottery—should begin receiving their "greeting" from Uncle Sam in the next two or three weeks.

The national headquarters of the Selective Service System sent the local boards today a memorandum informing them of the official order of call established last night and instructing the boards how to rearrange their files.

HOW SYSTEM WORKS

Officials here said that within a matter of days each board should have the files of its registrants who are eligible for the draft next year arranged in the order of their birthdays were picked in the lottery.

Here is how the new lottery system works:

Men who were born between Jan. 1, 1944, and Dec. 31, 1950, and who on Jan. 1 have had their 19th birthday but have not had their 26th, were assigned a number based on the order in which their birthday was drawn in the lottery.

Thus, men born on Sept. 14 received No. 1 because that was the first date picked. Men born on Oct. 20 received No. 192 because that was the 192d date drawn, and so on.

Men born on the same day will be selected in the order in which the first letter of their last name was drawn in another random drawing.

These are the men who will be drafted in 1970. Men between the ages of 19 and 26 who do not have deferments and who are not drafted next year will no longer be vulnerable to the draft unless there is a national emergency.

If a man reaches his 26th birthday during 1970 and his number has not been called by this birthday, he will escape the draft.

Deferments are not affected by the lottery. If a man is eligible for a deferment next year, he can get it from his draft board, regardless of his place in the draft sequence.

The same regulations apply for deferments that applied before the lottery. Thus, college undergraduates can still obtain deferments until they graduate, quit school or reach the age of 24.

Most graduate students cannot get deferments. Occupational deferments are granted at the discretion of the local boards, and criteria vary from place to place. In some areas teachers are granted deferments. In others, they are not.

No one's draft classification was affected by the lottery. For instance, men who have 4–F classifications (unfit for military service for physical, mental or moral reasons) will continue to be 4–F.

FUTURE LOTTERIES

Every year hence, there will be another lottery in the fall. These lotteries will affect only men whose 19th birthday fall in that calendar year.

They will be liable for induction during the following year, the year in which their 20th birthdays occur.

Thus, next fall, there will be a lottery to assign numbers to men born in 1951. These men will be eligible for the draft in 1971. If they do not have a deferment and are not taken in 1971, they will be free of draft liability unless there is a national emergency.

Although men with deferments in the 19-to-26 age group will not be drafted next year even if their number is reached in the sequence, they will always retain the same number they were assigned in last night's lottery.

When their deferments lapse for reasons such as leaving school or quitting their jobs, they will enter the pool immediately. If their number is reached in the year in which they enter the pool, they will be drafted. If the number is not reached, they will not be drafted.

For example, John Doe, a college undergraduate, was born Feb. 11, 1949. His birthday was the 150th one drawn in the lotter, so he was assigned No. 150.

Next year, he plans to stay in college and retain his deferment. He will not be drafted. In 1971, he plans to graduate. He will lose his deferment.

Even though the 19-year-old men in next year's lottery with Feb. 11 as a birthday will be assigned another number, John Doe will always have 150 as his number. So in 1971 he will be drafted after all men with 149 as a number and before all those with 151 as a number.

If, when John Doe leaves school, No. 151 has already been reached in the sequence, he will probably be called for induction very soon because his number has been passed.

Pentagon experts believe that men whose numbers are higher than the mid-200's will probably not be called next year and will be free from draft vulnerability forever, barring unforeseen circumstances.

The numbers from 1 to about 125 are considered certain to be reached in the sequence, and these men will be drafted. Men with numbers in the middle will have a year of uncertainty.

Pentagon experts believe that 500,000 men will be immediately available for the draft in 1970 and that another 350,000 will enter the pool during the year, for a total of 850,000.

Of these, about 250,000 are expected to be drafted. Another 290,000 are expected to volunteer for enlistment.

The manpower experts are estimating that draft pools in the few years after 1970 will total about 700,000 men, or slightly fewer than in 1970.

It is also likely, they say, that draft calls will be lower in future years if President Nixon is successful in scaling down the war in Vietnam and no other conflict develops.

The rough figure of 700,000 is reached by the following arithmetic. In 1971, there will be 1.9 million 19-year-olds. About 600,000 will fail to qualify physically, mentally or morally, leaving 1.3 million qualified.

Slightly more than half of these will have student or other deferments. Of the 600,000 remaining, half will enter the service, and half will go into the draft pool. The remainder of the draft pool will consist of older men who lose their deferments and enter the pool.

[From the New York Times, Dec. 8, 1969]

DRAFT LOTTERY CHANGES VIEWS OF ELIGIBLES

The new draft lottery has set into motion a complex set of crosscurrents among young people that range from sharp changes in career plans to assertions from moderates and radicals that draft protests will continue unabated.

Interviews with draft-eligible young men, counselors, student activists and draft board workers in 20 cities since last week's draft lottery show the following things:

Many draft-age men appear to be relieved that they can now see their futures more clearly because they have a better idea of their chances of being drafted.

Both moderate and radical young people say that they will continue to protest the draft until the entire Selective Service System is eliminated, although some concede that the lottery has caused a division on the draft among the young.

Some of those who are now least vulnerable to the draft have dropped plans to pursue deferred careers such as teaching and are seeking to get out of military reserve commitments they had made before they were "safe."

There is some evidence that those who are now most vulnerable to the draft have been "radicalized" against the war in Vietnam, while those with the lowest risk have lost some of their antagonism.

College and occupational deferments continue as the most popular means of avoiding the draft, while a minority still says it prefers jail or exile to military service.

Military experts say the draft pool for the coming year will include about 850,000 men between the ages of 19 and 26, about 250,000 of whom will be drafted. Thus young men whose birthdays were picked in the lowest numerical third of the lottery are virtually assured of being drafted, while those in the highest third are relatively safe. Those in the middle third fall into the "uncertain" group.

THE SAFE NUMBERS

Generally, those who were awarded the "safe" numbers were jubilant. "You know, I was born a month late," said Peter Steinberg, a junior at Columbia College, who drew 366, the "safest" number. "I would just like to thank my mother."

But for others, the jubilation was tempered. The comment of Harold Kletnick, a 21-year-old University of Chicago senior, who also ranked 366th, was typical.

"I definitely didn't want to go to the Army," he said, "but I don't feel good at all about beating the system."

Others who drew high numbers said they still opposed the draft because of the "immorality of the war," the inequities that remain and the basic concept of forced military service.

Perhaps mindful of this, many in Congress, and possibly President Nixon himself, will push for more extensive draft reform next year. Mr. Nixon had asked for the lottery.

The Senate Armed Services Committee has already planned hearings for February to hear proposals for major new modifications and also for complete elimination of the draft in favor of an all-volunteer Army. But most observers agree that there is little likelihood that the draft can be ended as long as the Vietnam conflict continues.

PROTESTS TO CONTINUE

So student radicals and others say that protests against the war and the draft, which many regard as inseparable, will continue. But even the most active opponents of the draft seemed ready to concede that the lottery had taken some of the steam out of the movement.

"If the purpose of Nixon's lottery was to divide us, he's won quite a victory," observed Lawrence Cohen, a senior at the University of Pennsylvania. "Nevertheless," he said, "we must continue to refuse to participate in a Selective Service System that reduces men to animals."

Sue Ellen Dennis, a teacher in Dayton, Ohio, who has been counseling those eligible for the draft, considered the lottery an improvement but said the pressure for reforms

would continue as long as the Vietnam war made the draft necessary.

"Most resisters will continue resistance—with or without a lottery," she said. "It did help those who were uncertain, but the majority still won't buy involuntary servitude."

Cary Krumholtz, a 22-year-old graduate student who has been involved in antiwar protests at the City College of New York, also saw the lottery as divisive: "It's going to radicalize those people from 1 to 122," he said, "and I suppose it will make the ones in the [highest] third more complacent."

Cathy Kornblith, an active member of the Resistance, an antidraft organization that passed out flyers in front of draft boards in the San Francisco Bay area last Tuesday, the day after the lottery drawing, said the new system only emphasized the need for abolition of the draft.

"We'll continue our efforts," he said. "This is going to affect the need for resistance. The lottery still preys on the poor and the blacks and the Mexican-Americans."

Antidraft activists at other campuses and in cities and towns across the country reflected similar sentiments.

UNLIKELY TO BEND

Some of the opposition was clearly ideological and seemed unlikely to bend regardless of the extent of change. At Brooklyn College, Steven Eisenberg and Ira Perelson, members of the Progressive Labor wing of the Students for a Democratic Society, said in a statement that the lottery only obscured the real issue. The statement said:

"Students are fighting the imperialistic policies of the United States in Vietnam. They recognize that the draft—in whatever form—only serves to supply cannon fodder for a war that is benefiting only the capitalists."

But perhaps significantly, while antiwar activists tended to dismiss the lottery as meaningless, there were no reports of organized demonstrations in the cities or on the campuses surveyed.

This may have been due, in part, to lack of understanding of the new system. Many chose to simply wait and see. The Columbia draft counseling service reported more than 200 calls the day after the lottery—10 times normal.

David Sable, a counselor, said that more young men seemed to be gaining sophistication in avoiding the draft. In the last year, he said, "we have had more people apply for conscientious objector status than we have in the last two combined."

He also noted that some students had discussed the possibility of dropping their deferments for 1970 to take their chances in the larger pool. The 1971 pool will consist only of 19-year-olds.

DELUGED BY CALLS

Draft boards and counseling services elsewhere also reported a deluge of calls.

The Rev. Rodney Page, who conducts a draft counseling service near Portland State University in Oregon, reported the phone "ringing off the hook" with questions about the lottery. One trend, he noted, was that the likelihood of being drafted increased the pressure to seek conscientious objector status.

For many, the cold reality of a low draft number seemed to crystalize their resentment. William Tortu, a 19-year-old student at the University of Pennsylvania, who holds No. 18, said: "The lottery jolted me out of my complacency and made me realize the threat of the Army and dying in Vietnam.

"To call the lottery fair in comparison with the previous system is to call hanging fair compared to drawing and quartering."

But even those for whom the lottery was more benign had problems. Many students with high numbers were reported to be seeking ways to get out of R.O.T.C. commitments.

A Brooklyn College student who asked not to be identified because it would "sound like I'm gloating" over his No. 366, said he had planned to teach before the lottery. But now, he said, "I'm throwing it all out the window."

Others foresaw a similar pattern of young men with "safe" numbers giving up deferred status to enter the draft pool for the required period. If this happened, they said, more deferred jobs and reserve openings would be left to men with low numbers.

Some thought this could make matters more critical for men in the middle third, or "sweat zone," as one student called it.

Gary Bloom, 21, a civil engineering major at City College, explained why. Pointing a finger at a student sitting across the table from him in a campus cafeteria, he said:

"That guy there is No. 9. He knows he's going to go. People like him are going to make arrangements—leave the country, or go into a critical occupation or something. And that means that the uncertain group is not uncertain at all."

TV COMMENTARY AND THE VICE PRESIDENT

Mr. GURNEY. Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled, "TV Misses Public's Response to Agnew Speech," written by Mr. Richard Wilson, and published in the Washington Star of Monday, December 1, 1969.

It seems to me that the article is a significant contribution to the continuing dialog concerning the Vice President's recent speeches with regard to the news media. I quote the last paragraph of Mr. Wilson's article:

The listener, who likes comment, wishes along with it at least the versimilitude of fairness and wisdom, and it is perhaps the shortage of this quality in TV commentary which has caused the great majority to agree, in principle at least, with Agnew. The TV business would do better to examine itself a little further while warning of government repression.

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

TV MISSES PUBLIC'S RESPONSE TO AGNEW SPEECH

(By Richard Wilson)

The available evidence suggests that Vice President Spiro T. Agnew's criticism of bias in the mass media struck a responsive chord among the general public. There is nothing to suggest, however, that the tonal gradations of the responsive chord have penetrated deeply into the hushed chambers where radio-TV network policy is made.

A tonal deafness seems to have developed on what it was Agnew was talking about, with the network moguls all professing to see a dangerous frontal challenge to freedom of speech in their government licensed medium.

The radio-TV executives, therefore, may well ask themselves why it is that as many as three out of four persons think Agnew has a valid point.

The answer to that question could prove to be quite disconcerting. It may merely involve the simple conclusion of a great many people that the commentators now practicing are not qualified by background, information and depth of thought to share equal time with the President of the United States. This is the equivalent of heresy in the broadcasting business. It is unthinkable that some handsome, well-spoken broadcaster with five or 10 years experience should not be entitled to go on the air with his authoritative analysis and be listened to with the same attention and respect as the President or whomever it is the broadcaster is analyzing and judging.

Dr. Frank Stanton, president of Columbia Broadcasting System, Inc. expounds the current thought in the industry on the point. He attributes to these instant analyzers the ability to call "attention to emphases, omissions, unexpected matters of substance, long anticipated attitudes, changes of views, methods of advocacy or any other aspect of the speech." The analyzers function as critics, in other words, judging this omission or that change of attitude as it seems to strike them in the spirit of guiding and instructing the public on what they ought to think about the speech they have just heard.

In the case of the President's speech on Vietnam, Dr. Stanton points out that the text was handed out to the press and to radio-TV analyzers two hours in advance of delivery. He adds, "If a professional reporter could not arrive at some meaningful observations under those circumstances, we would question his competence." Two hours is enough, it is judged, to permit these highly skilled professionals to gather their thoughts for airing to an audience which assembled before their television sets to hear the President make a major announcement after weeks of study. Otherwise they had better look for work elsewhere than CBS.

It is at this point that a great many TV viewers turn off their sets and turn off Dr. Stanton. They are simply not convinced that the analyzers are professional enough, informed enough or profound enough to share time with the President on major U.S. policy. In the case of Nixon's speech, two hours of deep thought was not enough to reveal to the analyzers that four out of five of the listeners they were instructing would approve of Nixon's stated views on Vietnam.

The TV moguls, in their profound concerns for the right of analyzers to say anything that occurs to them after their gruelling two hours of thought, have simply missed the central point that a vast host of TV watchers do not share the respect with which the analyzers view themselves.

This would be as hard for a TV commentator to accept as for a newspaper columnist, the difference really being that many newspapers give their readers a wider choice of opinion which they can usually adequately sample by reading the first and last paragraphs and thus turn off before they become too deeply involved.

Analysis and interpretation is a great art which only a few, such as Eric Sevaried, have wholly mastered. As Sevareid handles his art, it is to explore a subject rather than to arrive at conclusions on it, and in this way to open his own mind and the minds of listeners to various inherent possibilities. This seems too inconclusive to others whose two hours of thought leads them toward conclusions they would not think so irrefutable if they could hear the concurrent comment of their listeners.

The listener, who likes comment, wishes along with it at least the versimilitude of fairness and wisdom, and it is perhaps the shortage of this quality in TV commentary which has caused the great majority to agree in principle at least, with Agnew. The TV business would do better to examine itself a little further while warning of the baleful potential of government repression.

MRS. B. J. BANDY, DALTON, GA., A FINE AND COURAGEOUS LADY

Mr. TALMADGE. Mr. President, the Chattanooga Post recently published an extremely interesting article about Mrs. B. J. Bandy of Dalton, Ga. Mrs. Bandy is a fine and courageous lady who played a leading role in the development of the huge tufted-textile industry.

The article recounts how Mrs. Bandy and her late husband went into the tufted bedspread business in a laudable effort to pay off debts accumulated in their country store during the depression. They were determined to pay "100 cents on the dollar" that they owed, and it was this spirit that made their bedspread business such a notable success.

But even more notable is the fact that this business was the beginning of the tremendous tufted textile and carpet and rug industry of today. From this humble origin, the carpet and rug industry has grown into a $2,250 million business and a vital part of the economy of the Nation, and many States in particular. We are very proud that approximately 65 percent of the volume of this industry emanates from northwest Georgia, principally in the city of Dalton.

Mrs. Bandy is a grand lady, and she is certainly to be congratulated for the role she played as one of the principal pioneers in this important industry.

I bring this news article to the attention of the Senate and ask unanimous consent that it be printed in the RECORD.

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

LAUNCHED TUFTED SPREADS TO SAVE A COUNTRY STORE

(By Ronald V. Gunter)

DALTON, GA.—Mrs. B. J. Bandy looks no more like a pioneer than she does a moon maid, but she is truly one of the pioneers in one of the fastest growing and most dynamic industries in America.

The wife of the late B. J. Bandy, the man credited with being the first person to ever make a million dollars in the bedspread business, she was responsible for selling the first bedspreads that launched what became the largest single business in the industry.

Before his death in 1948 Mr. Bandy had bedspread plants in three states employing more than 1,000 persons.

Today Mrs. Bandy is the matriarch of a clan of tufting industrialists. Her son, B. J. Bandy, Jr., is vice president of Coronet Industries Inc. and was one of the founders of the firm, now one of the industry's largest.

Her daughter, Mrs. Joseph K. McCutchen, is the wife of the chairman of the boards of J&C Carpet Co. and Universal Carpets Inc. of Ellijay, Ga.

McCutchen, founder of these companies, is the holder of more than 30 major patents in tufting technology, patents that are recognized in both the United States and Europe.

Mrs. Bandy's grandson, Joe McCutchen Jr., is president of one of the faster-growing young carpet companies in the industry, Universal Carpets Inc.

Mrs. Bandy's reasons for entering the bedspread business are simple and eloquent.

"My husband and I wanted to pay our debts. You see," she says, "we were running a country store when the depression hit, and we did a large credit business. Many, many of our accounts took bankruptcy and never paid us anything. We owed our suppliers $22,000 and my husband and I were determined to pay 100 cents on the dollar for what we owed."

Besides running a country store, both Mr. and Mrs. Bandy were railroad telegraphers. Mr. Bandy still worked as a telegrapher when the depression hit.

Those were the days, she recounts, when the bedspread business was first getting off the ground.

"We went to see Mrs. Catherine Evans Whitener (the woman who made the first tufted bedspread in the area and who is credited with starting the industry), and she let us copy five different patterns of her bedspreads.

"Truly here was one of the grandest ladies and finest persons I've ever known," Mrs. Bandy says.

Mrs. Bandy hired some people to hand tuft the five bedspreads, and Mr. Bandy, still working on the railroad, was able to get passes on the railroad.

He obtained Mrs. Bandy a pass to Washington so that she could try to sell large numbers of the hand-made spreads.

"I'd never been farther away from home than Atlanta before this trip. I had one new dress, and I sat up all night long on the train. It was quite an experience," she remembers.

"I sat with my suitcase and my bundle of bedspreads. The next morning upon arriving in Washington I started walking to my first store. Frankly I didn't know you could check a suitcase in the terminal; so I carried both my suitcase and my bedspreads to Woodward & Lothrop and asked to see the buyer.

"I showed him what I had to sell. I also told him I'd never tried to sell anything before. He smiled at me and said, 'I know that,' but he was one of the nicest persons I ever met.

"He said he would take 400 spreads at $4 a spread. I was doubling our money at this price.

"I got back on the train and went to Baltimore, and at Hotchschild & Kohns I sold 200 more. I had planned on going to New York, but I turned around and came home. We had to hire people to tuft up 600 spreads. We shipped them all."

On her next foray into the buying centers she headed for the real big time and went to New York and to Macy's. Her first order there was for 1,000 if she would sell them for $3. She did and still made an excellent profit.

On subsequent trips with railroad passes she went to Chicago, Baltimore, Boston, New York and Washington and sold bedspreads by the hundreds.

"In those days I just prayed that the bedspread business would last long enough for us to pay all the $22,000 we owed," Mrs. Bandy recalls.

The Bandys had people throughout the area tufting bedspreads for them back in the days when the business was truly a cottage craft. Oftentimes the entire family, husband, wife and children, hand tufted spreads.

"It was not uncommon not to be able to ship some particular color of spreads because the creek might rise and the people tufting that color would be cut off from the main road. This type thing happened so many times," she laments.

When the wage-and-hour law came in with the New Deal, many people thought the business was doomed, but technology took over. A man took the head of an old fashioned "goose neck" Singer sewing machine and adapted it to the task of machine tufting spreads.

A new machine age was born. The Bandys were among the first to go mechanical. Mr. Bandy later bought a large plant in North Carolina; he established Southern Craft Co. in Rome, Ga., and built Bartow Textile Co. in Cartersville, Ga., then the largest in the industry.

Since his death in 1948, Mrs. Bandy has given much of her time to charitable and civic projects.

In memory of Mr. Bandy and a granddaughter who was killed in an accident at the University of Georgia, Mrs. Bandy and the McCutchen family contributed money to establish an intensive-care unit at the Dalton hospital. It now occupies an entire wing.

Mrs. Bandy has been honored by the Salvation Army with a life membership for her long-time work with and financial support of the Army.

Mrs. Bandy's admiration for the Salvation Army spans many years. Her father and brother were both physicians and her brother was killed in the trenches while serving as a doctor during World War I.

She has also been honored by two governors of Oklahoma and by former Gov. Ernest Vandiver of Georgia for her efforts and financial support in restoring the Chief Vann house near Chatsworth, Ga.

Former Oklahoma governors, Raymond Gary and J. Howard Edmonson, have cited her for her work and both made her an honorary colonel.

She also holds the title as Official Ambassador of the Cherokee Nation, an honor presented her by W. W. Keeler, now president of Phillips Petroleum Co., Bartlesville, Okla.

Today she says she enjoys playing bridge most every day and she spends a lot of time working with Dalton Junior College, where she is a trustee.

As one of the earliest pioneers in the tufting industry and as one of the more successful participants in it, Mrs. Bandy has realized great financial rewards. Her life has also been marked with great personal tragedy, but as a superactive person in many charitable and civic projects she appears to love and to live every moment of her life.

RACIAL ISOLATION AND DE FACTO SEGREGATION

Mr. SCOTT. Mr. President, our distinguished colleague from Mississippi (Mr. STENNIS) has in recent weeks pointed his finger at a problem which the people of Pennsylvania and many other Northern States are not aware of—the problem of racial isolation in large, industrial urban centers of the North.

The Senator seems to overlook the fact, however, that this racial isolation has unfortunately resulted from economic and housing patterns, and not from overt acts of discrimination. In addition, the Senator overlooks the fact that racial isolation is much less severe in the North than in the South. According to statistics which I have requested from the Department of Health, Education, and Welfare for example, over 87 percent of all Negro students in the State of Mississippi attend 100-percent Negro schools. By comparison, only 3.5 percent of the Negro students in Pennsylvania attend all Negro schools. I ask unanimous consent to insert further statistics prepared for me by the Department of Housing and Urban Development comparing the school systems in Pennsylvania with those of Mississippi.

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

MISSISSIPPI AND PENNSYLVANIA—SCHOOL ASSIGNMENTS BY RACE, FALL 1968

Reports	Mississippi		Pennsylvania		Jackson, Miss.		Philadelphia, Pa.		Pittsburgh, Pa.	
School systems reporting	106 of 148		568 of 610		1		1		1	
Schools reporting	770		4,412		56		278		113	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Student enrollment:										
American-Indian	112	0.0	411	0.0	17	0.0	0	0.0	15	0.0
Negro	223,784	49.0	268,514	11.7	17,919	46.2	166,083	58.8	29,898	39.2
Oriental	384	.1	2,073	.1	19	.0	0	.0	196	.3
Spanish Sur. American	327	.1	11,849	.5	25	.1	7,022	2.5	154	.2
Total minority	224,607	49.2	282,848	12.3	11,980	46.4	173,105	61.3	30,263	39.7
Nonminority	231,924	50.8	2,013,163	87.7	20,793	53.6	109,512	38.7	46,005	60.3
Total all students	456,531	100.0	2,296,011	100.0	38,773	100.0	282,617	100.0	76,268	100.0

Distribution of Negro students	Percent Negro students assigned to	Number of schools	Percent Negro students assigned to	Number of schools	Percent Negro students assigned to	Number of schools	Percent Negro students assigned to	Number of schools	Percent Negro students assigned to	Number of schools
100 percent Negro schools	87.4	269	3.5	14	94.6	19	3.2	6	8.2	4
99 to 100 percent Negro schools	92.4	281	29.2	72	94.6	19	39.7	56	33.9	11
90 to 100 percent Negro schools	92.7	283	47.8	126	94.6	19	63.1	93	52.6	19
80 to 100 percent Negro schools	92.7	283	56.1	161	94.6	19	73.4	118	60.1	23
50 to 100 percent Negro schools	93.3	292	71.6	243	97.0	22	89.2	158	78.8	34
0 to 49.9 percent Negro schools	6.7	478	28.4	4,169	3.0	34	10.8	120	21.2	79

Distribution of nonminority (white) students	Percent white students assigned to	Number of schools	Percent white students assigned to	Number of schools	Percent white students assigned to	Number of schools	Percent white students assigned to	Number of schools	Percent white students assigned to	Number of schools
100 percent white schools	12.1	86	27.7	1,678	12.6	5	3.7	8	3.1	
99 to 100 percent white schools	25.8	138	57.2	2,613	55.8	19	17.9	21	9.2	12
90 to 100 percent white schools	79.3	358	89.4	3,762	95.0	30	45.4	48	47.6	38
80 to 100 percent white schools	94.9	439	94.3	3,941	95.8	31	59.1	67	74.7	56
50 to 100 percent white schools	99.6	478	98.5	4,155	98.4	34	82.5	110	91.3	79
0 to 49.9 percent white schools	.4	292	1.5	257	1.6	22	17.5	168	8.7	34

Mr. SCOTT. I agree with the recent statement made by the distinguished Senator from New Jersey (Mr. CASE), who said:

> Two wrongs do not make a right. We must get at the problems in the North, but not at the expense of our efforts to correct even more severe problems in the South.

The above figures demonstrate that there are very severe segregation problems in the South brought about by, until recently, enforced legal segregation. Senator STENNIS, to my understanding, would desire to offer an amendment to the presently pending and already very late HEW appropriations bill before this body. This amendment would provide, again I understand, that Federal funds would be cut off to any school district wherein was located a school which was "predominantly" Negro and a school which was "predominantly" white not either under court order to desegregate or having an HEW-approved desegregation plan or presently providing the busing of students from one school to another.

This is a complicated and complex proposal which deserves the most far-reaching consideration of the Senate. It is my hope that the Senate leadership will attempt very hard to get commitments for hearings on the matter intended to be proposed by Senator STENNIS. Over a month ago I said to this body that I would normally object to such a provision as being legislation on an appropriation bill. The issue of de facto segregation in the North has long deserved the serious consideration of this body. I want to be recorded as in favor of considering ways and means whereby racial isolation in the North can be reduced and eliminated. However, de facto segregation has its roots in serious economic and social problems which are found in central cities. I would, for example, like to see permanent and well-considered legislation on this subject with appropriate Federal funds authorized and appropriated for clearly delineated purposes. Any rider to an appropriation legislation would only have an effect for 1 year. Therefore, I would hope that the Senate would immediately proceed with the HEW appropriation legislation soon to be before us and that the Senate leadership would proceed to join me in urging hearings on this matter at the earliest time next session. The problem with which we are faced is to not risk diminishing our attacks on the quite worse desegregation problems in the South. There is no reason to believe that the situation in the North, however serious and disheartening it may be, would in any way justify diminishing the pressure for desegregation in the South. I would hope that substantive and far-reaching legislation would evolve which would have as its purpose enforcing all the laws and all the decisions of the Supreme Court equally in all parts of the United States. I am firmly in support of such legislation and urge that the appropriate subcommittees and committee of this Congress diligently proceed to deliberate this matter for the full consideration of the Senate.

CRISIS IN ENVIRONMENTAL QUALITY

Mr. McINTYRE. Mr. President, 200 years of neglect have brought about a crisis in environmental quality that may well pose the greatest challenge mankind has ever faced.

Just a few years ago concern over this crisis was limited almost exclusively to professional ecologists, conservationists, and a few far-visioned public servants.

Now, and none too soon, the crisis is beginning to come home to all the people.

In the last decade we have seen increased reaction at the national level. But the reaction has been sporadic and uncoordinated. Piecemeal laws have been enacted to meet piecemeal problems with piecemeal funding. And this response, of course, falls far short of meeting a challenge that is nothing less than a crisis in the quality of life itself.

In the crucial need to rise to that challenge, motivation of the private citizenry is the single most important factor, for it will be their concern, their demands, their efforts that will influence the Congress and the State legislatures to take the measures, however costly, to preserve our Nation in recognizable and livable form.

In my own State of New Hampshire, this private initiative is emerging in encouraging and effective fashion. A unique new approach to environmental problems, an approach called New Hampshire—Tomorrow, aims at meeting the environmental crisis in a most positive way.

New Hampshire—Tomorrow is a cooperative venture by Dartmouth College, the Society for the Protection of New Hampshire Forests, the Spaulding-Potter Charitable Trusts, and the New Hampshire Charitable Fund—along with help from Ford Foundation.

This program is designed to meet the needs of New Hampshire towns and villages offering the assistance of expert planners and providing options to solving specific environmental problems. The approach is practical for it recognizes that concern must first be mobilized at the local level before effective action can be taken.

It recognizes that many towns are in a position to do much on their own to preserve environment as well as to restore it, and yet New Hampshire—Tomorrow also recognizes the importance of the

programs and prerogatives of the State and Federal Governments and seeks to complement them.

I am certain that the future will see an accelerating assault on the problems of environment, more research, more funding, more governmental assistance at every level, and I shall work for all of this. But for me it is particularly heartening to see such an auspicious beginning being made in the communities of my own State.

Mr. President, because of the importance of this program, I ask unanimous consent to have printed in the RECORD an editorial originally published in the Concord, N.H., Monitor and later reprinted in the Berlin, N.H., Reporter. It not only provides further description of the program and its goals, but also offers it important support.

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

NEW HAMPSHIRE—TOMORROW

A unique program is underway in New Hampshire dedicated to finding ways and means of controlling, and improving, the state's most precious and perishable resource—natural beauty.

The program is called "New Hampshire—Tomorrow," and nothing quite like it, as far as we can determine, ever has been undertaken before.

It is practical, forward-looking and imaginative. It is an experiment in the concrete steps necessary to control our environment, to identify needs and to determine how best those needs can be met.

"New Hampshire—Tomorrow" is a cooperative undertaking by Dartmouth College, the Society for the Protection of New Hampshire Forests, the Spaulding-Porter Charitable Trusts and the New Hampshire Charitable Fund—with help from the Ford Foundation.

It is an exercise in feasibility, for the program is aimed at helping local communities, with minimum expense, undertake conservation projects or initiate corrective action to preserve and enhance the livability of our surroundings.

The Spaulding-Potter Trusts have granted "New Hampshire—Tomorrow" a total of $100,000 over a two-year period to get its "process of accomplishment" program off the ground.

Just yesterday, the Ford Foundation announced it had granted the New Hampshire Charitable Fund $84,650 to participate in the plan that will identify needs, encourage local action, provide expert advice and try to determine how goals can be accomplished.

The New England Regional Commission, a federal agency with offices in Boston, has chipped in $15,000. And still other federal funds may become available once the program gets under way.

Dartmouth College's contribution consists of headquarters and research facilities and the services of a full time water expert, or hydrologist.

For Dartmouth, it is a significant step forward, for the institution for too long has held itself aloof to the pressing problems of the state in which it has been situated for 200 years.

Dartmouth also will provide advisory teams of geographers, economists and scientists to help local communities tackle the sometimes seemingly unsurmountable problems of environmental control—cleaning up polluted streams, enhancing scenic vistas, creating land preserves, and abolishing unsightly junkyards, used car dumps, etc.

The thrust of "New Hampshire—Tomorrow" will be to find the means to accomplish limited local projects—and not to accomplish those projects itself. It will not draw up a master plan for beautifying our environment, but its activity may lead to the development of state policy toward this end.

Among other things, the program will provide legal help to local citizen groups that seek to improve the quality of their community environment.

In other words, the program is designed to guide and assist, and not dictate.

One of the most imposing tasks of "New Hampshire—Tomorrow" will be to educate and inform. Comparatively few persons recognize fully the gravity of the problems that will face New Hampshire in the next decade if the state's natural beauty is allowed to deteriorate at the present pace.

It is an historic undertaking stimulated largely by Concord Atty. Eugene C. Struckhoff. The enthusiastic backing he has received is indicative of the degree of importance attached to the nationwide problem of environmental control.

HUNGER IN AMERICA

Mr. MONTOYA. Mr. President, many of us will be looking forward to celebrating the holidays through religious observance, gift exchanges, and sitting down with family and friends to a specially prepared dinner.

Unfortunately some Americans will barely have enough money to pay for rent and a subsistence diet, let alone sit down to a sumptuous dinner. Millions of Americans throughout our affluent United States will go to sleep Christmas day hungry, wondering if they will be able to stretch their food to the end of the week.

The recent White House Conference on Hunger in Washington did one very important thing; it underscored and brought to an even larger audience the cold hard facts—we have millions of hungry people living in America who need assistance. The Select Committee on Nutrition and Human Needs, of which the Senator from South Dakota (Mr. McGOVERN) is chairman, brought this fact to the attention of Congress and the American people earlier this year. Now the Nixon administration, realizing the gravity of the problem, called a White House conference to further dramatize the situation and draw up recommendations for the administration to act upon. It is my fervent hope that they do so very soon.

Congress has voted for more food stamp funds. The administration has endorsed the stamp-out-hunger plea and the recent hunger conference has recommended a course of action-now. Many New Mexicans go to sleep hungry every night. This must not continue.

My own formula for demonstrating the Government's resolve is by doing something immediately. To this end I have sent President Nixon a letter asking him to declare a National Stamp Out Hunger Week beginning December 21. This would require the Secretary of Agriculture to issue a directive providing sufficient free food stamps and commodities to all needy welfare recipients so all Americans will have a holiday dinner.

Unquestionably we in America must view the presence of hunger in the world's richest nation with alarm. Neglect and apathy in the past have made the solution to hunger more difficult each day. It is time we acted to follow the principles of our Founding Fathers, who wrote in the Constitution that we must "promote the general welfare."

Mr. President, I ask unanimous consent that the text of my letter to President Nixon be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C., December 9, 1969.

President RICHARD M. NIXON,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: This past week the White House Conference brought to the attention of millions in America that we must do something as soon as possible to feed the hungry and malnourished Americans blighted by hopeless poverty.

I was very pleased to read your address delivered at the White House Conference on Hunger. In line with your endorsement to stamp out hunger I would like to urge you to do the following:

(1) Declare the week of December 21st 1969 as National Stamp Out Hunger week.

(2) In the spirit of the White House Conference on Hunger and recommendations set forth, begin a nationwide campaign immediately to distribute a free Christmas food stamp/commodity package to all poverty-level families during this week.

The best way I know to indicate to the many "have-not" people in America that the national leadership means business when they say stamp out hunger is my action. My own state of New Mexico is a case in point. The White House Conference may be remote and confusing to many, but if in line with the declared policy of the Administration an unprecedented act was undertaken to provide sufficient food for all the needy on Christmas, they will be more receptive and responsive to the food assistance programs you initiate in 1970.

Sincerely,

JOSEPH M. MONTOYA,
U.S. Senator.

GOODELL PLAN SUPPORTED

Mr. McGOVERN. Mr. President, the response to a recent nationwide public television broadcast on the question, "Should Congress Adopt the Goodell Proposal Requiring Complete Withdrawal of All Combat Troops From Vietnam by December 1, 1970," indicated that 68 percent of the respondents favor the bill, with 32 percent opposed. As one who has long advocated our disengagement from the self-defeating involvement in Vietnam, I was gratified by this demonstration of support for the proposal of the distinguished Senator from New York (Mr. GOODELL).

I ask unanimous consent that a summary sheet on the response to this debate be printed at this point in the RECORD.

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

THE NATION RESPONDS TO THE ADVOCATES ON VIETNAM

(By Robert Fisher, executive editor)

OCTOBER 28, 1969.

In response to the nationwide public television broadcast debating the question, "Should Congress Adopt the Goodell Proposal Requiring Complete Withdrawal of All Combat Troops from Vietnam by December 1, 1970," the Advocates received 2,151 letters (2,917 signatures) from 39 States. Of the people writing in, 68 percent favored the bill, 32 percent were opposed.

During the October 19 broadcast viewers heard Sen. Charles Goodell support his bill (S. 3000) and heard Senators Barry Goldwater and Gale McGee in opposition. Sen. Charles Mathias, as yet uncommitted, was the principal guest to whom the arguments were addressed.

The Advocates, a new, live, Sunday evening public affairs television series (10:00 p.m. EST), seeks to bring people into politics. Each week arguments are heard on both sides of an important "decidable question." At the end of each broadcast, viewers are encouraged to act on the question. The Advocates' staff has undertaken to tabulate views received and pass them on to the respondents' elected officials. The Advocates, as a program, takes no position on any issue debated.

The following is a detailed breakdown of the mail response to our Vietnam broadcast:

State	Pro	Con	Total
Alabama	3	4	7
California	310	92	402
Connecticut	15	9	24
Delaware	7	2	9
Florida	84	41	125
Georgia	9	6	15
Idaho	1		1
Illinois	73	59	132
Indiana	9	9	18
Iowa	2	11	13
Kansas	10	8	18
Kentucky	4	2	6
Louisiana	8	3	11
Maine	7	3	10
Maryland	25	12	37
Massachusetts	137	77	214
Michigan	34	15	49
Missouri	12	6	18
Montana	3	2	5
Nebraska	8	8	16
Nevada		4	4
New Hampshire	8	10	18
New Jersey	68	34	102
New Mexico	3	2	5
New York	331	108	439
North Carolina	8	8	16
Ohio	32	10	42
Oklahoma	14	8	22
Pennsylvania	87	54	141
Rhode Island	8	5	13
South Carolina	3	2	5
South Dakota	3	1	4
Tennessee	9	8	17
Texas	34	39	73
Utah	5	1	6
Virginia	6	8	14
Vermont	1	1	2
West Virginia	3	1	4
Wisconsin	41	19	60
Washington, D.C.	3	3	6
Canada	1		1
Unknown	24	3	27

"WE ARE ALL PILGRIMS"

Mr. GOODELL. Mr. President, Thanksgiving Day was an opportunity for all of us to reflect upon the traditions of our country and the meaning of these traditions today.

I would like to call to the attention of my colleagues a Thanksgiving editorial by radio station WNEW in New York City. In this period of disillusionment and skepticism, I think this editorial speaks to all Americans.

Mr. President, I ask unanimous consent that the text of this excellent editorial be printed in the RECORD.

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

A THANKSGIVING WEEK COMMENTARY BY RADIO STATION WNEW, NEW YORK CITY

Every Thanksgiving we recall the Pilgrims as a noble hardy band of pioneers who landed at Plymouth, Massachusetts in 1620, faced a dreadful winter but survived to reap a great harvest. Commemorating this nation's riches and the Pilgrim's courage is a national tradition.

So is the Pilgrim's crisis of spirit.

Financed in part by merchants who created them—accompanied by dissenting strangers—decimated by scurvy and pneumonia—saved ironically by the Indians they had come to serve with the Gospel—and uncertain in self-government, the Pilgrims were plagued with their own doubts. And so are we.

Even today—some of us reap great harvests while others labor in hard, unproductive soil. The process of building a colony into a nation included mutual trust and civil war.

Confirming our destiny has sometimes taken us far beyond our borders. Sometimes bearing arms.

And now in just such a time we are at odds with ourselves about the cause and purpose of our commitment in Vietnam.

We are facing one of the many hard winters since 1620. And because of it we are reminded of just how uniquely Thanksgiving summarizes our origins, trials and triumphs under one flag—a flag which allows us to pull together while arguing in which direction.

The American Flag does not belong to just some of us. It cannot be coveted as a partisan symbol. It cannot be hailed or dishonored for personal politics or prejudices. It is the banner of the very liberty we have to wrestle over what we believe is best for it.

To fly the American Flag on Thanksgiving Day is to give evidence of that liberty and to prove that the Flag represents all of us in our diversity and to rescue it from those who would make it a symbol of division.

If you have an American Flag—fly it.

Fly it for all of us. With all of our differences we are all Americans. We are all Pilgrims.

SEGREGATION IN THE SCHOOL DISTRICTS OF NEW YORK

Mr. STENNIS. Mr. President, according to the 1968–69 HEW school survey, there was a total of 3,364,090 students in the elementary and secondary public schools of New York. Of this total, 2,601,708, or 77.3 percent of the total enrollment, were white; 473,253, or 14 percent, were Negro students; 263,799, or 7.8 percent were Spanish-speaking Americans; 19,620, or 0.6 percent, were classified as Orientals; and 5,710, or 0.1 percent were American Indians.

The HEW's IBM data reflects that there are 17 school districts in the State of New York with at least one school with a minority group enrollment of over 80 percent. However, in 14 of these cities, or school districts, there is an aggregate Negro enrollment of 403,127, or 85.2 percent of the total State Negro student enrollment in the New York City schools alone.

Let us take a look at New York City. It has a total enrollment of 1,363,067, of which 467,365, or 43.9 percent, are white, 334,841, or 31.5 percent, are Negro, 244,302, or 23 percent, are Spanish-speaking Americans, 15,573, or 1.5 percent, are classified as Oriental, and 1,526, or 0.1 percent, are American Indian students.

In New York City, there are 119 schools which are 99 and 100 percent minority group segregated, which have a Negro enrollment of 89,957, or 19 percent of the city's total Negro student enrollment. There are 207 schools having a Negro student enrollment of 146,575—43.7 percent of the city's total Negro enrollment—that are 95 to 100 percent minority group segregated. There are 269 schools with an aggregate Negro enrollment of 173,791—or 51.9 percent of the city's total Negro enrollment—in schools that are 90 to 100 percent minority group segregated. There are 322 schools with a total Negro enrollment of 201,462—or 60.1 percent of the city's total Negro enrollment—where the minority group enrollment is 80 to 100 percent. There are 18,865 white students—or 4 percent of the city's total white student enrollment—attending these 322 schools that are 80 to 100 percent minority group segregated. There are 82,794 white students—or 17.7 percent of the total white student enrollment—attending 50 to 100 percent minority schools.

Now let us look at the white majority schools. There are 211 schools which are 80 to 100 percent white, which are attended by 17,994 Negro students—or 5.3 percent of the city's total Negro student enrollment. In all, there are 393 majority white schools in New York City, and 65,490 Negro students—or 19.5 percent of the city's total Negro enrollment—attend these majority white schools.

In the public schools of the city of Buffalo there is a highly segregated Negro minority. Buffalo has a total enrollment of 72,115, in 101 schools, of which 43,942—or 60.9 percent—are white, 26,381—or 36.6 percent—are Negro, and 1,792—or 2.5 percent—are from other minority groups.

In the Negro majority schools, there are 16 schools with a total of 11,562 Negro students, which is 43.8 percent of the total Negro enrollment in Buffalo public schools, which are 99 and 100 percent Negro. There are 21 schools, with 66,122 Negro students—or 61.6 percent of the city's total Negro student enrollment—that are 95 to 100 percent Negro segregated. 19,268—or 73 percent of the city's total Negro students—attend majority Negro schools, and 27 percent attend majority white schools.

1,821, or 4.1 percent of the total white student enrollment of Buffalo, attend majority Negro schools, and 95.9 percent of the white students attend majority white schools.

There are a number of other interesting city school districts in New York State. For example, there is Rochester, which has a Negro student enrollment of 13,679, which is 28.9 percent of the total public school enrollment of the city, where there are six schools that are 90 to 100 percent Negro segregated.

In Utica, which has a Negro enrollment of only 11.8 percent, has one school that is 93.6 percent Negro.

Newburgh, N.Y., where the Negro student enrollment is only 23 percent of the total school enrollment of the city, has two schools which are 99 percent and above Negro segregated.

Monticello, N.Y., with only a 17.3 percent Negro student enrollment, has one school that is 100 percent Negro.

These facts and figures are presented for future consideration by the Senate of a national policy regarding integration of the races in the public schools of the State.

I ask unanimous consent to have information relating to the State of New York printed in the RECORD.

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

NEW YORK STATE TOTAL

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT

DISTRICT: ALBANY. NUMBER OF SCHOOLS: 24. CITY: ALBANY

	Students—							Weight:	Teachers—Assurance: 441					
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total	1.0—grades	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Number	8	3,685	15	30	3,738	8,722	12,010		0	26	0	1	27	574	600
Percents	0.1	30.7	0.1	0.2	31.1	68.9	100.0		0.0	4.3	0.0	0.2	4.5	95.5	100.1
School 5 (2)	0	80	0	0	80	5	85	(94.1)	0	0	0	0	0	4	4
School 6 (3)	0	502	0	0	502	66	568	(88.4)	0	6	0	0	6	15	21
School 7 (4)	0	207	0	0	207	33	240	(86.3)	0	4	0	0	4	6	10
Giffen Memorial School (18)	1	757	0	16	774	176	950	(81.5)	0	4	0	0	4	54	58
Philip Schuyler High School (21)	0	302	0	0	302	327	629	(48.0)	0	2	0	0	2	42	44
Philip Livingston School (20)	0	351	1	0	352	406	758	(46.4)	0	3	0	0	3	54	57
Thomas S. Obrien School (17)	0	351	0	0	351	462	813	(43.2)	0	0	0	0	0	33	33
W. S. Hackett Junior High School (19)	0	355	1	0	356	667	1,023	(34.8)	0	1	0	0	1	63	64
School 22 (13)	0	64	0	1	65	142	207	(31.4)	0	0	0	0	0	8	8
School 20 (11)	0	175	0	1	176	477	653	(27.0)	0	0	0	0	0	31	31
Scoool 17 (8)	0	86	0	0	86	237	323	(26.6)	0	1	0	0	1	11	12
Albany High School Annex (24)	0	93	0	0	93	269	362	(25.7)	0	1	0	0	1	17	18
School 9 (5)	0	50	0	0	50	163	213	(23.5)	0	0	0	0	0	8	8
School 27 (16)	5	20	1	0	26	172	198	(13.1)	0	0	0	0	0	9	9
School 21 (12)	0	45	0	0	45	315	360	(12.5)	0	1	0	0	1	15	16
Sunshine School (23)	0	7	0	0	7	51	58	(12.1)	0	0	0	0	0	4	4
Albany High School (22)	0	138	4	6	148	1,116	1,264	(11.7)	0	1	0	0	1	70	71
School 10 (6)	0	14	0	4	18	153	171	(10.5)	0	0	0	0	0	7	7
School 18 (9)	0	25	0	0	25	283	308	(8.1)	0	0	0	1	1	12	13
School 16 (7)	2	18	6	0	26	643	669	(3.9)	0	1	0	0	1	26	27
School 23 (14)	0	15	2	1	18	586	604	(3.0)	0	0	0	0	0	20	20
School 26 (15)	0	12	0	0	12	402	414	(2.9)	0	0	0	0	0	18	18
School 19 (10)	0	18	0	1	19	934	953	(2.0)	0	1	0	0	1	40	41
School 3 (1)	0	0	0	0	0	187	187	(0.0)	0	0	0	0	0	7	7

DISTRICT: BUFFALO. NUMBER OF SCHOOLS: 101. REPRESENTING: 101. CITY: BUFFALO. COUNTY: 15 ERIE

Number	429	26,381	85	1,278	28,173	43,942	72,115		2	325	2	7	336	2,783	3,119
Percent	0.6	36.6	0.1	1.8	39.1	60.9	100.0		0.1	10.4	0.1	0.2	10.8	89.2	100.0
Public School 8 (5)	0	1,124	0	0	1,124	0	1,124	(100.0)	0	9	0	0	9	36	45
Public School 50 (41)	0	135	0	0	135	0	135	(100.0)	0	5	0	0	5	4	9
Public School 93 (78)	0	180	0	0	180	0	180	(100.0)	0	3	0	0	3	6	9
St. Augustines (101)	0	35	0	0	35	0	35	(100.0)	0	2	0	0	2	1	3
Clinton Junior High School (82)	2	1,025	0	13	1,040	1	1,041	(99.9)	0	24	0	1	25	57	82
Public School 17 (10)	1	700	0	2	703	1	704	(99.9)	0	9	0	0	9	20	29
Woodlawn Junior High School (81)	0	1,198	0	2	1,200	2	1,202	(99.8)	0	21	0	1	22	48	70
Public School 6 (4)	0	1,010	0	76	1,086	3	1,089	(99.7)	0	12	0	0	12	29	41
Public School 75 (64)	0	661	0	0	661	2	663	(99.7)	0	9	0	0	9	18	27
Public School 37 (28)	0	1,256	0	5	1,261	5	1,266	(99.6)	0	19	0	0	19	36	55
Public School 53 (44)	2	1,152	0	6	1,160	6	1,166	(99.5)	1	7	0	0	8	33	41
Public School 12 (8)	0	352	0	0	352	2	354	(99.4)	0	7	0	0	7	9	16
Public School 74 (63)	0	889	0	0	889	7	896	(99.2)	0	10	0	0	10	25	35
Public School 32 (23)	0	340	0	14	354	3	357	(99.2)	0	0	0	0	0	15	15
Public School 39 (30)	0	908	0	0	908	8	916	(99.1)	0	6	0	0	6	26	32
Public School 41 (32)	0	597	0	1	598	6	604	(99.0)	0	5	0	0	5	19	24
Public School 47 (38)	0	449	0	0	449	5	454	(98.9)	0	10	0	0	10	15	25
Public School 31 (22)	1	1066	0	2	1069	12	1081	(98.9)	0	11	0	0	11	32	43
Public School 48 (39)	1	669	0	2	672	8	680	(98.8)	0	6	0	0	6	20	26
East High School (96)	0	1557	0	13	1570	31	1601	(98.1)	0	12	0	0	12	81	93
Public School 59 (48)	0	819	1	1	821	32	853	(96.2)	0	6	0	0	6	22	28
Public School 35 (26)	0	53	0	0	53	5	58	(91.4)	0	4	0	0	4	4	8
Public School 16 (9)	1	328	0	3	332	33	365	(91.0)	0	3	0	0	3	13	16
Fosdick Masten Vocational High School (87)	0	658	0	2	660	120	780	(84.6)	0	8	0	0	8	45	53
Public School 4 (3)	2	485	1	65	553	150	703	(78.7)	0	3	0	0	3	25	28
Public School 90 (77)	0	430	0	0	430	252	682	(63.0)	0	1	0	0	1	25	26
Genese Humboldt Junior High School (80)	0	642	2	3	647	418	1,065	(60.8)	0	4	0	0	4	54	58
Public School 54 (45)	0	414	2	8	424	345	769	(55.1)	0	3	0	0	3	26	29
Public School 1 (1)	46	136	2	194	378	366	744	(50.8)	0	3	0	0	3	34	37
Public School 57 (47)	0	160	0	0	160	161	321	(49.8)	0	2	0	0	2	10	12
Public School 76 (65)	65	80	6	213	364	407	771	(47.2)	0	6	0	0	6	31	37
Boys Vocational High School (85)	0	83	0	5	88	104	192	(45.8)	0	1	0	0	1	14	15
P.S. 23 (15)	0	352	0	0	352	431	783	(45.0)	0	2	0	0	2	23	25
Fillmore Middle School (79)	1	387	2	1	391	494	885	(44.2)	0	8	0	0	8	44	52
P.S. 36 (27)	80	14	2	111	207	300	507	(40.8)	0	1	0	0	1	17	18
P.S. 24 (16)	3	72	0	3	78	115	193	(40.4)	0	4	0	0	4	16	20
H. B. Emerson Vocational High School (89)	0	243	0	1	244	371	615	(39.7)	0	1	0	0	1	34	35
P.S. 73 (62)	2	21	0	5	28	44	72	(38.9)	0	0	0	0	0	8	8
P.S. 62 (51)	0	333	1	0	334	548	882	(37.9)	0	2	0	0	2	30	32
Child care Center (97)	1	5	0	1	7	12	19	(36.8)	0	1	0	0	1	2	3
Burgard Vocational High School (86)	5	378	0	19	402	695	1,097	(36.6)	0	1	0	2	3	55	58
Bennett High School (84)	1	740	2	7	750	1,417	2,167	(34.6)	0	5	0	0	5	88	93
P. S. 3 (2)	16	107	1	63	187	428	615	(30.4)	0	0	0	0	0	21	21
P. S. 64 (53)	0	132	4	0	136	325	461	(29.5)	0	0	0	0	0	17	17
Lafayette High School (92)	2	376	1	13	392	1,073	1,465	(26.8)	0	4	0	1	5	64	69
Southside Junior High School (99)	8	308	1	39	356	1,016	1,372	(25.9)	0	8	0	0	8	64	72
P. S. 61 (50)	1	144	2	1	148	489	637	(23.2)	0	1	0	0	1	22	23
P. S. 84 (73)	2	36	1	1	40	158	198	(20.2)	0	1	0	0	1	16	17
Grover Cleveland High School (88)	20	147	2	71	240	979	1,219	(19.7)	0	4	0	0	4	54	58

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

DISTRICT: BUFFALO. NUMBER OF SCHOOLS: 101. REPRESENTING: 101. CITY: BUFFALO. COUNTY: 15 ERIE—Continued

	Students—							Weight:	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total	1.0—grades	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
lementary School 33 (24)	0	99	0	6	105	432	537	(19.6)	0	1	0	0	1	19	20
Public School 42 (33)	3	76	2	18	99	410	509	(19.4)	0	1	0	0	1	25	26
Public School 40 (31)	0	51	0	7	58	257	315	(18.4)	0	2	0	0	2	11	13
McKinley Vocational High School (83)	13	146	0	19	178	801	979	(18.2)	0	2	0	0	2	51	53
Public School 44 (35)	0	155	0	6	161	732	893	(18.0)	1	2	0	0	3	29	32
Public School 79 (68)	0	116	0	10	126	592	718	(17.5)	0	1	0	0	1	27	28
Public School 26 (17)	4	53	0	13	70	335	405	(17.3)	0	0	0	0	0	17	17
Seneca Vocational High School (94)	1	194	0	3	198	1,044	1,242	(15.9)	0	2	0	0	2	64	66
Public School 80 (69)	0	91	0	0	91	496	587	(15.5)	0	1	0	0	1	28	29
Public School 82 (71)	0	112	6	4	122	677	799	(15.3)	0	2	0	0	2	29	31
Public School 18 (11)	14	47	0	18	79	498	577	(13.7)	0	0	0	0	0	25	25
Public School 78 (67)	2	96	0	0	98	626	724	(13.5)	0	0	0	0	0	23	23
Hutchinson Technical High School (90)	5	144	1	5	155	1,015	1,170	(13.2)	0	2	0	0	2	64	66
Public School 34 (25)	0	30	0	8	38	249	287	(13.2)	0	1	0	0	1	11	12
Public School 71 (60)	0	48	0	3	51	357	408	(12.5)	0	0	0	0	0	22	22
South Park High School (95)	1	245	0	25	271	1,971	2,242	(12.1)	0	6	0	1	7	94	101
Public School 85 (74)	0	28	5	0	33	250	283	(11.7)	0	0	0	0	0	11	11
Public School 28 (19)	3	42	0	32	77	596	673	(11.4)	0	1	0	0	1	29	30
Public School 56 (46)	10	74	14	8	106	839	945	(11.2)	0	0	0	0	0	21	21
Public School 81 (70)	0	95	0	0	95	779	874	(10.9)	0	0	0	0	0	36	36
Public School 19 (12)	1	87	0	5	93	763	856	(10.9)	0	3	0	0	3	32	35
Public School 22 (14)	0	43	1	0	44	365	409	(10.8)	0	0	0	0	0	14	14
Public School 21 (13)	0	44	0	1	45	390	435	(10.3)	0	1	0	0	1	15	16
Public School 46 Reading Center (37)	0	8	0	4	12	104	116	(10.3)	0	0	0	0	0	6	6
Public School 51 (42)	2	63	1	4	70	615	685	(10.2)	0	2	1	0	3	23	26
Public School 77 (66)	26	29	0	32	87	768	855	(10.2)	0	3	0	1	4	35	39
Kensington High School (91)	5	230	1	0	234	2,084	2,318	(10.1)	0	2	0	0	2	74	76
Public School 69 (58)	1	68	0	1	70	624	694	(10.1)	0	0	0	0	0	26	26
Public School 30 (21)	6	16	1	0	23	222	245	(9.4)	0	1	0	0	1	8	9
Public School 86 (75)	0	25	2	2	29	312	341	(8.5)	0	1	0	0	1	11	12
Public School 38 (29)	21	30	2	4	57	627	684	(8.3)	0	1	0	0	1	25	26
Public School 68 (57)	0	56	0	0	56	680	736	(7.6)	0	0	0	0	0	24	24
Public School 9 (6)	9	31	1	1	42	530	572	(7.3)	0	1	0	0	1	21	22
Public School 43 (34)	1	67	1	1	70	964	1,034	(6.8)	0	1	0	0	1	33	34
Public School 63 (52)	0	34	6	0	40	643	683	(5.9)	0	1	1	0	2	19	21
Public School 67 (56)	0	30	0	4	34	565	599	(5.7)	0	1	0	0	1	24	25
Public School 49 (40)	7	1	0	3	11	191	202	(5.4)	0	0	0	0	0	6	6
Public School 45 (35)	15	18	0	7	40	867	907	(4.4)	0	0	0	0	0	29	29
South Park High School Annex (98)	0	4	0	3	7	162	169	(4.1)	0	0	0	0	0	7	7
Immaculate Heart of Mary Home (100)	0	2	0	1	3	70	73	(4.1)	0	0	0	0	0	5	5
Public School 29 (20)	1	1	1	29	32	780	812	(3.9)	0	1	0	0	1	25	26
Riverside High School (93)	4	55	1	4	64	1,583	1,647	(3.9)	0	1	0	0	1	74	75
Public School 65 (54)	0	17	4	3	24	603	627	(3.8)	0	1	0	0	1	20	28
Public School 66 (55)	1	28	0	0	29	737	766	(3.8)	0	1	0	0	1	27	21
Public School 11 (7)	0	18	1	0	19	523	542	(3.5)	0	0	0	0	0	23	23
Public School 88 (76)	0	3	0	2	5	165	170	(2.9)	0	0	0	0	0	6	6
Public School 52 (43)	6	17	0	2	25	903	928	(2.7)	0	2	0	0	2	38	40
Public School 72 (61)	2	15	0	0	17	724	741	(2.3)	0	0	0	0	0	24	24
Public School 60 (49)	3	13	0	7	23	986	1,009	(2.3)	0	1	0	0	1	33	34
Public School 70 (59)	1	0	0	4	5	413	418	(1.2)	0	0	0	0	0	15	15
Public School 27 (18)	0	0	0	3	3	419	422	(0.7)	0	2	0	0	2	11	13
Public School 83 (72)	0	0	1	0	1	214	215	(2.5)	0	0	0	0	0	6	6

DISTRICT: LACKAWANNA. NUMBER OF SCHOOLS: 10. REPRESENTING: 10. CITY: LACKAWANNA. COUNTY: 15 ERIE

Number	1	951	4	155	1,111	4,754	5,865		0	5	0	0	5	258	263
Percent	0.0	16.2	0.1	2.6	18.9	81.1	100.0		0.0	1.9	0.0	0.0	1.9	98.1	100.0
Wilson Elementary School (5)	0	188	0	12	200	47	247	(81.0)	0	0	0	0	0	14	14
Roosevelt Elementary School (3)	0	405	0	44	449	166	615	(73.0)	0	2	0	0	2	23	25
Lincoln Junior High School (6)	0	185	2	33	220	108	328	(67.1)	0	0	0	0	0	20	20
Bethelehem Park Elementary School (1)	0	38	0	15	53	194	247	(21.5)	0	2	0	0	2	14	16
Lackawanna Senior High High School (8)	1	119	1	17	138	1,007	1,145	(12.1)	0	1	0	0	1	56	57
Franklin Elementary School (9)	0	1	0	10	17	628	645	(2.6)	0	0	0	0	0	30	30
H. Hoover Junior High School (7)	0	9	1	9	19	837	856	(2.2)	0	0	0	0	0	38	38
McKinley Elementary School (2)	0	0	0	9	9	561	570	(1.6)	0	0	0	0	0	22	22
Truman Elementary School (10)	0	0	0	6	6	666	672	(0.9)	0	0	0	0	0	20	20
Washington Elementary School (4)	0	0	0	0	0	540	540	(0.0)	0	0	0	0	0	21	21

DISTRICT: SALMON RIVER. NUMBER OF SCHOOLS: 3. REPRESENTING: 3. CITY: FORT COVINGTON. COUNTY: 17 FRANKLIN

Number	717	0	0	0	717	1,185	1,902		2	0	0	0	2	93	95
Percent	37.7	0.0	0.0	0.0	37.7	62.3	100.0		2.1	0.0	0.0	0.0	2.1	97.9	100.0
St. Regis Mohawk School (1)	388	0	0	0	388	0	388	(100.0)	1	0	0	0	1	17	18
Salmon River Junior-Senior High School (2)	301	0	0	0	301	543	844	(35.7)	1	0	0	0	1	48	49
Salmon River Elementary School (3)	28	0	0	0	28	642	670	(4.2)	0	0	0	0	0	23	28

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

DISTRICT: ROCHESTER. NUMBER OF SCHOOLS: 59. REPRESENTING: 59. CITY: ROCHESTER. COUNTY: 28 MONROE

	Students—							Weight:	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total	1.0—grades	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Number	69	13,679	55	1,553	15,356	32,016	47,372		1	12.5	2	2	130	1,926	2,056
Percent	0.1	28.9	0.1	3.3	32.4	67.6	100.0		0.0	6.1	0.1	0.1	6.3	93.7	100.0
School 4 (4)	5	642	0	0	647	11	658	(98.3)	1	7	0	0	8	17	25
School No. 9 (9)	1	622	0	38	661	13	674	(98.1)	0	13	0	0	13	18	31
School 3 (3)	0	388	0	3	391	8	399	(98.0)	0	7	0	0	7	14	21
No. 14 (12)	0	590	1	120	711	46	757	(93.9)	0	5	0	1	6	27	33
School 19 (16)	0	841	0	2	843	62	905	(93.1)	0	7	0	0	7	25	32
No. 6 (6)	0	709	0	50	759	73	832	(91.2)	0	2	0	0	2	28	30
Sylvanus A. Ellis Elementary School (23)	0	112	0	17	129	21	150	(86.0)	0	2	0	0	2	6	8
No. 2 (2)	0	804	0	4	808	193	1,001	(80.7)	0	9	0	0	9	30	39
No. 27 (24)	0	620	1	91	712	208	920	(77.4)	0	6	0	0	6	29	35
No. 20 (17)	0	447	0	202	649	193	842	(77.1)	0	7	1	0	8	21	29
Madison High School (50)	3	1,180	0	16	1,199	518	1,717	(69.8)	0	7	0	0	7	94	101
No. 29 (26)	7	468	0	11	486	412	898	(54.1)	0	3	0	0	3	34	37
Learning Skills Center (59)	0	24	0	0	24	23	47	(51.1)	0	0	0	0	0	5	5
West High School (53)	4	598	0	10	612	763	1,375	(44.5)	0	6	0	0	6	78	84
No. 31 (28)	0	153	3	5	161	201	362	(44.5)	0	0	0	0	0	21	21
World of inquiry (45)	0	55	2	5	62	85	147	(42.2)	0	2	0	1	3	11	14
No. 5 (5)	0	137	3	135	275	413	688	(40.0)	0	1	0	0	1	36	37
Benjamin Franklin High School (48)	1	954	0	180	1,135	1,716	2,851	(39.8)	0	7	0	0	7	133	140
No. 17 (15)	8	209	0	66	283	604	887	(31.9)	0	0	0	0	0	31	31
School 15 (13)	1	109	5	20	135	294	429	(31.5)	0	0	0	0	0	15	15
School 16 (14)	1	245	0	14	260	603	863	(30.1)	0	0	0	0	0	26	26
School 13 (11)	3	137	1	17	158	409	56u	(27.9)	0	2	0	0	2	20	22
No. 39 (35)	0	180	1	19	200	547	747	(26.8)	0	1	0	0	1	27	28
Automobile annex (59)	0	38	0	0	38	105	143	(26.0)	0	1	0	0	1	2	3
No. 36 (32)	0	174	5	47	226	642	868	(26.0)	0	0	0	0	0	28	28
Frederick Douglas Junior High School (55)	2	328	3	30	363	1,060	1,423	(25.5)	0	7	0	0	7	77	84
No. 50 (43)	0	91	0	1	92	299	391	(23.5)	0	1	0	0	1	13	14
Main Street annex (57)	0	96	0	29	125	409	534	(23.4)	0	2	0	0	2	21	23
No. 1 (7)	0	86	1	1	88	291	379	(23.2)	0	0	0	0	0	13	13
Monroe High School (52)	0	408	2	88	498	1,804	2,302	(21.6)	0	0	0	0	0	113	113
No. 22 (19)	1	124	1	46	172	658	830	(20.7)	0	2	0	0	2	30	32
School 23 (20)	0	95	0	4	99	380	479	(20.7)	0	0	0	0	0	17	17
School 33 (29)	0	149	0	27	176	744	920	(19.1)	0	1	0	0	1	32	33
No. 7 (7)	0	126	0	5	131	563	694	(18.9)	0	2	0	0	2	23	25
School 28 (25)	0	91	0	3	94	434	528	(17.8)	0	0	0	0	0	20	20
No. 8 (8)	0	37	0	74	111	528	639	(17.4)	0	0	0	0	0	20	20
No. 37 (33)	1	96	3	10	110	557	667	(16.5)	0	1	0	0	1	23	24
Whitney Street Annex (56)	0	16	0	2	18	96	114	(15.8)	0	0	0	0	0	7	7
East High School (47)	1	284	2	32	319	1,958	2,277	(14.0)	0	2	0	0	2	116	118
No. 21 (18)	1	67	1	0	69	429	498	(13.9)	0	0	0	0	0	16	16
No. 30 (27)	3	79	0	9	91	586	677	(13.4)	0	0	0	0	0	25	25
No. 44 (40)	1	62	2	7	72	510	582	(12.4)	0	2	0	0	2	19	21
No. 41 (37)	5	83	1	10	99	719	818	(12.1)	0	0	0	0	0	28	28
No. 49 (42)	0	44	5	1	50	378	428	(11.7)	0	1	0	0	1	14	15
No. 25 (22)	0	50	0	12	62	486	548	(11.3)	0	2	0	0	2	18	20
School 11 (10)	0	70	0	11	81	696	777	(10.4)	0	0	0	0	0	24	24
No. 42 (38)	0	87	0	0	87	769	856	(10.2)	0	0	0	0	0	29	29
No. 24 (21)	13	31	1	4	49	439	488	(10.0)	0	0	0	0	0	17	17
No. 43 (39)	0	52	3	0	55	528	583	(9.4)	0	0	0	0	0	20	20
Edison Industrial High School (54)	3	69	1	33	106	1,035	1,141	(9.3)	0	0	1	0	1	75	76
Number 38 (34)	0	61	0	1	62	627	689	(9.0)	0	1	0	0	1	23	24
Jefferson High School (49)	4	77	3	26	110	1,124	1,234	(8.9)	0	2	0	0	2	68	70
Number 35 (31)	0	59	0	2	61	708	769	(7.9)	0	1	0	0	1	24	25
Number 46 (41)	0	34	0	3	37	436	473	(7.8)	0	0	0	0	0	16	16
John Marshall High School (51)	0	111	0	6	117	1,535	1,652	(7.1)	0	1	0	0	1	81	82
Number 52 (44)	0	37	0	3	40	530	570	(7.0)	0	1	0	0	1	21	22
Charlotte High School (46)	0	86	0	0	86	1,288	1,374	(6.3)	0	1	0	0	1	63	64
Number 34 (30)	0	32	4	0	36	721	757	(4.8)	0	0	0	0	0	27	27
School 40 (36)	0	25	0	1	26	528	554	(4.7)	0	0	0	0	0	17	17

DISTRICT: HEMPSTEAD. NUMBER OF SCHOOLS: 9. REPRESENTING: 9. CITY: HEMPSTEAD. COUNTY: 30 NASSAU

Number	1	4,159	20	102	4,282	1,546	5,828		0	29	1	1	41	210	251
Percent	0.0	71.4	0.3	1.8	73.5	26.5	100.0		0.0	15.5	0.4	0.4	16.3	83.7	100.0
Jackson School (3)	0	452	0	0	452	14	466	(97.0)	0	3	0	0	3	16	19
Franklin School (1)	0	1,180	1	2	1,183	39	1,222	(96.8)	0	14	1	0	15	37	52
Prospect School (5)	0	363	0	0	363	15	378	(96.0)	0	7	0	0	7	14	21
Jackson Annex School (9)	0	386	0	0	386	16	402	(96.0)	0	3	0	0	3	9	12
Marshall School (8)	0	235	0	1	236	13	249	(94.8)	0	2	0	0	2	7	9
Hempstead High School (7)	1	1,022	7	24	1,054	507	1,561	(67.5)	0	6	0	0	6	73	79
Washington School (6)	0	250	0	28	278	276	554	(50.2)	0	2	0	1	3	18	21
Fulton S. (2)	0	138	5	31	174	318	492	(35.4)	0	0	0	0	0	19	19
Ludlum School (4)	0	133	7	16	156	348	504	(31.0)	0	2	0	0	2	17	19

DISTRICT: ROOSEVELT. NUMBER OF SCHOOLS: 7. REPRESENTING 7. CITY: ROOSEVELT. COUNTY: 30 NASSAU

Number	0	2,751	4	43	2,798	1,108	3,906		0	47	1	3	51	157	208
Percent	0.0	70.4	0.1	1.1	71.6	28.4	100.0		0.0	22.6	0.5	1.4	24.5	75.5	100.0
Prekindergarten School (7)	0	74	0	3	77	12	89	(86.5)	0	4	0	0	4	2	6
Washington Rose School (4)	0	458	0	16	474	114	588	(80.6)	0	4	0	0	4	19	23

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

DISTRICT: ROOSEVELT. NUMBER OF SCHOOLS: 7. REPRESENTING: 7. CITY: ROOSEVELT. COUNTY: 30 NASSAU—Continued

	Students—							Weight:	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total	1.0—grades	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Theodore Roosevelt School (3)	0	225	0	0	225	55	280	(80.4)	0	5	0	0	5	11	16
Centennial Avenue School (2)	0	442	0	9	451	116	567	(79.5)	0	4	0	0	4	22	26
Harry D. Daniels School (1)	0	572	1	13	586	165	751	(78.0)	0	6	0	0	6	16	22
Roosevelt Junior-Senior High School (5)	0	967	2	0	969	487	1,456	(66.6)	0	21	0	3	24	68	92
Cerebral Palsy School (6)	0	13	1	2	16	159	175	(9.1)	0	3	1	0	4	19	23
DISTRICT: NIAGARA WHEATFIELD. NUMBER OF SCHOOLS: 12. REPRESENTING: 12. CITY: SANBORN. COUNTY: 32 NIAGARA															
Number	352	97	7	6	462	5,329	5,791		3	0	0	0	3	263	266
Percent	6.1	1.7	0.1	0.1	8.0	92.0	100.0		1.1	0.0	0.0	0.0	1.1	98.9	100.0
Tuscarora Elementary (3)	136	0	0	0	136	1	137	(99.3)	0	0	0	0	0	5	5
Edward Town Junior High School (9)	91	27	1	3	122	1,192	1,314	(9.3)	1	0	0	0	1	65	66
Errick Road Elementary School (5)	39	1	1	0	41	517	558	(7.3)	1	0	0	0	1	20	21
Niagara Wheatfield Senior High School (10)	77	16	0	0	93	1,442	1,535	(6.1)	0	0	0	0	0	91	91
Nevada Avenue Elementary (7)	4	7	0	0	11	200	211	(5.2)	0	0	0	0	0	8	8
Colonial Village Elementary (4)	3	33	3	3	42	779	821	(5.1)	0	0	0	0	0	29	29
Pekin Elementary (8)	0	6	0	0	6	132	138	(4.3)	0	0	0	0	0	5	5
River Road School (12)	2	0	0	0	2	87	89	(2.2)	1	0	0	0	1	3	4
Military Road Elementary School (6)	0	6	2	0	8	530	538	(1.5)	0	0	0	0	0	21	21
Sanborn Elementary (2)	0	1	0	0	1	170	171	(0.6)	0	0	0	0	0	6	6
Bergholtz Elementary (1)	0	0	0	0	0	112	112	(0.0)	0	0	0	0	0	4	4
Nash Road Elementary (11)	0	0	0	0	0	167	167	(0.0)	0	0	0	0	0	6	6
DISTRICT: NIAGARA FALLS. NUMBER OF SCHOOLS: 28. REPRESENTING: 28. CITY: NIAGARA FALLS. COUNTY: 32 NIAGARA															
Number	91	2,986	13	24	3,114	15,312	18,426		0	36	0	4	40	825	865
Percent	0.5	16.2	0.1	0.1	16.9	83.1	100.0		0.0	4.2	0.0	0.5	4.6	95.4	100.0
Beech Avenue School (14)	0	324	0	0	324	64	388	(83.5)	0	2	0	0	2	16	18
Tenth Street School (2)	0	99	0	0	99	169	268	(36.9)	0	2	0	0	2	9	11
Cleveland Avenue School (16)	0	149	0	0	149	371	520	(28.7)	0	1	0	0	1	17	18
North Junior High School (24)	2	244	4	0	250	632	882	(28.3)	0	3	0	0	3	51	54
South Junior High School (25)	4	214	0	0	218	577	795	(27.4)	0	3	0	0	3	51	54
Fifth Street School (1)	25	63	0	0	89	242	331	(26.9)	0	1	0	0	1	11	12
Niagara Street School (20)	0	227	0	0	227	677	904	(25.1)	0	5	0	1	6	34	40
Ferry Avenue School (17)	0	97	0	0	97	322	419	(23.2)	0	1	0	0	1	15	16
Maple Avenue School (19)	0	105	3	0	108	437	545	(19.8)	0	0	0	0	0	19	19
Ninety-Ninth Street School (12)	3	67	0	0	70	284	354	(19.8)	0	1	0	0	1	16	17
Sixtieth Street School (7)	12	79	0	0	91	379	470	(19.4)	0	1	0	0	1	15	16
Thirty-Ninth Street School (6)	0	84	0	0	84	369	453	(18.5)	0	2	0	0	2	13	15
Niagara Falls High School (27)	6	289	1	4	300	1,625	1,925	(15.6)	0	0	0	0	0	106	106
95th Street South (11)	0	89	2	0	91	495	586	(15.5)	0	1	0	0	1	20	21
Trott Vocational High School (28)	8	73	0	2	83	456	539	(15.4)	0	1	0	0	1	33	34
Charles B. Gaskill Junior High School (22)	6	204	0	0	210	1,173	1,383	(15.2)	0	3	0	0	3	75	78
17th Street School (3)	10	72	0	0	82	492	574	(14.3)	0	1	0	0	1	20	21
Hyde Park School (18)	3	82	0	0	85	536	621	(13.7)	0	2	0	1	3	20	23
Pacific Avenue School (21)	0	55	2	0	57	432	489	(11.7)	0	0	0	0	0	16	16
93d Street School (10)	0	71	0	0	71	545	616	(11.5)	0	1	0	0	1	25	26
24th Street School (5)	2	37	0	5	44	348	392	(11.2)	0	2	0	0	2	13	15
Cayuga Drive School (15)	0	39	0	0	39	312	351	(11.1)	0	1	0	0	1	13	14
66th Street School (8)	0	57	1	0	58	495	553	(10.5)	0	0	0	0	0	21	21
22nd Street School (4)	0	18	0	0	18	246	264	(6.8)	0	0	0	0	0	11	11
Ashland Avenue School (13)	7	9	0	0	16	245	261	(6.1)	0	1	0	0	1	9	10
LaSalle Senior High School (26)	1	70	0	13	84	1,603	1,687	(5.0)	0	1	0	2	3	86	89
LaSalle Junior High School (23)	1	52	0	0	53	1,176	1,229	(4.3)	0	0	0	0	0	69	69
79th Street School (9)	0	17	0	0	17	610	627	(2.7)	0	0	0	0	0	21	21
DISTRICT: UTICA. NUMBER OF SCHOOLS: 22. REPRESENTING: 22. CITY: UTICA. COUNTY: 33 ONEIDA															
Number	2	1,715	12	155	1,884	12,697	14,581		0	10	0	1	11	644	655
Percent	0.0	11.8	0.1	1.1	12.9	87.1	100.0		0.0	1.5	0.0	0.2	1.7	98.3	100.0
Bitter School (10)	0	209	0	11	220	15	235	(93.6)	0	2	0	0	2	13	15
Poandegee School (13)	0	207	0	50	257	338	595	(43.2)	0	0	0	1	1	32	33
Miller School (9)	0	224	0	6	230	360	590	(39.0)	0	1	0	0	1	22	23

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

DISTRICT: UTICA. NUMBER OF SCHOOLS: 22. REPRESENTING: 22. CITY: UTICA. COUNTY: 33 ONEIDA—Continued

	Students—							Weight:	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total	1.0—grades	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Kernan School (16)	2	245	0	8	255	805	1,060	(24.1)	0	3	0	0	3	50	53
Christopher Columbus School (3)	0	132	1	19	152	527	679	(22.4)	0	1	0	0	1	30	31
Roscoe Conkling School (17)	0	110	0	14	124	858	982	(12.6)	0	0	0	0	0	42	42
Roosevelt School (18)	0	90	0	1	91	706	797	(11.4)	0	0	0	0	0	30	30
Thomas R. Proctor Junior High School (21)	0	143	1	19	163	1,280	1,443	(11.3)	0	0	0	0	0	81	81
Wetmore School (19)	0	20	0	21	41	333	374	(11.0)	0	0	0	0	0	16	16
Utica Free Academy (22)	0	176	0	0	176	1,836	2,012	(8.7)	0	1	0	0	1	105	106
Kemble School (15)	0	69	1	1	71	905	976	(7.3)	0	0	0	0	0	35	35
John F. Hughes School (14)	0	41	1	1	43	859	902	(4.8)	0	0	0		0	38	38
Horatio Seymour School (6)	0	28	0	0	28	935	963	(2.9)	0	2	0	0	2	34	36
Washington School (5)	0	5	0	4	9	322	331	(2.7)	0	0	0	0	0	13	13
John F. Kennedy Junior High Schoool (20)	0	7	3	0	10	494	502	(2.0)	0	0	0	0	0	25	25
Lincoln School (8)	0	3	2	0	5	247	252	(2.0)	0	0	0	0	0	8	8
General Herkimer School (4)	0	4	3	0	7	456	463	(1.5)	0	0	0	0	0	17	17
Sunset School (11)	0	1	0	0	1	264	265	(0.4)	0	0	0	0	0	11	11
Thomas Jefferson (12)	0	1	0	0	1	401	402	(0.2)	0	0	0	0	0	14	14
Hugh R. Jones School (7)	0	0	0	0	0	268	268	(0.0)	0	0	0	0	0	9	9
Mary Street School (1)	0	0	0	0	0	140	140	(0.0)	0	0	0	0	0	6	6
Albany School (2)	0	0	0	0	0	350	350	(0.0)	0	0	0	0	0	13	13
DISTRICT: LAFAYETTE. NUMBER OF SCHOOLS: 3. REPRESENTING: 3. CITY: LAFAYETTE. COUNTY: 34. ONONDAGA															
Number	311	2	1	0	314	1,194	1,508		0	0	0	0	0	78	78
Percent	20.6	0.1	0.1	0.0	20.8	79.2	100.0		0.0	0.0	0.0	0.0	0.0	100.0	100.0
Onon Indian Reservation School (2)	169	0	0	0	169	0	169	(100.0)	0	0	0	0	0	11	11
Lafayette Junior-Senior High School (3)	119	0	1	0	120	559	679	(17.7)	0	0	0	0	0	39	39
Lafayette Elementary School (1)	23	2	0	0	25	635	660	(3.8)	0	0	0	0	0	28	28
DISTRICT: NEWBURGH. NUMBER OF SCHOOLS: 18. REPRESENTING: 18. CITY: NEWBURGH. COUNTY: 36. ORANGE															
Number	52	2,925	21	374	3,372	9,348	12,720		0	31	0	4	35	552	587
Percent	0.4	23.0	0.2	2.9	26.5	73.5	100.0		0.0	5.3	0.0	0.7	6.0	94.0	100.0
Grand Street School (18)	0	288	0	20	308	2	310	(99.4)	0	4	0	0	4	10	14
Montgomery Street School (8)	0	686	0	19	705	7	712	(99.0)	0	8	0	0	8	27	35
Prekindergarten Program (17)	0	153	0	12	165	66	231	(71.4)	0	1	0	0	1	7	8
Washington Street Elementary (12)	0	281	0	63	344	138	482	(71.4)	0	2	0	0	2	16	18
Broadway School (2)	0	271	1	40	312	165	477	(65.4)	0	1	0	0	1	18	19
Liberty State Elementary (7)	0	55	3	63	121	247	368	(32.9)	0	3	0	0	3	10	13
North Junior High School (14)	0	300	0	12	312	729	1,041	(30.0)	0	1	0	0	1	47	48
Gidney Avenue Memorial School (6)	52	186	5	13	256	655	911	(28.1)	0	2	0	0	2	42	44
Newburgh Free Academy (16)	0	362	4	44	410	1,948	2,358	(17.4)	0	5	0	3	8	129	137
South Junior High School (15)	0	222	0	43	265	1,368	1,633	(16.2)	0	1	0	1	2	76	78
West Street School (13)	0	31	4	9	44	372	416	(10.6)	0	1	0	0	1	16	17
Fostertown School (4)	0	37	0	3	40	440	480	(8.3)	0	2	0	0	2	18	20
Vails Gate School (11)	0	23	1	8	32	624	656	(4.9)	0	0	0	0	0	24	24
Union Grove School (10)	0	14	1	4	19	403	422	(4.5)	0	0	0	0	0	27	27
Chestnut Street School (3)	0	0	2	9	11	320	331	(3.3)	0	0	0	0	0	12	12
New Windsor School (9)	0	2	0	10	12	610	622	(1.9)	0	0	0	0	0	26	26
Gardnertown Elementary (5)	0	10	0	1	11	681	692	(1.6)	0	0	0	0	0	26	26
Balmville School (1)	0	4	0	1	5	573	578	(0.9)	0	0	0	0	0	21	21
DISTRICT: WYANDANCH. NUMBER OF SCHOOLS: 4. REPRESENTING: 4. CITY: WYANDANCH. COUNTY: 52. SUFFOLK															
Number	0	2,110	3	46	2,159	145	2,304		0	33	2	0	35	75	110
Percent	0.0	91.6	0.1	2.0	93.7	6.3	100.0		0.0	30.0	1.8	0.0	31.8	68.2	100.0
Mount Avenue Elementary (1)	0	641	1	21	663	31	694	(95.5)	0	10	1	0	11	13	24
Wyandanch Memorial Junior-Senior High School (2)	0	758	0	21	779	49	828	(94.1)	0	10	0	0	10	43	53
Straight Path School (4)	0	199	0	4	203	14	217	(93.5)	0	1	1	0	2	7	9
Milton L. Olive Elementary School (3)	0	512	2	0	514	51	565	(91.0)	0	12	0	0	12	12	24
DISTRICT: PATCHOGUE. NUMBER OF SCHOOLS: 10. REPRESENTING: 10. CITY: PATCHOGUE. COUNTY: 52 SUFFOLK.															
Number	1	116	11	293	421	7,271	7,692		0	6	1	1	8	371	379
Percent	0.0	1.5	0.1	3.8	5.5	94.5	100.0		0.0	1.6	0.3	0.3	2.1	97.9	100.0
South Ocean Avenue Junior High School (7)	0	11	3	40	54	6	60	(90.0)	0	0	0	0	0	49	49
River Avenue School (5)	0	15	2	80	97	422	519	(18.7)	0	1	1	1	3	23	26

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

DISTRICT: PATCHOGUE. NUMBER OF SCHOOLS: 10. REPRESENTING: 10. CITY: PATCHOGUE. COUNTY: 52 SUFFOLK—Continued

	Students—							Weight: 1.0—grades	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total		American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Medford Avenue School (4)	0	26	0	48	74	615	689	(10.7)	0	0	0	0	0	28	28
Bay Avenue School (3)	0	3	0	31	34	561	595	(5.7)	0	0	0	0	0	20	20
Patchogue Senior High School (8)	0	29	2	49	80	1,836	1,916	(4.2)	0	1	0	0	1	95	96
Oregon Avenue Junior High School (6)	0	11	0	29	40	922	962	(4.2)	0	3	0	0	3	52	55
Tremont Avenue School (2)	1	5	4	3	13	553	566	(2.3)	0	0	0	0	0	21	21
Eagle Drive Elementary School (9)	0	10	0	13	23	1,213	1,236	(1.9)	0	0	0	0	0	42	42
Barton Avenue School (1)	0	3	0	0	3	515	518	(0.6)	0	0	0	0	0	16	18
Canaan Elementary School (10)	0	3	0	0	3	628	631	(0.5)	0	1	0	0	1	23	24

DISTRICT: MONTICELLO. NUMBER OF SCHOOLS: 6. REPRESENTING: 6. CITY: MONTICELLO. COUNTY: 53 SULLIVAN

Number	0	492	24	88	604	2,239	2,843		0	2	0	3	5	146	151
Percent	0	17.3	.8	3.1	21.2	78.8	100.0		0	1.3	0.0	2.0	3.3	96.7	100.0
Kenneth L. Rutherford School (4)	0	130	4	15	149	0	149	(100.0)	0	0	0	0	0	20	20
George L. Cooke School (3)	0	152	2	21	175	463	638	(27.4)	0	0	0	0	0	15	15
Monticello Middle School (6)	0	91	4	21	116	587	703	(16.5)	0	0	0	2	2	38	40
Monticello High School (5)	0	108	12	20	140	861	1,001	(14.0)	0	2	0	1	3	58	61
Cornelius Duggan School (1)	0	7	2	9	18	175	193	(9.3)	0	0	0	0	0	8	8
Emma C. Chase School (2)	0	4	0	2	6	153	159	(3.8)	0	0	0	0	0	7	7

DISTRICT: MOUNT VERNON. NUMBER OF SCHOOLS: 17. REPRESENTING: 17. CITY. MOUNT VERNON. COUNTY: 60 WESTCHESTER

Students	4	6,336	49	173	6,562	5,770	12,332		0	87	0	4	91	524	615
Percent	0.0	51.4	0.4	1.4	53.2	46.8	100.0		0.0	14.1	0.0	0.7	14.8	85.2	100.0
Nathan Hale School (8)	0	556	0	0	556	15	571	(97.4)	0	10	0	0	10	20	30
James M. Grimes School (3)	0	535	1	7	543	46	589	(92.2)	0	6	0	0	6	22	28
Robert Fulton School (2)	0	650	0	3	653	56	709	(92.1)	0	10	0	0	10	18	28
Washington Junior High School (13)	3	654	2	8	667	88	755	(88.3)	0	15	0	0	15	30	45
Graham Elementary School (10)	0	891	0	7	898	138	1,036	(86.7)	0	9	0	1	10	41	51
Longfellow School (7)	0	395	2	3	400	110	510	(78.4)	0	2	0	0	2	18	20
Child Development Center (17)	0	190	1	1	192	94	286	(67.1)	0	4	0	0	4	8	12
Graham House Annex (16)	0	18	0	0	18	10	28	(64.3)	0	1	0	0	1	2	3
Mount Vernon High School Annex (15)	0	463	4	39	506	599	1,105	(45.8)	0	5	0	1	6	55	61
Nichols Junior High School (14)	1	291	0	10	302	458	760	(39.7)	0	6	0	0	6	38	44
Mount Vernon Senior High School (12)	0	999	5	25	1,029	1,758	2,787	(36.9)	0	11	0	2	13	138	151
Holmes School (5)	0	189	12	5	206	353	559	(36.9)	0	1	0	0	1	22	23
Hamilton School (4)	0	144	0	15	159	403	562	(28.3)	0	2	0	0	2	21	23
Pennington School (9)	0	123	0	0	123	367	490	(25.1)	0	1	0	0	1	24	25
Traphagen Elementary (11)	0	111	3	10	124	400	524	(23.7)	0	2	0	0	2	23	25
Columbus School (1)	0	65	11	32	108	431	539	(20.0)	0	1	0	0	1	23	24
Lincoln School (6)	0	62	8	8	78	444	522	(14.9)	0	1	0	0	1	21	2

DISTRICT: NEW YORK CITY PUBLIC SCHOOLS. NUMBER OF SCHOOLS: 853. REPRESENTING: 853. CITY: BROOKLYN. COUNTY: 63

Number	1,526	334,841	15,753	244,302	596,422	467,365	1,063,787		46	4,079	137	464	4,726	47,106	51,832
Percent	0.1	31.5	1.5	23.0	56.1	43.9	100.0		0.1	7.9	0.3	0.9	9.1	90.9	100.0
The Hillcrest School (440)	0	155	0	2	157	0	157	(100.0)	0	7	0	0	7	15	22
Public School 100, Matthew Henson School (570)	0	1,079	2	2	1,083	0	1,083	(100.0)	0	24	0	0	24	59	83
Public School 133 (595)	0	526	0	14	540	0	540	(100.0)	0	11	0	0	11	12	23
Public School 133 (540)	0	526	0	14	540	0	540	(100.0)	0	11	0	0	11	12	23
Public School 28 (225)	0	1,199	0	24	1,223	0	1,223	(100.0)	0	9	0	1	10	60	70
Public School 144, Hans C. Andersen School (555)	0	760	0	0	760	0	760	(100.0)	0	10	0	0	10	22	32
Public School 305, Dr. Peter Ray School (162)	0	1,148	p	0	1,148	0	1,148	(100.0)	0	10	1	0	11	40	51
J. F. Cooper Junior High School, P.S. 120 (538)	0	1,032	0	38	1,070	0	1,070	(100.0)	0	32	0	0	32	45	77
Public School 92, Mary M. Bethune School (568)	0	976	0	36	1,012	0	1,012	(100.0)	0	26	0	0	26	21	47
Public School 3, Bedford Village School (141)	0	809	0	30	839	0	839	(100.0)	0	17	0	0	17	32	49
H. B. Stone Junior High School, P.S. 136 (575)	0	1,300	0	51	1,351	0	1,351	(100.0)	0	29	0	0	29	67	96
Public School 192 (238)	0	1,100	0	8	1,108	0	1,108	(100.0)	0	16	0	0	16	42	58
F. Douglass Junior High School P.S. 139 (576)	0	1,270	0	58	1,328	0	1,328	(100.0)	0	35	1	72	108	0	108
Public School 68 (594)	0	796	0	15	811	0	811	(100.0)	0	18	0	1	19	20	39
Public School 15 (781)	0	576	0	0	576	0	576	(100.0)	0	8	0	0	8	15	23

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

DISTRICT: NEW YORK CITY PUBLIC SCHOOLS. NUMBER OF SCHOOLS: 853. REPRESENTING: 853. CITY: BROOKLYN. COUNTY: 63—Continued

	Students—							Weight:	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total	1.0—grades	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Tota
Public School 21 Crispus Attucks School (223)	0	703	0	40	743	0	743	(100.0)	0	16	0	0	16	12	28
Public School 180, Hugo Newman School (561)	0	944	0	5	949	0	949	(100.0)	0	14	1	0	15	22	37
Public School 194, Countee Cullen School (586)	0	795	0	51	846	0	846	(100.0)	0	15	1	0	16	20	36
Public School 316, Classon School (268)	0	1,687	13	102	1,802	0	1,802	(100.0)	0	5	0	1	6	101	107
S. C. McKelway Junior High School (256)	0	813	0	58	871	0	871	(100.0)	0	6	0	0	6	37	43
S. C. McKelway Junior High School (435)	0	813	0	58	871	0	871	(100.0)	0	6	0	0	6	37	43
Public School 197, John B. Russworm School (87)	0	799	0	68	867	0	867	(100.0)	0	25	0	0	25	22	47
Public School 45 Baisley Park School (717)	0	1,006	0	0	1,006	0	1,006	(100.0)	0	9	0	0	9	29	38
Public School 123 Alexander Webb S. (572)	0	1,246	0	13	1,259	0	1,259	(100.0)	0	19	0	0	19	52	71
North Macon Junior High School, Public School 258 (156)	0	1,600	0	0	1,600	0	1,600	(100.0)	0	50	0	0	50	58	108
Public School 5 Blanche K. Bruce S. (222)	0	1,659	0	21	1,680	0	1,680	(100.0)	0	16	0	1	17	36	53
Public School 93 Wm. H. Prescott S. (152)	0	907	0	0	907	0	907	(100.0)	0	9	0	0	9	48	57
Public School 79 Robert J. Frost S. (532)	0	868	0	108	976	0	976	(100.0)	0	17	0	0	17	42	59
Public School 144 (251)	0	675	0	300	975	0	975	(100.0)	0	8	0	0	8	54	62
Public School 23 Woodstock S. (124)	0	978	0	238	1,216	0	1,216	(100.0)	0	18	0	0	18	48	66
Public School Mt. Morris School (593)	0	385	1	77	463	0	463	(100.0)	0	8	0	0	8	21	29
Public School 253 Benjamin Banneker (155)	0	982	0	162	1,144	0	1,144	(100.0)	0	13	0	0	13	50	63
Public School 99 (135)	0	823	0	171	994	0	994	(100.0)	0	8	0	1	9	47	56
Public School 144 (433)	0	675	0	300	975	0	975	(100.0)	0	8	0	0	8	54	62
(443)	0	135	0	56	191	0	191	(100.0)	0	6	0	0	6	7	13
Public School 24 Mt. Morris School (527)	0	385	1	77	463	0	463	(100.0)	0	8	0	0	8	21	29
Public School 148 Peter Cooper School (557)	0	110	0	25	135	0	135	(100.0)	0	10	0	0	10	3	13
Public School 298 (300)	0	594	0	295	89	0	889	(100.0)	0	7	0	0	7	30	37
Public School 61 (129)	0	777	0	1,269	2,046	0	2,046	(100.0)	0	5	0	0	5	75	80
T. Knowlton Intermediate Public School 52 (27)	0	422	0	1,286	1,708	0	1,708	(100.0)	0	20	1	6	27	66	93
Wadleigh Intermediate Public School 88 (552)	0	1,394	2	24	1,420	1	1,421	(99.9)	0	42	1	0	43	56	99
Public School 146, Edwin Jasper Godwin S (43)	0	1,074	0	154	1,228	1	1,229	(99.9)	0	12	0	0	12	50	62
Public School 44, Israel Putnam S (146)	0	1,207	0	3	1,210	1	1,211	(99.9)	0	14	0	1	16	46	62
A. Schomburg Intermediate School (596)	0	1,033	0	173	1,206	1	1,207	(99.9)	0	65	2	3	70	36	106
A. Schomburg JHS (543)	0	1,033	0	173	1,206	1	1,207	(99.9)	0	65	2	3	70	36	106
Public School 108, Peter Minuit School (482)	0	240	0	813	1,053	1	1,054	(99.9)	0	7	0	0	7	37	44
Public School 284 (298)	1	824	0	215	1,040	1	1,041	(99.9)	0	7	0	0	7	52	59
Public School 42, Claremont School (52)	0	354	0	640	994	1	995	(99.9)	0	3	0	0	3	37	40
S. Decatur JHS, Public School 35 (226)	0	1,611	0	37	1,648	2	1,650	(99.9)	0	35	0	0	35	64	99
Public School 62, Casanova School (29)	0	370	5	1,251	1,626	4	1,630	(99.8)	0	10	0	0	10	52	62
Public School 59, William Floyd School (180)	0	742	1	398	1,141	3	1,144	(99.7)	0	7	0	2	9	50	59
Public School 113 (553)	0	1,061	0	14	1,075	3	1,078	(99.7)	0	9	0	0	9	28	37
Public School 136 (797)	0	1,072	0	0	1,072	3	1,075	(99.7)	41	7	0	0	48	34	82
Public School 2, Morrisania School (46)	0	576	0	406	982	3	985	(99.7)	0	0	0	0	0	43	43
Public School 262, John H. McCooey School (242)	0	1,179	0	0	1,179	4	1,183	(99.7)	0	22	0	0	22	26	48
Public School 30 (6)	0	298	0	1,092	1,390	5	1,395	(99.6)	0	4	0	0	4	58	62
Public School 72 (479)	0	155	0	676	831	3	834	(99.6)	0	3	0	0	3	48	51
Public School 134, George F. Bristow School (136)	0	638	0	653	1,291	5	1,296	(99.6)	0	3	0	0	3	72	75
Public School 90, Riverside School (567)	0	1,533	0	10	1,543	2	1,545	(99.9)	1	23	0	0	24	32	56
Public School 36, St Albans School (785)	0	685	2	7	694	1	695	(99.9)	0	7	0	0	7	17	24
Public School 137, Bainbridge School (432)	0	587	3	81	671	1	672	(99.9)	0	10	0	0	10	21	31
Public School 23, Carter G. Woodson (172)	0	742	8	475	1,225	2	1,227	(99.8)	0	6	0	0	6	41	47
Public School 25, Lafayette School (224)	0	1,452	3	332	1,787	3	1,790	(99.8)	0	13	0	0	13	77	90
Public School 125, Richard H. Danas (278)	0	358	0	83	441	1	442	(99.8)	0	1	0	0	1	23	24
Public School 81, Thaddeus Stevens School (230)	1	1,018	0	743	1,762	4	1,766	(99.8)	0	13	0	0	13	73	86
Public School 332 (301)	0	544	0	325	869	2	871	(99.8)	0	3	0	0	3	52	55
Public School 23, Columbus School (506)	0	0	427	3	430	1	431	(99.8)	0	0	3	0	3	19	22
Public School 37 (8)	0	384	3	897	1,284	5	1,289	(99.6)	0	1	0	1	2	59	61
East NYS Public School 149 (312)	0	855	2	666	1,523	6	1,529	(99.6)	0	6	0	0	6	47	53
W. Reid Junior High School, Public School 57 (228)	0	1,138	0	377	1,515	6	1,521	(99.6)	0	31	0	0	31	62	93

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

DISTRICT: NEW YORK CITY PUBLIC SCHOOLS. NUMBER OF SCHOOLS: 853. REPRESENTING: 853. CITY: BROOKLYN. COUNTY: 63—Continued

	Students—							Weight:	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total	1.0—grades	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Public School 304 (245)	0	685	1	576	1,262	5	1,267	(99.6)	0	9	0	0	9	52	61
Public School 101 (536)	0	546	0	690	1,236	5	1,241	(99.6)	0	9	0	1	10	50	60
M. Hopkins Junior High School, Public School 33 (174)	0	1,254	2	867	2,123	9	2,132	(99.6)	0	24	1	0	25	113	133
Public School 20, Charles James Fox School (123)	0	223	3	1,158	1,384	6	1,390	(99.6)	0	5	0	0	5	77	82
Public School 297, Stockton School (192)	0	760	0	335	1,095	5	1,100	(99.5)	0	8	0	0	8	54	62
Public School 27, St. Marys Park School (4)	0	236	0	1,072	1,308	6	1,314	(99.5)	0	3	0	1	4	43	47
Public School 150, Christopher School (280)	0	645	0	222	867	4	871	(99.5)	0	4	0	0	4	44	48
Public School 7, Samuel Stern School (526)	0	290	3	763	1,056	5	1,061	(99.5)	0	6	0	1	7	43	50
Public School 80 (533)	0	390	0	445	835	4	839	(99.5)	0	5	0	1	6	30	36
Public School 51, John Pauling Elementary School (14)	0	287	0	725	1,012	5	1,017	(99.5)	0	8	1	3	12	28	40
Public School 156, Eugene P. Roberts School (579)	0	457	0	148	605	3	608	(99.5)	0	10	0	0	10	24	34
Public School 171, Patrick Henry School (493)	0	376	3	609	988	5	993	(99.5)	0	5	0	3	8	39	47
Public School 102, Cartier School (537)	0	259	0	520	779	4	783	(99.5)	0	8	0	0	8	23	31
Public School 110, Theo Schoenfeld School (64)	0	609	0	354	963	5	968	(99.5)	0	5	1	0	6	75	81
Public School 396, Ramon Emeterio Betances (270)	1	481	4	275	761	4	765	(99.5)	0	2	0	1	3	50	53
Public School 56, Lewis Latimer School (149)	0	1,071	2	58	1,131	6	1,137	(99.5)	0	7	0	0	7	37	44
Public School 175, Hopkinson S. (255)	0	828	0	460	1,288	7	1,295	(99.5)	0	3	0	0	3	49	52
Public School 150, Charles James Fox School (138)	0	451	1	1,343	1,795	10	1,805	(99.4)	0	13	0	2	15	76	91
Public School 123 (733)	0	1,573	0	42	1,615	9	1,624	(99.4)	0	17	0	0	17	45	62
Public School 45, Isaac Chauncey School (305)	0	1,616	2	529	2,147	12	2,159	(99.4)	0	11	2	1	14	77	91
Public School 309, George E. Becan School (246)	0	1,314	0	113	1,427	8	1,435	(99.4)	0	5	0	0	5	45	50
Public School 40, George W. Carver School (227)	0	1,314	0	21	1,335	8	1,343	(99.4)	0	5	1	0	6	55	61
Public School 60 (28)	0	498	0	1,299	1,797	11	1,808	(99.4)	0	5	1	2	8	79	87
Public School 148, Philip A. White School (186)	0	382	0	433	815	5	820	(99.4)	0	9	0	0	9	27	36
Public School 57, James W. Johnson School	0	678	0	610	1,288	8	1,296	(99.4)	0	8	0	0	8	62	70
Public School, Grove Hill School (20)	0	399	2	989	1,390	9	1,399	(99.4)	0	6	0	2	8	54	62
Public School 39, Longwood School (26)	0	556	0	1,122	1,678	11	1,689	(99.3)	0	6	1	0	7	66	73
Public School 156, Waverly School (252)	0	1,317	1	805	2,123	14	2,137	(99.3)	0	0	0	0	0	74	74
Public School 289, George V. Brower School (267)	0	1,326	0	17	1,343	9	1,352	(99.3)	0	11	1	0	12	54	66
Public School 75 (33)	0	644	1	1,244	1,889	13	1,902	(99.3)	0	5	0	0	5	87	92
Public School 66 (130)	0	698	0	1,322	2,020	14	2,034	(99.3)	0	11	0	0	11	98	109
Public School 60, Saw Mill Brook School (10)	0	376	1	904	1,281	9	1,290	(99.3)	0	3	0	1	4	59	63
Public School 121, Galiled School (485)	0	221	0	470	691	5	696	(99.3)	0	2	0	0	2	36	38
Public School 169, John Barry School (492)	0	76	0	61	137	1	138	(99.3)	0	8	0	0	8	5	13
W. J. Damrosch Junior High School, P.S. 136 (137)	0	785	4	823	1,612	12	1,624	(99.3)	0	2	0	1	3	88	91
Public School 41 (274)	0	582	1	194	777	6	783	(99.2)	0	5	0	0	5	57	62
David Marcus Junior High School, P. S. 263 (265)	0	1,102	2	603	1,707	14	1,721	(99.2)	0	16	0	2	18	94	112
Public School 40 (752)	1,008	59	0	13	1,080	9	1,089	(99.2)	0	21	0	0	21	59	80
Public School, Livingston School (503)	0	110	0	9	119	1	120	(99.2)	0	3	0	0	3	18	21
W. L. Ettinger Junior High School, P.S. 13 (476)	0	510	0	671	1,181	10	1,191	(99.2)	0	23	0	2	25	60	85
Public School 183 (282)	0	1,089	0	425	1,514	13	1,527	(99.1)	0	2	0	0	2	60	62
Public School 186, Alexander Hamilton School (582)	0	1,256	20	235	2,511	13	1,524	(99.1)	0	29	3	0	32	38	70
Public School 140, Eagle School (42)	0	763	1	481	1,245	11	1,256	(99.1)	0	1	0	0	1	48	49
Bronckland Junior High School. Public School 38 (9)	0	359	0	807	1,166	11	1,177	(99.1)	0	15	0	2	17	71	88
M. Knox Junior High School, Public School 99 (480)	0	405	2	933	1,340	13	1,353	(99.0)	0	8	0	6	14	79	93
Public School 168, Bartlett School (188)	0	187	6	522	715	7	722	(99.0)	0	6	0	1	7	39	46
Public School 54, Samuel C. Barnes School (48)	0	838	0	430	1,268	13	1,281	(99.0)	0	6	0	0	6	54	60
Charles R. Drew Intermediate Public School 148 (69)	0	783	1	669	1,453	15	1,468	(99.0)	0	23	1	1	25	93	118
Public School 58 (54)	0	473	0	578	1,051	11	1,062	(99.0)	0	10	0	0	10	43	53
Public School 48 (753)	0	550	0	9	559	6	565	(98.9)	0	11	0	0	11	22	33
Public School 109 (483)	0	284	0	449	733	8	741	(98.9)	0	3	0	2	5	36	41

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

DISTRICT: NEW YORK CITY PUBLIC SCHOOLS. NUMBER OF SCHOOLS: 853. REPRESENTING: 853. CITY: BROOKLYN. COUNTY: 63—Continued

	Students—							Weight:	Teachers—					
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total	1.0—grades	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Public School 161, F. H. La Guardia School (542)	0	500	2	823	1,325	15	1,340	(98.9)	0	13	0	2	15	37	52
Public School 124 (16)	0	363	2	654	1,019	12	1,031	(98.8)	0	5	1	0	6	42	48
Public School 133, James A. Butler School (154)	0	177	0	500	677	8	685	(98.8)	0	1	0	0	1	40	41
Public School 174 Dumont School (318)	0	569	0	687	1,256	15	1,271	(98.8)	0		0	0	5	68	73
Public School 328, C. Phyllis Wheatley (331)	0	497	3	400	900	11	911	(98.8)	0	6	0	0	6	53	59
Public School 107 (481)	1	160	3	490	654	8	662	(98.8)	0	4	0	0	4	27	31
Public School 158, Warwick School (314)	0	979	3	816	1,798	22	1,820	(98.8)	0	10	0	0	10	81	91
E. D. Shimer Junior High School, Public School 142 (766)	1	1,244	1	47	1,293	16	1,309	(98.8)	0	18	0	0	18	66	84
Public School 43, Jovas Bronck School (11)	0	340	0	952	1,292	16	1,308	(98.8)	0	8	0	3	11	41	52
Boys High School (166)	0	1,888	0	749	2,637	33	2,670	(98.8)	0	17	0	1	18	140	158
The Crutona P.S. 4 (47)	0	517	2	993	1,512	19	1,531	(98.8)	0	5	0	0	5	51	56
Public School 160 (269)	0	1,028	0	5	1,033	13	1,046	(98.8)	0	15	0	0	15	38	53
Public School 6, West Farms School (122)	0	833	1	1,149	1,983	25	2,008	(98.8)	0	4	0	0	4	69	73
Public School 65 (15)	0	546	0	1,277	1,823	23	1,846	(98.8)	0	12	2	1	15	48	63
Sands Junior High School, P.S. 265 (157)	0	726	4	340	1,070	14	1,084	(98.7)	0	13	0	0	13	68	81
J. Marshall Intermediate School (260)	0	1,231	11	241	1,483	20	1,503	(98.7)	0	20	0	1	21	84	105
Public School 287, Dr. Bailey K. Ashford School (160)	0	507	2	145	654	9	663	(98.6)	0		0	1	4	26	30
Public School 54, Intervale School (127)	0	746	3	1,180	1,929	27	1,956	(98.6)	0	10	0	0	10	83	93
P. L. Dunbar Junior High School, Public School 120 (36)	0	782	4	488	1,274	18	1,292	(98.6)	0	17	0	3	20	71	91
Public School 182 (319)	0	1,079	7	647	1,733	25	1,758	(98.6)	0	5	0	0	5	83	88
Public School 73 (431)	0	1,012	0	135	1,147	17	1,164	(98.5)	0	17	0	1	18	45	63
Public School 327, Boise Sylvanus Dent (269)	0	558	5	308	871	13	884	(98.5)	0	1	0	0	1	46	47
Public School 19, John W. Bulkey School (171)	0	46	8	1,882	1,936	30	1,966	(98.5)	0	1	0	3	4	79	83
Morris High School (139)	9	1,480	7	2,715	4,211	66	4,277	(98.5)	0	27	0	6	33	178	211
E. W. Stitt Junior High School, Public School 164 (580)	0	861	28	198	1,087	18	1,105	(98.4)	0	20	0	3	23	44	67
Public School 120, Carlos Tapia School (236)	0	153	1	984	1,138	20	1,158	(98.3)	0	11	0	0	11	64	75
The Isaac Chauncey Public School 113 (311)	0	594	2	312	908	16	924	(98.3)	0	4	0	0	4	39	43
Public School 132, Louis Castagnetta (67)	0	893	8	374	1,275	23	1,298	(98.2)	0	8	0	0	8	40	48
Public School 67, Elliott School (150)	0	874	1	286	1,161	21	1,182	(98.2)	0	7	0	0	7	44	51
Public School 49, Willis Avenue School (13)	0	665	5	846	1,516	28	1,544	(98.2)	0	9	0	0	9	56	65
Public School 257 (191)	0	446	1	686	1,133	21	1,154	(98.2)	0	0	0	0	0	60	60
Public School 129 (539)	3	799	12	207	1,021	19	1,040	(98.2)	0	20	0	0	20	32	52
Public School 67 (131)	0	700	2	1,213	1,915	37	1,952	(98.1)	0	6	1	0	7	65	72
Public School 168, R. Montgomery School (491)	0	269	8	595	872	17	889	(98.1)	0	5	0	1	6	70	76
Public School 5, Port Morris School (2)	0	494	3	758	1,255	25	1,280	(98.0)	0	8	0	1	9	45	54
A. Burger Intermediate Public School 139 (17)	0	323	0	1,257	1,580	32	1,612	(98.0)	0	13	0	5	18	95	113
Public School 130, Abrams Hewitt School (39)	0	242	1	744	987	20	1,007	(98.0)	0	6	0	0	6	30	36
Public School 190 (320)	0	947	6	564	1,517	31	1,548	(98.0)	0	2	0	0	2	72	74
Public School 147, Isaac Remsen Elementary School (185)	0	296	0	823	1,119	23	1,142	(98.0)	0	8	0	1	9	60	69
Public School 134 (795)	0	954	0	30	984	22	1,006	(97.8)	0	10	0	0	10	46	56
Public School 76, St. Nicholas (549)	0	1,015	0	1	1,016	23	1,039	(97.8)	0	14	0	0	14	27	41
Public School 369, James D. Lawrence School (164)	0	110	0	20	130	3	133	(97.7)	0	11	0	0	11	15	26
Public School 191 (259)	1	977	11	308	1,297	31	1,328	(97.7)	0	9	0	0	9	64	73
Public School 270, Dakalb School (158)	1	676	1	203	881	23	904	(97.5)	0	4	0	0	4	30	34
Public School 15 (454)	0	87	3	932	1,022	27	1,049	(97.4)	0	3	0	0	3	40	43
Public School 63, The Hinsdale School (306)	0	332	3	487	822	22	844	(97.4)	0	1	0	1	2	34	36
Public School 11, Purvis J. Behan School (144)	0	808	1	180	989	27	1,016	(97.3)	0	6	0	0	6	37	43
Public School 37, Sylvester Malone School (177)	0	39	0	569	608	17	625	(97.3)	0	4	0	1	5	32	37
Public School 91, Fr. Parkman High School (465)	0	80	0	26	106	3	109	(97.2)	0	4	0	0	4	15	19
Public School 83, Luis Munoz Rivera School (534)	0	247	19	716	982	28	1,010	(97.2)	0	10	0	2	12	0	12
Public School 118 (792)	0	889	2	7	898	26	924	(97.2)	0	12	0	0	12	38	50
Public School 299, Thomas W. Field School (244)	0	959	0	526	1,485	43	1,528	(97.2)	0	3	0	0	3	63	66

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

DISTRICT: NEW YORK CITY PUBLIC SCHOOLS. NUMBER OF SCHOOLS: 853. REPRESENTING: 853. CITY: BROOKLYN. COUNTY: 63—Continued

	Students—							Weight: 1.0—	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total	grades	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Public School 18, John Peter Zenger School (3)	0	399	2	483	884	26	910	(97.1)	0	4	0	0	4	32	36
Jane Adams Vocational High School (45)	0	550	1	659	1,210	37	1,247	(97.0)	0	15	0	1	16	74	90
Public School 154 (19)	0	474	2	929	1,405	43	1,448	(97.0)	0	5	0	1	6	41	47
Public School 140 (765)	0	1,168	0	3	1,171	36	1,207	(97.0)	0	18	0	0	18	38	56
Public School 155 (736)	0	687	0	41	728	23	751	(96.9)	0	2	0	0	2	31	33
Public School 345 Liberty School (332)	1	1,020	3	879	1,903	61	1,964	(96.9)	0	2	0	0	2	92	94
Public School 1 (1)	0	410	2	773	1,185	38	1,223	(96.9)	0	8	0	2	10	64	74
Public School 27 (198)	0	713	0	415	1,128	37	1,165	(96.8)	0	2	0	0	2	51	53
D. G. Farragut Junior High School, Public School 44 (125)	0	505	2	629	1,136	39	1,175	(96.7)	0	7	0	1	8	73	81
J. D. Wells Junior High School Public School 50 (179)	2	183	3	1,219	1,407	50	1,457	(96.6)	0	10	0	0	10	87	97
Public School 202 (321)	0	1,386	8	904	2,298	82	2,380	(96.6)	0	7	0	0	7	105	112
A. Toscanini Junior High School Public School 145 (68)	0	1,023	4	736	1,763	63	1,826	(96.5)	0	18	0	1	19	101	120
Public School 46, Edward C. Blum School (147)	0	606	3	449	1,058	38	1,096	(96.5)	0	0	0	0	0	53	53
J. M. Coleman Junior High School (266)	0	1,525	0	135	1,660	60	1,720	(96.5)	0	45	0	0	45	65	110
Public School 36 (176)	0	100	0	35	135	5	140	(96.4)	0	3	0	1	4	7	11
Benjamin Franklin High School (544)	1	1,530	4	1,762	3,297	123	3,420	(96.4)	0	28	1	6	35	152	187
Berriman Junior High School, Public School 64 (307)	0	832	2	555	1,389	52	1,441	(96.4)	0	18	0	1	19	88	107
F. S. Key Junior High School, Public School 117 (153)	0	933	0	558	1,491	56	1,547	(96.4)	0	16	1	0	17	86	103
Public School 78, Henry Clay School (531)	0	389	2	853	1,244	47	1,291	(96.4)	0	7	0	1	8	37	45
Public School 122, William H. Harrison (182)	0	143	16	859	1,018	39	1,057	(96.3)	0	0	0	0	0	39	39
Public School 184 (283)	0	598	0	310	908	35	943	(96.3)	0	4	0	0	4	37	41
E. D. Clark Junior High School, Public School (18)	0	586	10	902	1,498	58	1,556	(96.3)	0	16	0	2	18	82	100
J. S. Roberts Junior High School, Public School 45 (529)	0	382	6	908	1,296	51	1,347	(96.2)	0	25	1	4	30	62	92
Public School 179, Daniel Webster School (560)	0	478	10	566	1,054	42	1,096	(96.2)	0	5	0	2	7	52	59
Public School 53 (53)	0	714	17	652	1,383	59	1,442	(95.9)	0	7	0	0	7	43	50
H. Ridder Junior High School, Public School 98 (134)	0	600	7	1,298	1,905	89	1,994	(95.5)	0	16	1	3	20	122	142
Public School 155, William Paca School (541)	0	222	4	773	999	47	1,046	(95.5)	0	4	0	1	5	48	53
Public School 161 (253)	0	1,225	12	205	1,442	68	1,510	(95.5)	0	3	0	0	3	47	50
Public School 261, Philip Livingston School (217)	0	171	21	680	872	42	914	(95.4)	0	0	0	1	1	51	52
Public School, 83, Nathaniel R. Dett School (231)	0	87	0	15	102	5	107	(95.3)	0	8	0	0	8	19	27
Public School 118, W. W. Niles Junior High School (88)	1	335	1	674	1,011	50	1,061	(95.3)	0	6	0	1	7	53	60
Public School 188, John Burroughs School (471)	0	332	0	896	1,228	64	1,292	(95.0)	0	1	1	1	3	48	51
Public School 75 (229)	0	416	0	763	1,179	62	1,241	(95.0)	0	4	0	0	4	42	46
Public School 140, Nathan Straus School (459)	1	114	35	779	929	50	979	(94.9)	0	0	0	0	0	37	37
Public School 42, Benjamin Altman School (591)	0	34	487	476	997	54	1,051	(94.9)	0	2	1	0	3	51	54
Public School 189, Lincoln Terrace School (258)	1	1,051	12	425	1,489	82	1,571	(94.8)	0	2	0	0	2	70	72
Public School 48 (12)	0	565	3	1,241	1,809	100	1,909	(94.8)	0	9	1	1	11	67	78
Public School 213, New Lots School (322)	0	749	1	525	1,275	71	1,346	(94.7)	0	3	1	0	4	66	70
Public School 92 (133)	0	885	1	1,182	2,068	116	2,184	(94.7)	0	7	1	2	10	113	123
Smith C. School (590)	0	121	500	246	867	50	917	(94.5)	0	0	1	0	1	34	35
Smith C. School (502)	0	121	500	246	867	50	917	(94.5)	0	0	1	0	1	34	35
Public School 16, Leonard Dunkly School (168)	0	205	4	997	1,206	73	1,279	(94.3)	0	0	0	0	0	47	47
Public School 274, Kosciusko School (243)	0	558	2	996	1,556	97	1,653	(94.1)	0	4	0	1	5	49	54
W. J. Gaynor J.H.S., P.S. 49 (178)	0	325	13	1,168	1,506	94	1,600	(94.1)	0	18	0	2	20	96	116
Public School 146, Anna M. Short School (486)	0	406	12	487	905	57	962	(94.1)	0	11	0	0	11	75	86
Public School 115, Humboldt School (571)	0	102	1	1,070	1,173	74	1,247	(94.1)	0	5	1	2	8	50	58
Public School 96 (726)	0	293	1	53	347	22	369	(94.0)	0	1	0	0	1	14	15
Public School 28, Wright Brothers School (565)	0	1,176	5	370	1,551	99	1,650	(94.0)	0	15	0	0	15	44	59
Public School 318, E. M. Dehostos Intermediate School (193)	1	345	10	1,268	1,624	105	1,729	(93.9)	0	4	0	0	4	55	59

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

DISTRICT: NEW YORK CITY PUBLIC SCHOOLS. NUMBER OF SCHOOLS: 853. REPRESENTING: 853. CITY: BROOKLYN. COUNTY: 63—Continued

	Students—							Weight:	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total	1.0—grades	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Public School 165, John Lott School (281)	0	601	0	134	735	48	783	(93.9)	0	1	0	0	1	36	37
Public School 157, Franklin School (187)	0	352	0	671	1,023	68	1,091	(93.8)	0	1	0	0	1	55	56
Public School 250, George H. Lindsey School (190)	2	220	11	1,028	1,261	85	1,346	(93.7)	0	2	0	1	3	46	49
Public School 130 (517)	0	44	664	236	944	64	1,008	(93.7)	0	0	5	1	6	44	50
Public School 37, Springfield School (786)	0	593	0	22	615	42	657	(93.6)	0	10	0	0	10	35	45
Public School 97, Mangin School (466)	0	280	11	526	817	56	873	(93.6)	0	1	0	0	1	49	50
Public School 17, Woodworth Elementary School (169)	0	100	4	1,256	1,360	94	1,454	(93.5)	0	5	0	0	5	51	56
Public School 20, Anna Silver School (456)	0	56	37	1,013	1,106	79	1,185	(93.3)	0	2	0	0	2	41	43
Public School 64, Henry P. O'Neil School (462)	0	217	0	1,063	1,280	95	1,375	(93.1)	0	0	0	0	0	48	48
Public School 82, Cyrus Field School (464)	0	36	0	57	93	7	100	(93.0)	0	2	0	0	2	11	13
Public School 35, Franz Sigel School (51)	0	472	2	549	1,023	77	1,100	(93.0)	0	0	0	0	0	56	56
A. S. Sumers Junior High School, Public School 252 (292)	0	751	3	330	1,084	82	1,166	(93.0)	0	4	0	1	5	78	83
Public School 38 (201)	0	294	0	2,040	2,334	178	2,512	(92.9)	0	1	0	0	1	59	60
Public School 96, Joseph C. Lanzetta (535)	0	257	1	24	282	22	304	(92.8)	0	2	0	1	3	54	57
Public School 12, Lewis and Clark School (96)	0	138	0	40	178	14	192	(92.7)	0	9	0	0	9	21	30
H. A. Eiseman Junior High School 275 (295)	0	1,033	0	516	1,549	122	1,671	(92.7)	0	12	0	0	12	88	100
Public School 57, Crescent School (128)	0	728	0	1,101	1,829	145	1,974	(92.7)	0	3	0	0	3	70	73
F. D. Roosevelt School, Public School 34 (457)	0	147	10	397	554	44	598	(92.6)	0	1	0	0	1	28	29
Public School 59 (80)	0	307	0	720	1,027	82	1,109	(92.6)	0	5	1	0	6	29	35
Public School 137, John L. Bernstein School (519)	0	187	30	533	750	61	811	(92.5)	0	5	0	0	5	53	58
Public School 160, James E. Sullivan School (470)	1	50	64	534	649	53	702	(92.5)	0	0	0	0	0	33	33
Public School 221, Empire School (261)	2	1,110	13	146	1,271	104	1,375	(92.4)	0	4	0	0	4	40	44
Public School 11, Highbridge School (48)	0	592	0	494	1,086	89	1,175	(92.4)	0	2	0	2	4	47	51
Public School 9, Teunis G. Bergen (143)	0	1,210	12	506	1,728	146	1,874	(92.2)	0	6	0	0	6	61	67
Public School 189 (21)	0	129	0	47	176	15	191	(92.1)	0	4	0	0	4	20	24
Public School 1 (197)	0	40	2	1,264	1,306	116	1,422	(91.8)	0	1	0	0	1	57	58
Public School 4, The William Pitt School (453)	0	76	10	346	432	39	471	(91.7)	0	2	0	1	3	32	35
Public School 9, Walter Reed School (625)	0	76	0	12	88	8	96	(91.7)	0	7	0	0	7	0	7
Public School 192, Jacob H. Schiff School (585)	0	386	29	910	1,325	122	1,447	(91.6)	0	8	0	2	10	36	46
Charles E. Hughes School (520)	6	1,762	52	561	2,381	220	2,601	(91.5)	0	17	1	2	20	155	175
Public School 106, Edward Everett Hale School (233)	0	646	0	918	1,564	148	1,712	(91.4)	0	12	0	0	12	62	74
Public School 282, Park Slope Elementary School (159)	3	521	15	778	1,317	125	1,442	(91.3)	0	2	0	1	3	49	52
Public School 29, Melrose School (5)	0	1,041	0	1,348	2,389	227	2,616	(91.3)	0	12	0	2	14	124	138
Robert E. Simon Junior High School, Public School 71, (463)	0	146	54	1,099	1,299	126	1,425	(91.2)	0	8	2	0	10	71	81
Public School 23, Lincoln School (656)	0	70	0	1	71	7	78	(91.0)	0	7	0	0	7	8	15
Public School 90 (61)	0	823	11	642	1,476	147	1,623	(90.9)	0	3	0	0	3	62	65
C. Sumner Junior High School (512)	0	130	806	483	1,419	143	1,562	(90.8)	0	5	7	0	12	96	108
Jordan L. Mott Junior High School Public School 22 (49)	0	704	15	592	1,311	133	1,444	(90.8)	0	7	0	0	7	48	55
Public School 128, Audubon School (573)	0	505	16	585	1,106	113	1,219	(90.7)	0	7	0	1	8	48	56
Public School 143, Meadow School (647)	0	445	2	153	600	62	662	(90.6)	0	7	0	0	7	15	22
Lefferts Junior High School, Public School 61 (248)	0	1,199	11	156	1,366	142	1,508	(90.6)	0	10	0	1	11	74	85
Public School 151 (240)	0	441	0	635	1,076	113	1,189	(90.5)	0	2	0	0	2	38	40
Children's Center (437)	0	144	0	8	152	16	168	(90.5)	0	4	1	0	5	23	28
Public School 196 (189)	0	255	3	842	1,100	118	1,218	(90.3)	0	6	0	0	6	55	61
Public School 85, Sterling School (151)	0	96	0	24	120	13	133	(90.2)	0	9	0	0	9	14	23
Public School 20, Clinton Hill School (145)	0	903	7	299	1,209	133	1,342	(90.1)	0	11	0	0	11	60	71
Public School 32, Sprole School (200)	0	374	4	428	806	89	895	(90.1)	0	2	0	0	2	32	34
Eastern District High School (194)	6	895	16	2,031	2,948	330	3,278	(89.9)	0	12	0	4	16	123	139

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

DISTRICT: NEW YORK CITY PUBLIC SCHOOLS. NUMBER OF SCHOOLS: 853. REPRESENTING: 853. CITY: BROOKLYN. COUNTY: 63—Continued

	Students—							Weight: 1.0—grades	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total		American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Public School 1106, Bellevue Psychiatric Hospital (439)	0	35	0	25	60	7	67	(89.6)	0	2	0	1	3	12	15
Haaren School (521)	2	685	134	951	1,772	211	1,983	(89.4)	0	12	0	1	13	114	127
Public School 145 (556)	0	305	6	700	1,011	130	1,141	(88.6)	0	5	0	0	5	34	39
Public School 36–125 (528)	0	856	33	453	1,342	173	1,515	(88.6)	0	23	2	0	25	61	86
Public School 31, Wm. Floyd Garrison School (7)	0	442	4	220	666	86	752	(88.6)	0	4	0	0	4	41	45
Central Commercial High School (498)	6	1,091	56	966	2,119	281	2,400	(88.3)	0	8	0	4	12	122	134
Public School 18, Edward Bush Elementary School (170)	0	47	0	299	346	46	392	(88.3)	0	2	0	0	2	13	15
Public School 126, Jacob A. Riis (516)	0	108	327	351	786	106	892	(88.1)	0	1	3	1	5	35	40
Public School 112, Bronxwood School (114)	0	393	2	151	546	74	620	(88.1)	0		0	0	5	27	32
Alfred E. Smith High School (22)	4	436	5	931	1,376	188	1,564	(88.0)	0	4	0	3	7	90	97
E. Fermi J.H.S. Public School 111 (234)	0	517	8	1,167	1,692	235	1,927	(87.8)	0	46	0	1	47	84	131
J.H.S. 294 Simon J. Rothchild (161)	1	1,141	4	356	1,502	211	1,713	(87.7)	0	13	0	0	13	94	107
East New York Intermediate Public School 292 (328)	0	1,007	0	646	1,653	245	1,898	(87.1)	0	15	0	2	17	111	128
Grace H. Dodge Vocational H.S. (95)	0	543	4	1,167	1,714	258	1,972	(86.9)	0	7	0	0	7	122	129
Public School 50 (754)	0	726	1	37	764	119	883	(86.5)	0	3	0	0	3	39	42
Public School 52 (788)	0	663	5	64	732	115	847	(86.4)	0	6	0	0	6	37	43
Public School 61 Anna Howard Shaw School (460)	0	92	9	788	889	144	1,033	(86.1)	0	0	1	0	1	36	37
B. T. Washington J.H.S. Public School 54 (547)	0	307	11	563	881	143	1,024	(86.0)	0	11	3	2	16	66	82
Public School 124 (734)	0	673	2	6	681	119	800	(85.1)	0	5	0	0	5	23	28
Ottilia M. Beha Junior High School, Public School 60 (459)	0	174	51	724	949	166	1,115	(85.1)	0	9	1	3	13	52	65
Public School 104 (62)	0	646	6	543	1,195	211	1,406	(85.0)	0	4	0	0	4	41	45
Halsey Junior High High School, Public School 296 (329)	0	1,125	4	1,013	2,142	379	2,521	(85.0)	0	8	0	2	10	152	162
Eli Whitney Vocational High School (196)	0	854	2	904	1,760	315	2,075	(84.8)	0	14	0	0	14	115	129
Woodrow Wilson Vocational High School, (780)	0	879	1	113	993	178	1,171	(84.8)	0	12	0	0	12	85	97
Public School 241, Emma L. Johnston School (262)	1	882	25	130	1,038	188	1,226	(84.7)	0	3	0	0	3	51	54
Public School 132 (794)	0	414	1	19	434	80	514	(84.4)	0	3	0	0	3	14	17
Public School 47, John Randolph School (126)	3	457	13	848	1,321	247	1,568	(84.2)	0	5	0	0	5	65	70
Public School 73 (58)	0	558	0	503	1,061	199	1,260	(84.2)	0	7	0	0	7	51	58
Public School 163, Alfred E. Smith School (558)	0	281	22	414	717	135	852	(84.2)	0	6	0	1	7	35	42
Mabel Dean Bacon Vocational High School (501)	0	257	10	676	943	179	1,122	(84.0)	0	7	0	1	8	77	85
Public School 187, Youth House Girls (44)	0	87	0	83	170	33	203	(83.7)	0	32	0	0	32	7	39
Public School 134, Henrietta Szolds (518)	0	114	8	478	600	117	717	(83.7)	0	2	0	0	2	32	34
Public School 75, Robert E. Peary School (635)	0	44	0	6	50	10	60	(83.3)	0	2	0	0	2	5	7
Public School 93 (34)	0	428	8	612	1,048	212	1,260	(83.2)	0	5	0	0	5	45	50
Public School 88 (60)	0	161	1	258	420	85	505	(83.2)	0	2	0	0	2	14	16
Public School 63 (55)	0	1,124	0	3	1,127	230	1,357	(83.1)	0	12	0	1	13	57	70
Public School 80, Neptune School (368)	0	156	0	282	438	91	529	(82.8)	0	1	0	1	2	37	39
Metropolitan Vocational High School (522)	0	209	6	141	356	74	430	(82.8)	0	1	1	0	2	40	42
Public School 371 (219)	0	68	0	47	115	25	140	(82.1)	0	4	0	0	4	19	23
Samuel Gompers School (23)	0	603	8	673	1,284	281	1,565	(82.0)	0	4	0	1	5	106	111
Public School 10 (815)	0	12	0	64	76	17	93	(81.7)	0	3	0	0	3	17	20
Public School 77 (132)	2	422	7	995	1,426	325	1,751	(81.4)	0	6	0	3	9	60	69
Public School 63, William McKinley School (461)	0	86	87	624	797	182	979	(81.4)	0	0	0	1	1	44	45
Joan of Arc Junior High School, Public School 118 (554)	1	457	11	631	1,100	253	1,353	(81.3)	0	17	2	4	23	78	101
Julia Richman High School (497)	2	1,680	59	1,560	3,301	763	4,064	(81.2)	0	13	1	7	21	203	224
Public School 159, Pitkin School (315)	0	534	8	576	1,118	263	1,381	(81.0)	0	5	0	0	5	50	55
Public School 191, Amsterdam School (562)	0	208	4	192	404	96	500	(80.8)	0	2	0	1	3	40	43
Theodore Roosevelt High School (92)	3	2,148	28	2,197	4,376	1,045	5,421	(80.7)	0	8	0	12	20	209	229
Public School 19, Asher Levy School (455)	0	32	96	338	466	113	579	(80.5)	0	1	0	0	1	25	26
Public School 307, D. H. Williams School (163)	0	513	1	166	680	165	845	(80.5)	0	7	0	0	7	69	76
Philip H. Sheridan Public School 21 (99)	0	786	2	10	798	195	993	(80.4)	0	6	0	0	6	39	45

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

DISTRICT: NEW YORK CITY PUBLIC SCHOOLS. NUMBER OF SCHOOLS: 853. REPRESENTING: 853. CITY: BROOKLYN. COUNTY: 63—Continued

	Students—							Weight:	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total	1.0—grades	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Manhattan Vocational and Technical High School (500)	0	310	10	397	717	177	894	(80.2)	0	2	1	0	3	67	70
Public School 91, Albany Avenue School (249)	0	792	10	107	909	229	1,138	(79.9)	0	3	0	0	3	54	57
Washington Irving High School (473)	0	1,031	460	1,196	2,687	681	3,368	(79.8)	0	8	4	1	13	183	196
Public School 4, Orville Wright School (599)	0	108	0	17	125	32	157	(79.6)	0	7	0	1	8	6	14
Public School 78, Anne Hutchinson School (103)	1	757	4	11	773	199	972	(79.5)	1	4	0	1	6	44	50
Thomas Jefferson School (334)	0	2,408	17	1,234	3,659	972	4,611	(79.4)	0	8	1	2	11	212	223
Louis D. Brandeis High School (564)	4	2,556	61	1,477	4,098	1,075	5,173	(79.2)	0	25	1	12	38	196	234
Public School 167, Parkway School (254)	0	1,153	19	67	1,239	327	1,566	(79.1)	0	5	0	0	5	46	51
Mother Cabrini School (442)	0	27	0	48	75	20	95	(78.9)	0	3	0	0	3	7	10
Public School 198, 15DR and Ida Straus School (496)	0	195	18	584	797	221	1,018	(78.3)	0	0	0	0	0	36	36
Public School 116, Plymouth School (235)	0	111	1	767	879	248	1,127	(78.0)	0	1	0	0	1	52	53
Queens Hospital School (451)	0	76	3	50	129	37	166	(77.7)	0	0	0	1	1	16	17
Public School 370, Jim Thorpe School (395)	0	71	0	30	101	29	130	(77.7)	0	1	0	0	1	18	19
Maritime Food High School (525)	2	246	8	353	609	180	789	(77.2)	0	1	0	0	1	67	68
Public School 145 (239)	0	356	0	1,015	1,371	407	1,778	(77.1)	0	6	0	2	8	83	91
Public School 260, Breuckelen School (326)	0	430	2	131	563	170	733	(76.8)	0	1	0	0	1	28	29
W. Alexander Junior High School, P.S. 51 (203)	1	386	24	605	1,016	312	1,328	(76.5)	0	5	0	2	7	77	84
R. S. Grossley Junior High School, P.S. 8 (750)	0	1,126	0	58	1,184	366	1,550	(76.4)	0	0	0	0	0	96	96
L. Flower House Provid. (441)	0	28	0	72	100	31	131	(76.3)	0	1	0	0	1	10	11
Public School 127, East Elmhurst School (612)	2	530	12	73	617	197	814	(75.8)	0	3	0	0	3	39	42
Public School 111, Adolph S. Ochs School (515)	0	98	55	513	666	219	885	(75.3)	0	3	0	0	3	34	37
Stranahan Junior High School P.S. 142 (211)	2	369	1	552	924	312	1,236	(74.8)	0	5	0	0	5	88	93
Public School 28 Mount Hope School (50)	0	531	20	529	1,080	366	1,446	(74.7)	0	3	0	0	3	57	60
Sarah J. Hale Vocational High School (221)	0	415	1	515	931	316	1,247	(74.7)	0	6	0	2	8	83	91
Public School 51 Elias Howe School (511)	0	29	11	267	307	105	412	(74.5)	0	1	0	0	1	25	26
Public School 288 George L. Hentz (393)	0	389	2	440	831	285	1,116	(74.5)	0	1	0	0	1	54	55
East New York Vocational and Technical High School (335)	0	574	4	565	1,143	402	1,545	(74.0)	0	6	0	0	6	108	114
Public School 111 Seton Falls Elementary School (113)	0	593	0	178	771	273	1,044	(73.9)	0	19	0	0	19	35	54
Public School 70 (57)	0	521	8	544	1,073	398	1,471	(72.9)	0	5	0	0	5	52	57
Public School 11 William T. Harris School (504)	1	97	14	407	519	194	713	(72.8)	0	0	0	1	1	67	68
Bushwick High School (247)	1	1,080	10	1,160	2,251	847	3,098	(72.7)	0	8	1	3	12	144	156
Public School 95 Eastwood School (790)	1	706	30	227	964	364	1,328	(72.6)	0	2	0	0	2	45	47
Public School 92 Charles Leverich School (608)	0	280	4	67	351	133	484	(72.5)	0	3	0	0	3	21	24
Bronx Hospital School group 2 (448)	0	66	0	50	116	44	160	(72.5)	0	0	0	0	0	20	20
Public School 124 (208)	0	42	6	408	456	173	629	(72.5)	0	0	1	0	1	25	26
East Roosevelt Junior High School, Public High School 143 (577)	0	768	20	871	1,659	634	2,293	(72.4)	0	15	2	2	19	95	114
Macombs Junior High School Public School 82 (59)	0	738	12	735	1,485	578	2,063	(72.0)	0	7	0	2	9	92	101
Public School 92 Adrian Hegeman School (250)	2	854	73	264	1,193	466	1,659	(71.9)	0	2	0	0	2	52	54
Public School 219 (286)	1	906	16	37	960	379	1,339	(71.7)	0	3	0	0	3	65	68
Winthrop Junior High School Public School 232 (287)	1	1,011	22	186	1,220	486	1,706	(71.5)	0	8	0	0	8	80	88
J. P. Sinnutt Intermediate Public School 218 (324)	0	743	7	472	1,222	494	1,716	(71.2)	0	12	0	2	14	101	115
Public School 321 (218)	0	353	22	553	928	381	1,309	(70.9)	0	0	0	1	1	44	45
Public School 132, Fort Washington School (574)	0	143	6	591	740	305	1,045	(70.8)	0	1	0	1	2	52	54
Public School 29 (199)	0	25	6	551	582	243	825	(70.5)	0	1	0	2	3	43	46
School for Deaf, Public School 158 (489)	0	90	5	120	215	90	305	(70.5)	0	0	0	0	0	26	26
LaSalle Junior High School, Public School 17 (505)	6	73	18	325	422	180	602	(70.1)	0	5	0	1	6	36	42
Public School 9, John Jasper School (545)	0	149	14	404	567	243	810	(70.0)	0	2	0	2	4	43	47

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

DISTRICT: NEW YORK CITY PUBLIC SCHOOLS. NUMBER OF SCHOOLS: 853. REPRESENTING: 853. CITY: BROOKLYN. COUNTY: 63—Continued

	Students—							Weight:	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total	1.0—grades	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Henry Hudson Junior High School, Public School 125 (38)	1	473	21	671	1,166	501	1,667	(69.9)	0	11	0	1	12	88	100
School for the Deaf, Public School 47 (477)	0	100	4	226	330	142	472	(69.9)	0	2	0	0	2	83	85
Public School 147 (799)	0	908	8	20	936	417	1,353	(69.2)	0	3	0	0	3	43	46
Public School 76 Independence School (309)	0	197	0	250	447	200	647	(69.1)	0	0	0	0	0	31	31
Public School 172 Gowanus School (215)	0	22	1	331	354	160	514	(68.9)	0	0	0	0	0	20	20
B. Schlesinger Junior High School, Public School 72 (757)	0	1,228	0	33	1,261	577	1,838	(68.6)	0	31	0	0	31	77	108
Springfield Gardens Junior High School (789)	0	1,033	7	59	1,099	504	1,603	(68.6)	0	11	0	1	12	73	85
Willoughby Junior High School, Public School 162 (241)	0	532	3	260	795	367	1,162	(68.4)	0	5	0	1	6	67	73
A. Finstein Intermediate School (40)	0	552	4	579	1,135	536	1,671	(67.9)	0	10	0	5	15	89	104
E. B. Browning Junior High School, Public School 115 (87)	0	451	20	634	1,105	525	1,630	(67.8)	0	1	0	0	1	74	75
Public School 69 (30)	0	129	2	344	475	228	703	(67.6)	0	1	0	0	1	26	27
Public School 111, Jacob Blackwell School (609)	0	305	19	126	450	220	670	(67.2)	0	1	0	0	1	34	35
Seward Park School (472)	0	812	591	1,348	2,751	1,348	4,099	(67.1)	0	5	4	5	14	200	214
Alexander Hamilton Vocational and Technical High School (273)	2	409	9	262	682	337	1,019	(66.9)	0	0	0	0	0	69	69
Prospect Heights High School (271)	12	1,605	14	70	1,701	851	2,552	(66.7)	0	0	0	0	0	149	149
Franklin K. Lane High School (333)	5	2,691	23	860	3,579	1,795	5,374	(66.6)	0	14	1	0	15	247	262
Public School 171, Peter G. van Alst School (620)	0	455	2	228	685	346	1,031	(66.4)	0	1	0	0	1	69	70
Automotive High School (195)	0	396	18	370	784	397	1,181	(66.4)	0	4	0	0	4	83	87
George Washington High School (588)	2	1,443	40	1,563	3,048	1,585	4,633	(65.8)	0	14	0	3	17	203	220
Public School 112, Dutch Kills School (610)	0	246	7	120	373	194	567	(65.8)	0	0	0	0	0	24	24
Public School 8, Robert Fulton School (142)	0	343	7	159	509	267	776	(65.6)	0	2	0	0	2	31	33
Public School 173 (581)	0	185	25	533	743	392	1,135	(65.5)	0	1	1	1	3	47	50
Public School 31 (173)	0	15	0	309	324	171	495	(65.5)	0	1	0	0	1	25	26
Public School 33, Chelsea School (508)	0	108	8	264	380	203	583	(65.2)	0	2	1	1	4	47	51
Public School 26, Burnside Avenue School (74)	1	475	14	480	970	522	1,492	(65.0)	0	0	0	0	0	51	51
George W. Wingate High School (303)	1	1,339	27	204	1,571	851	2,422	(64.9)	0	9	0	0	9	133	142
Public School 121 (763)	0	481	12	149	642	352	994	(64.6)	0	3	0	0	3	48	51
Public School 110, F. Nightingale School (514)	0	81	26	224	331	182	513	(64.5)	0	1	0	0	1	36	37
Public School 140 (344)	1	27	17	1,355	1,400	784	2,184	(64.1)	0	0	1	0	1	79	80
William H. Taft High School (70)	1	1,669	31	1,110	2,811	1,598	4,409	(63.8)	0	10	0	6	16	196	212
James Monroe High School (140)	8	1,205	25	1,843	3,081	1,756	4,837	(63.7)	0	13	1	8	22	198	220
G. Gershwin Junior High School, Public School 166 (316)	0	791	0	311	1,102	629	1,731	(63.7)	0	8	0	0	8	112	120
Public School 19, Lake School (629)	0	193	22	709	924	530	1,454	(63.5)	0	4	0	0	4	62	66
Public School 189 (584)	0	210	12	656	878	506	1,384	(63.4)	0	8	1	1	10	48	58
Public School 214, Michael Friedsam School (323)	0	483	4	166	653	378	1,031	(63.3)	0	6	0	0	6	46	52
Public School 181, William Malbin School (257)	1	612	40	186	839	497	1,336	(62.8)	0	0	0	0	0	47	47
Public School 306, Ethan Allen School (330)	0	641	3	211	855	510	1,365	(62.6)	0	6	0	0	6	48	54
Public School 31, William T. Davis School (831)	0	420	1	96	517	309	826	(62.6)	0	3	0	0	3	65	68
Public School 100, Isaac Clason School (35)	0	400	12	361	773	466	1,239	(62.4)	0	4	0	0	4	43	47
Public School 25, St. Joseph School for Boys (826)	0	54	0	156	210	128	338	(62.1)	0	1	0	0	1	51	52
Wm. J. O'Shea Intermediate Public School 44 (546)	0	346	22	513	881	537	1,418	(62.1)	0	8	0	5	13	77	90
Public School 76, William Hallett School (605)	0	361	5	236	602	370	972	(61.9)	0	13	0	0	13	47	60
P. Hoffman Junior High School Public School 45 (77)	0	477	10	433	920	567	1,487	(61.9)	0	7	0	0	7	85	92
Public School 84, Sol Bloom School (550)	0	219	9	314	542	338	880	(61.6)	0	2	0	0	2	40	42
J. P. Sousa Junior High School, Public School 142 (119)	0	639	6	221	866	545	1,411	(61.4)	0	10	0	0	10	78	88
Manhattan Occupational Training Center	1	70	1	39	111	70	181	(61.3)	0	4	0	0	4	21	25
Public School 80 (758)	0	597	0	4	601	380	981	(61.3)	0	10	0	0	10	37	47

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

DISTRICT: NEW YORK CITY PUBLIC SCHOOLS. NUMBER OF SCHOOLS: 853. REPRESENTING: 853. CITY: BROOKLYN. COUNTY: 63—Continued

	Students—							Weight:	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total	1.0—grades	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Public School 114 (65)	0	202	23	381	606	393	999	(60.7)	0	1	0	0	1	33	34
W. Whitman Intermediate Public School 246 (263)	1	719	35	177	932	622	1,554	(60.0)	0	2	0	0	2	76	78
R. F. Wagner Junior High School, Public School 167 (490)	1	465	32	477	975	655	1,630	(59.8)	0	8	0	1	9	81	90
Public School 132 (184)	0	249	2	302	553	384	937	(59.0)	0	1	0	1	2	32	34
Public School 109, Sedgwick School (63)	0	306	3	354	663	461	1,124	(59.0)	0	0	0	0	0	34	34
Public School 176, Cambria Heights School (801)	0	316	2	39	357	254	611	(58.4)	0	5	0	0	5	17	22
Inwood Junior High School, Public School 52 (566)	0	816	26	280	1,122	800	1,922	(58.4)	0	7	0	3	10	95	105
Public School 183, Beach Park School (738)	0	458	0	129	587	421	1,008	(58.2)	0	4	0	0	4	72	76
Public School 268, Emma Lazarus School (293)	0	360	8	66	434	317	751	(57.8)	0	1	0	1	2	25	27
William H. Maxwell Vocational High School (336)	0	349	3	583	935	706	1,641	(57.0)	0	5	0	0	5	96	101
J. Ericsson Junior High School, Public School (183)	0	319	14	435	768	598	1,366	(56.2)	0	6	2	0	8	94	102
Chelsea Vocational High School (523)	0	177	15	396	588	459	1,047	(56.2)	0	4	0	0	4	70	74
Public School 70, O. Henry School (513)	6	190	15	494	699	562	1,261	(55.4)	0	7	2	2	11	71	82
Public School 152 (578)	1	302	24	269	596	483	1,079	(55.2)	0	1	0	1	2	39	41
Public School 42, R. Vernam School (716)	0	607	3	163	773	633	1,406	(55.0)	0	0	0	0	0	51	51
Public School 35, Nathaniel Woodhull School (784)	0	275	15	58	348	286	634	(54.9)	0	0	0	0	0	21	21
Public School 199, Jesse I. Straus (563)	0	133	9	135	277	229	506	(54.7)	0	2	0	0	2	42	44
Public School 64 (56)	0	188	19	420	625	522	1,149	(54.6)	0	1	0	0	1	29	50
DeWitt Clinton High School (93)	0	1,538	46	1,304	2,888	2,451	5,339	(54.1)	0	10	0	2	12	138	150
Public School 149 (615)	0	245	10	126	381	325	706	(54.0)	0	2	0	0	2	26	28
Public School 154 (213)	0	71	10	189	270	236	506	(53.4)	0	0	0	0	0	24	24
Manhattan Hospital, S. G.R.P (444)	0	25	3	40	68	60	128	(53.1)	0	0	0	0	0	16	16
Public School 110, Monitor School (181)		198	0	195	393	350	743	(52.9)	0	3	0	0	3	42	45
Public School 197, Ocean School (739)	0	385	4	125	514	459	973	(52.8)	0	2	0	0	2	44	46
Public School, 103 Borough Park School (340)	0	100	4	35	139	125	264	(52.7)	0	0	0	0	0	16	16
Walton High School (91)	0	922	48	933	1,903	1,720	3,623	(52.5)	0	5	0	4	9	165	174
Public School 30 (751)	0	683	0	11	694	631	1,325	(52.4)	0	19	0	0	19	54	73
John Jay High School (220)	0	891	37	1,272	2,200	2,019	4,219	(52.1)	0	3	0	2	5	186	191
Public School 83 (104)	0	236	4	193	433	401	834	(51.9)	0	2	0	2	4	49	53
Public School 166 (559)	0	87	10	266	363	339	702	(51.7)	0	2	0	0	2	48	50
Olinville Junior High School, Public School 113 (115)	0	914	12	124	1,050	986	2,036	(51.6)	0	10	0	0	10	107	117
Public School 107, John W. Kimball School (207)	0	22	2	311	335	315	650	(51.5)	0	0	0	0	0	20	20
Public School 89, Elmhurst School (639)	0	107	59	463	629	593	1,222	(51.5)	0	1	1	0	2	35	37
Public School 116, Mary L. Murray School (484)	0	24	31	265	320	306	626	(51.1)	1	0	0	0	1	28	29
Public School 148 (614)	0	255	17	118	390	376	766	(50.9)	0	2	0	0	2	37	39
Jamaica Vocational High School (779)	0	240	2	63	305	295	600	(50.8)	0	4	0	0	4	47	51
Evander Childs (121)	0	1,781	14	502	2,297	2,239	4,536	(50.6)	0	10	0	4	14	193	207
Public School 170 (770)	0	113	22	124	259	256	515	(50.3)	0	0	0	0	0	18	18
Public School 224, The Old Mill School (325)	0	333	1	106	440	435	875	(50.3)	0	2	0	0	2	45	47
Public School 138, Samuel Randall School (41)	0	263	8	259	530	526	1,056	(50.2)	0	0	0	0	0	42	42
Public School 75, Emily Dickinson School (548)	1	178	23	295	497	497	994	(50.0)	0	1	2	0	3	46	49
Public School 18, John Greenleaf Whittier School (820)	0	469	5	71	545	555	1,100	(49.5)	0	2	0	0	2	71	73
R. A. Van Wyck Junior High School (776)	0	501	95	119	715	732	1,447	(49.4)	0	3	0	0	3	79	82
Tri Community Junior High School P.S. 231 (804)	0	827	5	35	867	896	1,763	(49.2)	0	19	0	0	19	71	90
Public School 89 (106)	0	316	8	318	642	665	1,307	(49.1)	0	3	0	0	3	59	62
Public School 87 (551)	1	132	10	275	418	445	863	(48.4)	0	2	0	1	3	50	53
P. Rouget Intermediate Public School 88 (205)	0	129	6	702	837	892	1,729	(48.4)	0	5	0	0	5	112	117
Public School 121 (116)	1	267	1	164	433	463	896	(48.3)	0	1	1	0	2	41	43
Joseph H. Wade Junior High School, Public School 117 (66)	0	425	0	316	741	795	1,536	(48.2)	0	2	0	0	2	84	86
Public School 146 (212)	0	82	5	372	459	493	952	(48.2)	0	1	0	0	1	43	44
O. W. Holmes Junior High School, Public School 204 (621)	0	305	20	172	497	535	1,032	(48.2)	0	6	0	0	6	67	73
Public School 188 (379)	1	305	6	165	477	518	995	(47.9)	0	0	0	0	0	43	43
Public School 91 (84)	0	192	13	283	488	532	1,020	(47.8)	0	0	0	0	0	31	31
Public School 108, Arlington School (310)	0	234	9	94	337	386	723	(46.6)	0	2	0	0	2	43	45

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

DISTRICT: NEW YORK CITY PUBLIC SCHOOLS. NUMBER OF SCHOOLS: 853. REPRESENTING: 853. CITY: BROOKLYN. COUNTY: 63—Continued

	Students—							Weight:	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total	1.0—grades	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Public School 58, Carroll School (204)	0	34	6	443	483	565	1,048	(46.1)	0	2	0	0	2	37	39
Public School 41 (100)	1	418	5	88	512	602	1,114	(46.0)	0	3	0	0	3	45	48
Public School 103 (109)	0	316	0	70	386	455	841	(45.9)	0	3	0	0	3	45	48
Public School 44, Thomas C. Brown School (839)	1	360	5	88	454	540	994	(45.7)	0	3	0	0	3	38	41
Aviation High School (624)	6	319	79	698	1,102	1,313	2,415	(45.6)	0	6	0	3	9	144	153
Public School 235, Lenox School (289)	0	202	5	43	250	301	551	(45.4)	0	1	0	0	1	20	21
Public School 98 (569)	0	138	29	405	572	699	1,271	(45.0)	0	2	0	0	2	37	39
Public School 156 (800)	0	469	4	11	484	595	1,079	(44.9)	0	4	0	0	4	31	35
Public School 90, John J. Loftus School (369)	0	105	5	203	313	391	704	(44.5)	0	2	0	0	2	34	36
Mark Twain Junior High School, Public School 239 (389)	0	272	4	412	688	865	1,553	(44.3)	0	1	0	0	1	86	87
Public School 230 (216)	0	180	11	101	292	368	660	(44.2)	0	0	0	0	0	38	38
Bay Ridge School (366)	8	447	21	559	1,035	1,309	2,344	(44.2)	0	4	0	0	4	121	125
Public School 187 (583)	0	161	3	139	303	389	692	(43.8)	0	1	0	0	1	26	27
Public School 39, Henry Bristow School (202)	12	63	8	156	239	307	546	(43.8)	0	0	0	0	0	16	16
J. Pulitzer Intermediate (613)	0	505	37	198	740	952	1,692	(43.7)	0	1	0	2	3	70	73
Hospital Schools (597)	0	46	0	5	51	66	117	(43.6)	0	0	0	0	0	17	17
Public School 135 (279)	1	251	2	67	321	418	739	(43.4)	0	2	0	0	2	32	34
Public School 108 (112)	0	164	8	97	269	352	621	(43.3)	0	1	0	0	1	20	21
Public School 106 (111)	0	198	9	160	367	492	859	(42.7)	0	2	0	0	2	40	42
Public School 32, Belmont School (75)	1	239	2	333	575	772	1,347	(42.7)	0	0	0	0	0	45	45
Public School 151, Miles M. O'Brien School (487)	0	33	19	132	184	249	433	(42.5)	0	0	0	0	0	19	19
George Westinghouse Vocational and Technical High School (167)	1	896	72	461	1,430	1,960	3,390	(42.2)	0	1	1	2	4	127	131
Public School 31, Bayside Elementary School (686)	0	217	10	3	230	317	547	(42.0)	0	0	0	0	0	25	25
Public School 82 (759)	0	16	9	135	160	222	382	(41.9)	0	0	0	0	0	14	14
Public School 94 (85)	0	223	9	109	341	485	826	(41.3)	0	0	0	0	0	30	30
Public School 97 (108)	0	228	2	35	265	383	648	(40.9)	0	1	0	0	1	25	26
Public School 244 (291)	1	306	1	74	382	556	938	(40.7)	0	3	0	0	3	33	36
Public School 33, Timothy Dwight School (76)	2	205	18	174	399	585	984	(40.5)	0	0	0	0	0	33	33
Public School 46, Alley Pond School (688)	0	215	8	21	244	364	608	(40.1)	0	0	0	0	0	28	28
Public School 269 (423)	0	238	23	106	367	554	921	(39.8)	0	0	0	0	0	32	32
Public School 122, Marble Hill School (89)	1	212	20	169	402	625	1,027	(39.1)	0	1	0	0	1	30	31
Public School 76 (102)	0	288	9	67	364	566	930	(39.1)	0	2	0	0	2	33	35
Public School 61, Leonardo Da Vinci Intermediate (631)	0	310	0	527	837	1,307	2,144	(39.0)	0	9	0	0	9	100	109
Erasmus Hall High School (272)	2	1,834	145	308	2,289	3,578	5,867	(39.0)	0	3	0	0	3	248	251
Public School 164 (347)	0	83	5	274	362	566	928	(39.0)	0	0	0	1	1	32	33
Public School 123, Suydam School (237)	0	95	8	434	537	843	1,380	(38.9)	0	3	0	1	4	56	60
Public School 166 (619)	0	121	22	175	318	502	820	(38.8)	0	0	0	0	0	32	32
Public School 233 (288)	0	271	9	69	349	558	907	(38.5)	0	0	0	0	0	33	33
Queens Village Junior High School, Public School 109	0	553	4	48	605	989	1,594	(38.0)	0	3	0	0	3	79	82
Public School 169 (214)	0	55	16	477	548	896	1,444	(38.0)	0	0	0	0	0	51	51
Public School 154 (664)	0	309	25	48	382	633	1,015	(37.6)	0	1	0	0	1	36	37
Public School 201 (677)	0	223	5	24	252	423	675	(37.3)	0	2	0	0	2	28	30
Springfield Gardens High High School (805)	6	1,604	11	87	1,708	2,894	4,602	(37.1)	0	22	1	1	24	190	214
Public School 273, Wortman School (327)	0	280	5	92	377	641	1,018	(37.0)	0	0	0	0	0	45	45
New York School of Printing (524)	0	258	7	248	513	875	1,388	(37.0)	0	3	0	2	5	96	101
Public School 20, Bonne Elementary School (653)	1	198	84	141	424	726	1,150	(36.9)	0	1	0	0	1	39	40
Art and Design (499)	2	343	309	40	694	1,194	1,888	(36.8)	0	6	1	1	8	129	137
Grover Cleveland High School (652)	1	1,336	14	224	1,575	2,712	4,287	(36.7)	0	2	0	2	4	206	210
Woodside Junior High, P.S. 125 (645)	1	216	44	190	451	780	1,231	(36.6)	0	2	1	0	3	39	42
Mosholu Parkway Junior High, P.S. 80 (81)	2	451	14	103	570	1,017	1,587	(35.9)	0	1	0	0	1	90	91
Public School 105, Bay School (730)	0	385	0	76	461	824	1,285	(35.9)	0	0	0	0	0	47	47
Public School 192 (354)	0	76	2	39	117	217	334	(35.0)	0	0	0	0	0	14	14
Astoria Intermediate, P.S. 126 (611)	0	186	6	142	334	622	956	(34.9)	0	5	0	0	5	65	70
Public School 34, John Harvard School (783)	0	187	11	62	260	486	746	(34.9)	0	3	0	0	3	30	33
Public School 87 (105)	0	189	6	48	243	458	701	(34.7)	0	1	0	0	1	30	31
Abraham Lincoln Intermediate, Public School 171 (317)	3	193	4	253	453	855	1,308	(34.6)	0	5	0	2	7	58	65
Public School 131 (793)	0	143	18	13	174	333	507	(34.3)	0	2	0	0	2	20	22
Public School 7, Kingsbridge School (71)	0	146	11	65	222	426	648	(34.3)	0	2	0	0	2	18	20
Rockaway Beach Junior High, P.S. 180 (737)	0	332	3	85	420	809	1,229	(34.2)	0	4	0	2	6	65	71

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

DISTRICT: NEW YORK CITY PUBLIC SCHOOLS. NUMBER OF SCHOOLS: 853. REPRESENTING: 853. CITY: BROOKLYN. COUNTY: 63—Continued

	Students—							Weight:	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total	1.0—grades	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Public School 16, John Driscoll School (819)	0	244	23	83	350	682	1,032	(33.9)	0	1	0	0	1	56	57
Public School 151 (617)	2	177	42	101	322	634	956	(33.7)	0	0	0	0	0	34	34
Public School 56, Norwood Heights School (79)	0	103	11	54	168	331	499	(33.7)	0	0	0	0	0	15	15
Kings County Psychiatric Hospital, School (449)	0	33	0	11	44	87	131	(33.6)	0	1	0	0	1	31	32
J. M. Kieran Junior High School, Public School 123 (37)	0	454	9	76	539	1,072	1,611	(33.5)	0	7	0	0	7	83	90
John P. Tetard Junior High School, Public School 143 (90)	0	383	8	70	461	917	1,378	(33.5)	0	2	0	0	2	74	76
Public School 38, Rosedale School (787)	0	113	0	4	117	237	354	(33.1)	0	0	0	0	0	20	20
Public School 303, George C. Tilyou School (394)	1	112	1	174	288	589	877	(32.8)	0	1	0	0	1	45	46
Public School 12, James B. Colgate School (626)	0	28	25	134	187	384	571	(32.7)	0	0	0	0	0	19	19
Public School 16 (97)	0	162	0	64	226	466	692	(32.7)	0	1	0	0	1	23	24
Public School 36, Unionport School (25)	0	215	11	238	464	968	1,432	(32.4)	0	1	0	0	1	38	39
Public School 131 (210)	0	152	8	172	332	695	1,027	(32.3)	0	0	0	0	0	36	36
Public School 105 (110)	0	249	10	198	457	961	1,418	(32.2)	0	3	0	0	3	59	62
Queens Cluster School (450)	0	25	0	4	29	61	90	(32.2)	0	3	0	0	3	28	31
Public School 155, Nicholas Herkimer School (434)	0	334	0	0	334	708	1,042	(32.1)	0	12	0	0	12	49	61
Public School 215, the Lucretia Mott School (744)	0	346	4	86	436	967	1,403	(31.1)	0	4	0	0	4	50	54
Public School 198 (411)	0	163	2	20	185	418	603	(30.7)	0	0	0	0	0	20	20
Montauk Junior High School, Public School 223 (360)	0	248	12	126	386	878	1,264	(30.5)	0	1	0	0	1	67	68
Public School 20 Port Richmond School (822)	0	194	1	21	216	499	715	(30.2)	0	1	0	0	1	33	34
John Adams High School (749)	1	1,386	23	157	1,567	3,641	5,208	(30.1)	0	12	1	5	18	253	271
Public School 150 (616)	0	82	21	70	173	403	576	(30.0)	0	2	0	0	2	34	36
Public School 219 (681)	0	245	8	13	266	625	891	(29.9)	0	2	0	0	2	31	33
Dyker Heights Junior High School, Public School (356)	1	262	8	133	404	953	1,357	(29.8)	0	0	0	0	0	75	75
Public School 253 (391)	0	104	9	193	306	730	1,036	(29.5)	0	0	0	0	0	33	33
F. D. Roosevelt High School (398)	1	941	24	145	1,111	2,666	3,777	(29.4)	0	1	0	0	1	181	182
Public School 40 (458)	0	127	22	86	235	566	801	(29.3)	0	0	0	0	0	37	37
Public School 40, Robert R. Randall School (836)	0	97	2	29	128	310	438	(29.2)	0	0	0	0	0	18	18
Public School 17, O. Henry D. Thoreau School (602)	1	182	13	225	421	1,024	1,445	(29.1)	0	4	0	0	4	49	53
Public School 135 (796)	0	278	19	47	344	839	1,183	(29.1)	0	2	0	0	2	41	43
Public School 14, Vanderbilt School (818)	0	193	3	61	257	640	897	(28.7)	0	1	1	0	2	47	49
High School of Music and Art (589)	0	509	46	175	730	1,826	2,556	(28.6)	0	4	1	4	9	152	161
Public School 46, Edgar Allen Poe School (78)	1	151	20	108	280	713	993	(28.2)	0	0	0	0	0	41	41
Public School 183, R. L. Stevenson School (494)	0	72	32	27	131	334	465	(28.2)	0	0	0	0	0	23	23
Public School 162 (698)	0	190	4	30	224	581	805	(27.8)	0	1	0	0	1	29	30
J. J. Pershing Junior High School, Public School 220 (359)	1	256	12	202	471	1,227	1,698	(27.7)	0	2	0	0	2	93	95
Public School 120 (663)	1	134	80	10	225	590	815	(27.6)	0	1	0	0	1	26	27
W. Cowper Junior High School, Public School 73 (634)	3	122	28	201	354	947	1,301	(27.2)	0	1	0	0	1	69	70
Public School 18, Winchester School (684)	0	88	0	12	100	269	369	(27.1)	0	0	0	0	0	16	16
Public School 214 (679)	0	95	10	96	201	541	742	(27.1)	0	0	0	0	0	32	32
Public School 249, Caton Avenue School (264)	2	63	24	138	227	615	842	(27.0)	0	0	0	0	0	26	26
Public School 199, M. A. Fitzgerald School (649)	0	4	30	175	209	572	781	(26.8)	0	1	0	0	1	24	25
Canarsie High School (304)	1	952	13	317	1,283	3,542	4,825	(26.6)	0	3	1	1	5	235	240
Queens Occupation Training Center (452)	0	32	1	7	40	112	152	(26.3)	0	2	0	0	2	17	19
Queens Vocational High School, Public School 600 (623)	0	209	13	15	237	667	904	(26.2)	0	1	0	0	1	68	69
Public School 102 (642)	0	24	23	85	132	372	504	(26.2)	0	0	0	0	0	20	20
Public School 71, East Williamsburg School (633)	1	192	5	59	257	730	987	(26.0)	0	0	0	0	0	36	36
Bayard Taylor School, Public School 158 (488)	0	85	25	48	158	452	610	(25.9)	0	0	0	0	0	26	26
Richmond Hill School (748)	0	628	9	177	814	2,332	3,146	(25.9)	0	3	0	2	5	156	161
Public School 139 (764)	0	137	15	43	195	559	754	(25.9)	0	0	0	0	0	31	31
Public School 90, Horace Mann School (725)	154	0	18	43	215	619	834	(25.8)	0	5	1	0	6	27	33
Public School 208 (284)	0	234	6	23	263	764	1,027	(25.6)	0	0	0	0	0	35	35
Public School 87, Middle Village School (637)	0	129	0	18	147	428	575	(25.6)	0	0	0	0	0	24	24

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

DISTRICT: NEW YORK CITY PUBLIC SCHOOLS. NUMBER OF SCHOOLS: 853. REPRESENTING: 853. CITY: BROOKLYN. COUNTY: 63—Continued

	Students—							Weight:	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total	1.0—grades	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Public School 88, Seneca School (638)	0	120	5	68	193	567	760	(25.4)	0	1	1	0	2	30	32
Meyer Levin Junior High School, Public School 285 (299)	1	354	10	69	434	1,283	1,717	(25.3)	0	0	0	0	0	66	66
H. Greeley Junior High School, Public School 10 (600)	0	132	47	130	309	917	1,226	(25.2)	0	3	0	0	3	72	75
Public School 200 (676)	0	98	11	24	133	400	533	(25.0)	0	0	0	0	0	23	23
Public School 144 (767)	0	101	30	27	158	478	636	(24.8)	0	2	0	0	2	24	26
E. Blackwell Junior High School, Public School 210 (743)	0	375	9	95	479	1,450	1,929	(24.8)	0	4	1	0	5	94	99
Jamaica High School (806)	0	943	68	286	1,297	3,934	5,231	(24.8)	0	6	0	0	6	197	203
Public School 225, Seaside School (745)	0	75	0	13	88	267	355	(24.8)	0	0	0	0	0	17	17
Castle Hill Junior High School, Public School 127 (117)	0	250	15	157	422	1,283	1,705	(24.8)	0	6	0	1	7	85	92
John Bowne High School (682)	0	772	39	132	943	2,872	3,815	(24.7)	0	5	0	0	5	182	187
Public School 229 (362)	0	105	0	4	109	332	441	(24.7)	0	0	0	0	0	20	20
Villa Loretto School (438)	0	15	1	11	27	83	110	(24.5)	0	0	0	0	0	18	18
Public School 104 (729)	0	217	1	20	238	739	977	(24.4)	0	0	0	0	0	32	32
Public School 68 (101)	0	163	2	103	268	840	1,108	(24.2)	0	1	0	0	1	40	41
Ridgewood Junior High School, Public School 93 (641)	0	298	2	38	338	1,060	1,398	(24.2)	0	4	0	0	4	70	74
Public School 13, Clement C. Moore School (627)	0	22	85	147	254	797	1,051	(24.2)	0	0	0	0	0	34	34
Public School 11, Woodside School (601)	0	59	28	160	247	781	1,028	(24.0)	0	0	0	0	0	35	35
Public School 152 (618)	0	15	61	179	255	808	1,063	(24.0)	0	1	0	0	1	36	37
Public School 153 (648)	0	91	0	98	189	600	789	(24.0)	0	0	0	0	0	28	28
Public School 95 (86)	0	146	0	117	263	853	1,116	(23.6)	0	0	0	0	0	42	42
Public School 72 (32)	0	198	4	175	377	1,232	1,609	(23.4)	0	0	0	0	0	49	49
Public School 24, Andrew Jackson School (657)	0	83	84	49	216	709	925	(23.4)	0	0	0	0	0	31	31
Public School 139 (405)	3	207	34	93	337	1,108	1,445	(23.3)	0	0	0	0	0	50	50
A. Hudde Junior High School, Public School 240 (419)	1	417	22	69	509	1,676	2,185	(23.3)	0	0	0	0	0	103	103
Simon Baruch Junior High School, Public School 104 (467)	1	177	37	16	231	761	992	(23.3)	0	2	0	0	2	59	61
Public School 86, Irvington School (232)	0	34	3	138	175	590	765	(22.9)	0	3	0	0	3	23	26
F. D. Whalen Junior High School, Public School 135 (118)	0	300	12	57	369	1,261	1,630	(22.6)	0	4	1	0	5	78	83
Frances Lewis High School (712)	1	921	40	38	1,000	3,424	4,424	(22.6)	0	3	1	0	4	157	161
Public School 6 (475)	1	142	18	17	178	613	791	(22.5)	0	0	0	0	0	33	33
Public School 152, Glenwood Road School (406)	1	191	17	83	292	1,009	1,301	(22.4)	0	0	0	0	0	45	45
Public School 63, Old South School (722)	0	224	2	38	264	916	1,180	(22.4)	0	0	0	0	0	48	48
Public School, Hollis-wood School (701)	0	71	7	0	78	271	349	(22.3)	0	0	0	0	0	14	14
Public School 54 Hillside Avenue School (755)	0	43	3	65	111	386	497	(22.3)	0	1	0	0	1	16	17
Public School 242 (290)	0	169	7	64	240	837	1,077	(22.3)	0	1	0	0	1	40	41
B. M. Cardozo Junior High School, Public School 198 (740)	0	321	0	45	366	1,279	1,645	(22.2)	0	2	0	0	2	85	87
J. Wilson Junior High School, Public School 211 (385)	0	295	3	80	378	1,330	1,708	(22.1)	0	0	0	0	0	86	86
Public School 177, William Prince School (700)	0	115	5	5	125	442	567	(22.0)	0	2	0	0	2	25	27
Public School 26 (685)	0	156	21	3	180	637	817	(22.0)	0	1	0	0	1	30	31
James Madison High School (429)	0	828	24	213	1,065	3,781	4,846	(22.0)	0	6	0	12	18	200	218
Public School 86 (83)	0	117	13	103	233	835	1,068	(21.8)	0	1	0	0	1	41	42
Parsons Junior High School (1,668)	0	234	23	55	312	1,119	1,431	(21.8)	0	2	0	0	2	71	73
Public School 96 (107)	0	127	1	91	219	792	1,011	(21.7)	0	1	0	0	1	34	35
The Cambridge Public School 68 (632)	0	126	2	100	228	840	1,068	(21.3)	0	0	0	0	0	33	33
Public School 199, Elmwood School (380)	0	123	9	29	161	595	756	(21.3)	0	0	0	0	0	40	40
Public School 188 (705)	0	96	0	0	96	355	451	(21.3)	0	1	0	0	1	19	20
E. B. Shallow Junior High School, Public School 227 (361)	0	239	22	51	312	1,154	1,466	(21.3)	0	1	0	0	1	76	77
Public School 272, Curtis Eastabrook School (294)	0	189	5	60	254	957	1,211	(21.0)	0	1	0	1	2	43	45
D. C. Beard Junior High School, Public School 189 (673)	1	130	53	148	332	1,258	1,590	(20.9)	0	4	0	0	4	75	79
Samuel J. Tilden School (302)	0	796	20	33	849	3,219	4,068	(20.9)	0	3	0	0	3	178	181
Public School 48, Mapleton School (337)	2	118	8	15	143	552	695	(20.6)	0	0	0	0	0	24	24
Public School 91, Richard Arkwright School (640)	0	94	1	2	97	377	474	(20.5)	0	2	1	0	3	20	23
Public School 130 (209)	0	88	2	27	117	457	574	(20.4)	0	1	0	0	1	24	25

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

DISTRICT: NEW YORK CITY PUBLIC SCHOOLS. NUMBER OF SCHOOLS: 853. REPRESENTING: 853. CITY: BROOKLYN. COUNTY: 63—Continued

	Students—							Weight:	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total	1.0—grades	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Public School 286 (426)	0	125	3	3	131	512	643	(20.4)	0	0	0	0	0	32	32
Public School 14, Fairview School (628)	0	48	35	165	248	972	1,220	(20.3)	0	2	0	0	2	44	46
Far Rockaway High School (747)	0	549	16	120	685	2,688	3,373	(20.3)	0	1	1	2	4	158	162
Public School 101 (761)	0	96	19	17	132	521	653	(20.2)	0	0	0	1	1	23	24
Thomas A. Edison Vocational Technical High School (807)	0	291	8	97	396	1,568	1,964	(20.2)	0	21	0	0	21	105	126
R. Sage Junior High School, Public School 190 (773)	0	204	42	60	306	1,219	1,525	(20.1)	0	2	0	0	2	72	74
Public School 248 (390)	0	105	5	23	133	533	666	(20.0)	0	0	0	0	0	26	26
Public School 164 (666)	0	85	27	42	154	619	773	(19.9)	0	1	0	0	1	27	28
Public School 190, Paul Revere School (495)	0	46	16	19	81	326	407	(19.9)	0	0	0	0	0	17	17
William C. Bryant High School, Public School 445 (622)	1	354	95	357	807	3,269	4,076	(19.8)	0	7	0	10	17	196	213
Public School 69, Jackson Heights School (603)	0	13	47	115	175	715	890	(19.7)	0	1	1	0	2	27	29
Public School 8, Isaac Varian School (72)	0	53	8	41	102	418	520	(19.6)	0	0	0	0	0	34	34
A. S. Pral! Junior High School, Public School 27 (828)	0	300	0	66	366	1,500	1,866	(19.6)	0	3	0	1	4	98	102
Edward Eggleston Public School 19 (98)	0	65	0	11	76	314	390	(19.5)	0	1	0	0	1	15	16
Fort Hamilton High School (367)	0	361	46	287	694	2,871	3,565	(19.5)	0	2	0	3	5	158	163
Public School 117 (762)	0	32	108	87	227	945	1,172	(19.4)	0	0	0	0	0	49	49
Public School 104 (341)	0	171	30	35	236	991	1,227	(19.2)	0	0	0	0	0	56	56
Public School 206 (775)	0	47	53	84	184	783	967	(19.0)	0	1	0	0	1	38	39
Public School 59, Beekman Hill School and annex (478)	0	58	15	10	83	356	439	(18.9)	0	0	0	0	0	19	19
Public School 217 (415)	0	119	42	46	207	890	1,097	(18.9)	0	0	0	0	0	41	41
Public School 163, Bath Beach School (346)	0	97	8	27	132	572	704	(18.8)	0	0	0	0	0	39	39
Ditmas Junior High School, Public School 62 (338)	0	212	27	85	324	1,415	1,739	(18.6)	0	0	0	1	1	90	91
Public School 41, Greenwich Village School (509)	2	73	26	122	223	974	1,197	(18.6)	0	1	1	0	2	52	54
B. A. Dreyfus Junior High School, Public School 49 (843)	0	170	5	80	255	1,115	1,370	(18.6)	0	1	1	0	2	75	77
Public School 205, Alexander G. Bell School (708)	0	134	4	20	158	700	858	(18.4)	0	1	0	0	1	30	31
Public School 128, Bensonhurst School (376)	0	62	6	3	71	319	390	(18.2)	0	0	0	0	0	16	16
Hillside Junior High School Public, School 172 (699)	0	278	2	3	283	1,290	1,573	(18.0)	0	0	0	0	0	82	82
Public School 121 (375)	0	53	4	37	94	429	523	(18.0)	0	0	0	0	0	19	19
Public School 225 (385)	0	87	6	45	138	641	779	(17.7)	0	0	0	0	0	33	33
Public School 187 (704)	0	73	0	1	74	344	418	(17.7)	0	0	0	0	0	22	22
Public School 181, Brookfield School (802)	0	81	4	30	115	541	656	(17.5)	0	2	0	0	2	22	24
Public School 160, William T. Sampson School (345)	3	37	20	59	119	572	691	(17.2)	0	0	0	0	0	26	26
W. A. Cunningham Junior High School, Public School 234 (417)	0	232	12	31	275	1,339	1,614	(17.0)	0	0	0	0	0	75	75
Public School 220, Edward Mandel School (777)	0	63	43	54	160	801	961	(16.6)	0	1	0	0	1	35	36
W. McKinley Junior High School, Public School 259 (304)	0	177	21	30	228	1,147	1,375	(16.6)	0	2	0	1	3	66	69
Ralph McKee Vocational and Technical High School (853)	0	108	2	43	153	770	923	(16.6)	1	2	0	0	3	71	74
Brooklyn Technical High School (165)	1	524	301	63	889	4,500	5,389	(16.5)	0	3	0	1	4	283	287
J. J. Reynolds Junior High School	0	217	7	89	313	1,588	1,901	(16.5)	0	1	1	0	2	89	91
Forest Hills High School (778)	0	468	52	110	630	3,204	3,834	(16.4)	0	2	0	3	5	177	182
Public School 251, Paerdegat School (420)	0	127	2	14	143	733	876	(16.3)	0	0	0	0	0	30	30
Public School 205 (358)	0	115	6	24	145	754	899	(16.1)	0	0	0	0	0	40	40
Public School 70 (604)	1	46	13	143	203	1,058	1,261	(16.1)	0	0	0	0	0	42	42
Public School 179, Lewis Carroll School (702)	0	55	10	0	65	339	404	(16.1)	0	1	0	0	1	16	17
Curtis High School (851)	0	260	18	80	358	1,872	2,230	(16.1)	0	1	0	2	3	109	112
Public School 81 (82)	0	38	104	15	157	832	989	(15.9)	0	0	0	0	0	34	34
Public School 193 (407)	0	140	11	21	172	915	1,087	(15.8)	0	0	0	0	0	38	38
G. J. Ryan Junior High School (710)	0	193	20	5	218	1,162	1,380	(15.8)	0	6	0	0	6	63	69
Public School 179 (350)	0	80	6	96	182	973	1,155	(15.8)	0	0	0	0	0	47	47
H. G. Campbell Junior High School, Public School 218 (680)	0	191	26	16	233	1,249	1,482	(15.7)	0	3	0	0	3	78	81
Public School 13, Rosebank School (817)	0	56	6	34	96	515	611	(15.7)	0	0	0	0	0	43	43
Public School 22, Thomas Jefferson School (655)	0	14	59	75	148	799	947	(15.6)	0	0	0	0	0	36	36

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

DISTRICT: NEW YORK CITY PUBLIC SCHOOLS. NUMBER OF SCHOOLS: 853. REPRESENTING: 853. CITY: BROOKLYN. COUNTY: 63—Continued

	Students—							Weight:	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total	1.0—grades	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Martin Van Buren High School (713)	1	634	21	28	684	3,713	4,397	(15.6)	0	3	1	1	5	190	195
R. H. Goddard Junior High School, Public School 202 (741)	0	248	6	53	307	1,669	1,976	(15.5)	0	3	0	0	8	96	104
Public School 174, W. M. Sidney Mount School (771)	0	32	46	44	122	667	789	(15.5)	0	1	0	0	1	30	31
Public School 122, Silas Wright School (468)	0	20	24	17	61	335	396	(15.4)	0	0	0	0	0	16	16
Public School 112 (343)	0	64	2	6	72	396	468	(15.4)	0	0	0	0	0	19	19
Public School 146, Howard Beach School (735)	0	112	0	12	124	685	809	(15.3)	0	1	0	0	1	29	30
Stuyvesant High School (474)	2	155	120	69	346	1,929	2,275	(15.2)	0	2	1	1	4	114	118
Public School 212 (382)	0	121	3	12	136	761	897	(15.2)	0	0	0	0	0	32	32
Public School 55 (756)	0	46	4	54	104	585	689	(15.1)	0	1	0	0	1	23	24
Public School 102 (339)	0	97	22	64	183	1,030	1,213	(15.1)	0	1	0	0	1	59	60
Public School 105 (342)	1	86	12	51	150	858	1,008	(14.9)	0	0	0	0	0	39	39
Public School 185 (352)	0	42	12	7	61	349	410	(14.9)	0	0	0	0	0	20	20
Public School 180, Homebound School (351)	0	65	4	15	84	481	565	(14.9)	0	0	0	0	0	18	18
Edenwald School (446)	0	11	0	8	19	109	128	(14.8)	0	2	0	0	2	15	17
Public School 71 (31)	0	246	8	9	263	1,512	1,775	(14.8)	0	1	0	0	1	62	63
Midwood High School (428)	1	501	35	58	595	3,474	4,069	(14.6)	0	5	0	0	5	165	170
Public School 194 (408)	0	119	3	10	132	771	903	(14.6)	0	0	0	0	0	34	34
Louis Pasteur Junior High, Public School 67 (689)	0	201	12	16	229	1,338	1,567	(14.6)	0	2	0	0	2	80	82
Public School 254, Dag Hammarskjold School (421)	3	43	4	15	65	380	445	(14.6)	0	0	0	0	0	22	22
Public School 213 (709)	0	74	0	41	115	684	799	(14.4)	0	1	0	0	1	35	36
E. Markham Junior High School P.S. 51 (845)	1	157	2	44	204	1,215	1,419	(14.4)	0	2	0	0	2	76	78
Public School 133 (695)	0	103	0	4	107	639	746	(14.3)	0	0	0	0	0	33	33
Public School 65 (308)	0	13	0	39	52	313	365	(14.2)	0	0	0	0	0	12	12
Sheepshead Bay High School 530 (430)	0	530	19	84	633	3,832	4,465	(14.2)	0	1	0	0	1	209	210
Public School 170, Lexington School 66 (348)	0	66	10	19	95	579	674	(14.1)	0	0	0	0	0	26	26
Flushing High School 242 (683)	0	242	65	161	468	2,864	3,332	(14.0)	0	3	1	1	5	141	146
Public School 41, Crocheron School 41 (687)	0	61	16	20	97	614	711	(13.6)	0	0	0	0	0	29	29
Christopher Columbus High School (120)	0	366	43	206	615	3,914	4,529	(13.6)	0	10	0	0	10	201	211
Port Richmond High School (850)	0	221	3	75	299	1,907	2,206	(13.6)	0	1	0	2	3	119	122
Public School 26 (507)	1	30	15	17	63	402	465	(13.5)	0	0	0	0	0	22	22
Public School 177, Marlboro School (378)	0	100	8	41	149	951	1,100	(13.5)	0	0	0	0	0	45	45
M. Curie Junior High School, P.S. 158 (696)	0	144	18	19	181	1,157	1,338	(13.5)	0	1	0	0	1	46	47
Public School 34 (175)	0	0	0	71	71	454	525	(13.5)	0	0	0	0	0	25	25
Public School 33, Creedmoor School (782)	0	92	0	51	143	927	1,070	(13.4)	0	0	0	0	0	40	40
Public School 255 (422)	0	87	9	20	116	760	876	(13.2)	0	0	0	0	0	30	30
Public School 138, Sunrise School (798)	0	127	3	6	136	893	1,029	(13.2)	0	3	0	0	3	35	38
Public School 173 (70)	0	80	16	1	97	648	745	(13.0)	0	0	0	0	0	29	29
Public School 29 (659)	73	0	0	9	82	549	631	(13.0)	0	0	0	0	0	20	20
Bronx High School of Science (94)	0	199	120	101	420	2,828	3,248	(12.9)	0	2	0	0	2	164	166
Nathaniel Hawthorne Junior High School, Public School 74 (690)	0	189	0	18	207	1,405	1,612	(12.8)	0	1	0	0	1	72	73
Public School 81, Jean Paul Richter School (636)	0	100	3	13	116	803	919	(12.6)	0	0	0	0	0	34	34
Public School 176 (349)	0	103	2	17	142	991	1,133	(12.5)	0	0	0	0	0	38	38
Bayside High School (714)	0	444	28	45	517	3,687	4,204	(12.3)	0	4	0	1	5	186	191
Public School 215 (383)	0	76	14	7	97	694	791	(12.3)	0	0	0	0	0	32	32
S. A. Halsey Junior High School, Public School 157 (768)	0	41	43	91	175	1,264	1,439	(12.2)	0	3	0	0	3	68	71
Public School 221 (711)	0	95	0	8	103	750	853	(12.1)	0	0	0	0	0	29	29
Benjamin Cardozo High School	0	339	5	12	356	2,625	2,981	(11.9)	0	0	0	0	0	149	149
Public School 175 (772)	0	35	31	55	121	894	1,015	(11.9)	0	0	0	0	0	35	35
Public School 186 (353)	1	85	14	19	119	883	1,002	(11.9)	0	0	0	0	0	38	38
Public School 226 (386)	0	82	10	21	113	849	962	(11.7)	0	0	0	0	0	53	53
Public School 207, Rockwood Park School (742)	0	112	9	29	150	1,130	1,280	(11.7)	0	2	0	0	2	41	43
Public School 64, Andre Ampere School (723)	0	64	0	15	79	602	681	(11.6)	0	0	0	0	0	27	27
Public School 165, Vleigh School (667)	0	53	25	47	125	961	1,086	(11.5)	0	0	0	0	0	37	37
Public School 119, Glendale Junior High School (644)	0	77	4	7	88	682	770	(11.4)	0	2	0	1	3	40	43
Public School 197 (410)	0	97	0	0	79	754	851	(11.4)	0	0	0	0	0	35	35
Public School 130 (694)	0	36	7	20	63	493	556	(11.3)	0	0	0	0	0	22	22
William F. Grady Vocational Technical High School (399)	1	83	3	74	161	1,270	1,431	(11.3)	0	1	0	0	1	108	109

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

DISTRICT: NEW YORK CITY PUBLIC SCHOOLS. NUMBER OF SCHOOLS: 853. REPRESENTING: 853. CITY: BROOKLYN. COUNTY: 63—Continued

	Students—							Weight:	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total	1.0—grades	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Public School 281 Joseph B. Cavallaro Junior High School (392)	0	167	7	35	209	1,678	1,887	(11.1)	0	3	0	0	3	97	100
Abraham Lincoln High School (397)	0	330	18	103	456	3,671	4,127	(11.0)	0	1	0	0	1	178	179
Public School 279 (297)	0	78	5	35	118	963	1,081	(10.9)	0	1	0	0	1	36	37
Public School 206 (413)	0	111	28	20	159	1,301	1,460	(10.9)	0	0	0	0	0	48	48
Public School 113 (643)	0	40	1	6	47	387	434	(10.8)	0	0	0	0	0	15	15
Public School 99 Kew Garden School (760)	0	20	18	20	58	478	536	(10.8)	0	0	0	0	0	24	24
Public School 46 South Beach School (841)	0	46	0	9	55	463	518	(10.6)	0	0	0	0	0	20	2
Public School 98 (692)	0	32	8	2	42	357	399	(10.5)	0	1	0	0	1	14	15
Public School 114, Belle Harbor School (732)	0	73	2	14	89	758	847	(10.5)	0	0	0	0	0	32	32
Public School 21, Edward Hart School (654)	0	44	39	38	121	1,034	1,155	(10.5)	0	0	1	0	1	44	45
Shell Bank Junior High, Public School 14 (400)	0	131	3	13	147	1,275	1,422	(10.3)	0	0	0	0	0	69	69
Public School 115 (693)	0	62	10	9	81	704	785	(10.3)	0	1	0	0	1	33	34
Lafayette High School, Public School (396)	0	289	24	182	495	4,362	4,857	(10.2)	0	4	0	0	4	222	226
84 Steinway School (606)	3	6	2	54	65	579	644	(10.1)	0	0	0	0	0	22	22
Public School 229, James A. Garfield School (650)	1	46	14	44	105	969	1,074	(9.8)	0	0	0	0	0	44	44
Public School 247 (363)	1	44	7	17	69	639	708	(9.7)	0	0	0	0	0	28	28
Public School 163 (665)	0	19	21	10	50	467	517	(9.7)	0	0	0	0	0	30	30
Public School 52, Sheepshead Bay (402)	0	93	2	2	97	909	1,006	(9.6)	0	0	0	0	0	40	40
Public School 200 (355)	1	97	9	40	147	1,388	1,535	(9.6)	0	0	0	0	0	54	54
Public School 195 (409)	0	20	8	8	36	341	377	(9.5)	0	0	0	0	0	14	14
Public School 209, Clearview Gardens South (678)	0	62	11	8	81	802	883	(9.2)	0	0	0	0	0	32	32
E. Bleeker Junior High School, Public School 185 (672)	0	84	30	23	137	1,359	1,496	(9.2)	0	1	0	0	1	72	73
Public School 191 (706)	0	32	9	4	45	455	500	(9.0)	0	0	0	0	0	21	21
Public School 95, Gravesend School (370)	0	70	3	3	76	771	847	(9.0)	0	0	0	0	0	29	29
Public School 19, Curtis School (821)	0	33	1	15	49	504	553	(8.9)	0	0	0	1	1	21	22
Public School 85, Humphrey Davy School (607)	0	4	4	55	63	648	711	(8.9)	0	0	0	0	0	22	22
Public School 108 (731)	2	40	4	11	57	588	645	(8.8)	0	2	0	0	2	22	24
Public School 94, David D. Porter School (691)	0	34	2	4	40	429	469	(8.5)	0	0	0	0	0	21	21
Public School 209 (381)	0	71	7	11	89	957	1,046	(8.5)	0	0	0	0	0	37	37
Public School 51, Arthur Middleton School (719)	0	2	4	15	21	226	247	(8.5)	0	0	0	0	0	9	9
David A. Boody Junior High School, Public School 228 (387)	0	138	11	0	149	1,616	1,765	(8.4)	0	3	0	0	3	90	93
Seth Low Junior High School, Public School 96 (371)	1	89	12	42	144	1,567	1,711	(8.4)	0	1	0	0	1	90	91
Public School 107 (662)	0	27	24	38	89	991	1,080	(8.2)	0	1	0	0	1	39	40
Public School 21, Elm Park School (823)	0	22	0	8	30	335	365	(8.2)	0	0	0	0	0	14	14
Public School 29, Bardwell School (829)	0	58	1	13	72	815	887	(8.1)	0	0	0	0	0	37	37
Public School 32 (660)	0	29	18	28	75	862	937	(8.0)	0	1	0	0	1	37	38
Public School 24, Spuyten Duyvil School (73)	0	7	77	8	92	1,059	1,151	(8.0)	0	0	0	0	0	42	42
Public School 49 (630)	0	26	10	15	51	596	647	(7.9)	0	0	0	0	0	25	25
Public School 238 (388)	1	60	1	20	82	960	1,042	(7.9)	0	0	0	0	0	44	44
Public School 153, Homecrest School (377)	2	35	17	23	77	916	993	(7.8)	0	0	0	0	0	34	34
Marine Park Junior High School, Public School 278 (425)	0	114	9	8	131	1,568	1,699	(7.7)	0	2	0	0	2	84	86
Public School 99, Midwood School (373)	2	45	22	15	84	1,041	1,125	(7.5)	0	0	0	0	0	38	38
Public School 195, William Haberle (803)	0	44	0	0	44	563	607	(7.2)	0	0	0	0	0	21	21
Public School 2 (598)	0	21	5	23	49	635	684	(7.2)	0	1	0	0	1	26	27
Public School 216 (384)	0	65	2	4	71	969	1,040	(6.8)	0	0	0	0	0	36	36
Public School 196 (774)	0	17	21	26	64	880	944	(6.8)	0	0	0	0	0	41	41
Isaac Bildersee Junior High School, Public School 68 (275)	0	94	6	35	135	1,861	1,996	(6.8)	0	0	0	1	1	98	99
Public School 3, Pleasant Plains School (810)	1	18	4	8	31	428	459	(6.8)	0	1	0	0	1	17	18
Public School 39, Arrachar School (835)	0	8	8	15	31	432	463	(6.7)	0	0	0	0	0	17	17
Public School 12, Ralph Waldo Emerson School (816)	0	5	0	14	19	268	287	(6.6)	0	0	0	0	0	13	13
Public School 186 (703)	0	61	1	1	63	896	959	(6.6)	0	1	1	0	2	34	36
New Utrecht High School (365)	0	177	19	58	254	3,731	3,985	(6.4)	0	2	0	0	2	183	185
Public School 45, John Tyler School (840)	0	31	7	12	50	769	819	(6.1)	0	0	0	0	0	28	28
Public School 52, John C. Thompson School (846)	0	30	3	57	90	1,450	1,540	(5.8)	0	0	1	0	1	52	53
Public School 119 (404)	0	17	18	9	44	715	759	(5.8)	0	0	0	0	0	25	25

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

DISTRICT: NEW YORK CITY PUBLIC SCHOOLS. NUMBER OF SCHOOLS: 853. REPRESENTING: 853. CITY: BROOKLYN. COUNTY: 63—Continued

	Students—							Weight:	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total	1.0—grades	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Public School 312, Bergen Beach School (427)	0	48	4	4	56	921	977	(5.7)	0	0	0	0	0	38	38
W. H. Carr Junior High School, Public School 194 (675)	0	76	12	20	108	1,891	1,999	(5.4)	0	2	0	0	2	100	102
Tuttenville High School (852)	32	0	6	52	0	1,600	1,690	(5.3)	1	0	0	3	4	90	94
Public School 204 (357)	0	43	0	3	46	842	888	(5.2)	0	0	0	0	0	28	28
Public School 184 (671)	0	24	9	3	36	687	723	(5.0)	0	0	0	0	0	24	24
Public School 38, George Cromwell School (834)	0	0	2	10	12	232	244	(4.9)	0	0	0	0	0	9	9
Public School 97, Forest Park School (727)	0	15	1	9	25	526	551	(4.5)	0	0	0	0	0	23	23
R. H. Mann Junior High School, Public School 78 (403)	0	88	9	3	100	2,104	2,204	(4.5)	0	0	0	0	0	104	104
Public School 222, Katherine R. Snyder (416)	0	42	4	4	50	1,087	1,137	(4.4)	0	0	0	0	0	36	36
Public School 193, Alfred J. Kennedy School (674)	0	3	26	13	42	923	965	(4.4)	0	0	0	0	0	32	32
Public School 97, Highlawn School (372)	0	38	1	4	43	964	1,007	(4.3)	0	0	0	0	0	32	32
Public School 79, Francis Lewis Elementary School (661)	0	2	12	27	41	1,000	1,041	(3.9)	0	0	0	0	0	35	35
Public School 100, Glen Morris School (728)	0	19	3	25	47	1,148	1,195	(3.9)	0	1	0	0	1	44	45
Public School 4, Kreischer School (811)	0	6	0	0	6	151	157	(3.8)	0	0	0	0	0	7	7
Public School 48, William G. Wilcox School (842)	0	3	2	11	16	410	426	(3.8)	0	0	0	0	0	18	18
Public School 62 Chester Park School (721)	0	13	5	12	30	800	830	(3.6)	0	1	0	0	1	30	31
Public School 23 Richmond Town School (825)	0	22	4	7	33	882	915	(3.6)	0	0	0	0	0	35	35
Public School 22 Graniteville School (824)	0	19	7	14	40	1,080	1,120	(3.6)	0	0	0	0	0	39	39
E. Bernstein Junior High School Public School (813)	0	19		23	45	1,255	1,300	(3.5)	0	2	0	0	2	67	69
Public School 14 Throggs Neck School (24)	0			28	30	875	905	(3.3)	0	0	0	0	0	36	36
The Westerleigh Public School 30 (830)	0	19	7	18	44	1,312	1,356	(3.2)	0	1	1	0	2	42	44
Public School 232 Lindenwood School (746)	0	26	6	7	39	1,163	1,202	(3.2)	0	0	0	0	0	41	41
Public School 1 Tottenville School (808)	0	17	0	5	22	690	712	(3.1)	0	0	0	0	0	29	29
Public School 35 Clove Valley School (832)	0	3	7	1	11	351	632	(3.0)	0	0	0	0	0	13	13
Public School 42, Eltingville (838)	0	4	1	15	20	666	686	(2.9)	0	0	0	0	0	22	22
Public School 41, The New Dorp School (837)	1	11	5	18	35	1,189	1,224	(2.9)	0	0	0	0	0	41	41
Public School 60, Woodhaven School (720)	0	10	6	16	32	1,141	1,173	(2.7)	0	0	0	0	0	37	37
Egbert Junior High School, Public School 2 (809)	0	12	5	14	31	1,171	1,202	(2.6)	0	0	0	0	0	62	62
Public School 203 (412)	0	20	12	5	37	1,479	1,516	(2.4)	0	0	0	0	0	48	48
Public School 66, Oxford School (724)	0	0	2	6	8	343	351	(2.3)	0	1	0	0	1	12	13
New Dorp High School (849)	0	26	4	30	60	2,737	2,797	(2.1)	0	0	0	1	1	134	135
Public School 101 (374)	0	2	4	13	19	874	893	(2.1)	0	0	0	0	0	39	39
Public School 203, Oakland Gardens School (707)	0	3	6	10	19	934	953	(2.0)	0	0	0	0	0	37	37
Public School 27, College Point School (658)	0	2	1	7	10	546	556	(1.8)	0	0	0	0	0	20	20
Public School 55, Henry M. Boehm School (848)	0	7	0	10	17	950	967	(1.8)	0	0	0	0	0	32	32
Public School 26, Carteret School (827)	0	3	0	2	5	298	303	(1.7)	0	0	0	0	0	13	13
Public School 169, Public School 168 (669)	0	6	5	3	14	960	974	(1.4)	0	0	0	0	0	39	39
Public School 50, Frank Hankinson School (844)	0	0	8	6	14	1,048	1,062	(1.3)	0	0	0	0	0	36	36
Public School 114, Ryder Elementary School (276)	0	4	6	2	12	1,014	1,026	(1.2)	0	0	0	0	0	34	34
Public School 36, Annadale School (833)	0	3	0	1	4	343	347	(1.2)	0	0	0	0	0	16	16
Public School 8, Great Hills School (814)	0	0	4	4	8	706	714	(1.1)	0	1	0	0	1	26	27
Public School 115, Canarsie School (277)	0	0	3	13	16	1,465	1,481	(1.1)	0	0	0	0	0	58	58
Public School 207 (414)	0	0	7	3	10	982	992	(1.0)	0	0	0	0	0	35	35
Public School 5, Huguenot School (812)	0	1	0	3	4	420	424	(0.9)	0	0	0	0	0	15	15
Public School 236, Mill Basin School (418)	1	0	4	0	5	1,021	1,026	(0.5)	0	1	0	0	1	34	35
Public School 276, L. Marshall Elementary School (296)	0	0	6	2	8	1,722	1,730	(0.5)	0	0	0	0	0	57	57

B SERIES—SYSTEMS WITH AT LEAST 1 SCHOOL WITH MINORITY GROUP ENROLLMENT OVER 80 PERCENT—Continued

DISTRICT: NEW YORK CITY PUBLIC SCHOOLS. NUMBER OF SCHOOLS: 853. REPRESENTING: 853. CITY: BROOKLYN. COUNTY: 63—Continued

	Students—							Weight:	Teachers—						
	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total	1.0—grades	American Indians	Negro	Oriental	Spanish-American	Minority total	Other	Total
Public School 53, Bay Terrace School (847)	0	0	0	3	3	671	674	(0.4)	0	0	0	0	0	25	25
Public School 159 (697)	0	0	2	0	2	575	577	(0.3)	0	1	0	0	1	24	25
Public School 277 (424)	0	0	0	0	0	607	607	(0.0)	0	1	0	0	1	21	22
Public School 128, Juniper Valley School (646)	0	0	0	0	0	252	252	(0.0)	0	0	0	1	1	9	10
Public School 47, Broad Channel School (718)	0	0	0	0	0	164	164	(0.0)	0	0	0	0	0	5	5
Bronx Hospital School, Group 1 (447)	0	0	0	0	0	139	139	(0.0)	0	1	0	0	1	15	16
Newton High School (651)	0	0	0	0	0	4,942	4,942	(0.0)	0	0	0	0	0	234	234
Public School 94 (206)	0	0	0	0	0	1,500	1,500	(0.0)	0	0	0	0	0	59	59

NEW YORK STATE TOTAL

[Number of districts: 686, Representing: 686, Number of schools: 4,292, Representing: 4,292]

	American Indian	Negro	Oriental	Spanish American	Minority total	Others	Total
Students	5,710	473,253	19,620	263,799	762,382	2,601,708	3,364,090
Representing	5,710	473,253	19,620	263,799	762,382	2,601,708	3,364,090
Teachers	87	6,054	251	762	7,154	152,204	159,358
Representing	87	6,054	251	762	7,154	152,204	159,358

Mr. JAVITS. Mr. President, the Senator from Mississippi (Mr. STENNIS) today introduced a series of figures relating to the concentration of children of minority families in certain schools and school districts in my State of New York.

I ask unanimous consent that the remarks I make will immediately follow the remarks of Senator STENNIS in the RECORD. I have advised Senator STENNIS that I will be doing this, so he is apprised of it and is entirely willing to have me do what I am doing.

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

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed at this point in the RECORD a chart which was prepared at my request by the office of Civil Rights of the Department of Health, Education, and Welfare.

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

MISSISSIPPI AND NEW YORK, SCHOOL ASSIGNMENTS BY RACE

Reports School systems reporting Schools reporting	Mississippi 106 of 148 770		New York 686 of 760 4,292		Buffalo, N.Y. 1 101		Jackson, Miss. 1 56		New York City 1 853	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Student enrollment:										
American Indian	112	0.0	5,710	0.2	429	0.6	17	0.0	1,526	0.1
Negro	223,784	49.0	473,253	14.1	26,381	36.6	17,919	46.2	334,841	31.5
Oriental	384	0.1	19,620	0.6	85	0.1	19	0.0	15,753	1.5
Spanish Sur. American	327	0.1	263,799	7.8	1,278	1.8	25	0.1	244,302	23.0
Total minority	224,607	49.2	762,382	22.7	28,173	39.1	11,980	46.4	596,422	56.1
Nonminority	231,924	50.8	2,601,708	77.3	43,942	60.9	20,793	53.6	467,365	43.9
Total all students	456,531	100.0	3,364,090	100.0	72,115	100.0	38,773	100.0	1,063,787	100.0

Distribution of Negro Students	Percent Negro students assigned to—	Number of schools	Percent Negro students assigned to—	Number of schools	Percent Negro students assigned to—	Number of schools	Percent Negro students assigned to—	Number of schools	Percent Negro students assigned to—	Number of schools
100 percent Negro schools	87.4	269	1.6	10	5.6	4	94.6	19	1.8	6
99–100 percent Negro schools	92.4	281	4.6	24	28.2	11	94.6	19	4.2	13
90–100 percent Negro schools	92.7	283	16.3	91	61.3	22	94.6	19	15.2	50
80–100 percent Negro schools	92.7	283	22.3	133	65.0	24	94.6	19	21.9	79
50–100 percent Negro schools	93.3	292	44.9	292	72.6	28	97.0	22	48.4	192
0–49 percent Negro schools	6.7	478	55.1	4,000	27.4	73	3.0	34	51.6	661

Distribution of nonminority (white) students	Percent white students assigned to—	Number of schools	Percent white students assigned to—	Number of schools	Percent white students assigned to—	Number of schools	Percent white students assigned to—	Number of schools	Percent white students assigned to—	Number of schools
100 percent white schools	12.1	86	12.4	635	0.0	0	12.6	5	1.9	6
99–100 percent white schools	25.8	138	39.4	1,572	1.4	2	55.8	19	2.6	11
90–100 percent white schools	79.3	358	74.2	2,904	31.6	24	95.0	30	19.5	95
80–100 percent white schools	94.9	439	86.1	3,301	76.3	53	95.8	31	48.2	211
50–100 percent white schools	99.6	478	96.3	3,722	95.9	72	98.4	34	82.1	394
0–49.9 percent white schools	0.4	292	3.7	570	4.1	29	1.6	22	17.9	459

Mr. JAVITS. This chart demonstrates that the concentration of specifically Negro children in all-black schools in the State of New York is almost in inverse ratio to their concentration in the State of Mississippi, in that 87.4 percent of all Negro students in Mississippi attend schools which are 100 percent black while in New York, only 1.6 percent of the Negro students attend such schools.

At the other end of the scale, in Mississippi, in schools that have from zero to 49.9 percent Negro enrollment, there are only 6.7 percent of the State's Negro schoolchildren; whereas, in New York,

in 478 such schools, there are 55.1 percent of the Negro schoolchildren.

The essence of the point is this: I know what Senator STENNIS is trying to prove. I agree that where there is segregation on grounds of color, which violates law—that is, violates the Federal Civil Rights Act of 1964 and the Constitution—then I say we should have equal treatment everywhere, and we have actually had an injunction issued in Mount Vernon, N.Y., against the school districts because they were guilty of de jure segregation.

But where you have patterns of residence in a State like New York that bring about what I consider to be an undue and very unfortunate concentration of minority children in a given school, then there must be an effort directed through educational parks, through local busing, and through general pedagogical policies, even though there is some inhibition in using Federal funds and State funds for those purposes. The present Commissioner of Education, James Allen, was New York State's education commissioner and is a leader in the field of combating segregation. New York is striving in every way to dispel the de facto segregation which exists by virtue of housing patterns, and it has the most outstanding antidiscrimination laws in the country that seek to break open these housing patterns. I think there is no comparison between a State that is dug in and still clinging to the last vestiges of segregation as social and legal policy—such as the State of Mississippi—and a State that is leading the Nation in dealing with the problems attributable to housing patterns that lead to de facto school segregation—such as the State of New York.

I thought that distinction should be made very clear, back to back, as it were, with the presentation made by the Senator from Mississippi.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, is there further 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 Senate proceed to the consideration of the unfinished business.

The PRESIDING OFFICER. The bill will be stated by title.

The BILL CLERK. H.R. 13270, the Tax Reform Act of 1969.

The PRESIDING OFFICER. Without objection, the Senate will resume its consideration.

Under the previous order, the question is on agreeing to the amendment (No. 389) of the Senator from Tennessee (Mr. GORE).

Mr. GORE. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. GORE. Mr. President, I congratulate President Nixon upon a competent, well-prepared performance last evening. He demonstrated an awareness of the consideration foremost in the minds of the people and, of course, therefore apt to be submitted. I found myself in disagreement, of course, with his threat to veto the tax bill if it contained, when it reached him, the increase in personal exemption and the social security provisions that have been added. These remarks, however, are simply a preface to what I have to say with respect to the pending amendment.

Every tax amendment to the pending bill for which the senior Senator from Tennessee has voted will save revenues. That is true of the amendment increasing the personal exemption. That amendment, now in the bill, will cost $100 million less in lost revenue than the provisions for rate changes for which it was substituted. The President recommends the rate changes, but opposes. as I understood him, the increase in the personal exemption. My amendment will cost $100 million less than the provisions which the President recommends; so a veto could not be justified on the grounds of fiscal responsibility. Indeed, if measured in that regard, the rate changes for which my amendment was substituted would cost the Treasury more.

Mr. President, the amendment which the Senator from Delaware and I offer, which is now pending, would strike from the bill three new big loopholes recommended by the administration, and unfortunately approved by the Committee on Finance and included in the bill.

Mr. CURTIS. Will the Senator yield for 10 seconds at that point?

Mr. GORE. I yield.

Mr. CURTIS. All those provisions are supported by the Treasury Department, are they not?

Mr. GORE. I understand so. But why? What justification is there to permit the railroads to start taking tax deductions now for tunnels completed in 1850? There is no justification. Yet the administration recommended it, and unfortunately, as I say, the committee approved it and it is in the bill.

Not only will it permit railroads to start taking tax deductions now for tunnels built 100 or 150 years ago, but also deductions for the grading of the roadbeds. Oh, Mr. President, they will take a tax deduction for the Golden Spike—the grade for the Golden Spike that connected the transcontinental railroad just after the Civil War. But this is recommended by the same President who threatens to veto a bill because it raises the personal exemption for a dependent from $600 to $800.

I do not wish now to refight the battle about personal exemptions. I wish now to strike from the bill loopholes recommended by the administration and approved by the committee that would cost $720 million per year.

This should be called the syndicate loophole—or loopholes—because it opens the way for high bracket income tax payers, people in the 70-percent bracket, to combine into an investment syndicate to buy tax deductions from railroads, from housing combines, and from manufacturing combines with respect to pollution abatement. I shall not, in the now severely limited time for debate, undertake to spell it out in detail. Senators will find some illustrations in the speech which I made yesterday. At this point, I shall take only 2 or 3 minutes to illustrate.

A railroad wishes to acquire $100 million worth of rolling stock, including locomotives. It cannot use the rapid amortization deductions, because it is not realizing a profit. This is the kind of railroad that one would think would need the benefit, but the benefit flows to the railroad that is already making a profit. Tax deduction is not worth anything to a fellow who does not owe taxes.

The railroads, though in a losing position, go to a bank. The railroad's bank puts together a syndicate of 70 percent or 65 percent bracket taxpayers. The bank loans the syndicate $1 million on the basis of the railroad's ability to make "rental" payments sufficient to pay interest and principal on the loan. Payments are made by the railroad directly to the bank and do not even go through the syndicate.

What is the net result of this transaction? The syndicate members do not realize any cash flow benefit since the rent and the loan payments equal each other.

In the first year of the transaction the interest deduction and the rapid amortization deduction would more than offset the rental income for the syndicate members.

Their profit comes solely from the excessive deduction generated by the new loophole.

They would get a $200,000 deduction in year one for the rapid amortization to use against their other income.

Mind you, Mr. President, this $200,000 deduction in this instance goes to the high bracket syndicate investor. And it is this loophole that is created by the pending bill and recommended by the administration.

The Senator from Delaware and I wish to strike it out and save to the Treasury $720 million a year.

To continue this example, this $200,000 deduction compares to a proper deduction under the straightline method of depreciation of only about $71,000. Thus, the first year "profit" for the syndicate is 70 percent of $140,000 or $98,000. This comes out of the U.S. Treasury.

This "profit" is not an economic profit from the transaction; it is solely the result of tax profiteering—trafficking in tax deductions.

Thus, over a five-year period, the syndicate will realize a profit of almost $500,000 from tax reductions. Yet they have not put up one dime of their own money.

I should emphasize that railroads will still be able to use regular accelerated depreciation for rolling stock as under present law. My amendment does not affect those rules at all. But it does strike out unjustified new rules.

Mr. PEARSON. Mr. President, will the Senator yield for a question?

Mr. GORE. I yield.

Mr. PEARSON. Really, one of the very, very serious problems in the country today, and particularly in the transportation field, railroads, is the enormous shortage of boxcars. This does not just affect the great wheat lands. It is not seasonal any more. It occurs throughout the whole United States and in every part of the United States, caused by a shortage of cars, caused by cars in very bad repair through the failure of the ICC to properly execute the powers which Congress has given them. Because the traffic flows from West to East, the eastern railroads, through a per diem rate which is much too low, retains the cars in the East.

I understood that this particular provision in the tax bill was to provide, in lieu of the 7-percent investment tax credit, some means for the railroads to have additional funds with which to build boxcars. I am not sure that they would do it. However, that is the argument that is made.

We are today to the point where we are beginning to talk in terms of the Federal Government subsidizing the construction of passenger trains and actually constructing and building boxcars and leasing them to the railroads or individuals.

Mr. GORE. Mr. President, I thank the able Senator.

A great deal is being done here under the name of rolling stock.

The syndicate loopholes, the taking of tax deductions for tunnels built under the Rocky Mountains 100 years ago is not going to improve the rolling stock situation.

Mr. PEARSON. I concur.

Mr. GORE. The 20 minutes allotted to the supporters of the amendment is now down to 5. I must reserve the remaining 5 minutes for the distinguished senior Senator from Delaware.

Mr. President, I yield the remaining time to the Senator from Delaware.

Mr. WILLIAMS of Delaware. I am ready to yield back the time.

The PRESIDING OFFICER. Who yields time?

Mr. GORE. Mr. President, I would think the opponents of the measure would like to use some time.

Mr. CURTIS. Mr. President, how much time remains for the opponents?

The PRESIDING OFFICER. Twenty minutes.

Mr. CURTIS. Mr. President, I yield myself 8 minutes.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 8 minutes.

Mr. CURTIS. Mr. President, let us get the amendment in perspective. It is greatly urged in this country that the taxpayers carry the full load on the matter of pollution. It is also greatly urged that the taxpayers carry the full load for housing and for the poor.

It is an established fact that most transportation systems in other countries are government-owned. Here in the United States, we are not following that procedure. We are putting private capital to work.

The provisions that the Senator from Tennessee would strike out are just and reasonable and sound.

Mr. President, I should like to speak in opposition to the Gore amendment. It would repeal the provisions of the bill for rapid amortization of rehabilitation expenditures for low- and moderate-income housing; for rapid amortization of the cost of new railroad rolling stock and for certain related provisions; and for rapid amortization of the cost of air and water pollution control facilities. Each of these provisions is strongly in the national interest.

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

Mr. CURTIS. I yield briefly.

Mr. GORE. Mr. President, I believe the Senator misspoke himself. He said the amendment would repeal these provisions. It would strike them from the bill. They are not in the existing law. This is a new loophole.

Mr. CURTIS. I thank the Senator.

They would provide important incentives to private business to solve pressing domestic problems.

The rapid amortization of rehabilitation expenditures for low-cost housing will provide a strong investment incentive in favor of rebuilding existing housing facilities. The provision is limited to facilities for families of low- or moderate-income consistent with the policies of the Housing and Urban Development Act of 1968. It does not apply to hotels, motels, or other facilities used primarily on a transient basis. The qualifying expenditures on any housing unit are limited to $15,000 and must exceed $3,000, thus insuring substantial but not luxurious rehabilitation. A recapture rule is provided to insure that if the facility is later sold, the tax benefit will be recaptured as ordinary income to the extent of any gain. And this amendment calls it a loophole. Thus, there is no possibility of abuse.

A 5-year writeoff of this nature is a powerful and effective incentive to rebuilding and rehabilitating existing housing facilities. It will result in rehabilitation of deteriorating neighborhoods and slum areas. It will do this with private capital, saving the taxpayers' money.

The provision is strongly supported by the Department of Housing and Urban Development and by the Treasury Department. Mr. President, in view of our housing crisis and the condition of our inner cities, we cannot afford not to provide an incentive of this nature to rehabilitation of our existing large supply of apartment buildings and other rental housing facilities. These facilities have been allowed to deteriorate to such an extent that they are frequently no longer useful or adequate for family use.

The railroad amortization and related provisions are urgently needed at this time to provide a special incentive for construction of additional rolling stock. The repeal of the investment credit will deny railroads the existing tax benefit they obtain on modernizing their equipment and increasing their facilities. It will benefit the nonprofitable railroads to the same extent as profitable railroads since it extends to leasing companies and will be reflected in lower car rentals. The House bill provided a special 7-year amortization provision, and there were strong pressures to provide an exception to repeal of the investment credit for railroads. As a matter of fact, the Finance Committee did so vote at one time.

The provisions of the Senate Finance Committee bill were developed by the Treasury Department to deal with the special problems of the railroad industry and are completely in lieu of the provisions of the House bill and any exception to the repeal of the investment credit. They are strongly endorsed by the Department of Transportation.

The most critical need is for additional freight cars to relieve the shortage during the harvest season and move our farm crops to market. The provisions of the bill are carefully designed to insure that they will meet our most critical needs. The Secretary of the Treasury with the advice of the Secretary of Transportation is to issue regulations indicating particular classes of cars or locomotives which are not in short supply. After 1972, rolling stock which are in these classes will not be eligible for the 5-year writeoff. The Senate Finance Committee report clearly indicates that railroads are expected to use these new provisions to increase their level of investment in rolling stock, and particularly in rolling stock which is in short supply. The report also states that the extent to which they do, or do not, so invest in additional equipment in order to sustain and improve railroad service will be taken into account in issuing the regulations as to equipment which is or is not in short supply.

These provisions will go a long way toward helping improve railroad efficiency, reducing freight car shortages during seasonal periods of critical need, and improving the ability of railroads to finance the acquisition and modernization of equipment. They deserve our wholehearted endorsement.

The provision for 5-year writeoff of the cost of installing air and water pollution control facilities in existing plants also deserves our complete support. Again, this provision has been narrowly limited to achieve a very specific purpose. The revenue cost will reach a maximum of only $120 million in the long run. It applies only to installation of facilities in existing plant, thereby recognizing that it is much less of a burden on industry to incorporate antipollution equipment in plants constructed in the future. It is also limited to the portion of the cost of the facilities that would otherwise have been depreciated over the first 15 years of the life of such equipment, so that it does not provide an undue tax benefit with respect to equipment having a very long life.

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

Mr. CURTIS. May I have 2 additional minutes?

Mr. LONG. I yield 2 additional minutes to the Senator from Nebraska.

Mr. CURTIS. This provision recognizes the absolute need to deal with a major national problem today—environmental pollution. Our rivers, lakes, streams, and atmosphere are becoming increasingly "dirty." Smog is no longer a Los Angeles condition; we find it in

nearly every major industrial city in the United States. Congress has addressed itself to the problem in a number of ways, but the responsibility and burden must really be placed on privtae industry. Existing factories which attempt to curb pollution by installation of anti-pollution equipment face significant increases in capital costs, accentuated by repeal of the investment credit. Such expenditures do not result in any increase in profitability; they are in a real sense a total loss to the company. The burden is greatest with respect to existing plants where the equipment cannot be incorporated in the design of the facilities or the productive processes, but must be "added on." The bill recognizes this difference and allows the tax benefit only with respect to existing plants.

Mr. President, the increasing magnitude of our pollution problem fairly demands that we provide some tax benefit, some incentive, for installation of pollution control equipment. The provision of the bill will replace the investment credit in this respect and provide even greater incentive in the narrower and more specific areas to which it will apply.

Mr. President, these three provisions will provide major incentives to private industry to help us meet important national objectives. They will encourage the private sector to shoulder the burden in meeting our housing, transportation, and pollution control needs—three of our most important domestic problems. I strongly urge their adoption.

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

Mr. LONG. I yield 1 additional minute to the Senator from Nebraska.

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

Mr. CURTIS. I yield.

Mr. BOGGS. Mr. President, I commend the distinguished Senator from Nebraska for the position he has taken. I support the committee language on amortization of equipment that will be used for pollution abatement, as well as the other items the Senator has discussed so eloquently.

I wish to ask the Senator one question. It appears to me that there is no danger that this incentive to achieve clean water and clean air would open a loophole into which industry could push a new blast furnace or elevator and call it "pollution equipment." The deduction would be available only after the facility was certified as a pollution abatement facility by the appropriate State and Federal agencies. Is that correct?

Mr. CURTIS. The Senator is correct. And it does not apply to new structures, because they can be designed to eliminate the problem.

Mr. BOGGS. Mr. President, the language of the section we are discussing permits industry to amortize the cost of pollution abatement facilities in a 5-year period. It would be applicable for the full cost of equipment with a normal life of 15 years or less. If the equipment has a normal life beyond 15 years, part of the equipment would be amortized over the regular depreciation basis, part under the accelerated schedule.

This provision, I believe, is a necessary incentive to assure that each of us will find a cleaner and better environment as quickly as possible. To assure that this vital end is accomplished rapidly, the Finance Committee wrote into this section a provision that this amortization would be available only if the abatement equipment is placed into operation by the end of 1974.

There is no danger that this incentive to achieve clean water and clean air would open a loophole into which industry could push a new blast furnace or elevator and call it "pollution equipment." The deduction would be available only after the facility was certified as a pollution abatement facility by the appropriate State and Federal authorities.

Such incentive will implement our national policy of environmental enhancement. This is a policy laid down in large part in legislation that has come from the Subcommittee on Air and Water Pollution, on which I have the honor to serve as ranking Republican.

Let me give two examples. The Federal Water Pollution Control Act declares a "national policy for the prevention, control, and abatement of water pollution." The Clean Air Act was written, according to its language, "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population."

But such improvements cost vast sums of money. This is not a modernization from which industry will profit. It is a modernization for the public health and welfare. Pollution comes from two major sources, industry and government. The Federal Government helps local communities battle pollution. It is only equitable to offer this small advantage to industry.

Our environmental quality standards require industry to meet those standards, or the Government will go into court in an abatement proceeding, seeking to close the plant down. This is a weary and tedious process. I believe it is a far wiser approach to offer the private sector an inducement, such as the committee's proposal. In return for an amortization schedule that would cost the Treasury $15 million in 1970, the private sector will install equipment to give every American a cleaner, healthier, and better environment in which to live.

According to the Cost of Clean Water, a study by the Department of the Interior, private industry faces a cost of as much as $2.6 billion to pay for the backlog of water pollution control facilities in the period from now through 1973. According to estimates prepared by the Department of Health, Education, and Welfare and contained in the study, the Cost of Clean Air, industry faces another 3.2 billion dollar bill for the control of particulate matter and sulfur dioxide emissions into the air we breathe. This cost from next year through 1974 may underestimate in part the full needs, for it was partially based on information for only 85 metropolitan areas and selected industries.

This expense will produce no private profit. Rather, it will produce a public benefit for each and every American. It will clean the air across this Nation. It will improve the quality of life across this Nation. It will enhance the environment in each of the 50 States of our Nation. Rather than providing any private loophole, this provision of the tax bill creates an incentive that will result in a great public benefit.

Mr. LONG. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Louisiana has 8 minutes.

Mr. LONG. How much time remains for the proponents?

The PRESIDING OFFICER. Five minutes.

Mr. LONG. I yield 4 minutes to the Senator from Maine.

Mr. MUSKIE. I thank the Senator from Louisiana.

Mr. President, I rise to oppose that portion of the Gore amendment which has to do with the amortization of pollution control facilities in the case of both air and water.

As chairman of the Subcommittee on Air and Water Pollution, I have been concerned, as have all my colleagues on the subcommittee, including the distinguished Senator from Delaware (Mr. BOGGS), with the problem of stimulating the construction of waste treatment facilities in the public sector.

This year, with the cooperation of the distinguished Senator from Louisiana (Mr. ELLENDER), Congress has approved the appropriation of $800 million for the construction of municipal waste treatment plants. This action on the part of Congress is consistent with the rising surge of interest and concern on the part of the people of America that we deal effectively with the pollution threat to our air and water.

Although in the subcommittee we do not have jurisdiction over tax legislation, the subcommittee—going back to 1966 in the report on the 1966 Clean Water Restoration Act—has advocated tax incentives to mount an industrial effort comparable to the public effort.

Mr. President, I ask unanimous consent that there be included in the RECORD at this point, a statement from that committee report.

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

A number of witnesses testified on the need for tax incentives as a means of reducing the cost of noneconomic pollution control facilities. This is not a matter over which the Senate Public Works Committee has jurisdiction but it affects the overall effort to meet water pollution control and abatement needs. This committee strongly recommends that the appropriate congressional committees give consideration to tax relief proposals for industrial pollution control activities.

For the most part, pollution control does not provide a return on an investment to an industry. Installation of pollution control devices is costly and, in many cases, nonremunerative. The billion dollars of capital investment which will have to be made by the industrial sector for the benefit of the entire society will place a substantial burden on corporate resources, and ultimately on the general public.

Mr. MUSKIE. Mr. President, I ask

unanimous consent to have printed in the RECORD a letter which I addressed to the distinguished Senator from Louisiana, the chairman of the Committee on Finance, with regard to this matter on July 29, 1969.

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

JULY 29, 1969.

HON. RUSSELL B. LONG,
Chairman, Senate Finance Committee,
New Senate Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to your request for comments and recommendations on pending legislation which would extend the income tax surcharge, I would like to propose changes to Sec. 168 which provides rapid amortization for air and water pollution control facilities investment.

This section has two major faults. First, the section does not take into account the provisions of the Federal Water Pollution Control Act or the Clean Air Act. Second, the requirement for the development of minimum performance standards is inconsistent with existing policy and would delay environmental improvement programs for several years.

As you know, Federal pollution control legislation has recognized the primary responsibility of the states and local government to control pollution. Federal responsibility is primarily directed to reviewing state standards to assure consistency with the national policy of the enhancement of air and water quality. Federal authority is provided for in those cases where the states have failed to carry out their responsibility to set or enforce standards.

Also, I am sure you are aware that these laws have been in effect for several years, the Water Quality Act since 1965 and the Air Quality Act since 1967. The procedures set forth by these acts are now being implemented by the States.

Any requirement for minimum performance standards would seriously delay effective implementation of these laws during the development of such minimum standards. Furthermore, because the regional approach is an integral part of effective air and water quality programs, minimum national standards would not be relevant to the specific problems of any given region.

Finally, minimum performance standards as defined in H.R. 12290 would be tantamount to national emission standards, a concept carefully evaluated and rejected in favor of the regional approach to air quality in 1967.

I have developed an amendment to Section 168 which I believe assures consistency with the Federal pollution law without jeopardizing the usefulness of special tax incentives for pollution control investment.

My amendment would:

1. Require certification from the state as to conformity with plans for implementation of air or water quality standards;

2. Provide Federal review of state certification to assure consistency with the purposes of the Federal Water Pollution Control Act or the Clean Air Act;

3. Eliminate the requirement for minimum performance standards;

4. Provide for annual state review, during the period of accelerated depreciation, to assure that facilities operate in the manner for which they were certified; and,

5. Disallow use of the tax deduction to the extent that such facilities produce income.

I sincerely hope that members of your Committee will give serious consideration to this amendment.

Sincerely,

EDMUND S. MUSKIE,
U.S. Senator, Chairman, Subcommittee on Air and Water Pollution.

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

Mr. MUSKIE. I yield.

Mr. RIBICOFF. Mr. President, no man in this country has done more in the field of controlling air and water pollution than the Senator from Maine. I am sure the distinguished Senator from Maine would agree that we will never solve the problem of air and water pollution unless we have the cooperation of private industry.

Mr. MUSKIE. I agree wholeheartedly with the Senator.

Mr. RIBICOFF. Is it not a fact that one of the great problems we have is the problem of costly installations and antiquated plants for air and water pollution devices?

Mr. MUSKIE. The Senator is correct.

Mr. RIBICOFF. What it often means is that an old company, which might be required to pay large sums for air and water devices, might determine that it is cheaper to go out of business rather than to undertake the rehabilitation of these old plants in the industrial sections of our Nation. Is that correct?

Mr. MUSKIE. The Senator is correct.

Mr. RIBICOFF. It is my understanding that through the landmark work of the Senator, the Congress this year has committed itself for an expenditure of $800 million in the entire field of water pollution alone. As a matter of public policy if we do not have an overall program that involves private industry, our public commitment will not achieve the result we seek. Is that correct?

Mr. MUSKIE. The Senator is correct. Under the Air and Water Quality Control Act we undertook to apply standards of quality in the cities which have air pollution problems, and all streams which have water pollution problems, and there are many of them. To apply those standards we must have the cooperation of industry.

Mr. RIBICOFF. The Senator may be interested in the fact that the act is so written by the Committee on Finance that the amortization deduction is available only when the facility is certified by the State and Federal agency.

The PRESIDING OFFICER (Mr. BAYH in the chair). The time of the Senator has expired.

Mr. LONG. Mr. President, I yield 1 additional minute.

Mr. RIBICOFF. So we tie up certification with State and Federal agencies.

Mr. MUSKIE. These are not profitmaking facilities. The language to which the Senator referred is part of the language I recommended to the committee to avoid the possibility that these facilities would be profitmaking facilities. What we are concerned with are facilities that deal wholly with control and regulation of pollution; no profit would be made from them, but there is still an investment to be made by the industry.

This tax relief is only a stimulation to industry to make the investments called for by air and water quality standards.

Mr. RIBICOFF. In addition, these amortization tax writeoffs are available only to old plants and not to new plants.

Mr. MUSKIE. The Senator is correct.

Mr. RIBICOFF. Mr. President, each day it is becoming more evident that man is destroying his environment. Each year, he pumps millions of tons of waste into the sky and dumps huge amounts of sewage and contaminants into streams and rivers.

Only the foolish can expect nature to be able to continue to absorb this pollution.

In the last 5 years, Congress has laid the foundation for a national effort against this problem by adopting comprehensive air and water pollution control legislation. And just a few short weeks ago, the Senate voted $1 billion to help our Nation's municipalities construct waste treatment plants.

But, by themselves, these efforts will not be enough.

To launch a truly comprehensive assault against air and water pollution, private industry, which is a major source of this waste, must be encouraged to purchase and utilize the best pollution abatement equipment available.

It has been estimated that it will cost industry $32 billion to control water pollution by the year 2000.

Private industry and municipalities will pollute two-thirds of our streams, the National Academy of Science predicts.

Forty percent of the contaminants in our atmosphere come from industry and utilities.

The bill before us now, will greatly encourage private industry's purchase of equipment to end this destruction of our environment by allowing it to amortize the cost of the equipment over a period of 5 years rather than over the period of the equipment's useful life.

We must be realistic.

Pollution abatement equipment is costly.

Pollution abatement equipment does not add to a company's profits.

Unless industry is encouraged by the enactment of a tax incentive, real progress in ending industrial pollution will take much longer than this Nation can afford.

By asking the public to bear a small share of the cost of abating industrial pollution, we will bring clean air and clean water much sooner to our Nation.

The committee's bill is very tightly drafted to encourage cooperation by industry without creating a loophole.

I support this bill.

The PRESIDING OFFICER. Who yields time?

Mr. GORE. Mr. President, I yield such time as he may use to the senior Senator from Delaware.

Mr. WILLIAMS of Delaware. Mr. President, in the bill before the Senate we have reduced the rate at which every taxpayer can depreciate his property for tax purposes, and that includes farm buildings and property used by small businesses. This was done by denying the use of the 200-percent declining balance method for all nonresidential property. Thus, taxpayers will only be able to depreciate the property under the 150-percent declining balance method.

That is true with respect to all groups of American taxpayers except these three

groups mentioned here which had lobbies strong enough to get special consideration. I recognize a good argument can be made on any one of these proposals, but I do not see why they should be singled out and allowed to depreciate their property in 5 years when we are making it more difficult for other taxpayers in America.

SPECIAL AMORTIZATION PROVISIONS

The committee bill adds three new special incentive provisions to the tax law. These special provisions allow a 5-year writeoff: for low-cost rental housing rehabilitation expenditures, for pollution control equipment, and for railroad rolling stock. In 1970 these special incentive provisions would cost the Government $155 million. This cost would eventually rise to $555 million a year.

Congress has already authorized an expenditure of $800 million to subsidize the correction of the pollution problem.

The special rehabilitation expenditure provision in the bill allows 5-year amortization of costs incurred in rehabilitating buildings for low cost rental housing—for up to $15,000 of costs per dwelling unit. This provision applies to expenditures before 1975.

It should be pointed out that in this bill, in addition to this provision, under certain conditions we have also allowed these persons to defer the capital gains treatment which would arise when they sell the housing. They could not only depreciate the property in 5 years, but they could sell it and reinvest in other similar property and pay no capital gains tax.

This would open a major loophole which will not benefit those tenants using this low cost housing. It is a landlords' amendment.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. AIKEN. Would it apply to individually owned homes or only to rental housing?

Mr. WILLIAMS of Delaware. No. Only to rental housing.

The special pollution control provision allows 5-year amortization of the costs of pollution control facilities added to existing plants. The amount amortizable is limited to the part of the facility's cost which is proportionate to the first 15 years of its useful life. A facility must be certified by the appropriate State and Federal authorities to be eligible for this special amortization. This provision applies to facilities placed in service before 1975.

The special railroad provision allows 5-year amortization for new railroad rolling stock—including locomotives—placed in service after 1969. The amortization is available either where the rolling stock is owned by a railroad or where it is owned by a person who leases it to a railroad—4-year amortization is allowed for rolling stock placed in service during 1969. If otherwise available, the investment credit also may be claimed on rolling stock subject to this fast amortization. Effective after 1972 the Secretary of the Treasury may determine which classes of rolling stock are no longer in short supply, and these classes will then cease to be eligible for the fast amortization. This provision applies to rolling stock placed in service before 1975.

The railroad package included in the bill also allows the cost of railroad gradings and tunnel bores, which at present may not be written off, to be amortized over a 50-year period. In addition the package allows railroads to write off rolling stock repair costs up to 20 percent of the rolling stock's original cost each year.

These special incentives included in the bill are an unwarranted and inappropriate use of the tax laws. There has been no adequate showing that these special incentives will, in fact, help to achieve their respective goals. More than likely these special incentives will only serve to provide undue tax benefits to a small number of taxpayers in the eventual large amount of $555 million a year.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. GORE. Mr. President, in the colloquy just engaged in on this side of the aisle by the Senator from Maine (Mr. MUSKIE) and the Senator from Connecticut (Mr. RIBICOFF), both of them made commendable statements about the need for pollution control, but nothing that either one of them said had any bearing on the syndicate loophole. The same example I pointed out in the RECORD with respect to syndicate investment in a railroad locomotive would apply to an investment in machinery for pollution control. The Senator said they make no profit out of this. Of course not. But the syndicate will buy it under this loophole.

Mr. WILLIAMS of Delaware. Mr. President, I do not see why we should make the depreciation rate so much more liberal for these groups while at the same time we are restricting the depreciation rates allowed to all other American taxpayers, whether it be depreciation on a farm in Vermont or a poultry farm in some other State.

I have always felt we should allow more rapid depreciation rates for all buildings and equipment, but depletion rates should apply to all taxpayers, not just to a few select groups.

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

Mr. WILLIAMS of Delaware. I have no time remaining.

Mr. LONG. Mr. President, I yield myself such time as I have remaining.

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. LONG. Mr. President, this amendment should be rejected. There may be some merit to some parts of the Gore amendment but there are other parts that are totally without merit. For example, the House of Representatives sent us a provision that would cost the Treasury $400 million by allowing a 5-year writeoff on pollution-control devices. The Senate committee reduced that to a provision which would cost less than one-third that much—only $120 million a year. The Senate committee would provide a 5-year amortization between now and 1974 for pollution-control devices which are installed, not on the new plants that will be built—they get no advantage—but on existing plants.

As far as people who own and operate plants are concerned, the requirement to install pollution control equipment is nothing more than a burden imposed upon them by Government. They do not want pollution-control devices. We are making them install this equipment under State and Federal law, and we now are allowing them 5 years to write it off. The equipment does not improve the operation of the plant.

It is an added cost to them which they do not want.

We are imposing the burden on them. So we are easing that burden by giving them 5 years to write off the costs of installing them in existing plants.

With regard to the second item, which would cost more than the other two put together, the $15,000 allowance is for rehabilitation of housing units in slum areas. It would allow no more than $15,000 per unit for rehabilitation of housing in slum areas. That provision was asked for by Secretary Romney of the Department of Housing and Urban Development. It initially was agreed to by the House, and then was approved by the Senate Finance Committee. It is an incentive of $330 million to provide poor people with better housing.

What on earth is wrong with that? I have not yet heard the first argument developed. If we want people living in slums in Washington, New York, Philadelphia, or elsewhere, to have better housing, cleaner housing, fewer rats, and more sanitation, then vote against the Gore amendment.

If the Senator wants to come back and offer his railroad amendment again, he can, but I submit that we need more new railroad rolling stock. The Treasury has recommended it. I think it should be agreed to.

I hope the amendment will be rejected.

The PRESIDING OFFICER. All time on the amendment has now expired.

Mr. GORE. Mr. President, I ask unanimous consent that the time be extended by 4 minutes, with 2 minutes to a side.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee? The Chair hears none, and it is so ordered.

The Senator from Tennessee is recognized for 2 minutes.

Mr. GORE. Mr. President, for the last week, it has been rolling stock. Now it is pollution we hear about. No one defends the change of words. On page 443 of the bill it changes the House requirement from "owned" to "used." This opens up the syndicate loophole. And it is a big one.

Let me read what a committee of experts on pollution recommended. The committee was made up of representatives of the Bureau of the Budget, Treasury Department, Council of Economic Advisers, Water Resources Council, Office of Science and Technology, Department of the Interior, Department of Commerce

Department of HEW, and the Resources of the Future Committee.

What do they say?

In summary, clearly tax writeoffs are not needed nor are they a desirable form of offering further assistance to industries.

Mr. President, this is not a profit-making undertaking except for the syndicates. That is what the provision in the committee bill makes possible.

Mr. MUSKIE. Mr. President, will the Senator from Tennessee yield?

Mr. GORE. I yield.

Mr. MUSKIE. The report to which the Senator refers was made by the same representatives from the last administration who opposed a continuing grant program for waste treatment.

Mr. LONG. Mr. President, the Senator quoted from a report that considered the proposal relating to new plants as well as existing plants. It was partly because of that logic that the committee said it would not allow a rapid tax writeoff, or any tax advantage, for pollution control equipment in new plants. The people who build new plants will have to do it themselves by designing pollution control equipment and processes into their new plants, and they will receive no special tax advantage. In doing so, we save $280 million out of $400 million. The $120 million we retained applies to any situation where someone is required to add to an existing plant pollution control devices which are of no productive advantage to them whatever. These are costs which we will let them write off over 5 years.

Mr. MILLER. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. I yield.

Mr. MILLER. The Senator from Tennessee read something to the effect that writeoffs would be no incentive. I hope he does not mean by that that the base would not be entitled to regular depreciation or to a double declining balance depreciation for that is another form of writeoff. The quick amortization is another form of writeoff. Thus, I do not see that that is responsive to the problem.

Mr. CURTIS. Mr. President, I ask unanimous consent that a letter from the Acting Secretary of the Treasury concerning the Gore amendment be printed in the RECORD.

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

THE SECRETARY OF THE TREASURY,
Washington, D.C.

HON. CARL T. CURTIS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CURTIS: This is in response to your request for the Treasury Department's views with respect to Amendment No. 389, introduced by Senator Gore. The purpose of the amendment is to strike from the bill the provisions for 5-year amortization for the cost of rehabilitation of low-income housing, railroad rolling stock and pollution control facilities.

The Treasury Department opposes the amendment.

The first of these provisions will encourage the rehabilitation of low-income rental housing units which is needed if we are to provide adequate housing for all our citizens. The provision for amortization of railroad rolling stock will alleviate the critical shortage of railroad cars and has been provided in lieu of any exception to the investment credit. While we have been concerned about the amortization of pollution control facilities, we believe that the provision in the Senate bill has been sufficiently narrowed to prevent abuse.

It is important to note that all three of these provisions expire on January 1, 1975, thereby giving assurances that they will not be continued unless they accomplish the desired purpose.

Sincerely yours,

CHARLES E. WALKER,
Acting Secretary.

CONGRESS SHOULD NOT WEAKEN THE PROGRAM FOR POLLUTION CONTROL

Mr. RANDOLPH. Mr. President, it is vital to the maintenance of national policy of air and water pollution control that the language of section 704 of H.R. 43270, as reported by the Finance Committee, be retained. The investment credit with respect to pollution facilities is essential if we are to maintain and advance our efforts to protect our air and water environment from pollution.

Massive private investment in industrial air and water quality control devices are needed to insure that our production processes do not destroy the environment in which we live. Two recent reports, "The Cost of Clean Water," Senate Document 90–65, presented to the Senate January 10, 1968, and "The Cost of Clean Air," Senate Document 91–40, June 1969, describe in detail the magnitude of the private investment required.

The clean water report indicates that the cash outlays needed to meet industrial waste treatment requirements for fiscal years 1969 through 1973 are between $2.6 and $4.6 billion. The clean air report estimates the cost of control of just particulate emissions and sulfur oxides at between $266 and $500 million for fiscal years 1971 through 1974.

Until a better method of stimulating needed private investment and Government assistance to private industry in reaching this important public goal is achieved, the investment credit represents the best-known technique. The revenue loss entailed in this approach will be offset many times by the reduction in other public investments to counteract environmental degradation. Next year, the Committee on Public Works will look into other ways and means of effectively accomplishing the result we seek. In the meantime, the provisions of section 707 of the bill offer the best hope for insuring the full participation of the industrial community in our earnest efforts for a better, cleaner air and water environment.

The PRESIDING OFFICER. All time on the amendment has now expired.

The question is on agreeing to the amendment of the Senator from Tennessee (Mr. GORE).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the role.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Montana (Mr. METCALF), and the Senator from Missouri (Mr. SYMINGTON), are necessarily absent.

I further announce that, if present and voting, the Senator from Missouri (Mr. SYMINGTON) and the Senator from Montana (Mr. METCALF) would each vote "nay."

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.

If present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "nay."

The result was announced—yeas 3, nays 92, as follows:

[No. 194 Leg.]

YEAS—3

Aiken	Gore	Williams, Del.

NAYS—92

Allen	Gravel	Murphy
Allott	Griffin	Muskie
Baker	Gurney	Nelson
Bayh	Hansen	Packwood
Bellmon	Harris	Pastore
Bennett	Hart	Pearson
Bible	Hartke	Pell
Boggs	Hatfield	Percy
Brooke	Holland	Prouty
Burdick	Hollings	Proxmire
Byrd, Va.	Hruska	Randolph
Byrd, W. Va.	Hughes	Ribicoff
Cannon	Inouye	Russell
Case	Jackson	Saxbe
Church	Javits	Schweiker
Cook	Jordan, N.C.	Scott
Cooper	Jordan, Idaho	Smith, Maine
Cotton	Kennedy	Smith, Ill.
Cranston	Long	Sparkman
Curtis	Magnuson	Spong
Dodd	Mansfield	Stennis
Dole	Mathias	Stevens
Dominick	McCarthy	Talmadge
Eagleton	McClellan	Thurmond
Eastland	McGee	Tower
Ellender	McGovern	Tydings
Ervin	McIntyre	Williams, N.J.
Fannin	Miller	Yarborough
Fong	Mondale	Young, N. Dak.
Fulbright	Montoya	Young, Ohio
Goodell	Moss	

NOT VOTING—5

Anderson	Metcalf	Symington
Goldwater	Mundt	

So Mr. GORE's amendment was rejected.

Mr. CURTIS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed a bill (H.R. 15090) making appropriations for the Department of Defense for the fiscal year ending June 30, 1970, and for other purposes, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (H.R. 13767) to authorize the appropriation of funds for Fort Donelson National Battlefield in the State of Tennessee, and for other purposes, and it was signed by the Acting President pro tempore (Mr. HUGHES).

HOUSE BILL REFERRED

The bill (H.R. 15090) making appropriations for the Department of Defense for the fiscal year ending June 30, 1970,

and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

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. 364

Mr. McCARTHY. Mr. President, on behalf of myself, the Senator from California (Mr. CRANSTON), the Senator from Illinois (Mr. PERCY), the Senator from Oregon (Mr. HATFIELD), the Senator from Nebraska (Mr. CURTIS), and the Senator from Kentucky (Mr. COOK), I send to the desk an amendment and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. McCARTHY. Mr. President, I ask unanimous consent that further reading of the amendment be waived.

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

Mr. McCARTHY's amendment (No. 364, as modified) is as follows:

On page 148, strike out lines 23 through 25 and in lieu thereof insert the following:

"(A) by striking subsection (g) and by redesignating subsection (d) as subsection (g), and"

On page 149, strike out lines 1 through 3 and in lieu thereof insert the following:

"(B) by striking out subsections (a), (b), (c), (e), (f), and (g) and inserting in lieu thereof the following:"

On page 153, strike out lines 15 through 25, and on page 154, strike out lines 1 through 16, and in lieu thereof insert the following:

"(C) INCENTIVE CHARITABLE DEDUCTION.—The limitations in subparagraphs (A), (B), and (D) shall not apply in the case of an individual for a taxable year beginning on or after January 1, 1970, who satisfies the requirements of (i) of this subparagraph and who makes the election in (ii) of this subparagraph.

"(i) ELIGIBILITY.—In order to be eligible for the incentive charitable deduction, in the taxable year and in eight of the ten preceding taxable years, either:

"(a) in a taxable year beginning on or after January 1, 1970, the amount of his charitable contributions to charities described in section 170(b)(1)(A), plus the amount of income tax (determined without regard to chapter 2, relating to tax on self-employment) paid during such year in respect of such year or preceding years, exceeds 90 percent of the taxpayer's taxable income for such year, and the amount of his charitable contributions to charities described in section 170(b)(1)(A) exceeds 60 percent of the taxpayer's taxable income for such year. For purposes of this provision the amount of charitable contributions for any taxable year beginning after December 31, 1963, shall be determined without the application of section 170(d)(1), and taxable income shall be computed without regard to:

"(i) this section,

"(ii) section 151 (allowance of deductions for personal exemptions), and

"(iii) any net operating loss carryback to the taxable year under section 172.

In lieu of the amount of income tax paid during any such year, there may be substituted for that year the amount of income tax paid in respect to such year, provided that any amount so included in the year in respect of which payment was made shall not be included in any other year; or

"(b) in a tax year beginning before January 1, 1970, the taxpayer satisfied the qualifications of section 170(b)(1)(C) and 170(g) as in effect for such tax year.

"(ii) ELECTION.—For taxable years beginning on and after January 1, 1970, a taxpayer who satisfies the eligibility requirements of (i) above may elect (at such time and in such manner as the Secretary or his delegate by regulations prescribes) to have section 170(b)(1)(C) be applicable to him. As a condition to such election the taxpayer shall agree:

"(a) that if his taxable income, computed with regard to this section, is less than 20 percent of his adjusted gross income, his taxable income shall be 20 percent of his adjusted gross income.

"(b) that no amount of charitable contributions made in the taxable year or any prior taxable year may be treated under section 170(d)(1) as having been made in the taxable year or in any succeeding taxable year, and

"(c) that he shall file annual information returns with respect to each taxable year referred to in section 170(b)(1)(C)(i)(a) in accordance with regulations prescribed by the Secretary or his delegate specifying the dates, amounts, and recipients of each contribution and the nature of the property contributed, which reports shall be made available to the public pursuant to regulations prescribed by the Secretary or his delegate."

(4) On page 169, strike out lines 4 through 24 and on page 170 strike out lines 1 through 6.

(5) On page 170, strike out lines 8 through 13 and redesignate subparagraphs (B) and (C) as (A) and (B), respectively.

Mr. LONG. Mr. President, I ask unanimous consent that debate on the pending amendment be limited to 40 minutes, to be equally divided between the Senator from Minnesota and the manager of the bill.

Mr. GRIFFIN. Mr. President, what is the number of the pending amendment?

Mr. McCARTHY. No. 364.

The PRESIDING OFFICER. Amendment No. 364, with modifications.

Mr. HRUSKA. Mr. President, may we have an explanation of its nature?

Mr. McCARTHY. I hope to explain it, after the agreement on time limitation is reached.

The PRESIDING OFFICER. For the information of the Senate, the Senator from Minnesota has the floor. The Senator from Louisiana has made a unanimous-consent request that the time be equally divided.

Mr. LONG. I temporarily withdraw that request, Mr. President.

The PRESIDING OFFICER. The Chair inquires of the Senator from Minnesota, does he request that his amendment be considered en bloc? Technically, it is a series of amendments.

Mr. McCARTHY. I ask unanimous consent that they be considered en bloc.

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

Mr. MILLER. Mr. President, I ask for order.

The PRESIDING OFFICER. The point of the Senator from Iowa is well taken. The Senate will be in order.

Mr. LONG. Mr. President, I ask unanimous consent that further debate on the amendment be limited to 40 minutes, to be equally divided between and controlled by the Senator from Minnesota and the manager of the bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Who yields time?

Mr. McCARTHY. Mr. President, I yield myself 3 minutes.

This amendment would add a provision to the bill before the Senate to provide, not for unlimited charitable deductions, but for charitable deductions in excess of what the Senate bill now provides.

Under existing law, charitable contributions deductions for individuals are limited generally to 30 percent of the taxpayer's adjusted gross income. An exception to this rule permits the taxpayer an unlimited charitable deduction if in 8 of the preceding 10 taxable years, the total of the taxpayer's charitable contributions plus the income taxes he has paid exceed 90 percent of his taxable income.

The committee bill proposes to reduce the amount that anyone can deduct as charitable contributions to 50 percent of his taxable income, this to take place over a 5-year period.

As the law has worked out, a few high income taxpayers using this provision have wound up paying little or no income tax at all, since they have contributed virtually all of their taxable income, or the equivalent of their taxable income, to charity. Both H.R. 13270 and the Finance Committee version of the bill provide for complete repeal of the unlimited charitable contributions deductions provision, to be phased out over a 5-year period. By that time such taxpayers would be permitted to deduct no more than 50 percent of their adjusted gross income for charitable purposes.

My amendment proposes to retain a modified version of the old provision. What is involved is that which is basic to the allowance of charitable deductions generally: the recognition and encouragement, and the incentive that we give in the tax law, to unusually large contributors to charity. It is in keeping with the tradition of philanthropy in this Nation.

Under the amendment which I have offered, charitable taxpayers who give up to 80 percent of their adjusted gross incomes to charity in 8 out of 10 years would be given some special consideration. If taxpayers choose to use this provision, they would be required to pay income tax on at least 20 percent of their adjusted gross income, and reduce it, thereby, from a 100-percent exemption to 80 percent, with taxes having to be paid on the remaining 20 percent.

Moreover, in order to tighten the provision, the combined total of charitable contributions and income taxes would still have to exceed 90 percent of the taxable income of the individual who took advantages of this provision. The amendment also requires that at least 60 percent of the adjusted gross income be contributed to public charities, as described in section 170(b)(1)(A), which tends to guarantee that the majority of such contributions will be used for immediately public purposes.

This is the substance of the amendment. There is no question of principle involved, since the principle is exactly

that which is involved in allowing the potential 50 percent charitable deduction for all taxpayers. The only difference is in the amount which a taxpayer might be permitted to contribute; and his eligibility depends upon his contributing in 8 years out of 10 the equivalent of 90 percent of his taxable income to charity, or to paying it in taxes.

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

Mr. McCARTHY. I yield to the Senator from California.

Mr. CRANSTON. I want first to say that I think the Senator has offered an amendment that is of great constructive value. I believe with the Senator that we should encourage charitable giving, to allow for the diversity and creativity in our society that is brought about by use of such funds in the way that they would be used when given in accordance with the amendment the Senator has proposed.

Mr. President, I should like to ask if this is not quite similar to an amendment that was offered by the administration to the tax reform bill earlier this year?

Mr. McCARTHY. Substantially. It contains principles almost identical to those offered by the administration.

Mr. CRANSTON. The administration offered an amendment, though, that was quite similar, except that, as I understand it, the administration proposal was more restrictive. And the Senator's amendment calls for annual reports on contributions. It also provides that 60 percent of the amount given must be given to public charities, not to private foundations, thus causing the broadest possible use in the general public interest and not for use by private foundations that might not be to that degree in the public interest.

Mr. McCARTHY. The Senator is correct.

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

Mr. McCARTHY. Mr. President, I yield myself an additional 2 minutes.

The PRESIDING OFFICER. The Senator is recognized for an additional 2 minutes.

Mr. McCARTHY. Mr. President, with respect to the 100 percent of adjusted gross income, 20 percent would be taxable under the amendment. At least 60 percent would have to go—although we might have the whole 80 percent go—to public charity, public foundations, and at most only 20 percent could go to private foundations.

This involves roughly 100 substantial taxpayers. For the most part, they are the easiest ones to supervise and watch, because they give large amounts and generally give to one or two foundations or charities, and, in one or two cases, to a particular school or charity that is almost entirely dependent upon the contributions from one large contributor.

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

Mr. McCARTHY. Mr. President, I yield 5 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 5 minutes.

Mr. CURTIS. Mr. President, I hope that the McCarthy amendment prevails.

When someone gives to an orphanage, that is not a tax dodge. That is not a tax shelter.

When someone gives income to arrest cancer, that is not a tax dodge. That is something that is done in the public interest.

When someone gives to spread their religious faith throughout the world, that is not a tax dodge. That is something that is done in the interest of humanity.

It has been the law for some time that if an individual gave all of his income to charity, if his giving plus his taxes equals 90 percent of his income for 8 out of 10 years, he can have an unlimited tax deduction.

The pending bill repeals that provision. I oppose that repeal. The McCarthy amendment would restore it in part. It would provide that an individual can give up 80 percent, if 20 percent of his income is subject to tax.

What is wrong with giving? What is wrong with giving all of one's income to charity.

The story is told of the widow's mite who gave all that she had and will be told as long as civilization stands.

There is nothing wrong with a tax law that encourages people to give all of their income to charity. There are other provisions of the bill that discourage charity. There is the repeal of the unlimited deduction. There are changes with respect, in certain instances, to the giving of appreciated property. However, there is something else.

I refer to the minimum standard deduction. I have in my files a letter from a lady who worked in Washington. Her salary was $6,000 a year. She gave $600 to charity and religious purposes. Her coworker also received $6,000 a year and gave a total of $15 to religious and charitable causes. Under the minimum standard deduction both were treated alike for tax purposes.

The minimum standard deduction seems to be a provision we will have to live with. However, there are so many sections of the bill that constitute an outright attack upon charity that we must enact the McCarthy amendment. Large givers are needed by our most valued institutions.

How does one receive the benefit of the McCarthy amendment? He has to have given his income away to the extent that it amounts to 90 percent of his income and taxes for 8 out of 10 years.

Someone must be very much interested in good causes, or they would not qualify.

To receive this privilege one has to give thousands of dollars away for which he receives no tax deduction. However, after one earns that right—this bill would take it away from them. The McCarthy amendment would restore 80 percent of it.

Make no mistake about it, a gift to a genuine charity is not a tax dodger. A gift to charity lessens the burden of government and does not increase it.

There is not a good cause supported out of the generosity of people's hearts that, if it were to fail, would not add more to the expense of government, locally, statewide, and nationally.

Mr. President, I beg that we enact the pending amendment and once again say to a taxpayer, "If you genuinely and truly give your income away, it will not be taxed."

There are those who say, "Well, a person should pay some tax."

The McCarthy amendment meets that test, because instead of giving an unlimited deduction, they would have to pay a tax of 20 percent.

Mr. President, I hope that the amendment is agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. McCARTHY. Mr. President, I yield 2 minutes to the distinguished Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 2 minutes.

Mr. PERCY. Mr. President, I am happy to join with the Senator from Nebraska with respect to this amendment. We had a different point of view on another amendment a few days ago. However, on this occasion we see eye to eye.

We are not talking here about a loophole.

As the Senator has pointed out, we are talking about making certain that we do not actually strangle philanthropy and the institutions that depend upon philanthropy in this country.

I think we should be very sensitive to any portion of the bill that strikes a blow at the essence of what American philanthropy has done in this country for the institutions which depend heavily upon it.

Mr. President, I add my support as a cosponsor of this very important amendment which I feel is essential not only for individuals who have contributed so heavily throughout the years to support private philanthropy through their own efforts time, and energy, and also through their great resources. They should be encouraged to do so. It is a matter of public policy to encourage and not discourage them from doing it so long as they are paying a fair and proportionate share of their income as provided in this amendment toward the support of government.

Mr. President, Government cannot itself solve the myriad of social ills that face our society today. Assistance from the private sector is vital financially. Each year, close to $20 billion is funded through charitable contributions to education, health, cultural, and other important interests. Private giving is even more essential from the standpoint of providing a diverse innovative approach to meeting our pressing urban and rural problems. And, the extensive contribution of volunteer assistance must be fully taken into account since it not only provides billions of dollars of financial assistance in kind, but also attracts a commitment by individuals to help in meeting our social needs.

When I am confronted with the financial problem faced by universities, health societies, boys clubs, YMCA's, orchestras, hospitals, and our other essential institutions, my determination to encourage increased charitable contributions to society is increased.

I recognize, Mr. President, that some individuals have taken advantage of our

tax laws to avoid the payment of a fair share of taxes. This is intolerble and enactment of the Tax Reform Act before us seeks to close these loopholes.

The present amendment is not a new loophole to permit tax avoidance. It is just the opposite—a provision to permit and encourage individuals to increase their contributions to public charities. Under this amendment, individuals would be entitled to give up 80 percent of their adjusted gross income to charities and yet would also have to have taxable income be at least 20 percent of adjusted gross income. Moreover, to meet the test of this provision, the individual's charitable contributions and income tax must exceed 90 percent of taxable income.

Adoption of this amendment should encourage the funneling of additional millions of dollars to public charities. I urge its adoption.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McCARTHY. I yield to the Senator from New York.

The PRESIDING OFFICER. How much time is yielded?

Mr. McCARTHY. One minute.

Mr. GOODELL. Mr. President, I ask unanimous consent that my name be added as a cosponsor of this amendment.

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

Mr. GOODELL. Mr. President, many of us have argued that no high-income taxpayer should be exempt from paying some portion of his total income in Federal taxes. The Senate Finance Committee moved to eliminate the exemption of individuals who give large percentages of their fortunes to charity. I approve of the direction in which the Finance Committee moved, but they went too far.

The McCarthy amendment is a good amendment. It guarantees that every high-income taxpayer will pay a substantial tax on 20 percent of his income; but, unlike the Finance Committee provisions, the McCarthy amendment would leave a large element of freedom to the high-income taxpayer to contribute to charity. This is very important. The cost of the McCarthy amendment is estimated at $25 million.

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

Mr. McCARTHY. I yield 1 additional minute to the Senator from New York.

Mr. GOODELL. If we take that $25 million into the Federal Treasury, it will be taken directly from charitable causes, and then the Federal Government will have to find ways to meet the needs that were in the past met by charitable contributions.

I believe this is a fair compromise which provides that all taxpayers will have to pay a substantial tax, but will leave the money free for high income individuals to continue their important charitable contributions to programs that are essential if we are to meet our social and economic problems in this country.

The PRESIDING OFFICER (Mr. RIBICOFF in the chair). The time of the Senator has expired.

Mr. LONG. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. LONG. Mr. President, this amendment would retain much of what has been the biggest and most inexcusable loophole in the tax law.

The so-called taxpayer revolt started because a study revealed that 154 individuals who made large sums of money, most of them more than $1 million, paid little, if any, tax. That study indicated that one-third of those people who were paying nothing did so because of the provision in the law that relates to the unlimited charitable deduction.

This provision had its origin in 1924, when Congress passed a law that permitted one of the Drexel heirs, who had taken the vow of poverty as a nun, to have the advantage of an unlimited charitable deduction to meet her particular situation. Since that time, some of the most wealthy people in America have undertaken to qualify as a Philadelphia nun, and have proceeded to make money by giving money away to charity, mostly by giving appreciated property on which no tax has been paid on the appreciation. This has been the way that a great number of wealthy people, year after year, carry on the theory that they are giving all their money away to charity, when in fact they are making money by giving money away. This is the biggest, most inexcusable, planned loophole in the tax laws.

Mr. President, the charities presented statements to us, and in these 7,000 pages of testimony, I can't recall a single line to defend this big loophole, which has been on the statute books for almost 50 years. The House measured up to its responsibility and said 50 percent is the limit one can claim for charitable contribution purposes. The Senate Finance Committee has supported that provision.

The implication of this unlimited charitable contribution—and the Senator would limit it to 80 percent of adjusted gross income, whereas it used to be 100 percent—is that wealthy people have the right to determine where their tax money goes and for what their tax money is to be spent, although the rank-and-file taxpayers do not have the privilege of determining where their tax money goes. There is no reason for that. That is a concept of economic royalism that is out of date, and the time has come when these people should pay taxes just as everybody else does.

Mr. President, this provision can benefit only a few people. Who can afford to give away 80 percent of his income 10 years in a row, unless he is very wealthy?

This deduction is the way by which many people who would owe taxes to the Government have escaped taxation. It is the most difficult loophole to defend. Not a single witness dared even try to defend it. Not even the charities which benefit from it would speak in favor of this provision. It would hurt the image of the Senate, if the Senate, at this late date, after the House and the Senate Finance Committee have closed it, should support this loophole.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. WILLIAMS of Delaware. Mr. President, I support the position of the chairman of the committee. As he pointed out, under existing law by giving away 90 percent of his income to charity for 8 out of 10 years a taxpayer can get an unlimited charitable deduction for tax purposes, and he can use in those contributions appreciated property without paying the capital gains tax.

The committee bill provides that he can give away up to 50 percent of his income; but 20 percent of it must be in cash, and only 30 percent of it can be in appreciated property.

According to the staff, which has examined this amendment, by striking out those provisions a man presumably could have an income of $1 million a year and give away 80 percent of it; but the 80 percent could be all in appreciated property, and he could keep the million dollars in cash. If that is so we are opening a Pandora's box whereby, automatically upon giving away art objects and other items, a man could end up making money by giving money away.

The Finance Committee has tried to correct this loophole, and I hope we do not open it up again. While it is only eight-ninths as bad as existing law, nevertheless, that is too bad.

Mr. LONG. Mr. President, I have no doubt that if the Philadelphia nun, one of the Drexel heirs, had known of all the tax revenue that would be lost in her name, she would have asked, if she had anything to say about it, that this provision be repealed retroactively to the day it was passed for her benefit.

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

Mr. LONG. I yield.

Mr. KENNEDY. As I understand from the present action of the Senate bill, we have built into the Senate bill three additional provisions or three additional incentives for charitable contributions.

First, as I understand it, the ceiling on the charitable deduction has been increased from 30 to 50 percent. Second, under the Percy amendment, the private foundations will be required to give 6 percent of their income away. Third, raising the capital gains tax to 35 percent will serve as an additional incentive for individuals or foundations to give appreciated property to colleges, universities, and other charities, because they know very well that if they sell the property, they will have to pay a larger capital gains tax.

Moreover, with respect to charitable contributions of appreciated property, the Senate has already declined to include the appreciated value in the 5-percent minimum tax.

Under the present bill, therefore, we already built in additional kinds of incentives to our citizens—especially our wealthiest citizens—to make contributions to universities and foundations as well as to various other charitable organizations.

Mr. LONG. We think we have retained significant incentives, and we think that more money will be made available to charity as a result of what we have done in this bill. This is particularly true with regard to the pay-out provisions passed by the House, which we have increased by action on the Senate floor, that will

make foundations distribute larger sums for charitable, educational, and similar purposes. I do think that, on the whole, what we have done here will result in a larger amount being given to charity.

Mr. KENNEDY. Mr. President, I wish to ask the Senator from Louisiana if he would not agree with me that what really started the taxpayers' revolt this year was the disclosure of the tremendous loophole available to wealthy citizens able to take advantage of the unlimited charitable deduction. As I understand it, this amendment seeks to reestablish that concept. Is that correct?

Mr. LONG. Yes. This amendment would leave all but 20 percent of it in effect.

Mr. KENNEDY. Instead of what it was under the Philadelphia nun provision.

Mr. LONG. The nun provision was unlimited. Very wealthy persons could totally eliminate their tax liability by gifts to charity. This amendment would permit them to deduct up to 80 percent of their income as a charitable contribution. The committee bill would limit the deduction by preventing these taxpayers from deducting more than one-half of their income in the form of charitable contributions.

Mr. McCARTHY. It is true that under existing law people have avoided paying taxes because of a contribution, but if this amendment were agreed to, taken along with what the committee recommended, they could no longer offset all their income.

The Senator wants people to make contributions to charity. These people are not making contributions to charity out of other people's money.

Mr. LONG. I am not saying people would necessarily give to charity to make money, but I am saying that under the Senator's amendment it is possible for a man to deduct up to 80 percent of his adjusted gross income by donations to charity.

Mr. McCARTHY. Yes.

Mr. LONG. And it is the judgment of the committee to limit such deductions to 50 percent of adjusted gross income. Furthermore, the amendment definitely fosters the concept that a wealthy person should be permitted to determine how his tax money is to be spent while people who do not earn that much money are not allowed to make such a decision.

Mr. McCARTHY. We determine it by saying what is deductible in the first place. It is a question of whether it is 80 percent or 50 percent. That is the entire question involved.

Mr. LONG. Mr. President, if we were to agree to the amendment we would be making it possible for those 150 persons who made more than a million dollars and paid no taxes, to be in a position to determine for themselves how 80 percent of their income would be spent. We think that to let them make that decision with regard to 50 percent of their income is generous. Not a single one of the charities which appeared before the committee asked for continuation of this Philadelphia nun provision.

Mr. McCARTHY. I am not defending the Philadelphia nun rule.

Mr. LONG. The Senator is buying 80 percent of it.

Mr. McCARTHY. We will have our hypothetical nun around this Chamber for the next 50 years.

Mr. LONG. Not if the Senate agrees with my position.

Mr. McCARTHY. It is like the case of the hypothetical widow.

Mr. LONG. Mr. President, if we can defeat this amendment offered by the Senator from Minnesota (Mr. McCARTHY) and pass the bill without that amendment, we will not hear any more about the Drexel nun.

Mr. McCARTHY. They used to use the Drexel nun to defend the provision; now, it is the other way around.

Mr. CURTIS. Mr. President, the real issue here is the beneficiary. That is the issue. Many hospitals are staying open because some wealthy person picks up the deficit. We could go on and on with other matters. To think of talk about a tax shelter is nonsense. The issue at stake here is the beneficiary.

Under the bill you can give 50 percent in one shot. If it is to one's advantage, he can raise contributions to 50 percent in 1 year. Under this proposal, you have to work your way up in 8 out of 10 years.

It is the orphanages and research groups, the colleges and hospitals and religious organizations that have a stake in this matter, and not a tax shelter for any individual.

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

Mr. McCARTHY. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I have listened to this debate with great interest because although I am much in favor of encouraging honorable charitable giving, I had not intended to challenge the decision to repeal the unlimited charitable deduction. I think the Senator from Minnesota (Mr. McCARTHY) makes a point that I am fully sympathetic to. The point endemic in the argument of the Senator from Louisiana is that people cried out against the 155 taxpayers who may have avoided taxes through charitable contributions but not against the philanthropists themselves or philanthropy. Philanthropists still are one of the most recognized and highly respected groups in this country. It should also be noted that the charitable deduction is only one of several means by which tax liability may be reduced. In fact, I understand that only about one-third of those taxpayers utilized the unlimited deduction. The great bulk of those taxpayers used other means, such as the oil depletion allowance and other preferences which we are eliminating from the bill, to escape taxation.

The Senator from Minnesota is correct in pointing out that the balance of the public interest is to encourage rich people not to sit on the money, or to pay it in taxes, but to use it in the ways that have been described and which benefit society. We are making foundations pay out the funds contributed in an adequate way.

It is a close question but in my judgment it should be answered in the manner which preserves pluralism and individual initiative in our society.

I think the Senator from Louisiana makes a strong point when he says we should not allow the rich person, as contrasted with one of more modest means, to choose who will receive his tax money. I think, however, we should not ignore the fact that the charitable deduction is now 50 percent. Anyone can use the 50-percent advantage according to the Senator from Louisiana. The Senator does not explain why it is proper in the case of 50 percent and incorrect here.

Mr. McCARTHY. Mr. President, I do not think many Members are privileged today to say that no one escapes taxes.

I reserve the remainder of my time.

Mr. LONG. Mr. President, the Philadelphia nun rule becomes a device for tax avoidance with gifts of appreciated property when one pays $1 for a work of art, for example, and gives it away at an estimated value of $1,000, or when one pays $3,000 or $10,000.

The Finance Committee would permit a taxpayer to deduct gifts of appreciated property on which no taxes had been paid only to the extent of 30 percent of his adjusted gross income, although he could deduct an additional 20 percent for other contributions.

The McCarthy amendment would strike that provision and permit a taxpayer to deduct gifts of appreciated property up to 80 percent of adjusted gross income, and it would thus not only retain the so-called Philadelhia nun provision law for 80 percent of a taxpayers' income but also for gifts of appreciated property where the greatest abuse lies.

Furthermore, the committee has provided that a person who previously could deduct only 30 percent of his income for charitable contribution purposes, if he gave it to a church, could now deduct up to 50 percent of his income to give to a church. This amendment increases that limit to 80 percent but only for those people who have carefully planned, with the advice of tax counsel, to give away 90 percent of their income to charity for 8 out of 10 years. That takes careful tax planning.

Some Senators have criticized the depletion allowance. The study which we all cite indicated that 154 persons were paying virtually nothing, but only about three had achieved that result in large part because of the depletion allowance. But almost 20 times that number—52—achieved that result because of this provision in the law which the Senator for the most part would retain. This provision would still retain the philosophy of economic royalism that the rich and those who have a history of 8 years of systematic tax avoidance planned by tax counsel and accountants should be entitled to say where their tax money goes. They want to be able to continue to say where 80 percent of their income will go, although the ordinary taxpayer in this country could not say where his tax money will go.

I submit, Mr. President, that the amendment cannot be defended, certainly not to the rank and file of taxpayers in this country.

We should put an end, once and for all, to this device which has been the largest tax avoidance device consistently used by those who are able to plan to pay no taxes.

Mr. McCARTHY. I would much rather see this money go to charity than to the moon.

Mr. COTTON. Mr. President, I shall support the amendment of the Senator from Minnesota. My reason is that for the past 3 weeks, in the Appropriations Subcommittee on HEW, we have been literally buried and have been struggling with a $20 billion bill, second only to defense, covering all kinds of Government charity, research for heart, stroke, cancer, for higher elementary and secondary school education, aid to the handicapped, and aid to the blind. Every year more money is required. One reason for this is that private contributions have dried up.

If we curtail or discourage the giving to these causes, to education, for those who are ill, to the handicapped, it simply means that we dig deeper into the Federal Treasury. After all, Government charity is a pretty cold and inanimate kind of charity, and inefficient in many cases. It is simply taking money out of one pocket and putting it into the other, which has a hole in the bottom.

For that reason, Mr. President, with a clear conscience, I can support the McCarthy amendment.

Mr. KENNEDY. Mr. President, I hope that this amendment will be rejected. It appears to me that the committee has acted reasonably in closing what is generally recognized as one of the most extraordinary tax shelters in the entire Revenue Code.

This afternoon, we are being asked to reopen, at least partially, the loophole closed by the committee. If we accept the amendment, we will be encouraging a tiny percentage of American taxpayers with very high income levels to seek the benefit of a special tax provision that millions of ordinary taxpayers will be unable to reach.

If we are serious about tax justice, this amendment must be defeated. If the amendment is approved, the great majority of American taxpayers will feel that they are not being governed by a tax system that is fair or equitable.

Mr. HATFIELD. Mr. President, I ask unanimous consent that a letter I received from Mr. Don C. Frisbee, president of the Pacific Power & Light Co., be printed in the RECORD.

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

PACIFIC POWER & LIGHT CO.,
Portland, Oreg., December 5, 1969.

Hon. MARK O. HATFIELD,
U.S. Senator,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR HATFIELD: With the Tax Reform Act of 1969 now before the Senate for your consideration, I do want to bring some concerns of mine to your attention. In doing so, let me assure you that one cannot help but respect the constructive efforts of the House and Senate Committees toward providing meaningful, progressive legislation in this important field.

I have become increasingly aware of the dynamic forces that the independent institutions in our country which rely on the contributions of individuals and corporations inject into our American system and the importance of their financial health to our nation's future. Such organizations as the YMCA, Boy Scouts of America, many other youth, health and welfare agencies supported by the community united funds, as well as the independent colleges and universities of our land, give a great deal more to our society than they take out. The dollars contributed to this part of the private sector can be multiplied several to many times in measuring their ultimate effectiveness because of the many volunteers who participate in the activities of these institutions. This latter is a phenomenon not present in the dollars expended by federal, state and local governments in similar endeavors.

With this in mind I feel justified in urging you to concern yourself with the provisions of the Tax Reform Act of 1969 which, if enacted, will hamper the fund-raising capacity of such private agencies and institutions. The provisions involved relate to "gifts of appreciated property," "allocation of deductions" and "life income gifts." Although seemingly designed to plug tax loopholes which are advantageous to wealthy givers, the overriding fact relative to their elimination is that this would dry up a highly important source of income to these voluntary agencies and private institutions.

In addition, such organizations as the Boy Scouts of America are concerned with the application of "unrelated business income tax provisions" as they would affect the advertising in Boy Scout publications. The argument against this provision is that a majority of the advertising in such publications is limited to the exempt purpose of the agency involved. This argument appears to be sound.

It is a pleasure to be able to communicate with you.

Sincerely,

DON FRISBEE.

The PRESIDING OFFICER. All time on the amendment has now expired.

The question is on agreeing to the amendment of the Senator from Minnesota (Mr. McCARTHY).

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 Montana (Mr. METCALF), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

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.

If present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "yea."

The result was announced—yeas 41, nays 54, as follows:

[No. 195 Leg.]

YEAS—41

Aiken	Gurney	Pell
Baker	Hart	Percy
Bayh	Hatfield	Prouty
Brooke	Hruska	Proxmire
Case	Javits	Ribicoff
Cotton	Jordan, Idaho	Schweiker
Cranston	Magnuson	Scott
Curtis	Mansfield	Smith, Ill.
Dominick	Mathias	Sparkman
Eagleton	McCarthy	Tower
Fannin	McGovern	Williams, N.J.
Fong	Murphy	Yarborough
Fulbright	Packwood	Young, Ohio
Goodell	Pearson	

NAYS—54

Allen	Boggs	Church
Allott	Burdick	Cook
Bellmon	Byrd, Va.	Cooper
Bennett	Byrd, W. Va.	Dodd
Bible	Cannon	Dole
Eastland	Jackson	Pastore
Ellender	Jordan, N.C.	Randolph
Ervin	Kennedy	Russell
Gore	Long	Saxbe
Gravel	McClellan	Smith, Maine
Griffin	McGee	Spong
Hansen	McIntyre	Stennis
Harris	Miller	Stevens
Hartke	Mondale	Talmadge
Holland	Montoya	Thurmond
Hollings	Moss	Tydings
Hughes	Muskie	Williams, Del.
Inouye	Nelson	Young, N. Dak.

NOT VOTING—5

Anderson	Metcalf	Symington
Goldwater	Mundt	

So Mr. McCARTHY's amendment was rejected.

Mr. COOPER. I move to reconsider the vote by which the amendment was rejected.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROPERTY BEQUESTS TO AN EXEMPT ORGANIZATION

Mr. JAVITS. Mr. President, I send to the desk an amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. JAVITS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. MANSFIELD. Mr. President, reserving the right to object, the amendment is short and I should like to hear it read.

The legislative clerk read the amendment, as follows:

On page 148, line 16 after the period, insert the following:

"Where an organization makes a bargain purchase of property before October 9, 1969, which is subject to a mortgage which was placed on the property more than 5 years before the purchase, and the organization pays the seller less than 10 percent of the value of his equity in the property, the indebtedness secured by such mortgage shall not be treated, notwithstanding the amendments made by subsection (d)(1), as acquisition indebtedness during a period of 10 years following the date of the transaction."

Mr. JAVITS. Mr. President, I have discussed this amendment with both the majority and the minority members of the committee. As a matter of fact, the technical drafting was done by the committee staff. It is essentially a technical amendment.

The purpose of this amendment, Mr. President, is this: Where a person donates or bequeaths property to an exempt organization, which property is subject to an indebtedness which was placed on the property more than 5 years in advance of the gift or bequest, such indebtedness will not be treated as an acquisition indebtedness for a period of 10 years, so as to meet the provisions of the bill with respect to ability to make and receive that kind of gift. Those provisions do not apply when an organization acquires property by what is called a "bargain sale." The bargain sale is a common method of donating property, and organizations which have received property in that manner are thereupon deprived of what is called the 10-year transition

period. This amendment would allow the same 10-year transition period where such property is acquired by bargain sale, provided that the donor is paid no more than 10 percent of his equity in the property.

In short, all that the amendment does is to change what the committee has already provided is this 10 percent of the equity provision.

The particular problem arose in connection with Trinity Church in New York, which ran into this kind of a situation. We submitted the proposal to the committee, and both the Senator from Delaware (Mr. WILLIAMS) and the Senator from Louisiana (Mr. LONG) worked this out with me; and, as I say, the actual text of the amendment was drafted by the staff.

I do not, and obviously they do not, feel that it violates the spirit of what the Committee on Finance was trying to accomplish by this particular provision.

Mr. TALMADGE. Mr. President, I have discussed this amendment with the distinguished ranking majority member of the Committee on Finance, and the staff has carefully reviewed the amendment. I think it has considerable merit, and I urge the Senate to agree to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

AMENDMENT NO. 399

Mr. COOPER. Mr. President, I call up my amendment, No. 399.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. COOPER. Mr. President, I ask unanimous consent that the Senate dispense with further reading of the amendment.

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

Mr. COOPER's amendment is as follows:

Page 454, after line 2, insert the following new section:

Sec. 707. Amortization of certain coal mine safety equipment.

(a) ALLOWANCE.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding after section 186 (added by section 906 of this Act) the following new section:

"Sec. 187. Amortization of certain coal mine safety equipment.

"(a) ALLOWANCE OF DEDUCTION.—Every person, at his election, shall be entitled to a deduction with respect to the amortization of the adjusted basis (for determining gain) of any certified coal mine safety equipment (as defined in subsection (d)), based on a period of 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the taxable year, equal to the adjusted basis of the certified coal mine safety equipment at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such adjusted basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any certified coal mine safety equipment for any month shall be in lieu of the depreciation deduction with respect to such equipment for such month provided by section 167. The 60-month period shall begin, as to any certified coal mine safety equipment, at the election of the taxpayer, with the month following the month in which such equipment was placed in service or with the succeeding taxable year.

"(b) ELECTION OF AMORTIZATION.—The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the certified coal mine safety equipment was placed in service, or with the taxable year succeeding the taxable year in which such equipment is placed in service, shall be made by filing with the Secretary or his delegate, in such manner, in such form, and within such time, as the Secretary or his delegate may by regulations prescribe, a statement of such election.

"(c) TERMINATION OF AMORTIZATION DEDUCTION.—A taxpayer which has elected under subsection (b) to take the amortization deduction provided by subsection (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary or his delegate before the beginning of such month. The depreciation deduction provided under section 167 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such equipment.

"(d) CERTIFIED COAL MINE SAFETY EQUIPMENT.—For purposes of this section, the term 'certified coal mine safety equipment' means property which—

"(1) is electric face equipment (within the meaning of section 305 of the Federal Coal Mine Health and Safety Act of 1969) required in order to meet the requirements of section 305(a)(2) of such Act,

"(2) the Secretary of the Interior certifies is permissible within the meaning of such section 305(a)(2), and

"(3) is placed in service before the expiration of six years after the operative date of title III of the Federal Coal Mine Health and Safety Act of 1969.

For purposes of this section, any property placed in service in connection with any used electric face equipment which the Secretary of the Interior certifies makes such electric face equipment permissible shall be treated as a separate item of certified coal mine safety equipment.

"(e) SPECIAL RULES.—

"(1) The adjusted basis of any certified coal mine safety equipment, with respect to which an election is made under this section, shall not be increased, for purposes of this section, for amounts chargeable to capital account for additions or improvements after the amortization period has begun.

"(2) The depreciation deduction provided by section 167 shall, despite the provisions of subsection (a), be allowed with respect to the portion of the adjusted basis which is not taken into account in applying this section."

(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 187. Amortization of certain coal mine safety equipment."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

Mr. COOPER. Mr. President, I offer this amendment for myself, the Senator from Tennessee (Mr. BAKER), my colleague from Kentucky (Mr. COOK), the Senators from West Virginia (Mr. RANDOLPH and Mr. BYRD), and the Senator from Virginia (Mr. BYRD).

Mr. President, I hope very much that the manager of the bill will be willing to accept the amendment.

Mr. TALMADGE. Will the Senator explain it, so that Senators can ascertain what it does?

Mr. COOPER. Yes. The purpose of the amendment is to permit the amortization of the cost of certain "permissible" coal mine equipment over a 5-year period. The usual period of depreciation, I am informed, is a period of 10 years. I shall explain the reason for offering the amendment.

Mr. JAVITS. Mr. President, will the Senator yield momentarily?

Mr. COOPER. I yield.

Mr. JAVITS. Before leaving the Chamber, I should like to inform my colleagues, if I could have their attention, that I am the ranking member of the Committee on Labor and Public Welfare which just handled the coal mine safety bill. That bill was drafted by the Senator from New Jersey (Mr. WILLIAMS) and myself.

One of the big problems that we had was to reconcile safety with economics. The Senator from Kentucky (Mr. COOPER) is laying before us a very grave problem affecting small miners, where we are trying to impose heavy safety precautions, and it costs money to provide them.

I should like to say to my colleagues who are interested in safety that what the Senator from Kentucky is now proposing is a way in which the small mine operator can be helped. We knew he had to be helped. We tried to get him small business loans and other things, which is a kind of long way around, but I think the Senator, with his tax amendment, has something which can directly help him, and I hope my fellow Senators will give the greatest sympathy to the Senator's proposition. I testify to my colleagues that one of the bases of the coal mine safety bill was an attempt to reconcile economics with human life. We did the best we could, but what Senator COOPER is now proposing would help us immeasurably to do justice on the economic scale.

Mr. COOPER. I thank the Senator from New York for his excellent statement. I have also been informed that the Senator from New Jersey (Mr. WILLIAMS), who was chairman of the subcommittee that had charge of the coal mine health and safety bill, also supports the amendment.

I ask unanimous consent also to add the names of the Senator from Virginia (Mr. SPONG), and the Senator from Pennsylvania (Mr. SCHWEIKER), and the Senator from Alaska (Mr. STEVENS), as cosponsors of the amendment.

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

Mr. COOPER. Mr. President, on October 2 of this year the Senate passed S. 2917, the Coal Mine Health and Safety Act of 1969. On October 29, 1969, the House passed its bill. The conferees have met and it is expected that the conferees will file a conference report very soon.

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

Mr. COOPER. I yield.

Mr. TALMADGE. Mr. President, do I understand correctly that this is the result of the action of Congress in requiring these coal mine safety devices in coal mines?

Mr. COOPER. The Senator is correct.

Mr. TALMADGE. And that the equipment must necessarily be bought, because an act of Congress has required it?

Mr. COOPER. That is right.

Mr. TALMADGE. And that the purpose of the equipment is to save human life?

Mr. COOPER. The Senator is correct. Both Houses of Congress have passed bills which include a provision requiring that "permissible" machinery be used in all coal mines by a specified date.

The provision included in both the Senate and House bills would abolish the present distinction between "gassy" and "nongassy" mines, a classification that up to this time had been preserved in the Federal Coal Mine Safety Act since its adoption. The chief purpose of proposing the merging of all mines in one classification as "gassy" mines, is to require operators of mines now classified as "nongassy" mines to purchase and install new equipment which is designated as "permissible" equipment under the Federal Coal Mine Safety Act. This equipment is designed to prevent "sparking" of the machinery which could, of course, cause the danger of ignitions and explosions in mines where a sufficient concentration of methane occurs.

Bureau of Mines statistics show that for the year 1967 there were a total of 3,191 nongassy mines employing 45,472 workers and producing 143 million tons of coal a year.

I ask unanimous consent that a compilation prepared by the Bureau of Mines be printed in the RECORD at this point.

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

NUMBER OF BITUMINOUS UNDERGROUND COAL MINES, EMPLOYMENT AND PRODUCTION BY STATES AND BY GASSY AND NONGASSY MINES—1967

	Gassy			Nongassy		
	Number of Mines	Employees	Production	Number of Mines	Employees	Production
Alabama	17	3,222	8,443,850	85	1,633	739,350
Arizona				1	3	969
Arkansas	5	61	93,690			
Colorado	23	1,026	3,008,995	36	239	569,915
Illinois	26	5,271	27,797,978	9	111	525,834
Indiana	7	421	1,564,831	4	285	142,483
Iowa				5	51	244,917
Kentucky	32	3,851	18,996,388	913	10,687	42,000,000
					580	2,287,406
Maryland				33	236	409,550
Missouri				2	14	3,000
Montana		16	6,200	12	41	22,650
New Mexico	1	98	625,000	7	22	4,375
North Dakota				1	5	996
Ohio	18	2,115	8,922,588	55	1,244	4,496,000
Oklahoma	1	4	2,400			
Oregon				1	5	1,000
Pennsylvania	68	13,973	46,110,933	279	3,007	8,302,238
Tennessee	7	57	135,250	142	1,924	4,364,750
Utah	10	799	2,785,122	17	359	1,478,102
Virginia	44	3,347	14,265,000	673	4,722	16,625,000
Washington	1	7	8,599	3	31	48,017
West Virginia	132	20,848	8,0348,324	908	20,181	61,037,451
					32	30,812
Wyoming				5	60	118,942
Totals	392	55,116	213,115,058	3,191	45,472	143,453,737

Mr. COOPER. Since all mines are designated as "gassy" under the pending legislation, the operators of these 3,191 "nongassy" mines will be required to junk the nonpermissible machinery now used which has been installed at great cost and replace it with "permissible" equipment of greater cost. This will impose a burden which many operators cannot sustain, result in the closing of hundreds of mines, and will drive out of employment hundreds, if not thousands of miners. This drastic legislation will not only affect the mines and miners, but will result in severe economic hardship upon the communities and States in which the "nongassy" mines are located. The Bureau of Mines compilation for 1967 indicates that there were 913 "nongassy" mines in Kentucky, 908 in West Virginia, 279 in Pennsylvania, 142 in Tennessee, 55 in Ohio, 85 in Alabama, 36 in Colorado and smaller numbers in 10 other States.

Both in the Senate Labor and Public Welfare Committee and on the floor when the Senate considered S. 2917, I offered amendments to preserve the distinction between gassy and nongassy mines. I introduced statistics and geological data showing that nongassy mines are the safest mines and that there is no demonstrated need for abolishing the present distinction between "gassy" and "nongassy." However, my amendments were not agreed to.

The House and Senate conferees have agreed, first, that for all mines certain specified small electrical equipment must be made permissible within 1 year after the operative date of the act—which is 90 days after enactment; second, that heavy electrical face equipment employed in coal mines not classified as "gassy" prior to enactment of the act and which are located above the water table—which definition would include a great majority of mines now classified "nongassy"—must be made permissible within 4 years of the operative date of the act with the right to obtain extensions up to a maximum of 2 years. Thus, under this provision, all operators of the above described nongassy mines would be required at the conclusion of 6 years after the operative date to have replaced all existing nonpermissible equipment by permissible equipment.

In addition, nonpermissible equipment that has worn out is to be replaced 1 year after the operative date by equipment that is permissible.

The amendment I introduce today would permit the operators of nongassy mines located above the water table to amortize over a 5-year period the cost of heavy electrical permissible equipment that they are required to purchase and install, or the cost of converting existing equipment to a permissible condition within the 6-year period after the effective date of the act.

My amendment is limited to equipment required to be installed in this 6-year period and the 5-year amortization would not be available for equipment installed after the 6-year period has expired. In addition, the 5-year amortization provided by my amendment would not be available to write off the small horsepower equipment required to be permissible within a year after the effective date of the act. It is limited to heavy electrical face equipment and is extended only to operators of nongassy mines located above the water table. My amendment, therefore, is of limited scope and of limited duration.

I am informed by the Bureau of Mines that the useful life of coal mining equipment as determined by the Internal Revenue Service for accounting purposes is 10 years. I am informed that most operators employ straight line depreciation schedules in depreciating this equipment. During the debate on the Federal Coal Mine Health and Safety Act, statements were provided by the Senator from New Jersey (Mr. WILLIAMS), manager of the bill, concerning estimates of the cost of new equipment and of the conversion of old equipment. A letter from the Honorable Hollis M. Dole, Assistant Secretary of the Interior, addressed to Senator WILLIAMS, dated August 2, 1969, was included in the RECORD of September 25, 1969, at page 27117. In his letter, Assistant Secretary Dole stated that the Bureau of Mines has estimated the cost to be approximately $50 to $60 million. I would point out that these cost figures included the cost of converting or replacing small electrical equipment in both gassy and nongassy mines, which equipment would not be given the 5-year writeoff as proposed by my amendment. Therefore, I am informed by the Bureau of Mines that this $50 or $60-million total cost figure would be less when limited to the cost of heavy electrical equipment as provided for by my amendment.

Taking the cost estimates submitted by the Bureau of Mines, I requested the Treasury Department to give me an estimate of the revenue loss should my amendment be adopted.

In a letter dated December 8, 1969, I am informed by Mr. John S. Nolan, Deputy Assistant Secretary, that my amendment—and I read from his letter—"will result in a revenue loss of approximately $1 million per year for the next several years, reducing gradually to zero."

The new Federal Coal Mine Health and Safety Act will require many small

operators in nongassy mines to junk their existing equipment and purchase permissible equipment as required by this legislation at great expense for reasons of safety. It seems to me, Mr. President, that the least that the Congress can do is to provide, to this limited extent, financial assistance in meeting these costs. The tax reform bill provides a 5-year amortization to the railroad industry and to industries purchasing air and water pollution equipment. Certainly, the equities of the small coal operator are equal, if not greater, than the industries helped by the 5-year amortization provided in this bill.

Mr. President, reconversion must take place under S. 2917 which is now in conference, within a minimum of 6 years. In my judgment, based upon the letter from the Treasury Department, the overall cost of the amendment would probably be $5 million or less.

It affects approximately 45,000 miners who are working in these mines which produce about 40 percent of our bituminous coal.

It is a just amendment. Congress will enact the measure which is now in conference. Help should be given not only to the operators of the mines, but to the men employed in the mines. Keeping the mine open will continue their employment.

Mr. President, that is the basis of my argument for the measure.

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

Mr. COOPER. I yield.

Mr. BAKER. Mr. President, I thank the Senator from Kentucky for yielding and my chairman, the distinguished Senator from West Virginia, for permitting me to speak at this time for the purpose of observing that I believe the Senator from Kentucky has done a great service to a great industry by offering the amendment.

I very much hope that it will be agreed to by the Senate as part of the bill.

It is a difficult task, that of providing for mine safety and coming to grips with the issue of whether gassy and nongassy mines should be preserved.

The Senate has worked its will in that respect. For my part, and I know, from the standpoint of the senior Senator from Kentucky, we had hoped that there would be a continuing distinction between gassy and nongassy mines. However, there is not under the present state of affairs. Therefore, it becomes essential and urgent that something be done to encourage those who operate in nongassy mines, and obviously designated so, to devote permissible equipment to the preservation of those jobs which are by and large in an area of the country that has chronic unemployment and thus promote employment of men who are, by and large, uniquely suited to only one occupation, that of mining coal.

I think the Senator from Kentucky would move a great distance in this direction and the amendment would encourage many operators of nongassy mines to devote permissible equipment to conserving those jobs, thus contributing to our area of Tennessee, Kentucky, Virginia, and West Virginia.

Mr. President, it is with great pride that I join with the Senator from Kentucky in sponsoring the amendment. I hope that the Senator promptly agrees to it.

Mr. COOPER. Mr. President, I thank the Senator from Tennessee.

Mr. President, I yield now to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, the amendment offered by the knowledgeable Senator from Kentucky (Mr. COOPER) indicates once again his very real concern for the problems of coal mining and the safety of the miners. These mining problems, particularly as relate to the smaller mines now classed as nongassy, are soon to become acute and expensive. With the Coal Mine Health and Safety Act nearing finalization in this Congress, most of these mines necessarily must install much new equipment at substantial cost to meet the strict new safety requirements. The amendment which I am privileged to cosponsor will help the smaller mining companies provide the equipment requisite to the safety of their miners. The amortization provided can be very important in the financing of the equipment changeover to satisfy provisions of the new safety measure.

Mr. President, I am very grateful that over a period of time the Senator from Kentucky has demonstrated detailed knowledge and has been realistic in evaluating legislation as it affected the mines of his own State and neighboring ones. The mines concerned in the amendment, frankly, are mostly in Kentucky.

But numerous others in Tennessee, Virginia, and southern West Virginia will have some measure of tax relief available to them under Senator COOPER'S amendment, and we are grateful to him for his alertness and his diligent attention to these matters.

Would amortization provisions, I ask the Senator from Kentucky, usually apply over a period of 10 years?

Mr. COOPER. That is the information we receive from the Department of the Interior and the Department of the Treasury. The usual depreciation is over a period of 10 years.

Mr. RANDOLPH. Mr. President, the Senator's amendment would reduce that to a period of 5 years.

Mr. COOPER. The Senator is correct.

Mr. RANDOLPH. And the letter the sponsor has referred to indicates that the cost to the Federal Government would not be a substantial sum.

Mr. COOPER. It would be $1 million a year for several years. It would then decrease to zero. The reason it would decrease to zero is that it ends as soon as the mines are reequipped in the 6-year transition period.

Mr. RANDOLPH. Mr. President, I am sure the estimate is correct. The estimate is that it would cost the eligible mining companies from $50 million to $60 million for this equipment.

Mr. COOPER. The letter is addressed to the committee of the Senator from West Virginia. The Committee on Labor and Public Welfare had charge of the bill. The letter was addressed to the Chairman of the Labor Subcommittee Senator WILLIAMS by Hollis M. Dole, Assistant Secretary of the Interior.

He states:

Since, in fact, the upgrading of non-permissible equipment would be expected to be a mixture of field conversion and purchase of rebuilt or new equipment, a more realistic cost estimate would be between $50 and $60 million.

Mr. President, I ask unanimous consent that the letter of Assistant Secretary Dole of the Interior Department and the letter of Deputy Assistant of the Treasury Nolan and a summary I have prepared explaining the amendment be printed at this point in the RECORD.

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

ESTIMATES OF THE COST OF CHANGING NON-PERMISSIBLE ELECTRIC FACE EQUIPMENT TO PERMISSIBLE CONDITION, BY THE DEPARTMENT OF THE INTERIOR

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., August 2, 1969.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Senate Labor Subcommittee,
U.S. Senate, Washington, D.C.

DEAR SENATOR WILLIAMS: Enclosed are two attachments (A & B) in response to your letter of July 5, 1969, requesting further information on the cost of changing non-permissible electric face equipment in underground coal mines to permissible condition under the procedures (Schedule 2–G) of the Bureau of Mines. These procedures are primarily designed to assure that such equipment, if maintained in permissible condition, will not emit a spark or arc and cause a mine fire or explosion.

The first of these attachments is an updating and correction of estimates previously prepared and supplied to your subcommittee in relation to the cost of changing non-permissible equipment to permissible and the time needed to accomplish it.

The other attachment is the results of a survey of underground coal mines conducted, at your request, by the Bureau of Mines in each of the 9 major coal producing States. The survey was undertaken through the Bureau's district offices and compiled here. While it included some contact with the industry, repair shops, and equipment manufacturers, it is largely a paper survey based on records and data of the Bureau, including inspection reports, etc. We have discussed informally the results of the survey with your staff.

At the request of your staff, we checked, after completing the survey, on whether a bias had been introduced inadvertently due to the small number of mines sampled in the 9 States. Time did not permit a greater sampling. We have concluded that the samples for at least 3 of the States, Virginia, Kentucky, and West Virginia, are not truly typical of the small mines in those States. Thus, a bias was, in fact, inadvertently introduced.

From the survey we have, at your request, estimated the cost of making this equipment permissible either by conversion or rebuilding. The estimates are as follows:

SMALL NON-GASSY MINES

Estimated costs

Cost of "conversion"[1] of all equipment:	
Nine States only	$37,000,000
County-wide basis (by extrapolation from data)	42,500,000
Cost of upgrading or using rebuilt equipment:	
Nine States only	54,882,580
County-wide basis (by extrapolation from data)	63,000,000

Footnotes at end of table.

LARGE NON-GASSY MINES

Estimated cost

Cost of upgrading or using rebuilt equipment: [2]

Seven States only	$13,475,650
Country-wide basis	18,100,000

[1] Assumes field permissibility approval will be feasible even for equipment that had never had permissible approval.

[2] Assumes that all equipment could be upgraded and none would be converted.

You also requested that we provide an estimate, based on the survey, of the costs of making this equipment permissible, through conversion, upgrading, purchasing rebuilt or purchasing new, in the case of those gassy mines with "grandfathered" equipment is still permitted under the 1952 Act. The estimates are as follows:

Grandfathered equipment, all Gassy Mines:

Cost to upgrade, $3,591,350.

Cost to rebuild, $14,158,060.

Cost new, $36,951,170.

Because of the bias mentioned above, you also asked if we could use the survey and make some estimates taking the bias into account. Probably the most appropriate way to make such an estimate is to use an average of the capital cost per yearly ton of coal produced. For these larger and more efficient mines covered by the survey a mine producing 20,000 tons per year would require an investment of about $16,000. If the equipment were used for 20 years this would represent a cost of 4 cents per ton of coal mined. There is, however, some tonnage produced in hand loaded mines where permissible equipment would not be required. On the other hand, smaller mechanized mines, also not included in the survey, would be expected to have a higher investment per daily ton than those included in the survey. In our estimate, we have assumed that these two factors are to be in balance.

Using this method then, the cost for the small non-gassy mines for the country as a whole to convert or rebuild the equipment would be $30 million.

If all the equipment could be converted rather than using a combination of conversion and rebuilt equipment, the cost would be about $21 million.

The total cost can thus be estimated at $51.7 million, broken down as follows:

Grandfathered equipment (all upgraded), $3.6 million.

Cost of upgrading or using rebuilt equipment in large non-gassy mines, $18.1 million.

Cost for converting or using rebuilt equipment in small non-gassy mines, $30 million.

These figures are lower than those in Attachment A because we have assumed that the new concept of conversion which we have discussed with your staff using field approval for permissibility will be possible and because the size of the sample in the latest survey introduced a bias. Since, in fact, the upgrading of non-permissible equipment would be expected to be a mixture of field conversion and purchase of rebuilt or new equipment a more realistic cost estimate would be between $50 and $60 million. It is probable, however, that some portion of this sum would be expended anyway due to normal replacement needs.

Another cost is that of the Government which would be appreciably higher if all the equipment were converted, since it would involve a large increase in the man-hours required for field inspections of field converted and approved equipment.

Sincerely yours,

HOLLIS M. DOLE,
Assistant Secretary of the Interior.

THE DEPARTMENT OF THE TREASURY,
Washington, D.C., December 8, 1969.

Hon. JOHN SHERMAN COOPER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR COOPER: You have requested an estimate of the revenue cost of Amendment No. 399 to H.R. 13270, the Tax Reform Act of 1969, which you have introduced. The amendment would allow five-year amortization for certain equipment installed to comply with the Federal Coal Mine Health and Safety Act of 1969.

Treasury estimates that this amendment will result in a revenue loss of approximately $1 million per year for the next several years, reducing gradually to zero.

Sincerely yours,

JOHN S. NOLAN,
Deputy Assistant Secretary.

EXPLANATION OF COOPER, RANDOLPH, BYRD (W. VA.), COOK, BAKER AMENDMENT

Purpose is to permit amortization of the cost of certain "permissible" coal mine equipment over a five-year period. The usual period recognized by the Internal Revenue Service is ten years.

Cost of reequipping mines with "permissible" equipment, estimated by the Department of Interior, is $50 to $60 million. Cost, in loss of revenue, estimated by the Department of Treasury, is $1 million annually for the first several years, then reduced to no cost.

Reason: House and Senate conferees have agreed on a provision to be a part of the Federal Coal Mine Health and Safety Act of 1969 (S. 2917), which requires for the safety of miners that "permissible" equipment—that is, non-sparking equipment—be installed in "non-gassy" mines over a six-year period. "Non-gassy" mines number about 3,000 and employ about 45,000 men and produce about 40% of the nation's bituminous coal. These are chiefly small mines and the cost of reequipping will put many out of business and increase unemployment, unless some aid is provided.

The five-year amortization provided by the amendment is limited strictly to "non-gassy" mines located above the water table, and only to the cost of installation of heavy electrical face equipment of a permissible type or the cost of converting existing equipment to a permissible standard during the six-year transition period.

Mr. RANDOLPH. Mr. President, I do not wish to take more time except to say that this is desirable and necessary legislation. In the Coal Mine Health and Safety Act, we sought to be prudent without compromising the safety of miners. However, approval of this amendment would mean that we can be more careful in insisting that the smaller units in the industry are not put out of business with the resultant increase in unemployment.

Mr. COOPER. The Senator is correct.

Mr. RANDOLPH. And I have talked with the chairman of the Subcommittee on Labor. He is interested in the amendment and desires to support it.

I have listened to the acting chairman of the Finance Committee as he has questioned the principal author of the amendment. He indicates that he understands the problem we face in this matter.

It has been my privilege to join in cosponsoring the amendment. I do feel it is equitable. And I hope it will receive the unanimous approval of the Senate.

Mr. COOPER. Mr. President, I thank the Senator. We have conferred on the amendment and have worked out the amendment before us.

I yield now to my colleague from Kentucky.

Mr. COOK. Mr. President, although my distinguished colleague from Kentucky has said this would cost the Government $1 million a year for approximately 6 years, I think the weight of the argument is that it will cost the industry between $50 and $60 million during that same period of time.

This cost of $50 to $60 million is the direct action of Congress itself. Contrary to the Williams amendment of just a moment ago which, as the distinguished Senator from Delaware said slowly but surely pulls away this $1 million a year for approximately 5 or 6 years, the cost to the Federal Government is necessitated by the fact that the industry, by action of Congress, must expend between $50 and $60 million during that same period of time.

I say to the distinguished Senator from Georgia that the real argument is that, for the safety and protection of human life, the industry is required to pay some $60 million and Congress is asked for this opportunity to extend to the industry a rapid writeoff from 10 to 5 years at a cost to the Federal Government, for the safety of human lives, the sum of $1 million a year. I think this is the real argument, and this is the point that the distinguished Senator from Kentucky (Mr. COOPER) has so eloquently made. I hope that the committee will accept the amendment.

Mr. COOPER. I thank the Senator.

I yield to the Senator from Virginia.

Mr. SPONG. Mr. President, I commend the Senator from Kentucky for bringing this amendment to the floor. In my judgment, it is a necessary adjunct to the very fine mine safety legislation enacted earlier in this session.

I should like to associate myself with the remarks of the Senator from Kentucky and say that I am very pleased to be a cosponsor of the amendment, and I hope the committee will see fit to accept it.

Mr. TALMADGE. Mr. President, the distinguished Senator from Kentucky and the cosponsors of the amendment have made an impressive case for the amendment. It would authorize the same amortization that is already included in the bill for pollution control devices. Since this is a safety control device affecting human life, I have discussed it with the ranking minority member of the committee, and he and I are in accord that the Senate should adopt it and let us take it to conference.

Mr. COOPER. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment was agreed to.

EFFECTIVE DATE OF ACCUMULATION TRUST AMENDMENTS

Mr. MILLER. Mr. President, I send to the desk an amendment in behalf of myself and Senators TALMADGE, MATHIAS,

ERVIN, ALLOTT, FANNIN, BROOKE, TYDINGS, PERCY, JORDAN of North Carolina, SPONG, CURTIS, BAYH, and RIBICOFF, and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. MILLER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

Page 259 (relating to effective date of accumulation trust amendments) insert after line 10:

"(C) In the case of a trust which was in existence on December 31, 1969, the amendments made by this section shall not apply to distributions made to a beneficiary before January 1, 1972, if the beneficiary elects (at such time and in such manner as the Secretary or his delegate prescribes by regulations) to have existing law apply to such distributions. If the beneficiary is the beneficiary of more than one such trust, the preceding sentence shall apply to distributions from only one of such trusts, such one to be designated by the taxpayer in accordance with such regulations: *Provided*, That the preceding sentence shall apply to distributions from two trusts where one of such trusts is for the lifetime benefit of a surviving spouse."

Mr. MILLER. Mr. President, the purpose of this amendment is to avoid undue hardship by application of the provisions of the committee bill to those cases in which income splitting is not the motive for setting up a trust.

During the committee's deliberations, it was evident that considerable abuse exists under present law relating to multiple trusts, and the committee decided to not only go along with the House but to actually tighten up still further the proposed changes in the law which will either put a stop to the use of mutiple trusts as an income-splitting device or severely hamper their use and protect the revenue.

However, there are many situations in which a trust is established without regard to income splitting. For example, a trust may be established to take care of a mentally retarded person, or to insure funds for a child's education, or to provide for a spendthrift situation of a child, or for any one of a number of socially desirable purposes. Additionally, the Congress sought to place taxpayers living in noncommunity property States on an equal footing with those living in community property States by permitting those in noncommunity property States to obtain equal estate tax treatment through the device of the marital trust. Under the law, a husband will often leave one-half of his property to his wife outright and the other half to a trust for her use and benefit for life; or he will leave one-half of his property in trust for her life, with power in her to provide by will how the remainder interest is to go, and the other one-half in trust for her life, with the remainder over to the children.

In view of these non-income-splitting types of trusts, which have a socially desirable purpose, my amendment provides that the new rules set forth in the pending bill shall not apply until after January 1, 1972, in the case of a trust established prior to December 31, 1969, with these limitations: First, a beneficiary of one or more trusts can make an irrevocable election to not have the new rules apply with respect to only one trust; and second, a beneficiary of a trust created for the lifetime benefit of a surviving spouse; namely, the widow may have an election with respect to one additional trust. As I have pointed out, this would usually be the case of a situation where both a "marital" and a "nonmarital" trust situation exists.

By postponing until January 1, 1972, the time in which the new rules would apply to these limited situations, the Treasury Department and the Congress will have adequate time to work out special rules to cover these limited situations for the future.

That special rules will be required seems certain, because, as I have said, the new rules were intended to cover income-splitting trust devices and not the typical family-type trust which is not motivated by income splitting.

I should point out that the new rules would, for the first time, include long-term capital gains for purposes of computing distributable income, and this would be done under an unlimited throwback rule. Additionally, interest would be charged on any additional tax computed under the throwback rule.

Actually, there would not be much benefit to the revenue under the unlimited throwback rule insofar as capital gains are concerned, and the table set forth below discloses this. If one makes the extreme assumption that a trust has no other income except capital gains, the trust itself would not have an effective tax rate of 25 percent until its capital gains reached $140,000.

The following table indicates that the maximum savings possible is not sufficient to provide a significant tax avoidance incentive, nor to justify a complex set of new rules to nullify the savings. The savings indicated in the table would be substantially less if the beneficiary's tax bracket were less than 50 percent or if the trust had other income in addition to the capital gain involved—which would increase its effective tax rate on such gain—

Capital gain	Tax at 25 percent	Tax to trust[1] assuming no other income	Maximum savings
$10,000	$2,500	$910	$1,590
$20,000	5,000	2,190	2,810
$30,000	7,500	3,940	3,560
$40,000	10,000	6,070	3,930
$50,000	12,500	8,530	3,970
$60,000	15,000	11,150	3,850
$70,000	17,500	13,865	3,635
$80,000	20,000	16,670	3,330
$90,000	22,500	19,590	2,910
$100,000	25,000	22,590	2,410
$110,000	27,500	25,690	1,810
$120,000	30,000	28,790	1,210
$130,000	32,500	31,990	510
$140,000	35,000	35,000	0

[1] Personal exemption and deductions disregarded.

For example, if in the case of a trust having $50,000 of capital gain indicated above there were also $10,000 of ordinary income, the trust tax on the capital gain would be $11,670, and the savings would be only $830, instead of the $3,970 indicated.

Let me cite a few examples to show the hardship that would be worked by applying the new rules—including capital gains, unlimited throwback, and the 3-percent interest charge—to a single trust situation:

EXAMPLE A

Assume that A dies with a will which leaves $200,000 in trust. All of the income is to be distributed each year to his daughter, D, during her lifetime. On her death the remainder is to be divided equally between D's children who survive her. D lives for 30 years following A's death. During those 30 years the trust has capital gains aggregating $80,000. An analysis of each of the years in which such gains were realized indicates that the aggregate tax paid by the trust on such gains was $12,000. D had the benefit of such gains insofar as they resulted in higher income distributed to her during her lifetime. On D's death her only survivors are two of her three sons, G–1 and G–2, and the corpus of the trust is divided equally between them.

Under the Senate amendments the following steps would be required:

First. The trustee would be required to analyze the trust tax returns for each year during the 30-year period in which the trust realized a capital gain and to determine the tax which was in fact paid by the trust on account of such gains. If there were capital loss carryovers involved, it might be necessary for the trustee to recompute trust taxes for several years in order to determine the net tax attributable to the capital gain realized by the trust in any one year.

Second. Each of G–1 and G–2 would be required to analyze his tax returns for each year of the 30-year period during which the trust was in existence, to determine, first, the portion of the capital gain realized by the trust in any year which was deemed to have been distributed to him on termination of the trust; and, second, to determine the amount of additional tax which he would have had to pay if such capital gains had been realized by him in the year in which they were realized by the trust. If the amount of such additional tax which would have been payable by G–1 or G–2 in any year exceeds the amount of tax which was in fact paid by the trust on such gains, then the amount of such excess would be considered to be owing by G–1 and G–2 as a "throwback" tax in the year the trust terminated.

If either the trust or the beneficiary, or both, should have capital loss caryovers, a series of computations would be required with respect to such years, and it would be extremely difficult to compute both the "throwback" tax on capital gains.

EXAMPLE B

Decedent establishes a trust under his will for his child who is suffering from cerebral palsy. The trustee has the discretionary power to distribute income and principal as needed for the child. Initially the income is adequate for the

child and during the years 1970 to 1975 most of the income but none of the principal is distributed, but the trustee does realize capital gains in each year as a result of changes in the portfolio. In 1976 a substantial amount of principal is needed for the child's medical care but in that year the stock values are down and in selling assets to raise the funds the trustee realizes losses which exceed the gain previously recognized. Nevertheless, the gains realized in 1970 to 1975 would be "thrown back" to the child's returns. A throwback tax would result—the child being in a higher bracket than the trust since most of the trust income was taxable to him. The 3-percent penalty would be applicable to that part of the distribution which represented a "throwback" of trust income—as distinguished from trust capital gains.

EXAMPLE C

The decedent's will provides that the residue of his estate is to be held in trust, with all of the income to go to his two sisters, with distribution of the corpus at the death of the survivor to a niece. The trust initially consists of a farm worth $100,000 which is sold for $150,000 in 1970. The proceeds are reinvested in Government bonds to provide the maximum income for the sisters. In 1989 one of the sisters is incapacitated and some of the income of the trust is accumulated. The trust is distributed in 1990 at the death of the surviving sister and the bonds are distributed to the niece. In the niece's return for 1990 the niece would be subjected to the throwback rule. If she had any taxable income in 1970 she would have paid a higher tax than the trust on the $50,000 capital gain—since the trust had no taxable income—and she would be required to pay a throwback capital gains tax on the 1970 sale of the farm.

EXAMPLE D

A and his wife die in 1970 leaving a son age 2. After estate taxes A's entire estate of $100,000 is placed in trust for the benefit of the son. The trustee has discretion to pay out such portion of the income as is required to support the son and the remainder is to be accumulated, with distribution of the principal to the son when he attains age 21. During all years most of the income was distributed for support of the son and during most years, including 1975, all of the income was so distributed. The sole asset of the estate is a building which is condemned in 1975, at which time it was worth $150,000. The condemnation proceeds are invested in mutual funds, which make an annual capital gain distribution allocable to trust corpus. Ordinary income is paid currently to the son for his care and the trust corpus is distributed to the son when he attains age 21 in 1989. In the son's return for 1989 the capital gain realized on the condemnation of the building in 1975 and the annual capital gain distributions received by the trustee and allocated to trust corpus are reported as a result of the throwback rule.

The capital gains throwback would apply as the trustee is authorized to—and does—accumulate income. There would be a throwback tax in each year because the greater part of the trust income was always distributed and taxable to the son, and the capital gains would thus produce a larger tax when combined with his income than when combined with the lesser trust income. The 3-percent per annum interest charge would be applicable to the extent the throwback represented trust income, as distinguished from capital gain.

From these examples, it seems clear that unnecessary hardship and administrative cost would be required if the new rules are made applicable to the typical single or marital trust situation—a result which, I am sure, none of us should wish to see happen.

My amendment has been carefully drawn to limit exemption from the new rules to nonincome splitting situations, and I hope that it will be adopted. May I say that I very much appreciate the number of my colleagues who have joined with me in sponsoring this amendment, and an even larger number who have spoken to me personally to indicate their strong support for my amendment.

This amendment has been gone over very carefully with the staff of the joint committee and of the Finance Committee, and I understand that it is acceptable to the manager of the bill.

Mr. TALMADGE. Mr. President, I have examined the amendment, and the staff has examined it in detail. I also have discussed it with the distinguished ranking minority member of the committee. It is my judgment that the Senator's amendment has considerable merit and that we should take it to conference. I urge the Senate to adopt it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment was agreed to.

CONVERSION PRIVILEGE

Mr. MILLER. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. MILLER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 234, line 20, insert the following after the word "for": "(or pursuant to the exercise of a conversion privilege contained in)".

On line 24, after the comma (,) insert: "or if gain or loss is not otherwise required to be recognized upon the exercise of such conversion privilege,".

Mr. MILLER. Mr. President, this is a clarifying amendment to accord with the intent of this provision of the bill that "exchange" includes the conversion of a convertible debenture into common stock of the issuer—in accord with the longstanding IRS view that such conversion is merely a change in form or one step in an "open transaction" wherein a debenture holder is considered as owning substantially the same bundle of rights after conversion as he owned before.

I have checked this amendment with the able staff, and they agree, as I understand it, that it is merely a clarifying amendment, and I ask that it be adopted.

Mr. TALMADGE. Mr. President, I have discussed this amendment with the distinguished ranking minority member of the committee and with the staff. We are in agreement that it is a clarifying amendment, and we think it should be adopted.

The PRESIDING OFFICER (Mr. HART in the chair). The question is on agreeing to the amendment of the Senator from Iowa.

The amendment was agreed to.

AMENDMENT NO. 398

Mr. BYRD of West Virginia. Mr. President, I call up amendment No. 398 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is at the end of the bill add the following new title:

TITLE X—AMENDMENTS TO THE SOCIAL SECURITY ACT

SHORT TITLE

SEC. 1001. This title may be cited as the "Social Security Retirement Age Amendments of 1969".

ACTUARIALLY REDUCED BENEFITS

SEC. 1002. (a)(1) Section 202(a)(2) of the Social Security Act is amended by striking out "62" wherever it appears therein and inserting in lieu thereof "60".

(2) Section 202(b)(1) of such Act is amended by striking out "62" wherever it appears therein and inserting in lieu thereof "60".

(3) Section 202(c) (1) and (2) of such Act is amended by striking out "62" wherever it appears therein and inserting in lieu thereof "60".

(4)(A) Section 202(f)(1)(B), (2), (5), and (6) is amended by striking out "62" wherever it appears therein and inserting in lieu thereof "60".

(B) Section 202(f)(1)(C) of such Act is amended by striking out "or was entitled" and inserting in lieu thereof "or was entitled, after attainment of age 62."

(5) (A) Section 202(h)(1)(A) of such Act is amended by striking out "62" and inserting in lieu theref "60".

(B) Section 202(h)(2)(A) of such Act is amended by inserting "subsection (q) and" after "Except as provided in".

(C) Section 202(h)(2)(B) of such Act is amended by inserting "subsection (q) and" after "except as provided in".

(D) Section 202(h)(2)(C) of such Act is amended by—

(i) striking out "shall be equal" and inserting in lieu thereof "shall, except as provided in subsection (q), be equal"; and

(ii) inserting "and section 202(q)" after "section 203(a)".

(b)(1) The first sentence of section 202 (q) (1) of such Act is amended (A) by striking out "husband's, widow's, or widower's" and inserting in lieu thereof "husband's, widow's, widower's, or parent's", and (B) by

striking out, in subparagraph (A) thereof, "widow's or widower's" and inserting in lieu thereof "widow's, widower's, or parent's".

(2)(A) Section 202(q)(3)(A) of such Act is amended (i) by striking out "husband's, widow's, or widower's" each place it appears therein and inserting in lieu thereof "husband's, widow's, widower's, or parent's", (ii) by striking out "age 62" and inserting in lieu thereof "age 60", and (iii) by striking out "wife's or husband's" and inserting in lieu thereof "wife's, husband's, or parent's".

(B) Section 202(q)(3)(B) of such Act is amended by striking out "or husband's" each place it appears therein and inserting in lieu thereof ", husband's, widow's, widower's, or parent's".

(C) Section 202(q)(3)(C) is amended by striking out "or widower's" each place it appears therein and inserting in lieu thereof "widower's, or parent's".

(D) Section 202(q)(3)(D) of such Act is amended by striking out "or widower's" and inserting in lieu thereof "widower's, or parent's".

(E) Section 202(q)(3)(E) of such Act is amended (i) by striking out "(or would, but for subsection (e)(1) in the case of a widow or surviving divorced wife or subsection (f)(1) in the case of a widower, be) entitled to a widow's or widower's insurance benefit to which such individual was first entitled for a month before she or he" and inserting in lieu thereof "(or would, but for subsection (e)(1), (f)(1), or (h)(1), be) entitled to a widow's, widower's, or parent's insurance benefit to which such individual was first entitled for a month before such individual", (ii) by striking out "the amount by which such widow's or widower's insurance benefit" and inserting in lieu thereof "the amount by which such widow's, widower's, or parent's insurance benefit", (iii) by striking out "over such widow's or widower's insurance benefit" and inserting in lieu thereof "over such widow's, widower's, or parent's insurance benefit", and (iv) by striking out "attained retirement age" each place it appears therein and inserting in lieu thereof "attained age 60 (in the case of a widow or widower) or attained retirement age (in the case of a parent)".

(F) Section 202(q)(3)(F) of such Act is amended (i) by striking out "(or would, but for subsection (e)(1) in the case of a widow or surviving divorced wife or subsection (f)(1) in the case of a widower, be) entitled to a widow's or widower's insurance benefit to which such individual was first entitled for a month before she or he" and inserting in lieu thereof "(or would, but for subsection (e)(1), (f)(1), or (h)(1), be) entitled to a widow's, widower's, or parent's insurance benefit for which such individual was first entitled for a month before such individual", (ii) by striking out "the amount by which such widow's or widower's insurance benefit" and inserting in lieu thereof "the amount by which such widow's, widower's, or parent's insurance benefit", (iii) by striking out "over such widow's insurance benefit" and inserting in lieu thereof "over such widow's, widower's, or parent's insurance benefit", (iv) by striking out "62" and inserting in lieu thereof "60", and (v) by striking out "attained retirement age" each place it appears therein and inserting in lieu thereof "attained age 60 (in the case of a widow or widower) of attained retirement age (in the case of a parent)".

(G) Section 202(q)(3)(G) of such Act is amended by striking out "62" and inserting in lieu thereof "60".

(3) Section 202(q)(5)(B) of such Act is amended by striking out "62" and inserting in lieu thereof "60".

(4) Section 202(q)(6) of such Act is amended (i) by striking out "husband's, widow's, or widower's" and inserting in lieu thereof "husband's widow's, widower's, or parent's", and (ii) by striking out, in clause (III), "widow's or widower's" and inserting in lieu thereof "widow's, widower's, or parent's".

(5) Section 202(q)(7) of such Act is amended—

(A) by striking out "husband's, widow's, or widower's" and inserting in lieu thereof "husband's, widow's, widower's, or parent's"; and

(B) by striking out, in subparagraph (E), "widow's or widower's" and inserting in lieu thereof "widow's, widower's, or parent's".

(6) Section 202(q)(9) of such Act is amended by striking out "widow's or widower's" and inserting in lieu thereof "widow's, widower's, or parent's".

(c)(1) The heading to section 202(r) of such Act is amended by striking out "Wife's or Husband's" and inserting in lieu thereof "Wife's, Husband's, Widow's, Widower's, or Parent's".

(2)(A) Section 202(r)(1) of such Act is amended (i) by striking out "wife's or husband's" the first place it appears therein and inserting in lieu thereof "wife's, husband's, widow's, widower's, or parent's", and (ii) by inserting immediately before the period at the end thereof the following: ", or for widow's, widower's, or parent's insurance benefits but only if such first month occured before such individual attained age 62".

(B) Section 202(r)(2) of such Act is amended by striking out "wife's or husband's" and inserting in lieu thereof "wife's, husband's, widow's, or widower's, or parent's".

(d) Section 214(a)(1) of such Act is amended by striking out subparagraph (A), by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by inserting the following new subparagraphs (A) and (B):

"(A) in the case of a woman who has died, the year in which she died or (if earlier) the year in which she attained age 62,

"(B) in the case of a woman who has not died, the year in which she attained (or would attain) age 62,".

(e)(1) Section 215(b)(3) of such Act is amended by striking out subparagraph (A), by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by inserting the following new paragraphs (A) and (B):

"(A) in the case of a woman who has died, the year in which she died, or, if it occurred earlier but after 1960, the year in which she attained age 62,

"(B) in the case of a woman who has not died, the year occurring after 1960 in which she attained (or would attain) age 62,".

(2) Section 215(f)(5) of such Act is amended (A) by inserting after "attained age 65," the following: "or in the case of a woman who became entitled to such benefits and died before the month in which she attained age 62,"; (B) by striking out "his" each place it appears therein and inserting in lieu thereof "his or her"; and (C) by striking out "he" each place after the first place it appears therein and inserting in lieu thereof "he or she".

(f)(1) Section 216(b)(3)(A) of such Act is amended by striking out "62" and inserting in lieu thereof "60".

(2) Section 216(c)(6)(A) of such Act is amended by striking out "62" and inserting in lieu thereof "60".

(3) Section 216(f)(3)(A) of such Act is amended by striking out "62" and inserting in lieu thereof "60".

(4) Section 216(g)(6)(A) of such Act is amended by striking out "62" and inserting in lieu thereof "60"

(g)(1) Section 202(q)(5)(A) of such Act is amended by striking out "No wife's insurance benefit" and inserting in lieu thereof "No wife's insurance benefit to which a wife is entitled".

(2) Section 202(q)(5)(C) of such Act is amended by striking out "woman" and inserting in lieu thereof "wife".

(3) Section 202(q)(6)(A)(i)(II) of such Act is amended (A) by striking out "wife's insurance benefit" and inserting in lieu thereof "wife's insurance benefit to which a wife is entitled", and (B) by striking out "or" at the end and inserting in lieu thereof the following: "or in the case of a wife's insurance benefit to which a divorced wife is entitled, with the first day of the first month for which such individual is entitled to such benefit, or".

(4) Section 202(q)(7)(B) of such Act is amended by striking out "wife's insurance benefits" and inserting in lieu thereof "wife's insurance benefits to which a wife is entitled".

(h) Section 224(a) of such Act is amended by striking out "62" and inserting in lieu thereof "60".

SEC. 1003. The amendments made by this title shall apply with respect to monthly benefits under title II of the Socal Security Act for months after December 1969, but only on the basis of applications for such benefits filed after September 1969.

SEC. 1004. Section 8332(j) of title 5 of the United States Code is amended by striking "individual, widow," in the first sentence and substituting in lieu thereof "individual is at least 62 years of age, or if his widow".

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the names of the Senator from West Virginia (Mr. RANDOLPH), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Wisconsin (Mr. NELSON) may be added as cosponsors of the amendment.

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

Mr. BYRD of West Virginia. Mr. President, this amendment, which I offered in behalf of the majority leader and myself, would lower from 62 to 60 the age at which actuarially reduced social security benefits would be made available to eligible individuals who voluntarily retire.

An estimated 3½ million persons, not otherwise eligible for benefits under social security, would become immediately eligible. Of these, an estimated 35,000 West Virginians would be eligible.

I am further advised by the Social Security Administration that, of the 3½ million who would become eligible, about 800,000 persons would actually apply for these benefits, 10,000 of whom would be West Virginians.

The short-range cost effect of adopting this amendment would be a little over $500 million in additional benefit payments. However, this initial impact would be offset subsequently, thereby resulting in no additional costs in the long run. The reason for this is that individuals who would elect voluntarily to retire at age 60 would take reduced benefits and would, therefore, receive the same net amount by the time of death that they would have been paid had they started receiving larger payments under the current system at age 62, 63, 64, or 65.

In view of the fact that this amendment would not result in any overall drain on the social security trust fund, no additional tax revenues would be necessary. Hence, it would not constitute any cost burden to either the employer or employee. It merely offers persons who have paid into social security a choice of retiring at age 60 at a reduced benefit or waiting until they are 62 to 65 to retire at a higher benefit. No individual would be forced to retire at age 60.

I think it is important to remember that there are millions of people in this country who, because of failing health or

loss of employment, are forced into retirement earlier than would otherwise be the case. As Senators know, it is becoming increasingly difficult to find employment after age 50, and sometimes even earlier. In any event, persons who cannot find employment because of age, or who are unable to get jobs because of bad health, should at least have the opportunity to voluntarily retire at an earlier age if they choose to take a reduced benefit in so doing. If individuals are denied this choice, some of them may be forced to go on welfare or they may become an additional burden upon their children or other relatives who have family responsibilities of their own.

Moreover, there are some persons who, although presently employed, would voluntarily elect to take reduced benefits at 60, thus vacating their jobs. Those jobs could then be filled by younger persons who are entering the labor market.

Mr. President, there is no sociological or other reason for drawing the retirement line at age 65. With the need for additional jobs increasing from year to year, and with the problems of cybernation and automation confronting us ever more daily, it seems to me that there is every justifiable reason for lowering the age of eligibility for retirement under social security. Those who feel it imperative to apply for their benefits early could do so. As long as there would be no additional longrun cost to the trust fund, why should we hesitate to offer Americans this choice?

This amendment will serve to alleviate hardship for persons who otherwise might be forced to retire and forced to wait a couple of additional years before being eligible for social security.

An indication as to what the exercise of the choice would mean, under existing law, those persons who elect under present law to retire at age 62 must accept a 20-percent reduction in their old age insurance benefits—in other words, five-ninths of 1 percent for every month in the period between the attained age and age 65. Under the amendment which I have offered on behalf of the majority leader and myself, the voluntary retiree at age 60 would accept a 33⅓ percent reduction in his benefits, or five-ninths of 1 percent for each month in the period between age 60 and the date the individual would attain 65.

Mr. President, I have offered this amendment a number of times during the 12 years I have been in the Senate, and the Senate has adopted the amendment upon each occasion. The House has always rejected the amendment in conference. I hope that the Senate will accept the amendment again. We should not tire in persisting. The amendment is a good amendment, and sooner or later it is going to become law. I hope that it will be this year.

I favor the payment of full benefits at age 62, but such action would constitute an additional drain on the trust fund, and I intend to press for such action when the social security bill is considered by the Senate early next year. For the present, I think we should act to lower the retirement age to 60 for all Americans who voluntarily elect to accept actuarially reduced benefits at that age.

I urge the adoption of the amendment.

Mr. WILLIAMS of Delaware. Mr. President, last night in colloquy with the Senator from Massachusetts (Mr. KENNEDY) I cited an example of a credit of $63 million for one company in Alaska under the investment tax credit. I have been advised by the staff, in looking over the Stevens amendment, that all of this company's expenditures would not be subject to the investment credit tax. While they would have an investment credit for the entire State of Alaska, it would not be in the amount I stated. The RECORD should be corrected in that respect. The cost of the Stevens amendment would be $70 million for the whole country instead of the earlier estimate as given of $300 million.

Mr. President, I ask unanimous consent that the RECORD be corrected accordingly.

The PRESIDING OFFICER. Without objection, the correction will be made.

Mr. TALMADGE. Mr. President, the distinguished Senator from West Virginia has offered an appealing amendment. It is easy to be sympathetic to the intent of the amendment. The Senate has passed the amendment twice, in 1965 and in 1967, as the Senator stated. As the Senator pointed out, the amendment is actuarially sound.

However, the Senate should be aware of the reasons the House conferees refused to accept the amendment in the past. The first reason is its budgetary impact. Although it is actuarially sound in the long run, the immediate effect of the amendment would be to increase social security payments by $600 million annually, and the Senate has already accepted quite a number of amendments that vastly increase the outflow of social security funds above the amounts under present law. The Senate has already approved amendments which will increase social security payments by about $6.5 billion a year. At a time when inflation is running rampant, we should be extremely careful about fueling further inflation.

In addition to its budgetary impact, the amendment would give people at age 60 permanently lower benefits, one-third less than they would receive at age 65. For example, a person who would be entitled to the $100 minimum voted by the Senate yesterday would only receive $67 at age 60. The reason is simple: The actuaries estimate that at age 65, a person will receive social security benefits about 15 years on the average. If he begins drawing the same total amount at age 60, 15 years' worth of payments must be spread out over 20 years, and each months' payment must be one-third less. While it can certainly be said that two-thirds of a benefit is better than nothing, the House conferees have taken the position that the Congress should not provide benefits that are permanently reduced by one-third.

One final word in conclusion. Under existing law, anyone under social security who is totally or permanently disabled can draw benefits regardless of age, so that the amendment would address itself only to able-bodied individuals at the age of 60.

Mr. WILLIAMS of Delaware. Mr. President, I join the distinguished acting chairman of the committee in expressing the hope that the Senate will not accept the Byrd amendment, as appealing as it may be. True, as the Senator points out, from an actuarial basis it is sound, but the impact on the Federal budget would be about $600 million additional per year. As the chairman pointed out regarding the bill as reported by the committee, its net result would have been to provide additional revenue of $6½ billion. The Senate has whittled that away by approving $12½ billion dollars in extra revenue loss, so that as the bill now stands we shall be losing about $6 billion in revenue instead of gaining $6 billion, even without the pending amendment, which would add another $600 million loss.

I am afraid that we cannot accept such an amendment and be fiscally solvent or responsible.

Another disadvantage to it, as people retire and as the years progress they will realize that they cannot live on that amount of two-thirds, and Congress will, as it did the other day in a previous amendment of my good friend from West Virginia, raise that minimum because it will be so low that they cannot live on it. I am not sure that we are rendering a service to these people when we hold out an incentive such as this, where they may be encouraged to retire on benefits which will not be enough over a period of time. I would, therefore, hope that the amendment would be rejected.

Mr. President, I believe we would want a record vote on this amendment, and when the Senator from Virginia has completed his remarks I shall ask for a call of the quorum in order that we may get the yeas and nays ordered on his amendment.

Mr. BYRD of West Virginia. Mr. President, I concede that what the able Senator from Delaware has said may be true, and that some persons who, at such time as the amendment takes effect, would elect to accept the actuarially reduced benefits at age of 60 might, may in later years, feel that they had perhaps erred. On the other hand, there are those who really have no choice, or who are unable to get work because of age, or who are unable to get work because of their physical condition, or who otherwise may be forced to go on welfare or to become the wards of their children. This amendment would at least give them the opportunity to make that choice.

In some cases, necessity would dictate that the individual elect to retire early. The Byrd-Mansfield amendment merely provides a choice. It is purely voluntary. If the individual elects to retire early, and if the $100 minimum is accordingly reduced, that would still be his choice.

I recognize, also, the validity of the statements made by the Senator from Georgia (Mr. TALMADGE) and the Senator from Delaware (Mr. WILLIAMS) with respect to the impact that this amendment might have upon inflation. I listened very carefully to what President Nixon said last night. In view of what the President said, and in view of the arguments which have been made here with respect to the inflationary effect which this amend-

ment might have, I wish to modify my amendment, to provide that it go into effect only when the President issues a proclamation that he has determined it to be desirable to expand consumer purchasing power by making additional persons eligible to receive social security benefits.

Mr. WILLIAMS of Delaware. Mr. President, would the Senator be willing to modify his amendment to make it go into effect when the President determined that we have a balanced budget?

Mr. BYRD of West Virginia. I would not want to modify my amendment beyond what I have already indicated. The modification I make would give the President the opportunity to trigger the effect of the amendment, and at such time as he feels that it would not have an undue inflationary impact upon the economy and might be desirable to expand consumer purchasing power, he may do so. My modifying language would leave it up to the President to trigger the amendment.

Mr. President, I offer the modification and send it to the desk and ask that it be read.

The PRESIDING OFFICER. The modification will be read.

The assistant legislative clerk read as follows:

On page 9 of the amendment strike out lines 17 to 21 and insert in lieu thereof:

"SEC. 1003. The amendments made by section 1002 of this title shall apply with respect to monthly benefits under title II of the Social Security Act for months after the month in which the President issues a proclamation that he has determined that it is desirable to expand consumer purchasing power by making additional persons eligible to receive social security benefits."

Mr. BYRD of West Virginia. Mr. President, I am ready for a vote, and I suggest the absence of a quorum in order that we might get the yeas and nays ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BYRD of West Virginia. Mr. President, I ask for the yeas and nays on this amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 398) of the Senator from West Virginia (Mr. BYRD) and the Senator from Montana (Mr. MANSFIELD), 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. YOUNG of Ohio (after having voted in the affirmative). Mr. President, on this vote, I have a pair with the Senator from Missouri (Mr. SYMINGTON). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. GRIFFIN (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from Wyoming (Mr. MCGEE). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Wyoming (Mr. MCGEE), the Senator from Montana (Mr. METCALF), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. METCALF) would 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 Maryland (Mr. MATHIAS) is detained on official business.

I have announced my pair with the Senator from Wyoming (Mr. MCGEE).

The result was announced—yeas 54, nays 37, as follows:

[No. 196 Leg.]

YEAS—54

Aiken	Harris	Moss
Bayh	Hart	Muskie
Bible	Hartke	Nelson
Burdick	Hatfield	Pastore
Byrd, W. Va.	Hollings	Pearson
Cannon	Hughes	Pell
Church	Inouye	Proxmire
Cook	Jackson	Randolph
Cooper	Jordan, N.C.	Ribicoff
Cotton	Kennedy	Russell
Cranston	Long	Schweiker
Dodd	Magnuson	Sparkman
Eagleton	Mansfield	Spong
Eastland	McCarthy	Stennis
Fulbright	McGovern	Tydings
Goodell	McIntyre	Williams, N.J.
Gore	Mondale	Yarborough
Gravel	Montoya	Young, N. Dak.

NAYS—37

Allen	Ervin	Percy
Allott	Fannin	Prouty
Baker	Fong	Saxbe
Bellmon	Gurney	Scott
Bennett	Hansen	Smith, Maine
Boggs	Holland	Smith, Ill.
Brooke	Hruska	Stevens
Byrd, Va.	Javits	Talmadge
Case	Jordan, Idaho	Thurmond
Curtis	McClellan	Tower
Dole	Miller	Williams, Del.
Dominick	Murphy	
Ellender	Packwood	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Griffin, against.
Young of Ohio, against.

NOT VOTING—7

Anderson	McGee	Symington
Goldwater	Metcalf	
Mathias	Mundt	

So the amendment (No. 398), as modified, was agreed to.

Mr. GRIFFIN. I move to reconsider the vote by which the amendment was adopted.

Mr. BYRD of West Virginia. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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. 12964) making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending June 30, 1970, and for other purposes; and that the House receded from its disagreement to the amendment of the Senate numbered 21 to the bill and concurred therein, with an amendment, in which it requested the concurrence of the Senate.

TAX REFORM ACT OF 1969

The Senate continued with the consideration of the bill (H.R. 13270), the Tax Reform Act of 1969.

Mr. KENNEDY obtained the floor.

Mr. KENNEDY. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Vermont (Mr. AIKEN) without losing my right to the floor.

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

Mr. AIKEN. At this point, Mr. President, I would like to ask the chairman of the Committee on Finance a question for the purpose of clarifying one section of the bill.

I notice that the bill—page 297, section 421—taxes dividends in stock in all cases where there are two classes of stock outstanding and there are different distributions with regard to these two classes such as stock on one class and cash on the other class or preferred stock on one class and common stock on the other class.

However, I note that the bill also provides that under certain conditions a recapitalization may be treated as a distribution of stock or property. It is my understanding that there is no intention to alter the status of a recapitalization in which, for example, the older stockholders exchange some or all of their common stock for preferred stock and retire from the business while the younger stockholders exchange some or all of their preferred stock for additional common stock and continue to be active in the business. This has been a classic type of recapitalization which has always been considered tax free in the past. Am I correct in that there is no intention to change the status of a recapitalization of this type with a bona fide business purpose?

Mr. LONG. The Senator is correct. There is no intention to impose a tax on a bona fide recapitalization of this type, except to the extent stock is given in payment for dividend arrearages on the preferred stock.

Mr. AIKEN. I thank the chairman of the committee.

I also thank the distinguished Senator from Massachusetts for yielding to me for the purpose of clarifying this point.

Mr. KENNEDY. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Wisconsin (Mr. NELSON) for a brief colloquy with the chairman of the Committee on Finance, without losing my right to the floor.

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

Mr. NELSON. Mr. President, I should like to ask a question of the manager of the bill for the purpose of clarification.

Section 901 of the bill as reported by the Committee on Finance would impose special limitations on contributions to pension plans of certain corporations, defined as professional service organizations.

I am anxious to make sure that this section of the bill is not intended to apply to a corporation like the Marshfield Clinic, in Marshfield, Wis. This corporation has operated a medical clinic in Marshfield, Wis., since it was organized in 1916. It employs 84 physicians as full-time employees. The Marshfield Clinic was not organized under one of the special State laws recently enacted for professional service corporations. Instead, it was incorporated in 1916 under the general business corporation law of the State of Wisconsin.

The Marshfield Clinic has the following characteristics of an ordinary business corporation: It is governed by a board of directors; it has an executive committee of directors; it issues certificates representing shares of capital stock; it is empowered to amend and has amended its articles of incorporation; it has purchased, constructed, leased, and mortgaged its assets; liability of its shareholders for its debts is limited; it has initiated suits as a corporation in the Wisconsin courts; it has continuity of life; it is liable for Wisconsin income tax as a general business corporation; it has always been subject to Federal income tax as a corporation; and it files required annual reports with the Wisconsin Secretary of State as a general business corporation.

Clearly the Marshfield Clinic was not set up to take advantage of pension plan benefits under the Federal tax law, since it was in existence for more than 25 years before the present tax treatment of employee pension plans was first enacted in 1942.

While the Marshfield Clinic is subject to no such requirement under the Wisconsin general business corporation law, its articles of incorporation provide that its shares of stock may be issued only to physicians licensed in Wisconsin and may be voted only by them.

I would appreciate it if the Senator could assure me that it was not the intention of the committee that section 901 apply to a corporation under these circumstances.

Mr. LONG. It would be my understanding that the new provision relating to professional corporations would not apply to the type of case the Senator refers to.

My reason for saying this is that although this corporation by its charter is limited to having only doctors as shareholders, this is not required by the State law under which it is organized. Nor is it my understanding that there is any indication that when this clinic was organized in 1916, this limitation in the charter was specifically required by the then-existing rules of professional ethics.

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

Mr. LONG. I yield.

Mr. RIBICOFF. Mr. President, I think the chairman is absolutely correct. What we were seeking to do in the Committee on Finance was to close the loophole of those corporations which were seeking to circumvent the guidelines laid out in H.R. 10 of the so-called Keogh plan. Clinics such as the Marshfield Clinic, the Mayo Clinic, and the Lahey Clinic were established many years ago, long before H.R. 10 and the Keogh plan in 1962. They were established to give these particular services.

When a person goes to the Marshfield Clinic or the Mayo Clinic or the others, he knows he is going to a clinic. But when Dr. Jones forms a corporation, the patient thinks he is going to Dr. Jones. He does not know he is going to a corporation at all.

It is my understanding from the discussions in the Finance Committee that we specifically were determined that clinics such as described by the Senator from Wisconsin would not be covered by the changes adopted by the Finance Committee.

Mr. LONG. I believe that is true, for the reasons I indicated in my statement.

Mr. RIBICOFF. The Senator is correct.

AMENDMENT NO. 409

Mr. KENNEDY. Mr. President, I call up amendment No. 409. The amendment, which is cosponsored by the distinguished Senator from Kansas (Mr. PEARSON), proposes a tax credit for political contributions.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is at the proper place insert the following new section:

SEC. ——. INCOME TAX CREDIT FOR POLITICAL CONTRIBUTIONS.

(a) ALLOWANCE OF CREDIT.—Subpart A of part IV of subchapter A (relating to credits allowable) is amended by renumbering section 41 as 42, and by inserting after section 40 (as added by section — of this Act) the following new section:

"SEC. 41. POLITICAL CONTRIBUTIONS.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to one-half of so much of the political contributions as does not exceed $50, payment of which is made by the taxpayer within the taxable year.

"(b) LIMITATIONS.—

"(1) MARRIED INDIVIDUALS.—In the case of a joint return of a husband and wife under section 6013, the credit allowed by subsection (a) shall not exceed $25. In the case of a separate return of a married individual, the credit allowed by subsection (a) shall not exceed $12.50.

"(2) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under section 33 (relating to foreign tax credit), section 35 (relating to partially tax-exempt interest), section 37 (relating to retirement income), and section 38 (relating to investment in certain depreciable property).

"(3) VERIFICATION.—The credit allowed by subsection (a) shall be allowed, with respect to any political contribution, only if such political contribution is verified in such manner as the Secretary or his delegate shall prescribe by regulations.

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

"(1) POLITICAL CONTRIBUTION.—The term 'political contribution' means a contribution or gift of money to—

"(A) an individual who is a candidate for nomination or election to any Federal, State, or local elective public office in any primary, general, or special election, or in any National, State, or local convention or caucus of a political party, for use by such individual to further his candidacy for nomination or election to such office;

"(B) any committee, association, or organization (whether or not incorporated) organized and operated exclusively for the purpose of influencing, or attempting to influence, the nomination or election of one or more individuals who are candidates for nomination or election to any Federal, State, or local elective public office, for use by such committee, association, or organization to further the candidacy of such individual or individuals for nomination or election to such office;

"(C) the national committee of a national political party;

"(D) the State committee of a national political party as designated by the national committee of such party; or

"(E) a local committee of a national political party as designated by the State committee of such party designated under subparagraph (D).

"(2) CANDIDATE.—The term 'candidate' means, with respect to any Federal, State, or local elective public office, an individual who—

"(A) has publicly announced that he is a candidate for nomination or election to such office; and

"(B) meets the qualifications prescribed by law to hold such office.

"(3) NATIONAL POLITICAL PARTY.—The term 'national political party' means—

"(A) in the case of contributions made during a taxable year of the taxpayer in which the electors of President and Vice President are chosen, a political party presenting candidates or electors for such offices on the official election ballot of ten or more States, or

"(B) in the case of contributions made during any other taxable year of the taxpayer, a political party which met the qualifications described in subparagraph (A) in the last preceding election of a President and Vice President.

"(4) STATE AND LOCAL.—The term 'State' means the various States and the District of Columbia; and the term 'local' means a political subdivision or part thereof, or two or more political subdivisions or parts thereof, of a State.

"(d) CROSS REFERENCES.—

"For disallowance of credits to estates and trusts, see section 642(a)(3)."

(b) CLERICAL AND TECHNICAL AMENDMENTS.—

(1) The table of sections for such subpart A is amended by striking out the last item and inserting in lieu thereof

"Sec. 41. Political contributions.

"Sec. 42. Overpayments of tax."

(2) Section 642(a) (relating to credits against tax for estates and trusts) is amended by adding at the end thereof the following new paragraph:

(3) POLITICAL CONTRIBUTIONS.—An estate or trust shall not be allowed the credit

against tax for political contributions provided by section 41."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1969, but only with respect to political contributions payment of which is made after such date.

Mr. KENNEDY. Mr. President, I should like to indicate to the chairman of the Committee on Finance that Senator PEARSON and I are prepared to agree to a time limitation, if the chairman so desires, for the convenience of the Members of the Senate.

Mr. LONG. Mr. President, I ask unanimous consent that debate on the pending amendment be limited to one-half hour, to be controlled by the sponsor of the amendment and by the manager of the bill.

Mr. KENNEDY. One hour.

Mr. LONG. One hour, to be equally divided.

The PRESIDING OFFICER. The Senator from Louisiana said a half hour.

Mr. KENNEDY. I should like to modify the unanimous-consent request to make it 1 hour, equally divided.

Mr. LONG. I thought I said 1 hour, equally divided.

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

Mr. PEARSON. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 5 minutes.

Mr. KENNEDY. Mr. President, amendment No. 409 proposes a tax credit of up to one-half of a taxpayer's political contributions. The maximum credit would be $25 for married couples filing joint returns, $25 for single persons, and $12.50 for married persons filing separately. If an individual gives in excess of $50, he would be entitled to a tax credit of only $25; if the amount of the contribution is less than $50, the amount of the tax credit would be one-half of the contribution. For example, if the contribution was $20, the tax credit would be $10.

Mr. President, as we are all well aware, the costs of campaigning for public office are escalating almost out of control. The current issue of Congressional Quarterly demonstrates the skyrocketing costs of running for President and Congress. Reports to the Clerk of the House and the Secretary of the Senate alone show that $70 million was reported as spent in 1968 in the campaigns for Federal office. Even this estimate, however, is far too low. The Citizens Research Foundation in Princeton estimates that $100 million was spent to elect the President in 1968. The cost of political activities at all levels in 1968—Federal, State, and local—was $300 million, up from $200 million in 1964.

According to other figures, the total cost per vote for the general election campaigns in 1962 was only 19 cents. In 1968, the cost was 67 cents per vote. The increase was more than 35 percent over the past two decades, and the rise has been especially steep in the last three presidential elections.

The largest single expense in most political campaigns is the expense of broadcast time. It is primarily because of what Senator PEARSON eloquently calls the "revolutionary role of television in American politics" that the overall increase in campaign costs has been so steep. According to data of the Federal Communications Commission, the total broadcasting charges for the 1964 primary and general election campaigns were $35 million. In 1968, the charges were $59 million, up 70 percent over 1964.

The high cost of campaigning for public office has produced concern that all but the wealthy are prohibited from running for public office. President Eisenhower clearly recognized the serious nature of this problem. As he stated in an article published in January 1968:

> We have put a dollar sign on public service, and today many capable men who would like to run for office simply can't afford to do so. Many believe that politics in our country is already a game exclusively for the affluent. This is not strictly true; yet, the fact that we may be approaching that state of affairs is a sad reflection on our elective system.

Our citizens are deeply concerned over this question. They believe that inordinate attention is devoted to financing political campaigns, and that too little attention is devoted to the presentation of the issues. The belief is rampant across the country that candidates are forced to rely on a few large contributors to finance their campaigns, resulting in the creation of ambiguous relationships in which the successful candidate is obligated, or at least appears to be obligated, to his large contributors.

I believe that the time is ripe to enact legislation to meet this problem, and that the most appropriate step we can take at the present time is to enact a tax credit for political contributions. The hearings last October before Senator PASTORE's Subcommittee on Communications on the Campaign Broadcast Reform Act, sponsored by Senator PEARSON and Senator HART, and the recent report of the Twentieth Century Fund's Commission on Campaign Costs in the Electronic Era have generated intense new interest in proposals for overall reform in the area of campaign financing, including proposals for a tax credit.

Although, to my knowledge, the substance of amendment No. 409 was not specifically considered by the Committee on Finance during its public hearings or its executive sessions, the proposal has had a distinguished history in the present decade.

In 1962, President Kennedy's Commission on Campaign Costs issued its report entitled "Financing Presidential Campaigns." One of the major recommendations in the Commission report was the enactment of a tax credit for political contributions. The report states:

> The recommended credit is intended to encourage large numbers of small gifts. The bulk of presidential campagn funds available to both parties is now supplied by a relatively small group of contributors, giving sums ranging from a few hundred to several thousands of dollars. . . . We hope that this . . . incentive to small gifts will stimulate the massive giving needed by the parties. If it does not, other forms of governmental subsidy may be inevitable.

The idea of the tax credit was also pursued extensively in the 89th and 90th Congresses. In October 1966, under the leadership of the distinguished Senator from Louisiana, the chairman of the Committee on Finance, Congress enacted the Presidential Election Campaign Fund Act of 1966, Public Law 89–809. Under that act, individual taxpayers were authorized to designate $1 of their income tax to be placed in a special fund to be used for financing presidential election campaigns. Under the act, only political parties whose candidates received at least 5,000,000 votes in the preceding election were eligible for payments from the fund. Because the tax check-off provision was based on the principle of direct public financing of political campaigns, the act was highly controversial. One of its principal virtues, however, was that it served the extremely useful purpose of stimulating a far-reaching national debate on a variety of possible methods for reforming the financing of political campaigns.

In his message to Congress on the "Political Process in America" in May 1967, President Lyndon Johnson emphasized his support for the principle of direct public financing of presidential election campaigns and suggested a series of basic amendments to the original 1966 act. In addition, President Johnson recommended that Congress undertake an extensive review of other methods of financing election campaigns, by methods such as direct appropriations, tax credits or deductions, treasury vouchers, and various matching grant plans. In June 1967, after extensive controversy, Congress enacted legislation prohibiting implementation of the 1966 act until statutory guidelines under the act were enacted.

Then, in November 1967, after comprehensive hearings and executive sessions by the Senate Finance Committee on numerous proposals, the committee favorably reported H.R. 4890, the Honest Elections Act of 1967. As reported by the committee, the bill contained three principal provisions.

First, it provided an income tax credit, up to $25, for one-half of the political contributions made by a taxpayer. Most important for present purposes, all but one of the 17 members of the committee supported this provision.

Second, it provided a complete revision of the Presidential Election Campaign Fund Act of 1966, authorizing direct public financing for both presidential and senatorial elections campaigns.

Third, it contained the Johnson administration's Election Reform Act of 1967, which had already passed the Senate 2 months earlier by the unanimous vote of 87–0, and which included a series of highly desirable measures designed to improve the Federal election laws and to require full reporting and disclosure of campaign contributions.

Unfortunately, no further action was taken on these proposals by the 90th

Congress. It is for us to continue the effort.

Amendment No. 409, as proposed by Senator PEARSON and me, is identical to the tax credit provision unanimously adopted by the Committee on Finance in 1967. In essence, its provisions are as follows:

First, as I have already stated, it authorizes a tax credit for one-half of an individual's political contributions, up to a maximum credit of $25;

Second, contributions qualifying for the tax credit may be made to any candidate for public office—Federal, State, or local. The amendment thus encourages contributions not only to presidential candidates, not only to candidates for the Senate and the House of Representatives, but also to any candidate for State or local office as well;

Third, contributions qualifying for the tax credit may be made not only in connection with general elections, but also in connection with special elections or primary elections; and,

Fourth, contributions may be made not only to candidates themselves, but also to political committees organized to support a particular candidate or candidates, or to national political parties.

According to the revenue estimates made by the Treasury Department the revenue loss generated by the amendment would be in the range of $60 million for presidential election years, $30 million for non-presidential Federal election years, and $15 million for non-Federal election years. To the extent the tax credit stimulates additional contributions over and above their present level, however, the revenue loss would be increased.

Mr. President, I believe that the tax credit approach to financing political campaigns—an approach that was strongly favored by President Kennedy, by Senator Robert Kennedy and by many others—has several advantages over all other methods that have been proposed for financing such campaigns.

First, the tax credit approach will provide a significant incentive for participation in the political process by a large proportion of the electorate. One of the most important goals in recent proposals to reform the political process has been to stimulate greater public participation in election campaigns. I believe that the modest tax credit I have proposed will significantly encourage political parties and political committees to broaden their base of support by soliciting contributions from small donors. In the election year 1964, for example, there were 12 million individual campaign contributors, the overwhelming majority of whom were $1 or $2 contributors. I believe that the tax credit I have proposed will encourage more individuals to contribute, and will encourage existing contributors to raise the level of their contributions.

Second, by encouraging contributions by small donors, the tax credit will help to break down the excessive reliance by candidates on large contributors. As a result, the credit will help to restore public faith in the integrity of the election process. It will help to eliminate the ambiguous relationships created for the successful candidate, in which he is obligated, or appears to be obligated, to his large contributors.

Third, the tax credit leaves the decision on the allocation of public funds through the tax subsidy to the choice of the individual taxpayer himself. This point is the central distinction between the tax credit approach and the various proposals for the direct financing of political campaigns. Under the tax credit approach, unlike these other proposals, the Federal Government plays no part in determining which candidates or committees are to receive public funds or the amount of such funds that are to be made available to particular candidates. It is the citizen, and the citizen alone, who makes this determination.

Fourth, the tax credit offers assistance to candidates not only at the general election stage, but at the primary stage as well.

Fifth, the tax credit offers assistance to candidates not only at the Presidential level, but at the congressional, State, and local level as well. This point is especially important. Men earn consideration for the Presidency by their performance in other public office—most often Governor or Senator. The expense of nomination to a governorship or a Senate seat—especially in the large States from which most presidential candidates are drawn—is by itself a substantial barrier to all but men of wealth or their favored candidates. Thus, fair consideration for the Presidency itself requires public support for campaigns for lesser offices at all levels. This support can only come from tax incentives to individual contributions.

Mr. President, before proposing this amendment, I gave serious consideration to offering a tax deduction in combination with the tax credit. A tax deduction approach would have many of the advantages of a tax credit, especially with respect to the encouragement of individual choice and participation in the political process. However, a tax deduction would cause substantial inequities and disparities in the benefits afforded to contributors. Those in the highest tax brackets, at whom the incentive should be least directed, would receive the greatest benefits, whereas taxpayers in the lowest brackets would receive the smallest benefits.

In closing, I would also like to deal briefly with two others, but less desirable, approaches to campaign financing reform: the concept of direct public financing of political campaigns, and the concept of the matching incentive plan, both of which have frequently been offered as alternatives to the tax credit.

1. DIRECT PUBLIC FINANCING

The debate on campaign reform in the 89th Congress and the 90th Congress involved extensive discussion of the merits of direct public financing. Under this approach, Treasury funds would be appropriated to finance presidential and possibly other election campaigns. Unfortunately, extremely difficult constitutional, practical and political questions arise under this proposal:

Unless the access of minor parties to the public funds is restricted in some way, the proposal will tend to encourage or stabilize minor parties, or will lead to the artificial proliferation of such parties merely to receive the Federal subsidy. Yet, any formula limiting the funds available to minor parties is open to substantial constitutional objections based on the rights of free speech and free association under the first amendment, and to substantial political objections based on the need to avoid "locking in" the present two political parties, and on the desirability of avoiding direct governmental participation in the allocation of funds among political parties.

Unless private contributions are prohibited to campaigns financed by direct appropriations, there is a serious danger that the public subsidy will become merely an additional layer on top of private funds already solicited. Yet, if private contributions are prohibited, serious constitutional doubts will be raised as to the validity of the prohibition, and equally serious practical difficulties will be raised in enforcing the prohibition.

A direct subsidy to politcal parties will have a potentially disruptive impact on the existing structure of political parties. Traditionally, political parties have been loose combinations of local, State, and national organizations without strong central authority, and the flow of power has generally been from the local to the national organization. The direct subsidy, under which large amounts of public funds would be made available to a national party or its candidates, would reverse the flow. It would concentrate political power in the national party or candidate, and might easily lead to national domination of State and local politics.

The direct subsidy fails to stimulate individual participation in the political process. To the extent that public funds are used to finance campaigns, the stake of individual voters in the process is reduced, and there is less incentive for the political parties to broaden their base of popular and financial support.

None of the various proposals for a direct subsidy offer assistance to candidates in primary elections. Nor does the direct subsidy offer assistance to candidates at the State or local level, or, in most of its versions, to Federal candidates at other than the presidential level. Yet, the need for financial assistance is especially great in primary elections and at the congressional, State, and local levels, where fundraising is extremely difficult and where the potential influence of large contributors may be far more significant than at the presidential level or in the general election.

All of these issues received extensive discussion in the hearings and debates in the 90th Congress, but they have not yet been satisfactorily resolved. Therefore, before a proposal for direct public financing goes forward, substantial additional study will be necessary.

2. MATCHING INCENTIVE PLAN

Under this approach, which has many of the virtues of the tax credit approach, the Federal Government would encourage political parties to seek out small contributors by offering Federal grants matching of up to, say, $10 for each cash contribution.

This proposal was first given special prominence by the report in 1962 of the President's Commission on Campaign

Costs. In his subsequent message to Congress transmitting legislation to implement a number of the Commission's recommendations, President Kennedy urged Congress to study the plan as—

An original and imaginative approach that would encourage concentrated party effort in broadening the financial base of presidential campaigns.

In spite of the initial appeal of the matching plan, it has never commanded broad support. It is my understanding that as recently as 1966, a matching incentive plan recommended by the Treasury Department in lieu of a tax incentive was rejected by President Johnson for inclusion in the Election Reform Act of 1966.

In recent years, the considerations for and against the matching plan have been well canvassed. In spite of the plan's merit, I believe that the balance of considerations argues persuasively against its adoption as a method of campaign financing reform.

The most serious administrative objection to the plan is the complex Federal machinery that would be required to implement it, including the probable need for separate matched and matching funds on deposit in the Treasury. The most serious substantive objection to the plan is the enormous potential for fraud that it may entail:

For example, a political committee could solicit $10 from each of its members, double the contribution by submitting a claim for Federal matching funds, and then repay each member from the funds of the committee.

Or, a committee could obtain matching funds by spreading a large contribution among several fake "donors," without actually having secured any bona fide small contributions.

Although the impact of these potential frauds is speculative at present, I know of no remedy that might effectively negate them. The potential for fraud is far more serious than in the case of the tax credit approach, since the tax credit offers neither of the above major inducements to engage in fraud.

Thus, none of the controversies surrounding the direct public financing approach or the matching incentive plan is relevant to the approach taken in amendment No. 406, a tax credit for political contributions. Although as a matter of general revenue theory and practice, the tax code and the tax return are inappropriate vehicles to accomplish social goals such as reform of the political process, I believe that very real difficulties are inherent in all of the alternative approaches that have been discussed thus far to help meet the urgent problem of escalating campaign costs.

Moreover, whatever the advantages and disadvantages of the proposals for public financing of election campaigns, there is wide support in both Congress and the Nation for the tax credit approach. The proposal has been specifically endorsed by a number of public groups and private studies concerned with the high cost of campaign financing, including the 20th Century Fund study and the 1968 report of the Committee for Economic Development.

I believe that a tax credit for political contributions will go far to alleviate the deep national concern over the high cost of campaigning for public office. Equally important, the proposal will provide a substantial incentive for candidates, political committees, and political parties to broaden their base of popular support by seeking contributions from small donors, thus stimulating greater public interest and participation at all levels of the political process—Federal, State, and local.

It seems entirely appropriate, therefore, that the tax credit proposed in amendment No. 409 should be adopted as part of the pending tax reform bill, and I urge Senators of both parties to give it their support.

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

Mr. KENNEDY. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 additional minutes.

Mr. KENNEDY. Mr. President, the amendment would make it less necessary for candidates for public office to rely on major campaign contributions. I think it would reach out to meet one of the very great needs which exist within our political system today. It would provide a fair and reasonable incentive for increased financing of political campaigns, especially the campaigns of those whose financial resources are inadequate to meet heavy burdens of such campaigns.

Mr. PEARSON. Mr. President, will the Senator yield to me for 5 minutes?

Mr. KENNEDY. Mr. President, I yield 5 minutes to the Senator from Kansas.

Mr. PEARSON. Mr. President, the Senator from Massachusetts has correctly stated the amount of the tax credit and the elections to which it would apply.

The thrust of the amendment is very much the same as the so-called Campaign Financing Act which I introduced 2 years ago, which was reintroduced this year as S. 1692.

Campaign spending is now increasing at such an enormous rate that although we do not have actual figures, because of spotty reporting and because of the lack of statutory obligation to do so, it is estimated that in 1956 both parties spent $155 million; by 1968 that amount had increased some $300,000. Of course, the cost of broadcasting, and particularly television today, is an enormous expense. In the last 4 years money spent in broadcasting, for instance, has doubled from $35 million to over $60 million.

It seems to me, Mr. President, that with this enormous requirement of campaign funds today, whether one is talking about a national office, the office of Governor of a great State, or even an office at the local level, we are approaching a time when not only will we find only rich men will be candidates or men with rich friends, but it seems to me that the great obligation today to finance the effort to seek public office is really threatening the integrity of our political system.

There are several alternatives and they have been talked about for a number of years, not only in the excellent report to which the Senator from Massachusetts made reference, but also in Congress we have been discussing this matter off and on for many years.

The manager of the bill today had a proposal pending last year to provide for aid in elections. I think we are getting to the point where the alternatives will be either direct appropriations or we will have some type tax credit or deduction which will leave it in the hands of the individual to participate in the political system, leaving to the individual the freedom to choose what contribution he will make and to whom he will make it. I believe that will stimulate contributions from a great many people.

I recall that in hearings before the Committee on Commerce not long ago having to do with television and radio costs, someone estimated that 95 percent of all campaign costs are made up by 5 percent of the people.

Mr. President, the Government of this country stands on a parity with other charitable contributions we make for Red Cross and the Boy Scouts. The deductions route is another possibility.

I recall that in the legislation I introduced it would provide for a contribution of $50 with one-half being used as a tax credit with larger donations of $500 to be used as deductions. But the dual approach is not utilized here. This is a step to provide greater and freer participation of all the people in the public business.

I thank the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the concept of the tax credit was endorsed as long ago as 1962 by the President's Commission on Campaign Costs, which was headed by Alexander Heard, one of the outstanding authorities on campaign financing in the Nation. The tax credit concept was also endorsed in 1968 by the Committee for Economic Development, a bipartisan group that studied a variety of methods for better financing of political campaigns. Finally, the tax credit was endorsed by the recent report of the Twentieth Century Fund's Commission on Campaign Costs in the Electronic Era.

All three of these committees were bipartisan. Their members were outstanding individuals who have given great thought and concern to the entire problem of campaign reform. In their reports, they have proposed a variety of different proposals, but it is significant that all of them support the principle of the tax credit, whatever their other proposals.

The distinguished Senator from Kansas has introduced a number of these proposals in the form of legislation, especially the area of campaign broadcasting, and I commend him for his initiative in this area.

I would like to emphasize that the precise provisions of amendment No. 409 were approved by the overwhelming majority of the members of that committee in November 1967. Although other provisions in the bill—H.R. 4890—reported by the committee were controversial, the support for the tax credit approach was virtually unanimous.

Mr. GURNEY. Mr. President, will the Senator from Massachusetts yield for a question?

Mr. KENNEDY. I yield.

Mr. GURNEY. Would this be limited

to one contribution of $50, or could one give a $50 contribution to each of three candidates?

Mr. KENNEDY. Contributions qualifying for the credit could be divided among several candidates. However, the maximum tax credit each year would be $25 for all contributions combined.

Mr. GURNEY. But it would be limited to $50.

Mr. KENNEDY. Yes. The contributions on which the credit would be calculated would be limited to $50.

Mr. GURNEY. In other words, it would not be three $50 contributions?

Mr. KENNEDY. No.

Mr. GURNEY. It would come under only one $50 contribution?

Mr. KENNEDY. That is correct. A total of $50 in contributions.

Mr. GURNEY. I thank the Senator.

Mr. BELLMON. Mr. President, I rise in support of amendment No. 409. I am a former State chairman of a political party organization. I know how difficult it is to raise campaign funds and I know that the problem is becoming more serious each year.

I have always felt that our present laws regarding political contributions make of a political contributor a second-class citizen because those who give money to such organizations as the Red Cross, the Community Chest, youth clubs, and other organizations, enjoy a tax-exempt status which is not given to the political contributor. They do not get the same tax treatment.

I feel that as our political system endures, the cost of campaigning will go up. I see no indications that it will go down. It is high time we recognize that those who do contribute to political campaigns do so out of a sense of being a good citizen, with the desire to help preserve our system of government.

We should therefore give them the same tax treatment, or partially the same tax treatment that other citizens get. The election process in this country is the basis of our representative system. I believe it is high time we begin to encourage greater citizen participation in that process.

The pending amendment, I believe, will go a long way in that direction and I am very pleased to have the opportunity to support it.

Mr. HARRIS. Mr. President, I rise in support of the Kennedy-Pearson amendment. I commend the distinguished Senator from Kansas (Mr. PEARSON) for his long efforts in this regard, and I also commend the distinguished Senator from Massachusetts (Mr. KENNEDY) for joining him in what I think is an eminently fair and workable proposal by which we may begin to solve a tremendous problem which strikes at the heart of the future of the democratic process in this country; namely, the enormous and increasing costs of campaigning.

In the presidential campaign of 1968, the major political parties spent a combined total of 74 cents for every vote cast. That may not sound like very much when broken down in that way, but that adds up to more than $50 million spent in that presidential campaign.

Estimates by reliable organizations involved in this subject matter reveal that $300 million was spent on all campaigns in 1968, local, State, Federal, and so forth; and that this was $100 million more than was spent in 1964, and $160 million more than was spent in 1952. In other words, there was a 50-percent increase in the cost of campaigns between 1964 and 1968.

The Federal Communications Commission has reported expenditures of $58.9 million for political broadcasting in all campaigns in 1968. These are record high political campaign expenditures, 70 percent higher—for broadcasting expenditures in campaigns in 1968—than those expenditures were in 1964.

Mr. President, I think it can be seen from these staggering figures and the enormous and increasing costs involved, that the future of the democratic process in this country is very much involved in consideration of the pending amendment.

I think that most people in this country who have thought about this serious problem feel that political candidates should not be limited to those who are themselves wealthy, or to those who are financed by people with great wealth, whose interests may not necessarily coincide with the public interest.

Mr. President, not enough public attention has been brought to bear on this problem. However, I do believe that the people are becoming increasingly aware of it and are, rightly, becoming increasingly alarmed about it.

There are many plans by which we might try to meet the problem. I testified before the subcommittee headed by the distinguished Senator from Rhode Island (Mr. PASTORE) earlier this year in support of the bill pending before his subcommittee having to do with television time for candidates. But the best way to get at the problem, it seems to me, is by the tax credit method. We would be limiting the amount of money which the contributor or donor could take as a credit, and say by this amendment that he could take as a credit only one-half of his contribution up to a total contribution of $50, or a total tax credit of $25 for any individual taxpayer.

That, it seems to me, is the best way to assure that a great number of people throughout this land may be involved in the financing of campaigns and of political costs, thereby assuring that a much larger number of people will be responsible for the financing of any individual campaign, or of a political party.

In this country, we have rightly felt that it is in the public interest to grant tax incentives for charitable contributions. In this bill we have tried to plug some loopholes in that existing system.

But, basically and fundamentally, we have agreed that it is in the public interest to give a tax incentive to a person who would make a charitable contribution. Why would it not also be true, why would it not also be good public policy, to give this same tax incentive to one who wants to contribute to the workings of our entire democratic system? Our system cannot work unless good men run for office, and good men cannot run for office unless they are able to pay these enormous campaign costs. Too many men are now barred from public office because of these great costs.

Adlai Stevenson once put it rather well when he talked about the requirement that people have a right to know about the candidates and where they stand. He said that his principal purpose in appearing before a congressional committee on this general subject in 1960 was to "support a proposal, calculated, I believe, to help furnish the American people with the knowledge which is prerequisite to an intelligent exercise of their duty as electors in a free society."

That is what this amendment would do. It would help assure that every candidate and every political party would have a minimum chance to get across its case to the electorate, to get across to the people where they stand on an issue, and thereby help the people in an individual contest make a decision as to what was best for their interests and also best for their country. Also, much more important and much more fundamental, it will help make our system work.

I hope that the amendment will be agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. KENNEDY. Mr. President, I reserve the balance of my time.

Mr. GRIFFIN. Mr. President——

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, does the Senator desire to speak in opposition to the amendment?

Mr. GRIFFIN. Yes.

Mr. LONG. How much time does the Senator want?

Mr. GRIFFIN. Five minutes.

Mr. LONG. I yield 5 minutes to the Senator from Michigan.

Mr. GRIFFIN. Mr. President, I find it very difficult to oppose this amendment on its merits. Like the college tax credit amendment and like a number of other amendments which have been tacked to this tax bill, I find this a very desirable and appealing legislative proposal. It has a lot of merit.

I am aware of the fact that if it should be adopted, it will probably be dubbed as a relief bill for politicians. I would not oppose it on that ground, but in the eyes of many I am sure this particular amendment would have that appearance.

I just believe that we are considering this legislative proposal at a most inappropriate time and in connection with a bill that is already badly overloaded.

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

Mr. GRIFFIN. I yield to the distinguished Senator from Nebraska.

Mr. CURTIS. I think we should point out that contributions generally are a deduction, and not a credit. Here is the difference it makes. If this amendment passes, if an individual in the 20-percent bracket gave $50 to his church, his taxes would be reduced $10. If he gave $50 to a politician, his taxes would be reduced by $25. That priority is in reverse, according to my thinking.

Mr. PASTORE. Mr. President, will the Senator yield just a second on that very point?

Mr. GRIFFIN. I yield.

Mr. PASTORE. By the same token, if

we are going to measure it in terms of deduction rather than credit, we are going to be in the position that a person in the 50-percent bracket can give $500 or $600 and deduct it. We are not going that far. We are trying to make this every man's business. That is why we took the alternative of credit rather than deduction.

I know the argument the Senator has made, and it is the present formula. The only trouble with it is that in order to get $25 as a credit on one's tax payment, a person in the 50 percent bracket can make a contribution of perhaps $1,000, which is too much.

Mr. CURTIS. I think the deduction should be limited.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. GRIFFIN I yield.

Mr. WILLIAMS of Delaware. Referring to what the Senator from Nebraska said, we had this matter before the committee a couple of years ago. The Treasury Department at that time took a strong position against the tax credit approach on the ground that it was not feasible to operate. The Department strongly urged that if this were to be approached at all, it should be done through a deduction. At that time I think it was proposing a $100 deduction. I know the former Senator from New York, the brother of the sponsor of this measure, and I joined together in introducing a bill, which was acted on, having to do with election reform which followed the deduction approach. As the former Senator Kennedy pointed out at that time, the most important part of the legislation that was needed was election reform.

Under the existing system, these contributions can be given to candidates, either this $25 or others. The Corrupt Practices Act provides that political committees operating in two or more States must file an accurate accounting. But the District of Columbia is not a State. Therefore, a man running for public office can have a committee in his own State and have as many committees as he wishes in the District of Columbia, and no filing or accounting is provided for as to how many contributions are made and where they are coming from. That is one of the long overdue corrections needed for large deductions.

The Senator from New York at that time, Mr. Kennedy, joined with me and we introduced an amendment as a substitute for H.R. 6950. We had a Senate bill at that same time which would have carried some election reform as well as carried a provision for the money.

I would dislike to see this amendment adopted now, in light of the revenue situation.

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

Mr. WILLIAMS of Delaware. May I have 1 more minute?

Mr. GRIFFIN. Mr. President, will the Senator yield me some time?

Mr. LONG. Mr. President, I yield 5 additional minutes.

Mr. WILLIAMS of Delaware. I would like the amendment not to be accepted at this time, but if it is going to be accepted, I would certainly strongly recommend that the Senator from Massachusetts include with it an election reform proposal, so the American people would be assured that, to the extent they make these contributions, there will be an accurate accounting. In addition such a proposal would clean up many of the significant abuses by much needed reforms in the election laws. I know that reform was a part of the program of the Senator's brother. The Senate passed the bill in 1967 with a number of election reforms in it, but, unfortunately, it was not accepted in the House.

I think we would make a tragic mistake by allowing such a tax credit without having provided for an accurate accounting.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. PASTORE. As a matter of fact it is the best form of policing we have, because the amount of the contribution and a description of it must be stated. If the person whose name is given does not show it in his report, he is in trouble. It is the best policing we have.

Mr. WILLIAMS of Delaware. The Senator is correct, but contributions in general under existing law are not covered under the reporting rules. The measure proposed by the Senator from New York and me in 1967 covered all contributions. Under the present proposal, if someone gave $1,000, he would get a credit with respect to $50, and the other $950 would not be accountable for at all. What is needed is full and accurate accounting for all of a contribution and for all contributions.

Mr. GRIFFIN. Mr. President, who has the floor, and how much time does he have?

The PRESIDING OFFICER. The Senator from Michigan has the floor.

Mr. GRIFFIN. How much time do I have?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. GRIFFIN. I thank the Senator from Delaware for his very important contribution. As he points out, this proposal, which of course can be considered in connection with the tax bill, has a different object altogether. This amendment involves election reform, which is a matter that deserves hearings and careful consideration aside from the fact that its adoption would involve additional revenue loss.

The President's attitude toward this tax bill, as it has been amended by the Senate, was made very clear in his press conference last night.

The American people expect tax reform. They want a tax reform bill passed. So, if we are to get tax reform legislation enacted into law, I urge my colleagues to lay such subject matters as this aside and to get on with consideration of tax reform. Such matters as campaign reform and other reforms may be desirable, but they should not be attached to the pending bill.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PEARSON. Mr. President, may I have a half minute?

Mr. KENNEDY. I yield the Senator one-half minute.

Mr. PEARSON. I say to the Senator from Michigan that I think he is absolutely right; the proposal does need study; but it has had study. This particular concept has been gone over two or three times. It has been passed by the Senate once. The amendment does not include the basis of complete reform, but I think the bill which came out of the Rules Committee, to which the Senator from Massachusetts made reference, and passed this body, went over to the House of Representatives, and was never acted on there, has been the subject of considerable study.

I agree with the Senator from Delaware that when we really solve some of the problems connected with politics in this country, we will have a reform of the electoral system by which we will know precisely who contributed to each campaign, and how much.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. LONG. I yield the Senator one-half minute.

Mr. WILLIAMS of Delaware. The Senator from Kansas stated that this measure had passed the Senate once. It did not pass it, as I understand, as a tax credit. As a tax deduction proposal, it passed the Senate, along with other election reform provisions.

Mr. PEARSON. I thought it had passed as a tax credit. I could be mistaken on that.

Mr. WILLIAMS of Delaware. But I do think it is very important. I believe that election reform is more important than tax reform.

Mr. KENNEDY. Mr. President, I yield myself 1 minute. As I understand it, the election reform bill to which the Senator from Delaware has referred passed the Senate in 1967 by a vote of 87 to 0, but was not passed by the House of Representatives. A similar bill is now before the Elections Subcommittee of the distinguished Senator from Nevada (Mr. CANNON). It is my hope that this important legislation will be enacted by the 91st Congress.

Since the Election Reform Act—S. 1880—passed the Senate by the vote of 87 to 0 only 2 years ago, I think we can expect expeditious action by this body today on the question. Certainly, it is not the intention of the distinguished Senator from Kansas or myself, in offering this tax credit amendment, to detract in any way from the importance of a thorough and comprehensive election reform.

Mr. WILLIAMS of Delaware. Mr. President, would the Senator be willing to modify his amendment to accept the election reform proposals which his late brother and I cosponsored with the Senator from Illinois (Mr. PERCY) and the Senator from Hawaii (Mr. INOUYE), who at that time was the head of the central campaign committee? I have stricken from this proposal, I might say, that section which would be——

Mr. KENNEDY. Mr. President, on whose time is the Senator speaking?

The PRESIDING OFFICER. He is speaking on the Senator's time.

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent, having used a part of the Senator's time, that the Senator from Massachusetts be granted an additional 5 minutes.

Mr. KENNEDY. Mr. President, we have only a few minutes. There are other Senators who wish me to yield to them.

Mr. WILLIAMS of Delaware. I was asking that the Senator from Massachusetts be permitted to have 5 additional minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. WILLIAMS of Delaware. I might say that in that election reform bill, part 4 of it would have provided raising money by contributions. To conform with the Senator's amendment, that has been stricken from the bill as I have it here. But the rest of the titles that deal with reporting, I think, are very important, and I wonder whether the Senator from Massachusetts would be willing to modify his amendment to accept the reform package as a part of his proposal.

Mr. KENNEDY. If the Senator offers his amendment at the appropriate time, I would be pleased to accept it. The Senate has already voted unanimously in favor of it in 1967, and I believe that it is a major contribution to election reform and the cause of clean government. Although the provision is not directly relevant to the pending tax reform bill, I believe that it would be appropriate for the Senate to consider both provisions together.

Mr. WILLIAMS of Delaware. Paraphrasing the Senator's late brother, if Congress ever gets its hands on the money out of the Federal Treasury we will never get reform in our election laws. I think the two should be acted on together.

Mr. President, a parliamentary inquiry: As I understand, an amendment to the Kennedy amendment would not be in order until after all time on the amendment itself has expired?

The PRESIDING OFFICER. The Senator is advised that an amendment would be in order when time has expired, or by unanimous consent.

Mr. WILLIAMS of Delaware. All right. I shall propose the amendment when it is in order, after the time on the Senator's amendment has expired, because the Senator from Massachusetts apparently does not wish to join in offering it.

Mr. KENNEDY. Mr. President, exactly what is the nature of the question at this time?

The PRESIDING OFFICER. The Senator is asking when an amendment to the pending amendment would be in order, and he is advised that it would not be in order until time on the amendment has expired.

Mr. WILLIAMS of Delaware. I do not intend to offer the amendment to the amendment until after time on the Senator's amendment has expired.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I yield myself 9 minutes.

Mr. President, this is a letter I have received from the Deputy Assistant Secretary of the Treasury, explaining the Treasury's position on this proposal. I shall read the pertinent paragraph:

> This amendment would result in a revenue loss of $60 million per year. I am authorized to state that the administration opposes this amendment to the bill. While the principle is meritorious, the amount and scope of the credit and its technical implementation should be given careful consideration in hearings by the House Ways and Means Committee and the Senate Finance Committee before any such provision is enacted.

Mr. President, there are a number of things that I find wrong with the amendment. In the first place, the amendment would apply to any election. We have not yet found a way to properly finance Federal elections alone, much less trying to finance State and local elections. It seems to me if we are going to start a Federal program to finance elections, we ought to start out with Federal elections, and see how it works in the kind of elections over which we have jurisdiction, before we start trying to subsidize and finance State and local elections.

In the second place, there is no limitation on the uses for which the money could be spent. I was successful in placing on the statute books, some years ago, a proposal that said a person could contribute $1 of his tax money to be used to finance both the Republican and the Democratic campaigns, the money to be divided equally, with a formula that would make some of the money available, on a reimbursable basis, to a third party if that third party could qualify.

That proposal was frozen in the statute, and never permitted to go into law, because some Senators said they wanted guidelines to say what could or could not be done with the money; and we have never been able to implement those guidelines since that time.

In the third place, there is no assurance at all that the money would be channeled where it is needed. For example, most of the benefit of this proposal would go to people who were already contributing to and financing campaigns, and it would do little if anything to help people who are not able to make campaign contributions.

As George Meany has always expressed it to me, "If you want to do something to get people to help finance a campaign, permit everybody to put up $1."

If we did it that way, we would provide a $1 tax credit for everybody, so the little fellow down at the bottom would have just as much opportunity to contribute on a tax-exempt basis as the man at the top.

As a practical matter, if this proposal were put into effect, a man of modest means could not afford to take advantage of it anyway, even if he does get the benefit of half of it as a tax credit.

The Democratic Party platform spoke toward the idea of one man, $1. Here is what it said:

> To encourage citizen participation, we urge that limited campaign donations be made deductible as a credit from the Federal income tax.

That does not say allow half as a tax credit. It speaks toward the idea of one man, $1, one vote.

However, that is not in the amendment. This is a $25 deal. The man who can afford to put up $50 can get a larger tax benefit. This would not help the little fellow, the man in the 14-percent tax bracket or the man who cannot afford to pay anything. How about the man at the poverty level? It is quite possible to draft a provision where that man could have as much effect in an election as a man who is well to do financially and who can afford to put up a large contribution.

There is no way to indicate that the money raised by the proposal would be channeled where needed. It would be a case of a tax windfall to the people who are already contributing.

Mr. President, it would seem to me that this is a matter that does need more study. The Senator said something about the 20th. I would like to recall that for about 2 months, 2½ years ago, a number of Senators debated this subject. I am one of those Senators. The Senator from Delaware is another. And there are other Senators who stood on the floor and debated this issue of financial campaign contributions. And after we got through debating the matter and fighting it up hill and down dale, we finally arrived at a vote. And what we had done was neutralized—it was never put into effect.

The President appointed a group to study the matter and make recommendations. The group consisted of the most knowledgeable fellows he could find to advise him.

While they were trying to find source material to help educate them and find out what the problems were and what the various facets were, the debate on the floor of the Senate shed more light on the campaign finance problem than anything they could find anywhere in the Congressional Library or in the so-called studies of the 20th Century Fund or all the various groups put together.

I do think we might be able to come up with some suggestion that we might be able to agree upon so as to improve the situation. But merely to bring the matter to the floor of the Senate with the suggestion, "Here is how we ought to solve the whole campaign problem," under a 1-hour limitation is not the way to go at it. I do not think it could solve the problem half as well as we could by making a thorough study, getting everyone's views, and bringing out something recommended by a majority of the committee.

I do think it is a very difficult and complex problem. It is one that we cannot find a satisfactory answer for in 1 hour on the floor of the Senate without the benefit of the study that could be given to it by a group that was working on the matter to the exclusion of other things.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Sen-

ator from Massachusetts has 8 minutes remaining.

Mr. KENNEDY. Mr. President, I yield 3 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 3 minutes.

Mr. PASTORE. Mr. President, I would be insulting my own intelligence if I did not say at this moment that if the bill does pass the Senate, it does not have a chance of surviving in conference.

I applaud the Senator from Massachusetts for bringing up the matter. I think this is a problem that has to be decided, if not today, in the near future.

Only the other day I was reading in one of the weekly periodicals that it cost about $10 million to run for the governorship of New York. And in the mayorality contest in New York, the estimated cost for one candidate was about $3 million.

After all, it costs a lot of money to run for political office today. And the more it costs, the bigger the contributions the candidate needs. And the bigger the contributions he gets, the more beholden he becomes to the contributor.

That is a very dangerous trend in our democracy today. How to meet that problem is a very serious question as the Senator brought out.

Not long ago in exploring the cost of television time for the presidential campaign, a very distinguished committee came up with a recommendation before my Subcommittee on Communications to the effect that the networks would give the time to the presidential and vice-presidential candidates at half the cost and the other half of the cost would be picked up by the Government.

A lot of people in this country feel that the presidential campaign should be supported out of the general treasury. I do not feel exactly that way. However, I have before my committee now a bill which lists the following cosponsors: Mr. PEARSON, Mr. HART, Mr. ANDERSON, Mr. BROOKE, Mr. BURDICK, Mr. CASE, Mr. CRANSTON, Mr. DODD, Mr. EAGLETON, Mr. FULBRIGHT, Mr. GOODELL, Mr. GRAVEL, Mr. HARRIS, Mr. HARTKE, Mr. HATFIELD, Mr. HOLLINGS, Mr. HUGHES, Mr. INOUYE, Mr. KENNEDY, Mr. MCGOVERN, Mr. MATHIAS, Mr. METCALF, Mr. MONTOYA, Mr. MUSKIE, Mr. NELSON, Mr. PELL, Mr. PERCY, Mr. RANDOLPH, Mr. SAXBE, Mr. SCHWEIKER, Mr. SCOTT, Mrs. SMITH, Mr. SPONG, Mr. TYDINGS, Mr. YARBOROUGH, and Mr. YOUNG of Ohio.

If we were to circulate the bill, I think we would get the whole membership of the Senate to cosponsor it.

The bill calls upon the television broadcasters to give a reduction in rates to a person running for the Senate or for the House of Representatives.

I say very frankly that I have serious qualms about the particular bill. Talk about discrimination. This is out-and-out discrimination. This is something that applies only to Senators and Representatives.

I asked, "Don't you think we will be criticized for this?"

The reply, of course, was that we have to start somewhere. This is not the right answer.

The answer to the problem in America is to devise a procedure whereby every man in the country and every woman in the country would be able to make a modest contribution.

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

Mr. KENNEDY. Mr. President, I yield the Senator an additional minute.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for an additional minute.

Mr. PASTORE. And then they could deduct this modest contribution from their income tax. Whether it should be a deduction or a credit is debatable. Whether the amount should be $25, $10, or $5 per person is debatable. But something has to happen; something has to give. Unless something gives, I am afraid we are going to be in a bad way in this country. We will have to meet the situation where, actually, it will be necessary to buy an election, and I think that would be a deplorable situation.

The idea that in some of the medium-size States it takes $500,000 to run for a Senate seat indicates that conditions are completely out of hand. As a result, campaign committee after campaign committee is running to the big givers in order to get thousand-dollar contributions and $2,000 contributions. The bigger the contribution, the more the candidate becomes beholden to the person who makes it. That is bad for democracy.

I hope that the amendment will be agreed to.

The PRESIDING OFFICER. The time of the Senator from Rhode Island has expired.

Mr. PASTORE. I ask for an additional half minute. The Senator from Massachusetts is not in the Chamber, so I will yield that much time to myself.

I say, in conclusion, that I think this is at least an example of what needs to be done. I hope the amendment will be agreed to.

Mr. KENNEDY. Mr. President, is the chairman of the Committee on Finance prepared to yield back the remainder of his time?

Mr. SCOTT. Mr. President, may I yield myself a minute, with the permission of the Senate?

Mr. LONG. I will yield a minute to the Senator from Pennsylvania. But first, did I understand the Senator from Massachusetts to say that it costs $60 million a year?

Mr. KENNEDY. The cost will be $60 million in presidential years, $30 million in nonpresidential Federal years, and $15 million in non-Federal years.

Mr. LONG. This amendment does not limit contributions to anybody.

I should say that I represent, in part, a State in which there is more intense interest in the race for governor than in a national election, as is shown by the fact that more people vote in an election for governor. I should think it might very well be that more money would be spent—and usually more money is spent—in a gubernatorial race than in a presidential race.

The Treasury states that this amendment will result in a revenue loss of $60 million a year.

Mr. SCOTT. The Senator from Louisiana had a good bill, that we did pass at the time—the $1 contribution bill.

Mr. GORE. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. How much time does the Senator from Tennessee desire?

Mr. GORE. Five minutes.

Mr. LONG. I yield 5 minutes to the distinguished Senator from Tennessee.

Mr. GORE. Mr. President, many people seem entranced with tax credits. Let it be realized that a credit against taxes is the same as an appropriation of public funds. If I owe the Treasury of the United States a tax liability of $100 and Congress passes a law that I shall have a credit of $50 against that $100, it would be identically the same as if Congress put an item in an appropriation bill appropriating $50 to ALBERT GORE. That is what we are asked to vote on here.

What safeguards does the proposed amendment throw around this public money? None. It will be commingled with private campaign money.

I am one who believes that election to public office is a public function of the highest order. It is remarkable upon what a relatively few public officials the efficacy of our federal system depends. The President, the Vice President, the Members of the House, and the Members of the Senate are the only elected public officials in the Government of the United States.

Mr. LONG. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. GORE. The election of our public officials is a public function of such importance, such portent, that it should be regarded with top priority and protected against the corrupting influence of money.

The Committee on Finance reported a bill, not this year but last year, to declare election to Federal public office a Federal function of top priority, and therefore adopted the policy that such elections would be public functions, financially provided for out of public funds, and that private subsidy, private campaign expenditures, private contributions be forbidden by law. The Senate did not see fit to take the advice and recommendation of the committee.

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

Mr. GORE. I yield.

Mr. LONG. Is it not true that the Finance Committee agreed—it was controversial, but the majority agreed—that the entire cost of one seeking election in that general election should be paid for by the Government and that every penny of it should be accounted for?

Mr. GORE. Every penny accounted for, all safeguards thrown around it, and that it would then be unlawful for a rich man to use his own funds to finance a political campaign; that it would be unlawful for anyone to depend upon private subsidy it he elected to seek public office at public expense. But that is not the question here.

The question here is the expenditure of public money without any safeguards whatever, credits against taxes owed to

the Treasury of the United States, to be commingled with private campaign money. One could not tell which was which.

This is a dangerous proposal. Not only does it apply to Federal elections, election to Federal office, as did the bill to which I referred, but also, this proposal applies to election to the office of sheriff. The candidate for sheriff always gets the largest votes.

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

Mr. GORE. I ask for 1 additional minute.

Mr. LONG. I yield 1 additional minute to the Senator.

Mr. GORE. I do not think this proposal has been thought out carefully. I think it is premature. It is an unwise measure, and I hope it will be rejected.

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

Mr. GORE. I yield.

Mr. LONG. I yield myself whatever time is necessary.

Mr. President, this amendment would give a $25 tax advantage to somebody contributing to the election of an assessor. I do not know about Tennessee, but if anybody does not need a subsidy to get himself elected, it is an assessor. Does the Senator from Tennessee have a practice in his State similar to that in Louisiana, where an assessor never has difficulty raising money? It is just no problem. The people whose properties he assesses generally contribute. Perhaps somebody running against an assessor might have some difficulty, but there is no problem for the assessor.

With regard to most sheriffs, they have no difficulty financing their campaigns. It is the opponent who has the difficulty. Why should we provide a subsidy to finance an encumbent sheriff or assessor in State government, when they are well financed?

This proposal would provide a subsidy for a Governor who is in a position to put pressure for contributions on every State officeholder. A Governor is in a position to put pressure on every appointed State officeholder.

Mr. GORE. To do what?

Mr. LONG. To finance his campaign.

Mr. GORE. To put up $50 in order to get $25 of it from the treasury; and then there is no safeguard here that half of it could not be refunded to the man who put it up in the first place.

Mr. LONG. The Senator is correct.

Mr. President, a Governor is in a position to call on people who serve at his pleasure.

Mr. GORE. What about a sheriff?

Mr. LONG. The same thing would be true in many instances.

He is in a position to call on the people to whom he has given the most devoted law protection, sometimes to the prejudice of others, to contribute to his campaign, with the government paying half of it.

Mr. President, there was a time in Louisiana when we used to forthrightly finance campaigns by calling upon every State employee to contribute 5 percent of his salary. This would match it, if such a practice continued today.

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

Who yields time?

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Four minutes.

Mr. KENNEDY. I yield 3 minutes to the Senator from Georgia.

Mr. TALMADGE Mr. President, I rise in support of the amendment of the distinguished Senator from Massachusetts.

In 1967, the Committee on Finance approved a provision virtually identical with the amendment of the Senator from Massachusetts. In January of this year, I offered a similar provision, which is now before the Commitee on Finance.

Elections have become enormously expensive in recent years. That is particularly true in a Statewide election, a Nationwide election, or in congressional districts, where one must use television. Television is an extremely expensive but highly effective medium. It has now come to the point at which candidates for Governor, U.S. Senator, President, Vice President, and other national offices have to raise huge sums of money from some source or they must be independently wealthy.

It is my judgment that the national interest requires making it attractive for a large number of contributors to contribute small amounts to candidates for office, whether it be on a local, State, or national level. As the able distinguished Senator from Rhode Island pointedly stated a moment ago, when one receives large contributions, the obligation is greater than when one receives small contributions. I think the obligation would be much greater to a contributor who gave $10,000 to a campaign than it would be to a thousand people who gave $10 to a campaign.

I believe that this amendment will offer an incentive for the average man, whether he is employed in a filling station, a grocery store, on the farm, or in a factory, to take an interest in local, State, and national campaigns and to make modest contributions.

A leader in a particular area could go around and say, "You know, Senator PASTORE is running for reelection, or Senator X. We know you are for Senator PASTORE. We have this financing for his campaign. We hope you can give $50. The law states that one-half will be a tax credit, and therefore, it will cost you only $25."

Mr. President, I think you could raise a substantial amount of money in that way. That would be a far more desirable way than to have contributions from wealthy families or have candidates seek out people who can contribute substantial amounts or to have contributions from labor unions.

Mr. President, I think that this proposal is in the national interest and that it will stimulate small contributors to make contributions to all candidates at all levels of government.

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

Mr. TALMADGE. I yield, if I have any time remaining.

Mr. KENNEDY. Mr. President, I yield one-half minute to the Senator from Texas.

Mr. YARBOROUGH. Mr. President, I associate myself with the statements that have been made by the distinguished Senator from Georgia. I agree that this proposal is in the national interest and it would be effective in getting a much broader base.

I associate myself with the Senator in this measure and I yield back whatever time I have remaining to the Senator from Massachusetts.

Mr. LONG. Mr. President, I ask unanimous consent that 10 additional minutes be allotted to the debate on this matter, 5 minutes for each side.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and it is so ordered.

Mr. LONG. Mr. President, I yield 2 minutes to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 2 minutes.

Mr. CANNON. Mr. President, for several years the Subcommittee on Privileges and Elections, of which I am chairman, has been considering the issue of contributions. I must stay that the logic for a broad base that has been made here is absolutely valid.

The unfortunate thing here is that the proposed amendment is far, far too broad and much more so than any of the amendments we sought to achieve, starting in 1961 when we first started to try to get legislation through to provide for a tax deduction to encourage broad base contributions from the American people.

In 1962, S. 2436 was introduced which would have provided for a tax credit of one-half of the contribution but not to exceed a total of $10 per year. In the alternative the bill would have provided for a tax deduction not to exceed $100. Unfortunately, that bill did not become law.

Those limitations were for candidates for Federal office on a national basis; not as has been proposed here, to every officer, constable, and every officeholder at the local level that might want to get into the race.

President John F. Kennedy made an effort to get tax credits for political contributions and President Johnson made similar recommendations but these efforts were in the field of Federal and national elections, the field that is normally legislated in by the Senate.

My latest bill, S. 734, introduced in 1969, contains a provision for a tax credit not to exceed $20.

There certainly is a lot of logic in support of this particular provision, but in view of the broadness of the proposed amendment I could not support it at this time. I do not believe it is justified by the hearings which were held. In the bill S. 734, section 40, there is provision for contributions to candidates for elective Federal office. This is what we tried to establish as a policy for supporting candidates at the Federal level.

If we cannot pass an amendment or a bill supporting those candidates at the Federal level, I would have to oppose going broadly across the field and apply-

ing it to every constable and every local officeholder.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes to respond to the Senator.

Amendment No. 409 has been introduced by the Senator from Kansas (Mr. PEARSON) and me, and the Senator from Oklahoma (Mr. BELLMON) and the Senator from California (Mr. CRANSTON) have asked to join as cosponsors. The amendment is identical to the provision favorably reported by the overwhelming majority of the members of the Committee on Finance in 1967 after 6 days of intensive hearings on financing political campaigns. There were three different aspects of the bill as reported by the committee in 1967. There was tax credit provision, a provision of direct public financing of political campaigns, and a provision for tightening the existing Federal elections laws on reporting and disclosure of campaign contributions. Although there was disagreement among the members of the committee on other provisions of the bill, the committee was virtually unanimous in supporting the tax credit provision.

The tax credit amendment now before the Senate has been, then, the subject of 6 days of hearings before the Committee on Finance. It was favorably reported by the Committee on Finance in November 1967. It has been endorsed by three prestigious independent commissions, having broad bipartisan membership.

We can try to find all kinds of supposed loopholes in the amendment, and mention extreme examples, but what remains is that the issue has been carefully studied and recommended by a committee of this body. There is an extraordinary need for new incentives to broaden the base of our political parties and to encourage better methods of financing campaigns. Obviously, this amendment is not the whole answer to this complex problem, but it is a step in the right direction, and I hope that the Members of the Senate will support it.

Mr. LONG. Mr. President, when the Senator said this measure had been reported by the Committee on Finance, that was just a part of the bill having many other facets to it, including a limitation of the way in which funds could be used to prevent abuse.

I believe the Senator from Kansas wanted me to yield to him.

Mr. DOLE. I thank the Senator.

I would like to ask the Senator a question with respect to page 4 of the amendment. I understand that a person could announce for office. He could announce that he is going to run for sheriff and if he met the qualifications for holding office he would be eligible to receive funds under this bill; he would not have to stay in the race, but he could quit after 30 days and take the money.

Mr. LONG. According to page 4, line 10, to make himself eligible for this Federal money, it makes reference to an individual who "has publicly announced that he is a candidate for nomination for election to such office."

Under the amendment a man could announce that he is a candidate for constable. Then, he and his friends could all put their money in the pot and go out and have a great big party with beer and all sorts of liquid and other refreshments and have what is called a great big beer bust. Then he could withdraw, and the entire party would have been paid for 50 percent by the Treasury. How completely lacking the proposal is in limitations.

As I said, the amendment refers to an individual who "has publicly announced that he is a candidate for nomination or election to such office." There is no limitation at all on how the money is to be spent. It could be a fraternity party. All he would have to do would be to announce that he is a candidate for office, assuming that he can meet the minimum qualifications to hold such office, and the Federal Government pays one-half of it for the tax credit whether it is spent for political purposes thereafter or not.

In other words, they can have a big beer bust, as some fraternities have had from time to time, and charge one-half to the Federal Government.

The Treasury has said there is no way on earth to police it.

Mr. DOLE. We would give this same credit to estates or trusts, which I think is another mistake which should be corrected.

I commend the Senator.

Mr. KENNEDY. Mr. President, if the Senator will yield on that point, his statement is not correct. The credit is available only to individuals, not to estates or trusts, as page 5 of the amendment makes clear.

Mr. DOLE. How can we tighten up the other section that announces he would be eligible?

Mr. KENNEDY. If the "beer bust" illustration that I heard were true, I imagine that those individuals would be guilty of Federal criminal fraud, because it would be an attempt to defraud the Federal Government.

Mr. DOLE. He would not be required to stay in the race. It just says to announce. If he decided to withdraw, that would be all right because that happens frequently. That is the point I make.

Mr. KENNEDY. Then he would no longer be a qualified candidate, and subsequent contributions made to him could no longer qualify for the tax credit.

Mr. LONG. Mr. President, there is a section on page 4 of the amendment which states:

> The term "candidate" means, with respect to any Federal, state, or local elective public office, an individual who,
>
> (A) has publicly announced that he is a candidate for nomination or election to such office;

Mr. KENNEDY. That is a provision which was retained in the section by the Finance Committee.

Mr. LONG. We have a lot more in the bill than that.

Mr. KENNEDY. It was retained in there by the Finance Committee.

Mr. LONG. The Senator says it was recommended. President John F. Kennedy recommended——

The PRESIDING OFFICER. All time has now expired to the Senator from Louisiana.

Mr. KENNEDY. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Massachusetts has 3 minutes remaining.

Mr. KENNEDY. Mr. President, it is my understanding that after the time expires on this amendment, there will be an amendment which will be offered by the distinguished Senator from Delaware on a provision which was enacted by this body in 1967 by an 88-vote majority.

I do not believe that we want to get away from what is the basic question now before the Senate; namely, are we going to be serious about trying to provide some kind of opportunity for those people of limited or modest wealth to run for public office in a way which has been embraced and supported by those who have given a considerable amount of time and study to the question and which has been embraced by bipartisan commissions on three different occasions, and embraced by the Finance Committee. We can quote examples here where the provision can be distorted and exaggerated, but either we are interested in providing some kind of means to provide for campaign contributions, or we are not. That, really, is the question.

Mr. PASTORE. Mr. President, the distinguished Senator from Massachusetts (Mr. KENNEDY) is not going to let this "beer party" go unchallenged, is he—the "beer party" mentioned by the Senator from Louisiana (Mr. LONG)?

Mr. KENNEDY. Why does not the Senator reply to that?

Mr. PASTORE. Yes, I will answer that if the Senator will give me the time.

Mr. KENNEDY. I yield.

Mr. PASTORE. If a group of persons got together when a fellow announced as a candidate for public office and they met to have a beer party, they would all land in jail for conspiracy. [Laughter.]

Mr. LONG. Mr. President——

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

Mr. KENNEDY. Mr. President, I am aware that Senators in the Chamber can look at the amendment and try to exaggerate its various provisions. The fact is, however, that after extensive hearings, the Committee on Finance overwhelmingly endorsed the very proposal I am offering today. Either we are serious about our efforts to broaden public participation in the political process, or we are not. That is the basic and fundamental issue for the Senate to consider. The amendment offers a reasonable approach to a difficult problem. It is the kind of approach that should be embraced by the Senate.

Mr. President, how much time remains to me?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

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

Mr. KENNEDY. I yield.

Mr. CANNON. As one who conducted the hearings in the general area of election reform, I am wondering whether the Senator would not offer to amend his amendment to limit the contributions such as we determined as a result of hearings that would be proper to——

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

Mr. KENNEDY. Mr. President, I ask unanimous consent for 2 minutes to respond to the Senator from Nevada.

Mr. LONG. Mr. President, I ask unanimous consent for 4 minutes, with 2 minutes to a side on this question—the time to be equally divided.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana? The Chair hears none, and it is so ordered.

Mr. CANNON. I would ask the Senator from Massachusetts if he would consider amending his amendment to conform to what we arrived at in the hearings, to reduce this to a general election for President, Vice President, and the national committees, and not try to get down to the dog catcher level, or the county assessor level, or the State and local level. If it were so amended, I would be happy to support his amendment so that we had a very clearly defined limit and some safeguards.

Mr. KENNEDY. As the Finance Committee very clearly recognized in 1967, there is a great need for financial support for candidates at the State and local level. We are all well aware of the tremendous financial burden of campaigning for office at the State level, whether it be in California, New York, Massachusetts, or any other State in the Union. The same is true of local offices, such as the Boston City Council or the mayor of New York, Chicago, or Los Angeles. It seems to me that if we are going to get people to run for the State legislatures and other statewide offices, we should provide them with a better opportunity to go to their constituencies with as broad a base of political and financial support as possible. That is the thrust and purport of the pending amendment. I think this is one of the real strengths of the amendment.

Mr. LONG. Mr. President, as I said previously, all a man has to do under this amendment is to announce he is a candidate for public office and, once announced, he can put on a big party, a barbecue with beer and other refreshments, and after they get through, and they wake up with their heads hurting the next day, the candidate can decide that he is no longer interested in making the race, and the Government picks up the tab for that big party.

I contend that the Federal Government has no business getting involved in that kind of local politics. That, at the minimum, is why this amendment should be rejected.

I think such an amendment of this kind should be carefully considered. If it is to be adopted, it should be on the basis that it—and all its alternatives—have been carefully considered.

The PRESIDING OFFICER. All time on the amendment has now expired.

Mr. WILLIAMS of Delaware. Mr. President, I call up my amendment and ask that it be stated.

The assistant 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; and the amendment will be printed in the RECORD at this point.

The text of the amendment is as follows:

TITLE III—ELECTION REFORM ACT OF 1969

SUBTITLE A—AMENDMENTS TO CRIMINAL CODE

SEC. 301. Section 591 of title 18 of the United States Code is amended to read as follows:

"§ 591. Definitions

"When used in sections 597, 599, 602, 608, and 610 of this title—

"(a) The term 'election' means (1) a general, special, or primary election, (2) a convention or caucus of a political party held to nominate a candidate, (3) a primary election held for the selection of delegates to a national nominating convention of a political party, or (4) a primary election held for the expression of a preference for the nomination of persons for election to the office of President;

"(b) The term 'candidate' means an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected. For purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, if he (1) has taken the action necessary under the law of a State to qualify himself for nomination for election, or election, to Federal office, or (2) has received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;

"(c) The term 'Federal office' means the office of President or Vice President of the United States, or of Senator or Representative in, or Resident Commissioner to, the Congress of the United States;

"(d) The term 'political committee' means any individual, committee, association, or organization which accepts contributions or makes expenditures during a calendar year in an aggregate amount exceeding $1,000;

"(e) The term 'contribution' means a gift, subscription, loan, advance, or deposit of money or any thing of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office, or for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, and includes a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution, and also includes a transfer of funds between political committees;

"(f) The term 'expenditure' includes a purchase, payment, distribution, loan, advance, deposit, or gift of money or any thing of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office, or for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, and includes a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make an expenditure, and also includes a transfer of funds between political committees;

"(g) The term 'person' or the term 'whoever' means an individual, partnership, committee, association, corporation, or any other organization or group of persons."

SEC. 302. Section 600 of title 18 of the United States Code is amended to read as follows:

"§ 600. Promise of employment or other benefit for political activity

"Whoever, directly or indirectly, promises any employment, position, comepnsation, contract, appointment, or other benefit, provided for or made possible in whole or in part by any Act of Congress, or any special consideration in obtaining any such benefit, to any person as consideration, favor, or reward for any political activity or for the support of or opposition to any candidate or any political party in connection with any general or special election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

SEC. 303. Section 602 of title 18 of the United States Code is amended—

(a) by inserting "(a)" before "Whoever", and

(b) by adding at the end thereof the following new subsection:

"(b) Whoever, acting on behalf of any political committee (including any State or local committee of a political party), directly or indirectly, intentionally or willfully solicits, or in any manner concerned in soliciting, any assessment, subscription, or contribution for the use of such political committee or for any political purpose whatever from any officer or employee of the United States (other than an elected officer) shall be fined not more than $5,000 or imprisoned not more than three years, or both."

SEC. 304. Section 608 of title 18 of the United States Code is amended to read as follows:

"§ 608. Limitations on political contributions and purchases

"(a) It shall be unlawful for any person, directly or indirectly, to make a contribution or contributions in an aggregate amount in excess of $5,000 during any calendar year in connection with any campaign for nomination for election, or election, to any political committee or candidate, to two or more political committees substantially supporting the same candidate, or to a candidate and one or more political committees substantially supporting the candidate: *Provided, however,* That nothing contained in this subsection shall prohibit the transfer of contributions received by a political committee.

"(b)(1) It shall be unlawful for any political committee or candidate to sell goods, commodities, advertising, or other articles, or any services (except as provided in section 324(b)(2) of the Campaign Funds Disclosure Act of 1967) to anyone other than a political committee or candidate.

"(2) It shall be unlawful for any person, other than a political committee or candidate, to purchase goods, commodities, advertising, or other articles, or any services (except as provided in section 324(b)(2) of the Campaign Funds Disclosure Act of 1967) from a political committee or candidate.

"(c) Whoever violates subsection (a) or (b) of this section shall be fined not more than $5,000 or imprisoned not more than five years, or both.

"(d) Subsection (b) of this section shall not apply to a sale or purchase (1) of any

political campaign pin, button, badge, flag, emblem, hat, banner, or similar campaign souvenir or any political campaign literature or publications (but shall apply to sales of advertising including the sale of space in any publication), for prices not exceeding $25 each, (2) of tickets to political events or gatherings, (3) of food or drink for a charge not substantially in excess of the normal charge therefor, or (4) made in the course of the usual and known business, trade, or profession of any person or in a normal arm's-length transaction: *Provided, however,* That a sale or purchase described in paragraph (1), (2), or (3) shall be deemed a contribution under subsection (a) of this section.

"(e) For the purposes of this section, a contribution made by the spouse or a minor child of a person shall be deemed a contribution made by such person.

"(f) In all cases of violations of this section by a partnership, committee, association, corporation, or other organization or group of persons, the officers, directors, or managing heads thereof who knowingly and willfully participate in such violation shall be punished as herein provided."

SEC. 305. Section 609 of title 18 of the United States Code is repealed.

SEC. 306. Section 611 of title 18 of the United States Code is amended to read as follows:

"§ 611. Contributions by Government contractors

"Whoever, including a corporation, entering into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (a) the completion of performance under, or (b) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land or buildings, directly or indirectly makes any contribution of money or other thing of value, or promises expressly or impliedly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

"Whoever knowingly solicits any such contribution from any such person for any such purpose during any such period—

"Shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 307. So much of the sectional analysis at the beginning of chapter 29 of title 18 of the United States Code as relates to sections 609 and 611 is amended to read:

"609. Repealed.
"611. Contributions by Government contractors."

SUBTITLE B—DISCLOSURE OF FEDERAL CAMPAIGN FUNDS

DEFINITIONS

SEC. 321. When used in this subtitle—

(a) The term "election" means (1) a general, special, or primary election, (2) a convention or caucus of a political party held to nominate a candidate, (3) a primary election held for the selection of delegates to a national nominating convention of a political party, or (4) a primary election held for the expression of a preference for the nomination of persons for election to the office of President;

(b) The term "candidate" means an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected. For purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, if he (1) has taken the action necessary under the law of a State to qualify himself for nomination for election, or election, to Federal office, or (2) has received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;

(c) The term "Federal office" means the office of President or Vice President of the United States; or of Senator or Representative in, or Resident Commission to, the Congress of the United States;

(d) The term "political committee" means any committee, association, or organization which accepts contributions or makes expenditures during a calendar year in an aggregate amount exceeding $1,000;

(e) The term "contribution" means a gift, subscription, loan, advance, or deposit of money or any thing of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office or as presidential and vice-presidential electors, or for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party, or for the expression of a preference for the nomination of persons for election to the office of President, and includes a contract, promise, or agreement, whether or not legally enforceable, to make a contribution, and also includes a transfer of funds between political committees;

(f) The term "expenditure" includes a purchase, payment, distribution, loan, advance, deposit, or gift of money or any thing of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office, or as presidential and vice-presidential electors, or for the purpose of influencing the result of a primary held for the election of delegates to a national nominating convention of a political party, or for the expression of a preference for the nomination of persons for election to the office of President, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure, and also includes a transfer of funds between political committees;

(g) The term "Clerk" means the Clerk of the House of Representatives of the United States;

(h) The term "Secretary" means the Secretary of the Senate of the United States;

(i) The term "person" includes an individual, partnership, committee, association, corporation, labor organization, and any other organization or group of persons;

(j) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 322. (a) Every political committee shall have a chairman and a treasurer. No contribution and no expenditure shall be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of chairman or treasurer thereof. No expenditure shall be made for or on behalf of a political committee without the authorization of its chairman or treasurer, or their designated agents.

(b) Every person who receives a contribution for a political committee shall, on demand of the treasurer, and in any event within five days after the receipt of such contribution, render to the treasurer a detailed account thereof, including the amount, the name and address of the person making such contribution, and the date on which received. All funds of a political committee shall be kept separate from other funds.

(c) It shall be the duty of the treasurer of a political committee to keep a detailed and exact account of—

(1) all contributions made to or for such committee;

(2) the full name and mailing address of every person making any contribution, and the date and amount thereof;

(3) all expenditures made by or on behalf of such committee; and

(4) the full name and mailing address of every person to whom any expenditure is made, and the date and amount thereof.

(d) It shall be the duty of the treasurer to obtain and keep a receipted bill, stating the particulars, for every expenditure made by or on behalf of a political committee of $100 or more in amount, and for any such expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds $100. The treasurer shall preserve all receipted bills and accounts required to be kept by this section for periods of time to be determined by the Secretary or Clerk, as the case may be.

REGISTRATION OF POLITICAL COMMITTEES; STATEMENTS

SEC. 323. (a) Each political committee which anticipates receiving contributions or making expenditures during the calendar year in an aggregate amount exceeding $1,000 shall, within ten days after its organization or, if later, ten days after the date on which it has information which causes it to anticipate it will receive contributions or make expenditures in excess of $1000, file with the Secretary or Clerk, as the case may be, a statement of organization. Each such committee in existence at the date of enactment of this Act shall file a statement of organization with the Secretary or Clerk, as the case may be, at such time as he prescribes.

(b) The statement of organization shall include—

(1) the name and address of the committee;

(2) the names, addresses, and relationships of affiliated or connected organizations;

(3) the area, scope, or jurisdiction of the committee;

(4) the name, address, and position of the custodian of books and accounts;

(5) the name, address, and position of other principal officers, including officers and members of the finance committee, if any;

(6) the name, address, office sought, and party affiliation of (A) each candidate whom the committee is supporting and (B) any other individual, if any, whom the committee is supporting for nomination for election, or election, to any public office whatever; or, if the committee is supporting the entire ticket of any party, the name of the party;

(7) a statement whether the committee is a continuing one;

(8) the disposition of residual funds which will be made in the event of dissolution;

(9) a listing of all banks, safety deposit boxes, or other repositories used;

(10) a statement of the reports required to be filed by the committee with State or local officers, and, if so, the names, addresses, and positions of such persons; and

(11) such other information as shall be required by the Secretary or Clerk.

(c) Any change in information previously submitted in a statement of organization shall be reported to the Secretary or Clerk, as the case may be, within a ten-day period following the change.

(d) Any committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year in an aggregate

amount exceeding $1,000 shall so notify the Secretary or Clerk, as the case may be.

REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

SEC. 324. (a) Each treasurer of a political committee supporting a candidate or candidates for election to the office of President or Vice President of the United States or Senator, and each candidate for election to such office, shall file with the Secretary, and each treasurer of a political committee supporting a candidate or candidates for election to the office of Representative in, or Resident Commissioner to, the Congress of the United States, and each candidate for election to such office, shall file with the Clerk, reports of receipts and expenditures on forms to be prescribed or approved by him. Such reports shall be filed on the 10th day of March, June, and September, in each year, and on the fifteenth and fifth days next preceding the date on which an election is held, and also by the 31st day of January. Such reports shall be complete as of such date as the Secretary may prescribe, which shall not be less than five days before the date of filing.

(b) Each report under this section shall disclose—

(1) the amount of cash on hand at the beginning of the reporting period;

(2) the full name and mailing address of each person who has made one or more contributions to or for such committee or candidate (including the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events) within the calendar year in the aggregate amount or value of $100 or more, together with the amount and date of such contributions;

(3) the total sum of individual contributions made to or for such committee or candidate during the reporting period and not reported under paragraph (2);

(4) the name and address of each political committee or candidate from which the reporting committee or the candidate received, or to which that committee or candidate made, any transfer of funds, together with the amounts and dates of all such transfers;

(5) each loan to or from any person within the calendar year in the aggregate amount or value of $100 or more, together with the full names and mailing addresses of the lender and endorsers, if any, and the date and amount of such loans;

(6) the total amount of proceeds from (A) the sale of tickets to each dinner, luncheon, rally, and other fundraising events; (B) mass collections made at such events; and (C) sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;

(7) each contribution, rebate, refund, or other receipt of $100 or more not otherwise listed under paragraphs (2) through (6);

(8) the total sum of all receipts by or for such committee or candidate during the reporting period;

(9) the full name and mailing address of each person to whom an expenditure or expenditures have been made by such committee or candidate within the calendar year in the aggregate amount or value of $100 or more, and the amount, date, and purpose of each such expenditure;

(10) the full name and mailing address of each person to whom an expenditure for personal services, salaries, and reimbursed expenses of $100 or more has been made, and which is not otherwise reported, including the amount, date, and purpose of such expenditure;

(11) the total sum of expenditures made by such committee or candidate during the calendar year;

(12) the amount and nature of debts and obligations owed by or to the committee, in such form as the Secretary or Clerk may prescribe;

(13) such other information as shall be required by the Secretary or Clerk.

(c) The reports required to be filed by subsection (a) shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the amount need be carried forward. If no contributions or expenditures have been accepted or expended during a calendar year, the treasurer of the political committee or candidate shall file a statement to that effect.

REPORTS BY OTHERS THAN POLITICAL COMMITTEES

SEC. 325. Every person (other than a political committee or candidate) who makes contributions or expenditures, other than by contribution to a political committee or candidate, aggregating $100 or more within a calendar year shall file with the Secretary or Clerk, as the case may be, a statement containing the information required by section 324. Statements required by this section shall be filed on the dates on which reports by political committees are filed but need not be cumulative.

FORMAL REQUIREMENTS RESPECTING REPORTS AND STATEMENTS

SEC. 326. (a) A report or statement required by this subtitle to be filed by a treasurer of a political committee, a candidate, or by any other person, shall be verified by the oath or affirmation of the person filing such report or statement, taken before any officer authorized to administer oaths.

(b) A copy of a report or statement shall be preserved by the person filing it for a period of time to be designated by the Secretary or Clerk, as the case may be, in a published regulation.

(c) The Secretary or Clerk may, by published regulation of general applicability, relieve any category of political committees of the obligation to comply with section 324 if such committee (1) primarily supports persons seeking State or local office, and does not substantially support candidates, and (2) does not operate in more than one State or on a statewide basis.

(d) The Secretary or Clerk, as the case may be, shall, by published regulations of general applicablity, prescribe the manner in which contributions and expenditures in the nature of debts and other contracts, agreements, and promises to make contributions or expenditures shall be reported. Such regulations shall provide that they be reported in separate schedules. In determining aggregate amounts of contributions and expenditures, amounts reported as provided in such regulations shall not be considered until actual payment is made.

REPORTS ON CONVENTION FINANCING

SEC. 327. Each committee or other organization which—

(1) represents a State, or a political subdivision thereof, or any group of persons, in dealing with officials of a national political party with respect to matters involving a convention held in such State or political subdivision to nominate a candidate for the office of President or Vice President, or

(2) represents a national political party in making arrangements for the convention of such party held to nominate a candidate for the office of President or Vice President,

shall, within sixty days following the end of the convention (but not later than twenty days prior to the date on which presidential and vice-presidential electors are chosen), file with the Secretary a full and complete financial statement, in such form and detail as he may prescribe, the sources from which it derived its funds, and the purposes for which such funds were expended.

DUTIES OF THE SECRETARY AND CLERK

SEC. 328. (a) It shall be the duty of the Secretary and Clerk, respectively—

(1) to develop prescribed forms for the making of the reports and statements required to be filed with him under this subtitle;

(2) to prepare and publish a manual setting forth recommended uniform methods of bookkeeping and reporting for use by persons required to make such reports and statements;

(3) to develop a filing, coding, and cross-indexing system consonant with the purposes of this subtitle;

(4) to make the reports and statements filed with him available for public inspection and copying during regular office hours, commencing as soon as practicable but not later than the end of the second day following the day during which it was received, and to permit copying of any such report or statement by hand or by duplicating machine, as requested by any person, at the expense of such person;

(5) to preserve such reports and statements for a period of ten years from date of receipt, except that reports and statements relating solely to candidates for the House of Representatives shall be preserved for only five years from the date of receipt;

(6) to compile and maintain a current list of all statements or parts of statements pertaining to each candidate;

(7) to prepare and publish an annual report including compilations of (A) total reported contributions and expenditures for all candidates, political committees, and other persons during the year; (B) total amounts expended according to such categories as he shall determine and broken down into candidate, party, and nonparty expenditures on the National, State, and local levels; (C) total amounts expended for influencing nominations and elections stated separately; (D) total amounts contributed according to such categories of amounts as he shall determine and broken down into contributions on the National, State, and local levels for candidates and political committees; and (E) aggregate amounts contributed by any contributor shown to have contributed the sum of $100 or more;

(8) to prepare and publish from time to time special reports comparing the various totals and categories of contributions and expenditures made with respect to preceding elections;

(9) to prepare and publish such other reports as he may deem appropriate;

(10) to assure wide dissemination of statistics, summaries, and reports prepared under this subtitle;

(11) to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of this subtitle, and with respect to alleged failures to file any report or statement required under the provisions of this subtitle;

(12) to report apparent violations of law to the appropriate law enforcement authorities; and

(13) to prescribe suitable rules and regulations to carry out the provisions of this subtitle.

(b) In the performance of their duties under this subtitle, the Secretary and Clerk shall coordinate their activities with the activities of the Comptroller General under the Presidential Election Campaign Fund Act of 1966 and the Senatorial Election Campaign Fund Act of 1967.

STATEMENTS FILED WITH CLERK OF UNITED STATES COURT

SEC. 329. (a) A copy of each statement required to be filed with the Secretary or Clerk by this subtitle shall be filed with the clerk of the United States district court for the judicial district in which is located the principal office of the political committee or, in the case of a statement filed by a candidate or other person, in which is located such person's residence. The Secretary or Clerk may require the filing of reports and statements required by this subtitle with the clerks of other United States district courts

where he determines the public interest will be served thereby.

(b) It shall be the duty of the clerk of a United States district court under subsection (a)—

(1) to receive and maintain in an orderly manner all reports and statements required by this subtitle to be filed with such clerks;

(2) to preserve such reports and statements for a period of ten years from date of receipt, except that reports and statements relating solely to candidates for the House of Representatives shall be preserved for only five years from the date of receipt;

(3) to make the reports and statements filed with him available for public inspection and copying during regular office hours, commencing as soon as practicable but not later than the end of the second day following the day during which it was received, and to permit copying of any such report or statement by hand or by duplicating machine, as requested by any person, at the expense of such person; and

(4) to compile and maintain a current list of all statements or parts of statements pertaining to each candidate.

PROHIBITION ON CONTRIBUTIONS IN NAME OF ANOTHER

SEC. 330. No person shall make a contribution in the name of another person, and no person shall knowingly accept a contribution made by one person in the name of another person.

PENALTY FOR VIOLATIONS

SEC. 331. Any person who violates any of the provisions of this subtitle shall be fined not more than $1,000 or imprisoned not more than one year, or both.

STATE LAWS NOT AFFECTED

SEC. 332. (a) Nothing in this subtitle shall be deemed to invalidate or make inapplicable any provision of any State law, except where compliance with such provision of law would result in a violation of a provision of this subtitle.

(b) The Secretary and Clerk shall encourage, and cooperate with, the election officials in the several States to develop procedures which will eliminate the necessity of multiple filings by permitting the filing of copies of Federal reports to satisfy the State requirements.

PARTIAL INVALIDITY

SEC. 333. If any provision of this subtitle, or the application thereof, to any person or circumstance is held invalid, the validity of the remainder of the subtitle and the application of such provision to other persons and circumstances shall not be affected thereby.

REPEALING CLAUSE

SEC. 334. (a) The Federal Corrupt Practices Act and all other Acts or parts of Acts inconsistent herewith are repealed.

(b) In case of any conviction under this subtitle, where the punishment inflicted does not include imprisonment, such conviction shall be deemed a misdemeanor conviction only, and shall not carry with it a loss of citizenship.

CITATION

SEC. 335. This subtitle may be cited as the "Campaign Funds Disclosure Act of 1969".

SUBTITLE C—MISCELLANEOUS

SEC. 351. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

SEC. 352. This title shall take effect January 1, 1970.

SEC. 353. This title may be cited as the "Election Reform Act of 1969".

TITLE IV—PROHIBITION UPON CERTAIN CAMPAIGN PRACTICES IN FEDERAL ELECTIONS

SOLICITING VOTES NEAR POLLING PLACES; PAYING FOR TRANSPORTATION OF VOTERS

SEC. 401. (a) Chapter 29 of title 18 of the United States Code (elections and political activities) is amended by adding at the end thereof the following new sections:

"§ 614. Soliciting votes near polling places

"(a)(1) Except as provided in subsection (b), it is unlawful for any person, during the hours during which any polling place used in any Federal election is open for voting in such election, to solicit, or cause to be solicited, within five hundred feet of such polling place, any person to vote for or against any candidate in such election, in any manner or by any means whatsoever, including, but not limited to—

"(A) handing out campaign cards, pictures, or other campaign literature of any kind or description whatsoever; and

"(B) placing or displaying political signs, pictures, or other form of political advertising.

"(2) Any person who violates paragraph (1) shall be fined not more than $500, or imprisoned not more than six months, or both; and if the violation was willful, shall be fined not more than $1,000, or imprisoned not more than one year, or both.

"(b) Subsection (a)(1) shall not apply to the placing or displaying—

"(1) of political signs, pictures, or other political advertising on private property (other than property being used as a polling place) by the owner, lessee, or lawful occupant thereof, or by any other person with the consent of such owner, lessee, or occupant; or

"(2) of campaign cards or other campaign material on a table or shelf near a polling place at a location designated under a State law which provides for placing and displaying of campaign cards or other campaign material under conditions in which voters may select such material free from influence, solicitation, or suggestion of any kind.

"(c) For purposes of this section, the term 'Federal election' means any general, special, or primary election held solely or in part for the purpose of electing or selecting any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of, or Resident Commissioner to, the House of Representatives.

"§ 615. Paying for transportation of voters

"(a)(1) Except as provided in subsection (b), it is unlawful for any person to pay any other person for the transportation of any individual to enable such individual to vote in any Federal election.

"(2) Any person who violates paragraph (1) shall be fined not more than $500 or imprisoned not more than six months, or both; and if the violation was willful, shall be fined not more than $1,000, or imprisoned not more than one year, or both.

"(b) Subsection (a)(1) shall not apply to—

"(1) the payment by any person for his own transportation, or

"(2) the payment by any person for the transportation of another person who is accompanying him if such transportation is to enable both such persons to vote in the Federal election.

"(c) For purposes of this section, the term 'Federal election' means any general, special, or primary election held solely or in part for the purpose of electing or selecting any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of, or Resident Commissioner to, the House of Representatives."

(b) The analysis of chapter 29 of title 18 of the United States Code is amended by adding at the end thereof the following:

"614. Soliciting votes near polling places.
"615. Paying for transportation of voters."

EFFECTIVE DATE

SEC. 402. This title shall take effect on January 1, 1970.

Mr. PASTORE. Mr. President, I understand that this is a 25-page reform amendment?

Mr. WILLIAMS of Delaware. Twenty-four pages.

The PRESIDING OFFICER. This is an amendment to the Kennedy amendment; is it not?

Mr. WILLIAMS of Delaware. Yes.

Mr. PASTORE. Mr. President, here we are dilly-dallying. Maybe we should have the amendment read.

Mr. WILLIAMS of Delaware. I have no objection. If the Senator wants it stated.

Mr. PASTORE. We have a 25-page document here, have we not?

Mr. WILLIAMS of Delaware. Mr. President, do I not have the floor?

The PRESIDING OFFICER. The Senator from Delaware has the floor.

Mr. WILLIAMS of Delaware. Mr. President, this is not a 25-page amendment, but even if it were, it would still be worth reading. This was title III of the Election Reform Act as passed by the Senate in 1967. It has been lifted out of that bill verbatim as it was voted on and passed by the Senate. At that time, the Senate was passing a proposal to allow up to $100 as a deduction and not a tax credit. I will discuss the tax credit a little later and state why I cannot support the amendment of the Senator from Massachusetts, even if my amendment to his amendment were to be adopted. The Senator from New York and myself insisted at that time that if Congress were going to adopt a proposal using Federal money, we would need some form of election reform and an accounting system attached to it.

Certainly full public accounting of all campaign expenses is long overdue.

Mr. President, the amendment which I have sent to the desk is a revised version of S. 1880 that was accepted by the Senate in 1967. The only thing that is changed in this amendment from what was passed in 1967 by, I think, an 88-to-nothing vote is the effective date—from 1967 to 1969.

Mr. PASTORE. Is that the only change?

Mr. WILLIAMS of Delaware. That is the only change.

Mr. PASTORE. All right; I will accept it.

The PRESIDING OFFICER. Is the amendment intended as a substitute for the Kennedy amendment?

Mr. WILLIAMS of Delaware. No. It is an amendment to the Kennedy amendment. This is an amendment to insert certain language. It does not affect the financing provisions of the amendment of the Senator from Massachusetts as it is now pending.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. KENNEDY. As I understand it, and as the Senator has stated here this afternoon, his amendment is exactly the same measure—S. 1887—which passed this body in 1967 by a vote of 87 to zero?

Mr. WILLIAMS of Delaware. That is correct.

Mr. KENNEDY. The Senator's amendment reaches the basic questions of reporting and disclosure of campaign contributions. I think those are the fundamental aspects of the bill that passed and are included in the amendment of the Senator from Delaware. Is that correct?

Mr. WILLIAMS of Delaware. I have not checked the vote, but I think it is correct. I think it was 88 to zero. The Corrupt Practices Act provides that campaign committees operating in two or more States must make an accurate accounting for their contributions and expenses but committees operating in only one State are not concerned. The District of Columbia is not a State. Therefore, candidates in any one of the 50 States can operate as many committees as they wish in the District of Columbia, and there may be committees back in their State, and no accounting is required.

Let me read from a general explanation of the bill passed in 1967:

(1) Reporting of campaign expenditures made and contributions received is required of candidates for nomination to Federal office in primary elections and political conventions, as well as for election in general and special elections.

(2) Reporting is required of presidential and vice presidential candidates for nomination or election.

(3) Full reporting of expenditures made for candidates for nomination or election to Federal office and contributions received for the candidates is extended to political committees operating in only one State, which make such expenditures and receive such contributions of more than $1,000 a year.

(4) Disclosure to the public of information contained in reports filed by candidates and political committees is required.

(5) The statutory limitations on expenditures by candidates for the Senate and House and by national political committees are eliminated.

(6) The provisions of present law dealing, in general, with prohibitions on various types of activity designed to influence voters improperly, on soliciting political contributions from Federal employees, and on certain political contributions and expenditures (secs. 597, 599, 600, 602, 608, and 610 of title 18) are made applicable with respect to all candidates for Federal office and all political committees supporting them which make expenditures or receive contributions of more than $1,000 a year. In addition political committees are prohibited (sec. 602 of title 18) from soliciting contributions from Federal employees, and the $5,000 limitation in section 608 of title 18 is applied to the aggregate contributions made to a candidate himself and all political committees supporting him.

The amendment was debated at that time. I see no reason for extended debate. I understand the Senator from Massachusetts has no objection to this amendment and will accept it.

Mr. KENNEDY. I have no objection to it. I have had the opportunity to talk with the Senator from Kansas, and we are willing to accept it.

Mr. PASTORE. Mr. President, will the Senator yield for a clarification?

Mr. WILLIAMS of Delaware. I yield.

Mr. PASTORE. Do I understand this provision does not apply when committees are only in one State?

Mr. WILLIAMS of Delaware. Oh, yes, it would apply. The law now reads "in two or more States."

Mr. PASTORE. What is meant by "full reporting" under the amendment of the Senator from Delaware?

Mr. WILLIAMS of Delaware. Under the bill as it passed the Senate and under this amendment all committees established in a State or in the District of Columbia will be required to report.

Mr. KENNEDY. Mr. President, I am willing to accept the amendment.

Mr. WILLIAMS of Delaware. Mr. President, I understand unanimous consent is required to accept the amendment. I ask unanimous consent that this amendment may be accepted as a modification.

The PRESIDING OFFICER. It would take unanimous consent, because the yeas and nays have already been ordered.

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent that the amendment of the Senator from Massachusetts be modified to include my amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question now is on the amendment of the Senator from Massachusetts, as modified. The yeas and nays have been ordered, and the clerk——

Mr. PEARSON. Mr. President, has all time been yielded back, or how much time remains?

The PRESIDING OFFICER. All time has been yielded back.

Mr. PEARSON. Are we ready for a vote?

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent that each side be given 5 additional minutes.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. I have no objection.

The PRESIDING OFFICER. Without objection, each side is given 5 additional minutes on the Kennedy amendment, as modified.

Mr. WILLIAMS of Delaware. Mr. President, if the Senator wanted time——

Mr. KENNEDY. Mr. President, may I ask what the consent agreement was?

Mr. WILLIAMS of Delaware. I thought the chairman of the committee wanted some extra time.

Mr. KENNEDY. If the chairman desires additional time, I do not object. I am prepared to vote on the amendment. If the chairman desires more time——

Mr. LONG. Mr. President, I ask unanimous consent to have 5 additional minutes.

The PRESIDING OFFICER. If there is no objection, 5 additional minutes are granted to each side.

Mr. LONG. Mr. President, we have before us a bill which should be passed. I do not know why certain Senators have the impression that this is the bill above all bills to which they must offer their amendments. Next I suppose we will have a constitutional amendment offered to this tax bill. We have social security amendments on it, and now we have a corrupt practices law as an amendment to the tax bill—actually as an amendment to an amendment which contains a political campaign financing proposal.

This could go on forever. Next thing we know, we will have an appropriation offered on the tax bill.

I urge that the amendment be rejected and that we try to keep the bill what it was originally—a revenue bill, hopefully a tax reform bill.

We are tacking all sorts of proposals onto the bill. The President, on a nationwide television broadcast last night, said that if the bill stands as the Senate has amended it so far, he will have to veto it. How much more do we want to add to the bill with that kind of a Presidential comment on it? Do not the Senators think they have burdened the bill enough without adding anything more?

Mr. WILLIAMS of Delaware. Mr. President, if the amendment offered by the Senator from Massachusetts is to be adopted, I think the amendment I have offered to it is very important. As I told the Senator from Massachusetts before I offered my amendment to his amendment, I do not think this is the time we should offer either his amendment or this proposal to a revenue measure. I do not think this is the appropriate method in which to act on election reform. I know the Treasury Department today and in the past has opposed the tax credit approach because it means complications on the income tax returns. So I hope the amendment of the Senator from Massachusetts is defeated, even though my amendment has been accepted.

However, my point is that if the Kennedy amendment should be adopted it should not be adopted without including meaningful election reform that will require full public accounting.

Mr. LONG. Mr. President, we have the very proposal that in a prior Congress tied up the two Houses of Congress, without any resolution for an extended period of time, being added to a bill which the President has threatened to veto. It started out as a $7 billion bill. At last count, it was about a $15 billion bill. One of these days we ought to stop burdening this bill down with provisions that really have nothing essentially to do with the bill and work out something that can be sent to the President's desk and which can become law.

If this amendment is added on the bill, it will be one more problem and one more provision that we will have trouble working out if we are to lay a bill on the President's desk that he will sign.

Mr. HATFIELD. Mr. President——

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MANSFIELD. Mr. President, how much time was allowed?

The PRESIDING OFFICER. Five minutes on each side.

Mr. KENNEDY. Mr. President, I am prepared to yield back my time. How much time does the Senator from Oregon want?

Mr. HATFIELD. Mr. President, I move to lay the pending——

Mr. LONG. Does the Senator want time? I am prepared to yield back the remainder of my time.

Mr. CANNON. Mr. President——

Mr. HATFIELD. Mr. President——

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I move to lay the pending amendment on the table, and ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay

on the table the amendment of the Senator from Massachusetts, 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 Montana (Mr. METCALF), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

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.

If present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "yea."

The result was announced—yeas 50, nays 45, as follows:

[No. 197 Leg.]

YEAS—50

Allen	Ervin	Miller
Allott	Fannin	Murphy
Baker	Goodell	Percy
Bennett	Gore	Randolph
Boggs	Griffin	Russell
Brooke	Gurney	Saxbe
Byrd, Va.	Hansen	Schweiker
Byrd, W. Va.	Hartke	Scott
Case	Hatfield	Smith, Maine
Cook	Holland	Smith, Ill.
Cooper	Hruska	Sparkman
Cotton	Javits	Stennis
Curtis	Jordan, N.C.	Thurmond
Dole	Jordan, Idaho	Tower
Dominick	Long	Williams, Del.
Eastland	McCarthy	Young, N. Dak.
Ellender	McClellan	

NAYS—45

Aiken	Hollings	Nelson
Bayh	Hughes	Packwood
Bellmon	Inouye	Pastore
Bible	Jackson	Pearson
Burdick	Kennedy	Pell
Cannon	Magnuson	Prouty
Church	Mansfield	Proxmire
Cranston	Mathias	Ribicoff
Dodd	McGee	Spong
Eagleton	McGovern	Stevens
Fong	McIntyre	Talmadge
Fulbright	Mondale	Tydings
Gravel	Montoya	Williams, N.J.
Harris	Moss	Yarborough
Hart	Muskie	Young, Ohio

NOT VOTING—5

Anderson	Metcalf	Symington
Goldwater	Mundt	

So the motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. McCLELLAN. Mr. President, I move to lay that motion on the table.

Mr. GRIFFIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TAXES ON EXCESS BUSINESS HOLDINGS

Mr. SCOTT. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. SCOTT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

Beginning with line 25 on page 106 strike all through line 3 on page 107 and insert the following: "for tax under section 4943 (relating to taxes on excess business holdings) applied, in the case of a disposition before January 1, 1975, without taking section 4943(c)(4) into account, and it receives in return an amount which equals or exceeds the fair market value of such property at the time of such disposition or at the time a contract for such disposition was previously executed (without regard to any sales"

On line 6 page 107, strike "market)", and insert the following: "market) in a transaction which would not constitute a prohibited transaction (within the meaning of section 503(b) or the corresponding provisions of prior law)".

Mr. SCOTT. Mr. President, it is my understanding that this amendment is acceptable to the ranking member and to the chairman of the Finance Committee.

Mr. LONG. Mr. President, I know of no objection to the amendment.

Several Senators addressed the Chair.

Mr. RUSSELL. Mr. President, I have no objection to the amendment. However, I think the Senate as a whole might like to have some idea of what the amendment is about.

Mr. SCOTT. Mr. President, my amendment to section 101(1)(2) is intended to correct an unintended inequity resulting from certain technical changes in the bill as reported by the Finance Committee. A major objective of the committee and of the House bill has been to reduce needless involvement by a foundation in the ownership of a business, so that charitable purposes may predominate in the decisions of foundation management, as they should.

The attempt has been to encourage diversification of investments by selective sanctions without needlessly impairing the effectiveness of the foundations or imposing unreasonable burdens on the businesses involved or their stockholders or employees. In the years before the bill was introduced, some foundations on their own initiative had commenced responsible diversification programs involving orderly sales and other dispositions of stock in a corporation. Since public offerings of substantial holdings of stock in a corporation can have a depressing effect on its market price, to the disadvantage of the foundation, such a diversification program may involve sales to the corporation involved or a trustee under an employee trust.

Initially, the tax reform bill would have permitted this kind of reasonable divestiture program, including sales to a corporation which is a disqualified person, to the extent the foundation was required to divest itself of the holdings in order to avoid sanctions under the stock ownership limitations. Under the House bill, these sanctions would have applied if a foundation had retained nonvoting stock holdings in excess of a 2-percent de minimis allowance, so long as the foundation and all disqualified persons, in combination, retained more than 20 percent of the voting stock, even if the foundation itself held no voting stock.

The Finance Committee, however, voted to increase the allowable retention of voting stock by a foundation and disqualified persons in this situation to a maximum of 50 percent. Where this liberalizing rule has application, one result will be to permit nonvoting stock holdings to be retained by a foundation without sanctions, and this effect was intended. An unintended effect, however, was to impose sanctions under the self-dealing provisions of the bill on a foundation wishing to continue on a voluntary basis a responsible diversification program involving sales to a corporation which is a disqualified person.

Mr. President, the amendment being proposed would change this rule and permit continuation of such voluntary arrangements under appropriate safeguards. The amendment would have no adverse revenue effect and, as indicated, would advance the general objective of encouraging foundations to diversify their investments. With the safeguards provided, we believe the amendment merits the approval of the Senate.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment was agreed to.

AMENDMENT NO. 382

Mr. MATHIAS. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 401, line 16, strike the numeral "5" and insert the numeral "10".

Mr. MATHIAS. Mr. President, this is a technical amendment.

Subchapter S of the Internal Revenue Code allows small corporations, those with 10 or fewer shareholders, to elect not to pay the regular corporate income tax and instead to have the income or loss of the corporation taxed directly to the shareholders. In a general way, this results in a pattern of taxation similar to that of partnerships. Subchapter S is now being used by more than 200,000 corporations and the number is constantly increasing. However, because of the hybrid nature of the subchapter S corporation—not quite a corporation and not quite a partnership—the governing rules have been quite complex. Under both the Johnson and the Nixon administrations, with the aid of the Committee on Partnerships of the American Bar Association, legislative proposals have been developed to alleviate problems associated with subchapter S corporations. The proposals have been designed to tax such corporations as much like partnerships as possible without conferring unwarranted advantages on them.

H.R. 13270 as passed by the House and reported by the Senate Finance Committee would apply the H.R. 10 ceiling—10 percent of earned income or $2,500, whichever is less—to deferred compensation of "shareholder employees" of subchapter S corporations. This amendment would change the section 531 definition of "shareholder employee" from an officer or employee who owns more than 5 percent of the corporation's stock to an officer or employee who owns more than 10 percent—by making the appro-

priate change at page 401, line 16, of H.R. 13270.

This amendment would conform to the Surrey proposals under the Johnson administration, the Cohen proposals under the Nixon administration, and present section 401(c)(3)(B) of the code.

Mr. President, I hope the Senate will support the amendment.

Mr. JAVITS. Mr. President, I understand there is some question with reference to an amendment that was to be offered by another Senator. That amendment would seek to take out the provision from the bill altogether.

Is the Senator aware of anything like that, and how does it tie in with his amendment?

Mr. MATHIAS. I am not aware of any such intention on the part of any other Member.

It is my understanding that when the Secretary of the Treasury came before the committee—the distinguished chairman of the committee can confirm this—he testified that the Treasury would like further time to study the whole question of subsection S matters in this general area of the economy. However, since the committee has elected to act, this amendment is intended to mitigate to the extent possible the action of the committee. It will not result in any loss of revenue to the Treasury. It will conform to present business practices, and I think it will have the effect of making the changes more circumspect and less far reaching than under the committee draft.

Mr. JAVITS. Will the Senator yield further?

Mr. MATHIAS. I yield.

Mr. JAVITS. How is this going to deal with the professional service corporations—that is, in States where they are permissible?

Mr. MATHIAS. Only if they come within subsection S categories, but they are in a different category from the usual subsection S situation.

Mr. JAVITS. In other words, an amendment relating to professional service corporations will not find itself in conflict with or contradicted by the amendment of the Senator from Maryland?

Mr. MATHIAS. I do not believe that they will have any impact on such an amendment, and I am advised that the distinguished Senator from Arizona (Mr. FANNIN) has such an amendment in preparation.

Mr. JAVITS. I thank my colleague. I just wanted to be sure that the field would be open.

Mr. CURTIS. Mr. President, will the Senator yield for a question?

Mr. MATHIAS. I yield.

Mr. CURTIS. I have not been able to hear. Just what does the Senator's amendment do?

Mr. MATHIAS. In the case of subsection S corporations, it merely permits one to have 10 partners, instead of 20 for the purpose of treating his income on a partnership basis. It is 10 percent instead of 5 percent, which is the limitation in the bill.

Mr. CURTIS. The number of partners?

Mr. MATHIAS. The effect. Of course, they may not have an equal share. It permits the treatment which is accorded subsection S corporations to be available if you have 10- rather than 5-percent interest as provided in the bill.

Mr. CURTIS. But it relates to subsection S corporations generally and not in reference to retirement programs specifically. Is that correct?

Mr. MATHIAS. Just subsection S.

Mr. CURTIS. I mean, the Senator's amendment.

Mr. MATHIAS. Yes.

Mr. CURTIS. The Senator's amendment does not deal with the retirement but, rather, deals with subsection S generally?

Mr. MATHIAS. That is correct.

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

Mr. MATHIAS. I yield.

Mr. FANNIN. Would the Senator object to my obtaining a parliamentary ruling that this will not affect the amendment I am going to offer?

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

Mr. MATHIAS. I have yielded to the Senator from Arizona.

Mr. FANNIN. Mr. President, I have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FANNIN. I should like to have a ruling as to whether or not this would affect the amendment I will call up later. I already have submitted the amendment.

The PRESIDING OFFICER. Will the Senator specify the amendment he is talking about?

Mr. FANNIN. Amendment No. 296.

The PRESIDING OFFICER. It will have no effect.

Mr. FANNIN. I thank the Chair.

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

Mr. MATHIAS. I yield.

Mr. MILLER. I should like to ask the Senator from Maryland whether, by merely changing 5 to 10, representing the amount of outstanding stock a shareholder-employee must have, this does not restrict the privilege of one of these subsection (s) corporation pension plans rather than expand it. It seems to me that with only 5 percent required, this would indeed permit 20. But, as I understood the Senator's response to the Senator from Nebraska's question, he indicated that this would permit 10 instead of 20.

It seems to me that the Senator's amendment does not just permit 10 instead of 20, but it requires that there would be 10 instead of 20, because of the way the bill would read with his 10 percent added in lieu of the 5 percent.

If his intention is to expand the coverage, it seems to me that the 5 percent expands the coverage. If his intention is to restrict the coverage, then the 10 percent does restrict it. But I am not quite clear what he intends to do, because I had originally thought he was intending to expand the coverage.

Mr. MATHIAS. I am happy to respond to the distinguished Senator from Iowa.

He will note that on page 401, line 16, it says "more than 5 percent." This would be more than 10 percent; therefore, it provides an extra degree of flexibility.

Mr. MILLER. May I respond to the Senator from Maryland by reading the entire paragraph as it would now read if his amendment were adopted:

> For purposes of this section, the term "shareholder-employee" means an employee or officer of an electing small business corporation who owns . . . on any day during the taxable year of such corporation, more than 10 percent of the outstanding stock of the coropration.

That means that if one is a shareholder-employee and is to come under this subsection S pension plan, he must own more than 10 percent.

Mr. STEVENS. Less than.

Mr. MILLER. The Senator from Alaska suggests "less than," but that is not the language. The language is "more than."

If the Senator from Maryland is trying to expand the coverage—I would suppose that he is, and I think that is a good objective—perhaps it ought to read "not more than 10 percent," rather than just "more than 10 percent."

If that accords with his intent, I would suggest that he might wish to modify his amendment accordingly, and I would support it on that basis.

I am afraid that, as it now stands, the amendment is going to restrict the number who could be covered under these plans, and I think that our objective ought to be to expand the number

Mr. MATHIAS. Let me say to the distinguished Senator that the bill imposes a new limitation which has not existed heretofore. What I am trying to do is to bring that new limitation and the new rules which are being applied here into line with other appropriate statutes.

The Senator is not wholly wrong in his interpretation. The purpose is to apply only as is consistent with other aspects and with other features of the code. For that reason, we felt that the 10 percent would be a more desirable figure in line with the other provisions of the law, although it would be more restrictive in that respect, as the Senator has indicated.

It is my understanding that the distinguished chairman of the committee and the distinguished ranking Republican member of the committee are willing to accept this amendment.

Mr. MILLER. Mr. President, will the Senator yield further?

Mr. MATHIAS. I yield.

Mr. MILLER. Mr. President, I can visualize a situation in which we have, under present law, 20 members of a firm, each having 5 percent. They are all covered under present law. I can understand another situation in which 10 members have, let us say, 8 percent each, which would account for 80 percent of the ownership, and the balance, let us say, of five members have 4 percent each; and under the present law, only the five members with 4 percent each would be eligible.

Now, if we want to expand the eligibility we can do that by providing that a shareholder-employee have not more than 10 percent and that means that those who have 8 percent, since they did not have more than 10 percent, are eligible, and, therefore, coverage would be expanded and it seems to me would be desirable to do that.

But I think that this matter should be checked with staff further. Therefore, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The 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. LONG. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside in order to consider an amendment to be offered by the Senator from Florida (Mr. HOLLAND).

Mr. HOLLAND. Mr. President, I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. HOLLAND. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HOLLAND. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the proper place insert the following:

"SEC. —. PORTION OF SALARY, WAGES, OR OTHER INCOME EXEMPT FROM LEVY.

"(a) IN GENERAL.—Section 6334(a) (relating to enumeration of property exempt from levy) is amended by adding at the end thereof the following new paragraph:

"'(8) Salary, wages, or other income.—If the taxpayer is required by judgment of a court of competent jurisdiction, entered prior to the date of the levy, to contribute to the support of his minor children, so much of his salary, wages, or other income as is necessary to comply with such judgment.'

"(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 30 days after the date of the enactment of this Act."

Mr. HOLLAND. Mr. President, I can explain the amendment briefly.

A distinguished circuit judge of Florida has protested that when such judges have issued decrees for the payment of support money for minor children by the father, they find that the levies of Internal Revenue Service on the individuals concerned, the fathers, tie up the entire revenue, the entire wages. All they are asking is that the levy not be effective to prevent payment of the awards for the support of the minor children made before the levy. The matters to which I refer are divorce cases.

Mr. President, this request seems completely equitable. I have taken it up with the distinguished Senator from Louisiana and the distinguished Senator from Delaware. I believe they have no objection.

Mr. President, the explanation above is all that the amendment would do if it is agreed to. It would not apply unless the decree allowing the award for the support of the minor had already been made and was in effect, prior to a levy being placed upon his earnings. It would exempt from the levy enough of the earnings of the father to permit the payment of the support award.

Mr. LONG. Mr. President, we have looked at the amendment and we find it does have merit. I know of no objection to the amendment. The Senator from Delaware has looked at it and the staff has looked at it. We find no objection to the amendment and we would be happy to agree to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida.

The amendment was agreed to.

Mr. HOLLAND. I thank the Senator and I also thank the distinguished Senator from Maryland.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Maryland.

Mr. LONG. Mr. President, I ask unanimous consent that the amendment of the Senator from Maryland be temporarily laid aside in order that the Senate may consider an amendment to be offered by the Senator from North Carolina, which I understand will take only a few minutes.

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

AMENDMENT NO. 401

Mr. ERVIN. Mr. President, I call up my amendment No. 401 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. ERVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment ordered to be printed in the RECORD is as follows:

Page 546, after line 12, insert the following new section:

"SEC. 915. CASUALTY LOSSES TO TIMBER.

"(a) AMOUNT OF DEDUCTIBLE LOSS.—Section 165(b) (relating to amount of deduction for losses) is amended by adding at the end thereof the following new sentence: "In the case of a loss sustained with respect to timber arising from fire, storm, or other casualty, the amount of the deduction for such loss shall not be less than the amount by which the fair market value of the timber immediately before the casualty exceeds the fair market value of the timber immediately after the casualty.'"

Mr. ERVIN. Mr. President, the desirability of an amendment of this kind has been called to my attention by one of North Carolina's outstanding lawyers, Kennedy Ward of Craven County.

It appears that an individual in North Carolina bought a lot of cut over land and that after this cut over land had been devoted to the growing of timber for many years there was a fire which destroyed many parts of the timber.

The Internal Revenue Service ruled that the owner of the land was not entitled to a deduction for the loss by fire because there was no costs basis for the timber as distinguished from the land, the timber having been grown after the land was acquired. Litigation is pending in both Federal and State courts on this matter now.

The amendment would provide:

In the case of a loss sustained with respect to timber arising from fire, storm, or other casualty, the amount of the deduction for such loss shall not be less than the amount by which the fair market value of the timber immediately before the casualty exceeds the fair market value of the timber immediately after casualty.

Mr. President, I think the amendment is just and that it should be a part of the Internal Revenue Code. In view of the fact that the matter was not called to the attention of the Ways and Means Committee of the other body or the attention of the Committee on Finance, and that it was not called to any attention until after this bill reached *the floor* of the Senate. I am not optimistic enough to believe I can persuade the Senate at this time to adopt the amendment or to persuade the conferees to retain the amendment in the case it were adopted. It is a just amendment, however, because it would allow a deduction for the actual loss sustained by burning of timber cut after the land on which the timber stood had been acquired. Also it is a highly desirable amendment because it would encourage owners of land to grow timber on that land.

I offer the amendment merely for the purpose of calling it to the attention of the Senate Finance Committee, the House Ways and Means Committee, and the Joint Committee on Internal Revenue Taxation, in the hope that the committees, at some convenient time in the immediate future, will study the question and reach a conclusion as to what is fair and just for them to do in connection with losses of this kind.

Mr. LONG. Mr. President, the Senator from North Carolina has made a good legislative record with regard to this problem. I assure the Senator that when we have the opportunity to get around to it, after we have disposed of these other things which are now pressing upon us, we will take a look at it and see if we can make some recommendations.

Mr. ERVIN. I thank my good friend from Louisiana, chairman of the Committee. On the basis of that assurance, and on the basis of my promise to him that I will also call this matter to the attention of the House Ways and Means Committee and the chairman of the Joint Committee on Internal Revenue Taxation, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 382

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Maryland (Mr. MATHIAS).

Mr. LONG. Mr. President, I ask unanimous consent for a time limitation on debate on the pending amendment, that it be limited to 20 minutes, the time to be equally divided between the sponsor

of the amendment and the Senator in charge of the bill.

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

Mr. MATHIAS. Mr. President, during the interval, I have had the opportunity to discuss this language with the distinguished Senator from Iowa, and we have agreed upon a modification which is agreeable to the distinguished chairman of the committee and to the senior Republican Member of the committee.

Therefore, I ask unanimous consent to modify my amendment so that it will read:

On page 401, line 16, strike the words "more than 5 percent" and insert the words "10 percent or more".

I believe that this will satisfy the objection which was raised by the Senator from Iowa, and will further conform to the bill and to other pertinent parts of the statute.

Mr. LONG. Mr. President, I understand this matter as well as I would like to understand it, but the Treasury studied it and they agree with the amendment. They think it is desirable.

The staff committee members also have studied it and think it is a good amendment. Therefore, in that spirit, I think it would be appropriate to agree to the amendment and take it to conference.

Mr. President, I yield back the remainder of my time.

Mr. MATHIAS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Maryland (Mr. MATHIAS).

The amendment was agreed to.

AMENDMENT NO. 403

Mr. BELLMON. Mr. President, I call up my amendment No. 403 and ask that it be stated.

The legislative clerk proceeded to read the amendment.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the RECORD at this point.

The text of the amendment is as follows:

At the proper place insert the following new section:

"SEC. —. RECOVERY OF REASONABLE ATTORNEY'S FEES AND EXPERT WITNESS COSTS AS A PART OF COURT COSTS IN CIVIL CASES INVOLVING THE INTERNAL REVENUE LAWS

"(a) IN GENERAL.—Part II of subchapter C of chapter 76 (relating to Tax Court procedure) is amended by adding at the end thereof the following new section:

" 'SEC. 7465. RECOVERY OF COSTS.

" 'IN GENERAL.—In any proceeding before the Tax Court for the redetermination of a deficiency, the prevailing party may be awarded a judgment of costs to the same extent as is provided in section 2412 of title 28, United States Code, for civil actions brought against the United States. For purposes of the preceding sentence, if in the opinion of the Tax Court the deficiency was assessed without good cause, or for purposes of harassment, the judgment of costs may include reasonable attorney fees and costs of expert witnesses.'

"(b) CLERICAL AND CONFORMING AMENDMENTS.—

"(1) The table of sections for such part II is amended by adding at the end thereof the following new item:

" 'Sec. 7465. Recovery of costs.'

"(2) Section 2412 of title 28, United States Code, is amended—

"(A) by inserting '(a)' before "Except", and

"(B) by adding at the end thereof the following new subsection:

" '(b) In any civil action which is brought by or against the United States for the collection or recovery of any internal revenue tax, or of any penalty or other sum under the internal revenue laws, and in which the United States is not the prevailing party, if the action was brought by the United States, and in the opinion of the court, was brought without good cause or for purposes of harassment, a judgment for costs may include reasonable attorney's fees and costs of expert witnesses.'

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply only with respect to civil actions and proceedings commenced after the date of the enactment of this Act."

Mr. LONG. Mr. President, I ask unanimous consent that the debate on this amendment be limited to 40 minutes, with the time to be equally divided between the sponsor of the amendment and the Senator in charge of the bill.

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

Mr. BELLMON. Mr. President, the amendment is offered and supersedes my previous amendment No. 352, which was discussed in this body on Saturday. For the benefit of those Members not familiar with my amendment, I should like to take a few minutes to explain exactly what the amendment does and the reasons I have for offering it as an amendment to the tax reform bill.

As I stated on last Saturday, I believe that this amendment corrects an injustice which occurs throughout the country. The complex nature of our Internal Revenue laws makes it necessary for individuals who have problems with their income tax to retain professional help in the form of accountants or attorneys. Many times, when a deficiency is assessed, the taxpayer finds it less expensive to go ahead and pay taxes and penalties that are not owed, than to contest unfair Internal Revenue assertions in the courts.

By offering this amendment I do not intend to allow citizens to escape the payment of taxes that they rightfully owe. But I do feel that the taxpayer does have a right to be protected from undue harassment by the Internal Revenue Service.

Now, the way the amendment works is this: When a taxpayer goes to court, either to the tax court for the redetermination of a deficiency or to the Federal district court to defend against the collection of a deficiency or to recover a deficiency already paid, he may recover certain costs if in fact he proves his case, that is, that a deficiency did not, in fact, exist. Then, if in the opinion of the court hearing the case, there was no good cause for the assertion by the Internal Revenue Service or the deficiency was assessed for purposes of harrassment, the judge can award reasonable attorney's fees and costs of expert witnesses to the taxpayer.

I might point out here that in the tax court the taxpayer can be represented by persons other than an attorney. For instance an accountant who qualifies can represent the taxpayer in a proceeding before that body. I feel that in a case of this kind the judge in an award of costs could include the fee of this type representation.

At the present time the taxpayer cannot recover attorney's fees or fees for expert witnesses in tax cases. My amendment would allow for recovery of these fees only when the taxpayer has won his case and the court in its opinion feels that the Government was not justified in bringing or pressing for the payment of the tax assessed.

Mr. President, some concern was expressed on Saturday that the term "prevailing party" was too broad, and that if the taxpayer recovered some of the deficiency that he could be awarded cost because he had in fact won his case. I feel that this has been corrected now because the language of the amendment leaves to the court the determination of when such fees should be awarded. Also it gives the court a guideline to follow in that the court may award such fees when only no good cause is found for the assessment or the assessment was considered to be made for purposes of harrassment.

The cost of this amendment is a question which I cannot answer. However, I feel the cost will be minimal. This amendment will be a safeguard for the taxpayer, in that he knows that he does have an opportunity to defend what he thinks is an assessment without good cause. Also I feel that this amendment will put the Internal Revenue Service on notice that there must be a sound basis for an assessment of a deficiency and that they must have a sound case to back up such an assessment.

Mr. LONG. Mr. President, when the Senator offered his amendment last Saturday, I would have felt it necessary to oppose it, but having had occasion to discuss it with the Senator since, and now that he has it in its present form, I am willing to take it to conference.

What the amendment would provide is that where a taxpayer must sue, and where the court finds that the Government's position was lacking in merit and there was really no good reason why the Government took the taxpayer to court in the first instance, it could be considered, as in Louisiana, to be a nuisance case, and the court could award reasonable attorney's fees to the defendant because he had been the victim of baseless litigation. It would also be a warning to the Government lawyers that before filing a lawsuit against a taxpayer they should be certain it has merit and is not in the nature of harassment or the judge may award attorneys fees to the taxpayer.

I think it would be a good warning to Government agents, especially when they

proceed against a taxpayer, that their case should have a modicum of merit.

Upon that basis, Mr. President, I am willing to take the amendment to conference. I believe that this amendment has also been discussed with other Senators, including the Senator from Delaware (Mr. WILLIAMS).

Mr. President, I yield back the remainder of my time.

Mr. BELLMON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has now been yielded back on the amendment.

The question is on agreeing to the amendment No. 403 of the Senator from Oklahoma (Mr. BELLMON).

The amendment was agreed to.

STATISTICS BASED ON ZIP CODE AREAS

Mr. WILLIAMS of Delaware. Mr. President, I send an amendment to the desk and ask that it be stated.

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; and the amendment will be printed in the RECORD at this point.

The text of the amendment is as follows:

At the proper place insert the following new section:

SEC. —. STATISTICS BASED ON ZIP CODE AREAS.

(a) STATISTICS OF INCOME.—Section 6108 is amended by inserting the following at the end thereof: "In publishing such statistics taxpayers shall not be classified, in whole or in part, on the basis of a coding system for the delivery of mail. The preceding sentence shall not apply to statistics made available on an official basis to an agency or instrumentality of the United States or a State or any political subdivision thereof. Such agencies may not publish or otherwise disclose such information. The prohibitions of this section shall be deemed to be within the meaning of 5 U.S.C. Sec. 552(b)(2), the Freedom of Information Act."

(b) SPECIAL STUDIES.—Section 7515 is amended by inserting the following at the end thereof: "Such transcripts may not contain data based, in whole or in part, on the classification of taxpayers under a coding system for the delivery of mail. The preceding sentence shall not apply to statistics made available on an official basis to an agency or instrumentality of the United States or a State or any political subdivision thereof. Such agencies may not publish or otherwise disclose such information. The prohibitions of this section shall be deemed to be within the meaning of 5 U.S.C. Sec. 552(b)(2), the Freedom of Information Act."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect upon enactment.

Mr. WILLIAMS of Delaware. Mr. President, recently, considerable concern has been created by press announcements that the Treasury Department would be compiling tax statistics which would be available to so-called junk mail dealers, on the basis of ZIP code numbers. Allegedly this information would be furnished from the Internal Revenue Service and from this information they could determine the salary scale of people that lived in a certain area based on information gathered from the tax returns. Junk mail dealers could then zero in on certain areas.

For example, they could find out the difference between incomes in Northeast Washington, and in Northwest Washington, and so forth.

These statistics are now made up on a statewide basis, but under the new program this would be broken down by ZIP code areas. Considerable interest has resulted in taxpayers being fearful that this new plan may ultimately end up with an avalanche of junk mail descending upon them. Why should the Treasury Department make it easier for the junk mail artists to zero in on certain areas?

The pending amendment would prohibit the sale of this information and continue the existing law as it has been heretofore interpreted. It would stop this new plan.

It would, however, permit the Government to compile this information which it wanted for its own use and exchange it with other agencies of the Government as well as State agencies but they could not make it available for general distribution to the general public or to junk mail dealers.

I hope that the amendment will be agreed to. I do not think there is any objection to it.

Mr. LONG. Mr. President, I personally think the answer to the junk mail dealer is to charge him 6 cents on his letter, but in view of the fact that that does not seem to be possible and the Finance Committee, of course, has no jurisdiction over that kind of proposal, the Senator from Delaware (Mr. WILLIAMS) is doing what he can—with respect to what is within the jurisdiction of the Finance Committee—to try to prevent the Government from providing names of taxpayers to junk mail dealers so that they can fill our mailboxes with their junk mail.

I am happy to take it to conference.

Mr. WILLIAMS of Delaware. Mr. President, in fairness, I should point out that while the amendment has been prepared with the cooperation of the Treasury Department, they would rather not have it adopted. Nevertheless, it is a very important amendment and I hope that it will be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware (Mr. WILLIAMS).

The amendment was agreed to.

AMENDMENT NO. 296

Mr. FANNIN. Mr. President, I call up my amendment, No. 296, pertaining to professional service organizations, which I offer on behalf of myself, the Senator from Illinois (Mr. PERCY), and the Senator from Texas (Mr. TOWER).

Before I do so, I ask unanimous consent that the names of Senators ALLOTT, BIBLE, CRANSTON, DOLE, GURNEY, HRUSKA, JAVITS, MURPHY, and SCHWEIKER be added as cosponsors.

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

Mr. FANNIN. Mr. President, I call up my amendment, No. 296, to H.R. 13270.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment, as follows:

On page 509, beginning with line 5, strike out all through line 18, page 512 (section 901 of the committee amendment), and renumber the succeeding sections.

The part of the bill proposed to be stricken, is as follows:

SEC. 901. QUALIFIED PENSION, ETC., PLANS OF PROFESSIONAL SERVICE ORGANIZATIONS.

(a) SPECIAL RULES FOR SHAREHOLDER-EMPLOYEES.—Section 72 (relating to annuities) is amended by redesignating subsection (p) as (q) and by inserting after subsection (o) the following new subsection:

"(p) SPECIAL RULES FOR SHAREHOLDER-EMPLOYEES OF PROFESSIONAL SERVICE ORGANIZATIONS.—

"(1) INCLUSION OF CERTAIN AMOUNTS IN GROSS INCOME.—Notwithstanding the provisions of section 402 (relating to taxability of beneficiary of employees' trust), section 403 (relating to taxation of employee annuities), or section 405(d) (relating to taxability of beneficiaries under qualified bond purchase plans), a shareholder-employee of a professional service organization shall include in gross income for his taxable year the sum of—

"(A) the excess of the amount of contributions paid on his behalf which is deductible under section 404(a) (1), (2), or (3) by such organization for its taxable year ending in or with his taxable year, over the lesser of (i) 10 percent of the compensation received or accrued by him from such organization during its taxable year, or (ii) $2,500, and

"(B) the amount of any forfeitures allocated to his account under a stock bonus or profit-sharing plan established by such organization during the taxable year of a trust forming part of such plan ending in or with his taxable year.

In the case of an individual on whose behalf contributions are paid under more than one plan to which subparagraph (A) applies or under a plan contributions to which on his behalf are subject to the limitations provided in section 404(e), the provisions of subparagraph (A) shall, under regulations prescribed by the Secretary or his delegate, apply with respect to the aggregate of the contributions paid on his behalf under all such plans.

"(2) TREATMENT OF AMOUNTS INCLUDED IN GROSS INCOME.—Any amount included in the gross income of a shareholder-employee under paragraph (1) shall be treated as consideration for the contract contributed by the shareholder-employee for purposes of this section.

"(3) DEDUCTION FOR AMOUNTS NOT RECEIVED AS BENEFITS.—If—

"(A) amounts are included in the gross income of an individual under paragraph (1), and

"(B) the rights of such individual (or his beneficiaries) under the plan terminate before payments under the plan which are excluded from gross income equal the amounts included in gross income under paragraph (1),

then there shall be allowed as a deduction, for the taxable year in which such rights terminate, an amount equal to the excess of the amounts included in gross income under paragraph (1) over such payments.

"(4) PROFESSIONAL SERVICE ORGANIZATION DEFINED.—For purposes of this subsection, the term 'professional service organization' means any corporation, beneficial ownership in which, or control of which, is limited under State or local law, applicable regulations, or rules of professional ethics to—

"(A) individuals who are required to be licensed or otherwise authorized under State or local law to perform the professional services necessary to carry on the trade or business in which such corporation is engaged, or

"(B) the executor or administrator of an individual described in subparagraph (A).

"(5) SHAREHOLDER-EMPLOYEE.—For purposes of this subsection, the term 'shareholder-employee' means any employee of a professional service organization who owns any beneficial interest in such organization."

(b) CONFORMING AMENDMENT.—Section 62 (relating to adjusted gross income) is amended by inserting after paragraph (9) (as added by section 531 of this Act) the following new paragraph:

"(10) PENSION, ETC., PLANS OF PROFESSIONAL SERVICE ORGANIZATIONS.—The deduction allowed by section 72(p)(3)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1969.

Mr. FANNIN. Mr. President, I call up an amendment, which is printed as amendment 296 to H.R. 13270, and which restores to professional service corporation employees the same pension plan benefits which are available to employees of other corporations.

Now, Mr. President, the Tax Reform Act is a long and complicated measure. We all know that. And since we all know that a great number of proposed amendments are being considered, I will keep my remarks brief and to the point.

In executive session, and without the benefit of hearings, department reports, or other opportunity for comments from interested person, the Finance Committee added to the tax reform bill, section 901.

This section unfairly discriminates against employees of professional corporations by placing limitations on the amount of their earnings which they may contribute towards their retirement. No similar limitation is imposed on persons who are not required to adhere to professional standards of ethics and who organize under general corporation statutes.

Persons affected by this unfair change include lawyers, medical and osteopathic physicians and surgeons, dentists, architects, stockbrokers and accountants, as well as the many nonprofessional employees of professional service corporations.

The amount of revenue that can be gained by this section of the tax reform bill is small. The amount of ill will it generates is great—and justified.

The U.S. Treasury Department has gone on record as opposing the committee change at this time. The Department has said:

> As a general matter, the Treasury Department is opposed to the imposition of limitations or requirements on retirement plans solely because of the type of business engaged in or the form in which business is conducted.

My amendment restores to employees of professional service corporations the same rights and benefits which employees of other corporations enjoy. It eliminates an unfair discrimination, restores equality, and favors no one unjustly.

UNANIMOUS-CONSENT AGREEMENT

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

Mr. FANNIN. I yield.

Mr. LONG. Mr. President, would the Senator be willing to limit the time on the amendment?

Mr. FANNIN. Yes.

Mr. LONG. Mr. President, I ask unanimous consent that the time for debate on this amendment be limited to 1 hour, to be equally divided between the sponsor of the amendment and the manager of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. TOWER. Mr. President, reserving the right to object, I did not hear the request.

Mr. LONG. I asked unanimous consent that there be a limitation of 1 hour on the amendment, one-half to each side.

Mr. TOWER. One hour to each side?

Mr. LONG. Half an hour to each side.

Mr. FANNIN. Mr. President, I have requests from other Senators to make it an hour on each side.

Mr. LONG. Mr. President, I ask unanimous consent that there be a limitation of debate on the amendment of 2 hours, 1 hour to each side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. FANNIN. Mr. President, I have been requested to add the name of the Senator from Vermont (Mr. PROUTY) as a cosponsor of the amendment, and I ask unanimous consent to do so.

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

Mr. FANNIN. Mr. President, I yield to the Senator from Texas such time as he may need.

Mr. TOWER. Mr. President, one of the greatest injustices apparent in the proposed bill approved by the Finance Committee is the discrimination that will be applied to the employees of professional service associations, such as doctors' and lawyers' offices and paramedical personnel. The primary purpose for the enactment of State laws to allow the creation of professional service corporations was to enable the building and processing of pension plans and funds for the benefit of all the employees of these associations.

For each individual who is a "professional" in such an organization, there are from four to six staff employees—secretaries, nurses, technical specialists, receptionists, bookkeepers, janitors, clerks—who must back up the entire operation. As a profession becomes more complex, still more such backup personnel will be needed, or the quality of professional service will decline. With the adoption of the committee's recommendations, the organizations will be unable to compete with other businesses and industry for the needed personnel. Professional employers will be discriminated against by being denied the tax treatment accorded other employers who create pension and retirement benefits. Likewise, their employees will be discriminated against by being denied the right to participate in such programs.

At a time when we are stressing equity of treatment for the taxpayer, it makes no sense to discriminate against the professional taxpayer and his employees. In the November 3 issue of the U.S. News & World Report there is an interview with Dr. John A. D. Cooper, president of the Association of American Medical Colleges. In this article, Dr. Cooper points out the need for more attractive jobs in the industry so that more people will consider them for careers. Retirement and other fringe benefits are an important part not only for securing career-type personnel, but also for retaining trained personnel once they have entered a given field. If the professional organizations are not put on an equal plane for competing for these people, the service they render will suffer and our quality of living will be diminished.

Recently, the Deputy Assistant Secretary of the Treasury, John S. Nolan, realized how inequitable the committee's position would be and had these comments on the matter:

> The Treasury Department is opposed to the imposition of limitations or requirements on retirement plans solely because of the type business engaged in or the form in which business is conducted. We believe that the distinction in present law between qualified retirement plans of self-employed persons and corporate plans generally is unwise and should be eliminated.

Then Mr. Nolan went on to say that the Department is currently drafting legislation on this problem which will deal effectively with allowing the professional corporations to compete and said:

> It is our position that it would be preferable to defer action on retirement plans of both professional service corporations and subchapter S corporations until next year when we expect to present comprehensive legislation recommendations concerning all employee benefit plans.

Mr. President, not only is the discrimination against professional service organizations opposed by logic and the Treasury Department, but such discrimination is also in contravention to the overwhelming weight of judicial authority on the subject. In the last 6 months, at least three separate circuit courts of appeal have upheld the equity of allowing professional service organizations, duly organized under State law, to be considered as corporations for income tax purposes.

In *O'Neill* v. *United States*, 410 F. 2d 888 (6th Cir. 1969), the court held that the definition of what is a corporation is well established in this country, dating to Chief Justice Marshall's declarations on the subject in the Dartmouth College case of the early 1800's. This definition, which would be changed if the committee's language is accepted, was held to be as good now as it was at the time it was announced. This definition allows professional service organizations to be considered as corporations for income tax purposes.

In a recent fifth circuit case, *Kurzner* v. *U.S.*, 413 F2d 97 (1969), the court was even stronger in the denunciation of attempts to deny corporate standing for tax purposes to the organizations. This court called such attempts "wholly arbitrary and discriminatory," and further concluded that they were "* * * bold attempts not to conform but to avoid judicial decision." "The only apparent expediency served by such attempts has been the collection of more taxes; in this regard, we need only observe that the courts have not yet become so cynical as to subscribe to the tax-dollar school of statutory construction." This rationale was even further buttressed in a tenth circuit case, *U.S.* v. *Empey*, 406 F2d 157 (1969), where the court under-

scored the right of professional service organizations to be considered corporations, where permitted by State law, and classified attempts to prevent such action as "unreasonable" and "invalid." As the courts have refused to give in to such openly "wholly arbitrary and discriminatory" characterizations of professional service organizations, which deny to them the rights granted to other, similar organizations, we in the Senate should do likewise.

Thus, Mr. President, I propose that we strike those provisions which would discriminate against the professional service associations and other similar organizations as being not in the best interest of the policy of the Nation. The Treasury Department has endorsed this proposal as best serving its policy of considering this entire field, which it is currently doing. The circuit courts of appeal of four of the circuits in the United States have held that to do any less is a discrimination against the rights of the associations and should not be allowed.

In the interest of elemental fairness, I urge that the amendment of the Senator from Arizona (Mr. FANNIN), which I am delighted to join with him in cosponsoring, deleting this discrimination, be adopted.

Mr. President, I commend the distinguished Senator from Arizona for bringing this issue to the floor and giving us an opportunity to redress what I consider to be an imbalance and an inequity.

Mr. PERCY. Mr. President, will the distinguished Senator from Arizona yield me 4 minutes?

Mr. FANNIN. I yield 4 minutes to the Senator from Illinois.

Mr. PERCY. Mr. President, I am seated in the Senate to the right of the Senator from Texas, though not very frequently do I find myself to the right of him ideologically. I find myself today foursquare behind him, and certainly behind the distinguished Senator from Arizona, in the amendment they are now offering.

This is an amendment that looks to equity, it looks to organization of our health resources, and it looks to how we are going to provide health care to the people of this country.

I rise in strong support of the pending amendment. It is vitally important to continued improvement of health care in this country.

In this richest most affluent nation in the world, we are deficient in many respects in the health care assistance we offer to Americans, especially those living on lower incomes. We are able to develop effective heart transplant procedures and advances in immunology are dramatic. Yet, when it comes to caring for health needs of the average citizen, our material advances and scientific achievements frequently seems to have deserted us.

Today the Nation's practicing doctors for the most part largely function as 300,000 independent and uncoordinated medical systems. We need to take measures to encourage and assist the medical profession to make more efficient and economical use of their strong and independent operations. It would seem logical to encourage wider multispeciality group practice to allow greater availability and utilization of expertise, ancillary personnel, and costly facilities. Closely related to group practice is the team approach to medical care. This technique has demonstrated an effective means of supplying sound health care where it has been tried.

The pending amendment would encourage the expansion of group practice by deleting restrictive provisions written in by the Senate Finance Committee. These provisions would limit members of professional corporations to the same pension and profit-sharing plan basis as self-employed individuals. This removes an important incentive for group practice.

If the committee provision prevails, members of professional corporations would be allowed to contribute only 10 percent of their income to pension plans up to a maximum of $2,500 per year. This is unrealistically low.

The Treasury Department is currently conducting a study of the whole area of deferred compensation. The study will be completed in the spring. At that time Treasury expects to recommend sweeping changes in the whole area affecting all taxpayers. In the meantime Treasury supports this amendment deleting section 901 of the tax bill. I feel that the current law should not be changed until such time as the Treasury report is ready. Edwin S. Cohen, Assistant Secretary of the Treasury for Tax Policy, has stated that—

> It would be preferable to defer action on retirement plans of . . . professional service corporations . . . until next year when we expect to present comprehensive legislation recommendations concerning all employee benefit plans.

Some other points I feel that are of importance:

The committee provision was written into the bill without hearings and without affording an opportunity to present counterarguments.

The benefits realized by existing law are not just for the employer, but must be given proportionately based on salary to all employees.

The courts consistently have ruled that professional corporations should be taxed no differently from other corporations and IRS has been rebuffed by the courts in every instance of trying to change this tax treatment.

This amendment would not allow professional corporation employees to deduct unlimited amounts of income. Any pension plan of a professional corporation must be an IRS qualified plan with benefits the same for all employees in the corporation—in the case of doctors that would mean for doctors, nurses, technical personnel.

Contributions to the plan must meet IRS standards of reasonableness and IRS will disallow excessive contributions. In any event contributions to profit-sharing plans are limited to 15 percent of salary.

For all the above reasons I strongly urge adoption of the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I yield myself such time as I require.

I ask unanimous consent to have printed in the RECORD an article entitled "Physicians Profit From Tax Device," written by Sandra Blakeslee, and published recently in the New York Times.

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

PHYSICIANS PROFIT FROM TAX DEVICE

(By Sandra Blakeslee)

Thousands of physicans across the country have begun to take advantage of a lucrative tax device that is saving many of them more than $15,000 a year in taxes.

Some doctors are finding they can use the same device to retire on 10 times as much money as they once planned—without earning a penny more during their careers.

The growing popularity of this tax mechanism—the professional corporation—was reflected in interviews with medical society officials, legal counselors, management consultants and physicians from around the country.

"It's the hottest thing to happen to us doctors since penicillin," remarked a heart specialist from California.

The tax device is also available to other professional men, such as lawyers and architects, but they do not appear to be utilizing it as widely as doctors because of *problems* peculiar to their professions. However, authorities said the concept might find wider popularity as the practice among doctors became better known.

The Treasury Department, which is alert to this trend and concerned about it, is studying the matter as part of a broad examination of deferred compensation plans. The agency intends to present legislation in 1970 that would seek to outlaw this practice and to deal with what it considers to be other inequities in the tax treatment of retirement plans for employes and the self-employed.

One reason for the doctors' enthusiasm for the professional corporation is illustrated in the case of a New Jersey physician who for years expected his retirement income to be $10,000 a year. He now expects to get $100,000 a year after age 65, without a change in his current standard of living.

The professional corporation, which has been repeatedly ruled legal by the courts despite frequent attacks by the Internal Revenue Service, is the same as any other corporation except that it is made up of several professional men, or even an individual professional man, rather than businessmen. Like most corporations, the professional corporation is a tax-sheltered entity that is in a special, often enviable position come tax time in April.

I.R.S. SHIFTS VIEW

Before 1950, the I.R.S. said that professional men could group together to form associations, or corporations, and that they would be taxed as corporations, which generally pay higher taxes than individuals.

After 1950, however, the I.R.S. changed its mind in view of amendments to its code that had been made in 1942. These changes allowed corporations considerable savings on taxes through corporate pension plans.

Under the tax agency's 1950 decision, professional men could not legally incorporate because, the I.R.S. argued, a professional corporation is inherently different from a business corporation.

In the eyes of the tax agency, the professional corporation had become no more than a lucrative tax dodge, and the agency sought to prove its point in court.

By 1960, the tax agency had not won its case, but it was making the establishment of corporations increasingly difficult for professional men. It did this by conducting special audits, by filing lawsuits and by doing what it could to discourage the trend.

In the last two years, the agency has fought and lost battles in nine district courts and three Federal appeals courts.

The thrust of the rulings was that I.R.S. opposition to professional corporations was "discriminatory" and "patently arbitrary."

On August 8, the door was thrown wide open. The I.R.S., giving up its legal fight, promulgated a new policy that "organizations of doctors, lawyers and other professional people organized under state professional association acts will, generally, be treated as corporations for tax purposes."

Physicians have been attracted to the concept of professional corporations for several reasons, according to doctors, lawyers and medical officials interviewed. One is that many doctors, in the higher income tax brackets, want to save money.

Another is that many more physicians in recent years have been tempted by the advantages of group practice—better hours, better business arrangements and better equipment—and find that incorporation of a group practice offers them the best financial arrangements as well.

Engineers, lawyers and other professional men who might qualify for corporate status have been slower to take advantage of the tax device, several observers said.

"Many lawyers just don't want to fool around with it yet," said a lawyer from Indiana. "They often practice alone and don't want to go into groups, since groups offer the best excuse to needing a corporation."

STATE ESTIMATES

Many engineers in New York State, for example, oppose professional corporations, a legislative adviser from Albany said. "Many people don't feel it's kosher," he said.

Estimates of how many doctors are turning to corporate practice are difficult to make, according to the American Medical Association.

The legal department of the A.M.A. receives dozens of requests each day from physicians asking for advice on incorporation procedures. The association mails them a brochure describing the situation in detail.

Some state medical societies will hazard estimates.

In California, for example, 30,000 doctors were said by officials to be lining up at lawyers' offices after a professional incorporation enabling law was passed in April.

The Indiana attorney general said that there were 121 new professional medical corporations in the state as of a month ago and that 5,000 to 6,000 doctors in the state practiced through corporations. The average size of a corporation is three physicians, and 14 corporations consist of only one physician.

Each state is empowered to pass its own laws regulating corporations and setting minimum standards for their organization. Professional corporations, often called associations, are flourishing in 48 states. New York, Wyoming and the District of Columbia do not allow them.

BILLS FAIL IN ALBANY

The battle to legalize professional corporations in New York is being carried on largely by the state medical society, which will try again next year to get the legislature to pass an enabling law.

In the last year in Albany, two enabling bills were defeated as legislators argued that professional corporations would serve no purpose other than to permit doctors to enrich themselves at the expense of the state and Federal Governments.

In other states, however, lawyers and business management consultants have been doing a thriving business with physicians.

One such consultant is Gene Balliet of Teaneck, N.J., who advises doctors in several surrounding states.

Recently, Mr. Balliet drew up a financial plan for a well-to-do client, a specialist in internal medicine with a subspecialty in ailments of the gastro-intestinal tract. If he incorporates, this physician is advised, he will save $17,280 a year in taxes and will be able to retire 23 years from now on an income of $99,900 a year.

The physician, Mr. Balliet said, is not atypical of many successful doctors found in all parts of the nation.

According to Mr. Balliet's analysis, this doctor would fare better financially next year by incorporating, while still maintaining the private, solo nature of his practice.

After incorporating, the doctor would probably pay more in overhead costs, due to added costs in bookkeeping and accounting. However, he would be able to deduct about 20 per cent of his gross income—free from all taxes—to put toward his retirement.

Over a 23-year period, before the doctor reaches age 65, he could thus amass $1,665,200 in investments, which he could draw upon as retirement income.

If he does not incorporate, the doctor is allowed to invest, tax free, only $2,500 a year of his gross income toward retirement. The $2,500 limit, called the Keogh Plan, is set by Federal law for all self-employed professional men except those establishing themselves as corporations.

TAKE-HOME PAY

The doctor's take-home pay, or the dollars in his pocket after taxes at the end of the year, is less after incorporation than before.

However, taking into account the money he has invested toward his future which is part of his income, he can increase his income from $60,800 before incorporation to $72,850 after incorporation—a gain of more than $12,000.

The A.M.A. Newsletter, in recognizing the advantages of incorporation, said recently:

"A major plus is that corporate practice offers physicians a greater potential economic benefit than any other single element in the financial environment."

The drawbacks of professional corporations, the A.M.A. said, are that the I.R.S. may still oppose professional corporations where it can, that it costs money in legal fees to set up the corporation and that patients may object to being treated by a corporation.

However, some physicians, who have been practicing as corporations for some time, said in interviews that there was no problem in the doctor-patient relationship resulting from the business move.

"My patients don't even know I'm a corporation," said one physician from Skokie, Ill., "and if they did I'm sure they wouldn't care."

There are probably some advantages in professional corporations for patients as well as doctors, according to Mr. Balliet.

Any doctor who has half a million or a million dollars in investments waiting for him at retirement is less likely to raise his fees, Mr. Balliet said. Professional corporations, he added, may serve to hold down medical costs for the welfare of all—doctors and patients alike.

A WEALTHY PHYSICIAN'S INCOME PLAN

[Following is a financial analysis prepared by Gene Balliet of Teaneck, N.J., for a well-to-do medical specialist]

	Continuing in solo practice	As a corporation
Gross practice income for 1 year	$176,700	$176,700
Overhead costs	−$53,000	−$55,650
Amount deducted for tax-sheltered investment plan	−$2,500	−$23,950
All forms of insurance deductible	(1)	−$1,297
Net practice income	$121,200	$95,800
Tax bracket (percent)	64	66
Federal tax paid	$64,180	$46,900
Personal take-home pay	$57,020	$48,900
Deductible investments added back to indicate total personal income	+$2,500	+$23,950
Personal insurance	−$1,297	(2)
Net personal income (total assets)	$60,800	$72,850

Footnotes at end of table.

A WEALTHY PHYSICIAN'S INCOME PLAN—Continued

	Continuing in solo practice	As a corporation
Investment projection: Keogh plan to age 65 (23 years); corporate plan (to age 65)	$173,800	$1,665,200
Retirement income on a 6 percent withdrawal plan (per year)	$10,400	$99,900

[1] Not allowed.
[2] Already paid and deducted.

Mr. LONG. Mr. President, this New York Times article by Sandra Blakeslee discusses the provision involved in the pending amendment as one of the growing bonanzas in terms of tax loopholes.

Some years ago, we had before us the proposal to allow self-employed people to deduct $2,500 or 10 percent, whichever was the lesser, of their annual incomes, to be set aside for retirement. Many of us thought that was a very generous provision. The doctors wanted it, and the lawyers wanted it, and certain other professional people wanted it; and while some of us thought it was altogether too generous, eventually it became the law.

Subsequently someone persuaded the doctors and certain other professional groups that they could have an even greater tax benefit by obtaining the passage of State laws allowing them to set up corporations for the practice of medicine, law, and the other professions.

Corporations, when they set up a retirement plan, are required to have nondiscriminatory plans. They cannot discriminate in favor of highly paid employees. Most corporations have a great many employees covered under their plans, so that the amount of each employee's pension is kept within reasonable bounds by virtue of the fact that benefits must be funded for a large number of employees.

But in the cases where doctors get together and form the kind of corporation that is authorized by these laws, in many instances the physicians are in the overwhelming majority. They are the stockholders of the company, and also account for perhaps 80 or 90 percent of the earnings of all the people working in the corporation. And they have one thing in common: the desire to shelter as much of their income from taxes as possible. Where, under H.R. 10, they can only put aside $2,500 or 10 percent of their earnings, whichever is lesser, under the State laws to which I refer they could put aside a much higher percentage of their earnings before taxes, so long as perhaps the one secretary they might have, or the two or three nurses that they might have, were also included in the plan on a nondiscriminatory basis.

Just to quote one paragraph of the article to which I have referred—and my staff advises me this is sound—

One reason for the doctors' enthusiasm for the professional corporation is illustrated in the case of a New Jersey physician who for years expected his retirement income to be $10,000 a year. He now expects to get $100,000 a year after age 65, without a change in his current standard of living.

Imagine that; he can step up his retirement income from $10,000 to $100,000

a year without any sacrifice in his current standard of living. Uncle Sam is paying for it. As Senators can well imagine, here is a fast-growing tax loophole in the making right now—a vast tax loophole, created by State laws to grant a loophole in a Federal law.

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

Mr. LONG. I yield to the Senator from Tennessee.

Mr. GORE. And then he may draw this amount down so that it is not taxed as ordinary income, it is capital gains income.

Mr. LONG. If he takes a lump-sum distribution, that is true. But even if he draws it down in installments as ordinary income he has a great advantage. When he puts the money aside for retirement, that is deductible, he pays no tax on it. Then, let us say, it sits in a trust for 20 years earning income, so that the principal, perhaps, by that time, has doubled or tripled by the time he wants to draw it down. There is no tax when the income is earned by the trust—he is taxed only when he takes them down. At that time he may be enjoying the benefit of a much lower tax rate available for retired persons. And if a person is over 65——

Mr. RIBICOFF. Mr. President, the Senator makes a most significant point. Most of the officers of corporations have only themselves as an officer of the corporation.

An example is given in the New York Times of doctors setting up these corporations. A plan is drawn up for a practitioner in solo practice in a State, an internist, who makes $176,000 a year.

Under the Keogh plan adopted in 1962, he would retire with an income of $10,400 a year. Under the present plan, as a corporation, we find the same doctor saving $17,280 a year in taxes. However, in addition, with the use of the same plan, in 23 years he has a nest egg of $1,665,000 and he draws a $99,900 a year retirement payment.

Mr. President, I was very much interested when the distinguished Senator from Illinois talked about our needing doctors to take care of the health of our Nation. I assure the Senator that this doctor who is making $176,000 a year is not concerned with the slums or the poor or the people who really need decent health care.

The Keogh plan, adopted in 1962 at their request, to take care of doctors and lawyers was a modest plan. We agreed to it in Congress. It had rules and regulations making it possible for a self-employed person to put away $2,500 a year, or 10 percent of his income, whichever was lower. Now we suddenly find a new gimmick with corporations being formed.

This is not the situation of a clinic that has been established for a long time. This is a doctor who is practicing by himself and forms a corporation. When the patient goes to the doctor, he does not think he is going to a corporation. He is still going to see Dr. Jones.

Dr. Jones has a loophole and one of the best tax shelters ever devised. His income has been set aside. He will be drawing $99,900 a year retirement instead of $10,000. The taxpayers are paying for it.

It is the worst kind of subterfuge and tax dodge. We should not be encouraging this kind of tax avoidance.

The Treasury is studying the problem, but, we should wait for the Treasury report and allow this loophole to remain untouched.

Mr. President, I commend the Finance Committee for closing the loophole.

This is a tax gimmick that is going on all over the country for the benefit of a small group of doctors and lawyers.

Mr. LONG. Mr. President, the Senator is correct. If we are going to close a tax loophole, we ought to do it when there is some momentum in favor of closing tax loopholes.

I am in favor of tax reform. This is a case of laws being passed by State legislatures with no other purpose in mind than the avoidance of Federal tax laws. A State legislator can vote for such a law with a clear conscience. It will not cost the State government one dime. It will cost the Federal Government. He can vote for it for his doctor friends for the purpose of enabling them to avoid Federal taxes.

These corporations are formed for no other purpose than tax avoidance. There is no effective limit on how much money they can shelter from taxation.

Mr. COOK. Mr. President, if what the Senator is saying is true, where did the committee get the figure of $2,500?

Mr. LONG. I am talking about H.R. 10. That is the existing law. That is the limitation for self-employed people. That is how the doctors wanted it, until someone came up with this scheme.

Mr. COOK. Where did the committee get the figure in the bill of $2,500?

Mr. LONG. That is what they wanted and what is the law for a self-employed person. They were self-employed people. They came up here for it. They lobbied for it.

Now they can set aside a lot more than that under this scheme which we are trying to eliminate in the bill.

Mr. COOK. But the distinguished Senator from Connecticut said a moment ago that they could do all of these things.

We in the Senate have a pension plan. And the funds for that pension program come out of our check. It is a little over $230 a month. That means that we pay $2,500 and more into the pension program in a year. We have to invest in it for at least 6 years. I do not know how much the Government puts into it at the moment. It would be less than 3 percent a year. And we are trying to figure how on $2,500 a year this physician that everyone goes to can build for himself a decent pension plan. He cannot build on it at all.

Mr. LONG. We do not get a tax deduction on ours. We pay taxes on the money we put up. That is more than you can say for our doctor and lawyer friends. They have a tax deduction, and from a practical point of view they can put as much more into the plan as they want when they pay taxes on that extra money.

That is not what I am complaining about. I am complaining about putting this money aside without paying one penny in taxes. We pay taxes on the money we put in.

Mr. COOK. Mr. President, the reason I asked the question is that I am trying to figure how with a $2,500 limit on the pension plan they can build up much of a pension.

Mr. RIBICOFF. Mr. President, for many years a leader in the fight was Representative Keogh of New York. At the request of the doctors and lawyers, he fought for a special provision in the tax laws to allow a self-employed person to set aside 10 percent or $2,500 a year, whichever is lesser, from his income, which he could take as a tax deduction in order to build up a pension plan.

This took many years to go through. In 1962, Congress adopted H.R. 10, the Keogh plan, which for the first time allowed doctors and lawyers to have a pension plan of their own.

The pension system enabled a doctor to start building up an estate. If the Senator will follow with me this example that was cited in the New York Times of a plan, that was drawn up for a physician in New Jersey, we will see what happens under H.R. 10.

We have a physician with a gross practice of $176,700. He has overhead cost of $53,000. He has a little more overhead cost if he is a corporation.

He then deducts tax free, his investment plan under the Keogh plan of $2,500 a year. But, when he is a corporation, he can now deduct $23,950 a year. This is a new tax shelter.

Mr. COOK. He can do that.

Mr. RIBICOFF. Under the Fannin proposal, which is now advocated by the Senator from Arizona we would have this tax gimmick prevail. It is not illegal. The Treasury Department has ruled it is proper.

Mr. GORE. Mr. President, the Treasury has lost case after case in the courts until they say they cannot contest it further.

Mr. FANNIN. The Senator is saying that I advocate this. That is not so. The Senator is stretching the facts.

Mr. RIBICOFF. I say the Senator is trying to permit it to remain as it is at the present time.

Mr. FANNIN. Until we have hearings and treat everyone alike.

I am just asking for the same treatment for a professional corporation that is given everyone else, other corporations. I am not asking for any special privileges.

Mr. RIBICOFF. Not special privileges, but I am talking about the thrust of the Senator's proposal as against the thrust of the committee proposal, and I am comparing them.

Mr. FANNIN. The committee proposal is discriminating against one group.

Mr. RIBICOFF. No, I do not think the committee proposal is discriminating against anybody. The committee proposal wants to plug a loophole before it spreads like wildfire, all through America.

There is a paragraph here that, in California, officers said 30,000 doctors were lining up at lawyers' offices after the Professional Corporation Enabling Act was passed in April.

Mr. FANNIN. How many corporations do we have in the United States?

Mr. RIBICOFF. I do not know. Hundreds of thousands.

Mr. FANNIN. That is correct.

Mr. RIBICOFF. But I do not think we should be in a position, frankly, of giving doctors and lawyers this tremendous loophole.

Mr. FANNIN. Does the Senator favor passing measures without having hearings, without having departmental reports? Does he think it is fair and equitable to pass measures on that basis?

Mr. RIBICOFF. I think there is collective wisdom in the Senate of the United States, and I think that the collective wisdom of the Senate in many instances is superior to that of a bureaucracy or a department. I do not hesitate to have the Senate initiate the legislative process. What has been wrong with the legislative process over the last 30 years is that the Senate has failed to take the initiative and has waited, hat in hand, for a decision to be made at the other end of Pennsylvania Avenue.

Mr. FANNIN. Does the Senator think that we are prepared to pass judgment on matters with which we are not familiar, with which we can become more familiar by getting the departmental reports, by getting information, and by giving the people involved an opportunity to testify?

Mr. RIBICOFF. Yes, I do. I think that the Senator from Arizona, the Senator from Louisiana, the Senator from Tennessee, and I have sufficient knowledge and experience that we do not have to apologize to someone who is in the Treasury Department for making a decision. Members of the Treasury Department and even the Secretary of the Treasury, have only been there 5 or 6 months. I think that our collective experience and wisdom is equal to theirs. I do not hesitate to take the initiative in the legislative process, and I hope the day never comes when the Senate fails to take the initiative.

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

Mr. RIBICOFF. I yield.

Mr. GORE. The distinguished Senator from Arizona indicates that the committee is trying to discriminate against professional corporations. As a matter of fact, the committee has a provision in this bill to put the same limits on subchapter S corporations, small business corporations.

Mr. FANNIN. Partnerships.

Mr. GORE. Similar to what it recommends for professional corporations. So, instead of the committee discriminating, the Senator from Arizona would discriminate against small business corporations by providing for so-called professional corporations a kind of tax benefit for retirement which is denied to the small business corporations.

Mr. FANNIN. They have the privilege of electing how they are going to be taxed. They have the privilege of making a determination. We are not giving the same privilege.

I am not talking about what should be done. I am talking about fairness and equity in permitting the people involved to come before us and testify and then getting departmental reports, so that we can evaluate.

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

Mr. RIBICOFF. I yield.

Mr. GORE. I rose to make this comment because it was the distinguished Senator from Arizona, himself, who raised the question of discrimination. Discrimination is not involved in the provision in the committee amendment as between professional corporations and subchapters corporations. The discrimination would be worked if the amendment of the distinguished Senator from Arizona should be adopted.

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

Mr. RIBICOFF. I yield.

Mr. COOK. First, let me say that I do not mean to disagree with the Senator from Tennessee. One has an election as to whether he wants to go under section 401 of the Internal Revenue Code or under chapter S, and I think it would be found that the same small corporation would elect to go under 401.

I should like to make one thing clear. When we talk about the fact that, somehow or other, it is like Senator PASTORE's poor widow who has to work in a grocery store or a department store, this just does not apply to a doctor. If he elects to have one of these programs under section 401, is it not true that he makes an election and that he has to file a qualified pension plan with the Department, and that it not only applies to the doctor but also to everybody else who works in his office? It applies to the nurses and to the secretaries. It applies to engineering firms and their employees. It applies to law firms and their secretaries. It does not apply to the individual alone.

Mr. RIBICOFF. That is correct. But there is a great difference in how this operates, because there is a sense of balance under the Keogh plan. I will cite the difference, with the same doctor.

Under the Keogh plan, which was passed in 1962, the investment projection in 23 years for the same doctor with a lucrative practice of $173,800, would give him a retirement income, on a 6 percent withdrawal plan, of $10,400 a year. But under the present corporate plan, the same doctor, with the same income, would have an investment projection of $1,165,200, with a retirement income of $99,900 a year. This is a great variable. The nurse who works there is not going to receive $99,900. The nurse who works there will probably retire at an income of $4,000, $5,000 or $6,000, depending on how many years she has worked for him.

What we have here is a situation that is going like wildfire, and we are trying to prevent a loophole from becoming larger and larger until we find out the Treasury's program to treat all retirement plans, which they do not have.

What we have here is a discriminating feature, because not every State has the same type of incorporation laws. Not every doctor is incorporated, not every lawyer is incorporated, when they are incorporated it is not a true corporation; because, basically, doctors still have to have ethical concepts; they are still personally liable. They do not have corporate liability.

Something completely false has been engrafted on our corporate system—not a true corporation but just a shadow corporation, taking advantage of a tax loophole gimmick.

Mr. President, our system of progressive taxation on higher incomes has been generally accepted for several generations.

But this system crumbles when a high income bracket taxpayer is permitted to take 20, 30, or 40 percent of his income which he earns in one year and defer it in such a way as not to pay any taxes until a much later date when he is in a considerably lower tax bracket.

The whole concept of deferring large chunks of income is contrary to the theory of our tax laws. Deferrals can only be used by people with high incomes. The vast majority of taxpayers must use all of their current income to meet current expense.

In 1962 Congress gave careful consideration to the area of allowable income deferrals for self-employed people. At that time the Congress set clear guidelines for future policy. These guidelines are known as the H.R. 10, or Keogh, plan.

Since that time a great many professional people have simply circumvented these guidelines by establishing professional corporations. There is no doubt that the major if not only motivation for these corporations was the tax angle to escape from H.R. 10 guidelines. No other basic change is made. These people are still self-employed. Often their clients do not know they are dealing with a corporation.

As a result, doctors, lawyers, engineers, who remain basically self-employed are not subject to the law for the rest of the self-employed. These people have been able to deduct tremendous percentages of their current income tax free.

The tax savings have been enormous. For instance, the professional with a net income of $100,000 who previously could deduct only $2,500 under the Keogh plan can, by simply incorporating, be able to deduct say $25,000. This permits him to decrease his taxes by over $15,000.

In only 10 years' time this man will be able to set aside a question of a million dollars—60 percent of which is tax money when he escaped from paying.

Mr. President, the Finance Committee studied this matter very carefully. It has recognized that the provisions of the bill may create a disparity among professionals and the corporate executive. But it has also recognized that the Treasury Department is at this moment carefully studying this area and will propose legislation to deal with these problems in the very near future.

But this Treasury study is no reason to delay closing off this loophole used by professional persons who are still essentially self-employed people.

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

Mr. RIBICOFF. I yield.

Mr. LONG. Let us assume two doctors get together and form themselves into one of these professional corporations, set up a retirement plan, and put 25 percent

of the money they make into this tax shelter retirement plan. They can include in the plans, let us say, a 10-year vesting provision. Then, having set aside 25 percent of each nurse's salary for the retirement plan, if a nurse quits before the end of 10 years, they can use the amount they put in to fund her pension, to fund the other pensions including their own.

Mr. RIBICOFF. I quote from the AMA newsletter:

A major plus is the corporate plan which offers physicians a greater potential economic benefit than any other single element in the financial environment.

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

Mr. RIBICOFF. I yield.

Mr. GORE. The irony of this debate is illustrated by the fact that last evening the distinguished President of the United States indicated a possible veto of this bill, for one reason, that it provides a 15-percent increase in the social security benefits——

Mr. COOK. The President did not say that last night.

Mr. GORE. I listened.

Mr. COOK. They asked him if he would veto the bill under the circumstances, and he said, "Yes." He did not expand. He did not say what the reasons were.

Mr. GORE. He did not say "yes."

Mr. COOK. He said, "No," that he could not support it.

Mr. GORE. As I understood the question—and it is in the newspapers today—the reporter rose and asked the President if he could sign the tax bill if it contained a 15-percent increase in social security benefits and an $800 personal exemption. He gave a one-word answer—"No."

Mr. COOK. The Senator does not have any illusions about the other things done in this bill, has he?

Mr. GORE. The irony of this is illustrated by the fact that the President is talking about vetoing this bill because it provides a meager personal exemption of $800 and a 15-percent increase in social security benefits. Social security benefits presently average only in the neighborhood of $150 a month and the 15 percent increase would raise this by less than $25 per month. Here we are talking about tax deductions for retirement systems running into hundreds of thousands of dollars a year, and then, an amendment is offered to strike it out. I suppose the President would sign the bill if we did that.

Mr. LONG. The Treasury opposes our doing anything about this fantastic loophole until we spend a year studying it.

Mr. FANNIN. Mr. President, that is not true. They said they will take it up all together.

Mr. RIBICOFF. Mr. President, I am amazed at where this discussion is going. Since when does the Senate depend for its decision on what any secretary has to say? What has hurt Congress is that we have forgotten there are two ends to Pennsylvania Avenue, one end where the President is, and the other end where we are. We should look at legislation and not wait for what the Treasury, the Department of Interior, or the Department of Commerce sends here. That is why we have debates. There is not a man here who did not come here with a great deal of background and experience in life and in Government. I do not defer to anyone in the agencies in my judgment as to what we should do. We can study the problems and we are qualified to act.

Mr. LONG. Mr. President, we have in this bill what is known as section 311. That was not the subject of the hearings. An article appeared in Forbes magazine that pointed out a device that insurance companies and others were relying on. I believe the Senator from Delaware dug it out and said "Look at this. It is awful." We asked the Treasury Department what they thought about it. They said corporations other than insurance companies also use that device.

The Treasury Department fought this device, but the courts were deciding the lawsuits in favor of these corporations. Finally the Treasury Department gave up.

We looked at the situation and decided to act. The Treasury Department did not speak, but they know something has to be done about it.

If they are not going to make doctors and other professionals pay taxes, how are they going to make others? The committee thought the doctors should pay taxes.

Mr. RIBICOFF. And the lawyers.

Mr. COOK. Mr. President, there is one point I would like to make to the Senator from Louisiana. I do not think he is just talking about doctors. I am not a doctor, and I could not get to be one, anyway, I expect. You could have the same situation if plumbers got together, and I suspect some of them have 401 plans. It could be a tile man or anybody else, if they are not a corporation. They could qualify under this if they got approval. This is not just professional groups of doctors and lawyers. I think it should be pointed out that is true under 401 pension plans, if you file with the Internal Revenue Service and get approval.

I recall talking to the Senator from Connecticut yesterday. We were talking about social security provisions. I gave an example. In the Senator's mind it was an example of extremes. I would say the example of the doctor with a pension plan under 401 who gets $99,900 a year—I am sure the Senator would admit it—is an extreme.

Mr. RIBICOFF. I would say that basically the medical profession is the highest paid profession in the country at the present time. The plumber does not earn $100,000 a year or $150,000 a year.

Mr. GORE. Mr. President, before the Senator leaves the Chamber I would like to clarify one matter. May I have the attention of the Senator from Kentucky?

Mr. COOK. I gave the Senator the article. I read it.

Mr. GORE. Mr. President, the Senator from Kentucky states "if they obtain approval." That is what the law suits have been about. The Internal Revenue Service has lost all the cases. Therefore, it is no longer attempting to enforce the regulations.

Now I wish to read to the Senator the question and answer to which reference was made earlier. The question asked the President at the news conference last night was:

Q. Sir, if the final version of the tax reform bill now pending in Congress includes the Senate-adopted $800 exemption provision and the 15 percent Social Security increase, can you sign it?

A. No.

Mr. COOK. I would hope the Senator would state for the RECORD that I gave him the article.

Mr. GORE. I appreciate it very much. However, it illustrates this point:

We have been debating for an hour and a half a reasonable provision in the tax bill to put some reasonable limit on tax deductions for personal corporation retirement systems when the President is threatening to veto the bill because we gave a 15-percent increase for the old people trying to live on social security.

Mr. FANNIN. Mr. President, I ask unanimous consent that the names of the Senator from Kentucky (Mr. COOK), the Senator from Colorado (Mr. ALLOTT), the Senator from Oregon (Mr. HATFIELD), and the Senator from Oklahoma (Mr. BELLMON), be added as cosponsors of the amendment.

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

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

Mr. FANNIN. I yield 2 minutes to the Senator from Texas.

Mr. TOWER. Mr. President, I was impressed with the talk about Congress acting independently of the executive departments. I seem to recall that a few days ago when the President complained that the legislative program was not moving rapidly enough through Congress that the response of congressional leadership was that there were many bills on which they had received no reports from executive departments and agencies. I think that is a rather moot point here.

I am concerned about what was brought out in the testimony. I would like to ask the Senator from Arizona the extent to which abuses under H.R. 10 were brought out in testimony before the committee. Were these abuses catalogued or inventoried? How many appeared before the committee?

Mr. FANNIN. We did not have testimony before the committee.

Mr. TOWER. No testimony on this?

Mr. FANNIN. No testimony and no departmental report.

Mr. TOWER. I find that shocking, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. Mr. President, will the Senator yield to me for 3 minutes?

Mr. FANNIN. I yield 3 minutes to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, I would not take a position on any subject brought before the Senate simply because a Secretary or anybody else said they had reached a particular conclusion. I do not think that is enough. I would like to know his reasons for that conclusion.

Mr. President, I rise to support the Fannin amendment for two reasons. First, there were no hearings, and sec-

ond, the Treasury is opposed for good and substantial reasons.

LIMITATIONS ON CONTRIBUTIONS TO PENSION AND PROFIT-SHARING PLANS

Mr. President, the Treasury is in opposition to sections 531 and 901 of the Tax Reform Act, which would impose limitations on contributions on behalf of shareholder-employees to qualified pension and profit-sharing plans of subchapter S corporations and professional service corporations. Its opposition results from the belief that an overall review of the entire deferred compensation area is necessary but that piecemeal amendments are not an effective way of dealing with the problems in this area.

During the past several months, I am informed, the Treasury has been studying intensively this area, with a view to submitting comprehensive recommendations to the Congress early next spring. One conclusion of this study is that the distinction in present law between corporations and unincorporated businesses is an unwise one. Not only is it questionable from the standpoint of tax policy, but it also has important nontax implications. This distinction is undoubtedly responsible for the enactment of special legislation in 47 States permitting professional persons to practice their professions in corporate form. While most of this legislation contains safeguards intended to maintain the traditional relationship between the professional and his client, it is not certain that this result will obtain, and this relationship may be altered.

One of the questions the Treasury is studying is the desirability of limits on contributions to or benefits under pension and profit-sharing plans, the form in which these limits should be cast, the effect of contributions or benefits in excess of these limits. Thus, the matter with which sections 531 and 901 deal will be specifically covered in the recommendations to be made next year.

With respect to section 531, it should be noted that this provision was recommended as part of a comprehensive revision of subchapter S of the Internal Revenue Code. This revision would have simplified subchapter S substantially and made the tax treatment of corporations electing its benefits more similar to that of unincorporated businesses. In this context, it was not unreasonable to extend certain of the limits on retirement plans of unincorporated businesses to retirement plans of subchapter S corporations. Whatever the merits of this argument, it clearly does not now apply since the comprehensive revision of subchapter S recommended by the Treasury was not adopted.

The Treasury Department supports the deletion of sections 531 and 901 from the Tax Reform Act. At a minimum, the Treasury believes that the effective dates of these provisions should be delayed for 1 year to permit consideration of the Treasury's recommendations in the deferred compensation area.

Mr. President, this Senator addressed a letter to the Treasury Department concerning these two sections, and under date of November 21, Assistant Secretary Edwin S. Cohen, directed a reply to me, and I ask unanimous consent that at the conclusion of my remarks the text of that letter be printed in the RECORD.

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

(See exhibit 1.)

Mr. HRUSKA. Mr. President, among other things, here is what the letter says:

We believe that the distinction in present law between qualified retirement plans of self-employed persons and corporate plans generally is unwise and should be eliminated.

The elimination of this distinction is one of the objectives of the review which we have undertaken of the entire deferred compensation area. The accomplishment of this objective may involve the imposition of some form of limitation on contributions or benefits for high-paid corporate employees, at least for shareholder-employees, and the adoption of uniformly applicable requirements for vesting, eligibility, and other matters.

Mr. President, it seems to me that the reasons for the Secretary's conclusions are what are important. He is asking that this matter be deferred until a time that will be more suitable and in keeping with the rules or logic and of determination of sound, public policy.

Thus, I would urge that the amendment be agreed to achieve this objective.

Failing its adoption, Mr. President, I intend to offer an amendment which would make the subchapter S and the professional corporation sections applicable for tax years beginning after December 31, 1970. In the interim, the Treasury Department can submit to the committee and to the Senate the results of its study; we can then have hearings and proceed in a logical and deliberate fashion, which will be much more in keeping with the determination of policy in such an important area.

EXHIBIT 1

THE DEPARTMENT OF THE TREASURY,
Washington, D.C., November 21, 1969.

Hon. ROMAN L. HRUSKA,
U.S. Senate, Washington, D.C.

DEAR SENATOR HRUSKA: You have requested a statement of our position on the Senate Finance Committee action extending the limitations on contributions now applicable to retirement plans of self-employment persons to retirement plans of professional service corporations.

As a general matter, the Treasury Department is opposed to the imposition of limitations or requirements on retirement plans solely because of the type of business engaged in or the form in which business is conducted. We believe that the distinction in present law between qualified retirement plans of self-employed persons and corporate plans generally is unwise and should be eliminated.

The elimination of this distinction is one of the objectives of the review which we have undertaken of the entire deferred compensation area. The accomplishment of this objective may involve the imposition of some form of limitation on contributions or benefits for high-paid corporate employees, at least for shareholder-employees, and the adoption of uniformly applicable requirements for vesting, eligibility, and other matters. Action in these areas is consistent with our basic objective in this area, the formulation of a statutory framework which will encourage the development of a strong private retirement system, enabling us to decrease our reliance on the public system.

With regard to the particular matter under consideration, we believe that it would be preferable to defer action on retirement plans of both professional service corporations and so-called subchapter S small business corporations (also affected by the Tax Reform Bill) until next year when we expect to present comprehensive legislative recommendations concerning all employee benefit plans. At the very least, any provisions in the Tax Reform Act extending the limitations of present law applicable to self-employed retirement plans to retirement plans of subchapter S corporations or professional service corporations should be effective only for taxable years beginning after December 31, 1970. This postponement would provide sufficient time for us to complete our study and develop our recommendations and for the Congress to act upon them. Congress could act with the benefit of the views of the groups interested in corporate plans and the views of self-employed persons concerning our recommendations. This limited postponement would at the same time serve to make clear the intention of the Congress to act quickly in providing the much needed reforms in this area.

I hope that this expression of our views will be helpful to you in your consideration of this matter.

Sincerely yours,

EDWIN S. COHEN,
Assistant Secretary.

Mr. LONG. Mr. President, do I understand correctly that the Senator is suggesting we should make the effective date of the provision in the committee bill December 31, 1970?

Mr. HRUSKA. Yes. If the Fannin amendment is not agreed to, I intend to offer an amendment which would achieve that purpose.

Mr. LONG. In the spirit of compromise, I would be willing to agree that we would make the date in this proposal—and I should like to ask that the Senator from Arizona (Mr. FANNIN) be alerted about this matter—I would be willing to agree that we make the date of the provision we are discussing December 31, 1970. It will be a lot easier to close this loophole after we conduct the hearings and proceed with regard to this matter. All lawyers know that that will have to be passed on to close the loophole—something like getting the genie back inside the bottle, after Congress has reasonably agreed to it, to permit this claim to continue. This would be a better way to handle it when, next year, we finally agree on what would be in order to take effect, rather than acting without seeing what the situation would be.

Mr. FANNIN. I appreciate what the Senator is talking about.

Mr. LONG. We would continue existing law until December 31, 1970, and at that point the amendment would go into effect unless we have agreed to some other alternative between now and then. I think the Senator would agree that something must be done about this. The Treasury would be the first to agree that something must be done. It seems to me that if we are going to have to vote, in the long run, to plug a loophole of this kind, something must be done between now and the end of next year, because if nothing is done about the matter, the committee amendment would go into effect.

Mr. TOWER. Mr. President, I would urge the Senator from Arizona not to

accept that, because I think many of us feel that we should hold hearings before we positively enact legislation on this subject. Within 1 year's time, that can be done. Therefore, I would not like to see this locked into the law, on the basis of what we think may or may not be right.

Mr. FANNIN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Arizona has 36 minutes remaining and the Senator from Louisiana (Mr. LONG) has 26 minutes remaining.

Mr. FANNIN. Mr. President, I yield such time to the Senator from Texas as he may desire.

The PRESIDING OFFICER. The Senator from Texas is recognized further.

Mr. TOWER. Mr. President, therefore I urge the Senator from Arizona not to accept the proposal offered because I think we have adequate time to hold hearings, and to consider and enact constructive legislation based on the accumulation of the appropriate facts in the matter.

Mr. FANNIN. Mr. President, I thank the distinguished Senator from Texas. Let me say to the distinguished chairman of the committee that I appreciate very much his thoughts, but there are a number of cosponsors that I cannot contact immediately and therefore would like to defer the Senator's proposal at this time.

Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. LONG. Mr. President, from time to time, we have seen articles or cartoons to the effect that the Senate Finance Committee was whittling away at the bill. However, for those who have doubts about the ability of the majority of members of the committee to plug up loopholes when we find them and do what should be done in a certain area, I believe we have a good example of it right here.

The vote was 12 to 4 in the committee. One can say that we did not have hearings, but on the other hand, we did not have the opportunity of doctors and other professional groups bringing pressure on members of the committee who voted on this matter, before they voted on it.

The balance on the committee is about the same as in the Senate, and when we looked into the matter, we decided, by a vote of 12 to 4, that the loophole should be closed.

If legislation is desired in the future, we can have it. The Treasury can bring in its recommendations. But the Treasury's recommendations should come in against a loophole that has been closed, not against a newly created loophole that has gone into effect, because when we have people enjoying a tax advantage never intended, it is very difficult indeed to take it away. I submit it is better to close the loophole in the beginning rather than to allow people to create at all these plans authorized by State legislatures, and then say they are being discriminated against when Congress does what it should do.

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

Mr. LONG. I yield.

Mr. GORE. I think it would be interesting to see how many Senators who voted against increasing the exemption for a dependent child from $600 to $800 will now vote to give tax deductions for retirement plans that are without limit. The Senator from Connecticut read into the RECORD the example of a deduction of $23,950 to provide a retirement plan of $99,900 a year.

The pending amendment by the Senator from Arizona is to continue the legality of these kinds of retirement plans and deductions for those kinds of plans. So it will be interesting to see how many Senators who opposed raising the personal exemption for a dependent child from $600 to $800 will now vote to continue tax deductions for such retirement plans as these.

Mr. LONG. May I say it would be even more embarrassing, if we are going to look at the record, to see how many could not vote for a social security increase but who will now vote that a doctor can take a $100,000 deduction to achieve that result. So, just comparing rollcall votes to see how it would be embarrassing, that might be equally worthy for comparison purposes.

Mr. GORE. But they say "fiscal responsibility."

Mr. COOK. Mr. President, I think if we are going to go into the record to see who voted for something and who voted against something, I think we should show for the record that the personal exemption was $500 in 1948 and it went to $600 in a Republican Congress. The President was President Truman. I think the record should likewise show that the now Senator from Tennessee was a Member of the Congress who voted against it, and when the President vetoed the bill, he voted to sustain the veto. So I think if Senators are going to show how one voted yesterday and today, we ought to have the full record.

Mr. LONG. Mr. President, I point out that under this tax avoidance device one can get a tax shelter and not pay a tax on part of his earnings until he retires and then pay the tax only as he draws down the money for his personal use. He will be in the more favorable situation which exists when he retires at age 65. He could even draw it down in a lump sum settlement, at capital gains rates.

Mr. FANNIN. Mr. President, this amendment does not change present law. All we are asking is to have hearings and to have departmental reports, and take it up in proper order.

Mr. LONG. All I am saying is that one does not need to look at this situation very long to see that those affected have a big tax avoidance device. Every defense against that argument has been a procedural defense rather than a defense on the merits. This is one of the big tax loopholes we discovered while we were considering this bill. This and section 311 were two big tax loopholes I was not apprised of until we commenced the executive sessions. I am happy to say for the Finance Committee that, having seen them, the committee then closed them.

Mr. FANNIN. The Senator understands the difficulty of arguments from the standpoint of news stories and news programs. The Senator made reference to a news article. There are other reports in the press we could use, but the Senator knows we are not going to get bogged down that way.

Mr. LONG. The difference is that no one in the Treasury says this is not a big loophole, nor would anyone on the staff or on the committee argue that this is not a very big loophole and should not be closed. Even the Treasury says it should be closed sometime.

Mr. FANNIN. But it should be done in an equitable, orderly manner. Fine, we go along with that.

I do not think it is necessary to argue further about it. We could talk all day. Is the Senator ready to yield back the remainder of his time?

Mr. CANNON. Mr. President, will the Senator yield briefly to me?

Mr. FANNIN. I yield.

Mr. CANNON. Mr. President, in almost all of the States today, doctors, lawyers, engineers, accountants, and other professional individuals have created corporate entities for the benefit of themselves and their shareholder-employees.

The right to establish professional corporations was won in a series of court actions contested by the Commissioner of Internal Revenue.

The Keogh bill (H.R. 10) gave self-employed individuals the right to establish pension plans not to exceed 10 percent of earned income or $2,500, whichever is less.

That measure helped the self-employed to lay away a nest-egg toward the retirement years.

Yet, the allowances under Keogh are less than those permitted to corporations.

Now, these self-employed professionals have the privilege of setting up new corporations and should also be able to enjoy the privilege of contributing more generous amounts to pension plans.

Corporations should be treated alike without discrimination against any one kind of corporate entity.

I support this amendment.

Mr. LONG. Mr. President, if there is no further request for time, I am glad to yield back my time.

Mr. FANNIN. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Arizona. The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. TYDINGS (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished Senator from Arizona (Mr. GOLDWATER). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Indiana (Mr. HARTKE), the Senator from Mon-

tana (Mr. METCALF), the Senator from Georgia (Mr. RUSSELL), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that, if present and voting, the Senator from Arkansas (Mr. FULBRIGHT) would 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 pair of the Senator from Arizona (Mr. GOLDWATER) has been previously announced by the Senator from Maryland (Mr. TYDINGS).

The result was announced—yeas 65, nays 25, as follows:

[No. 198 Leg.]

YEAS—65

Allen	Eastland	McClellan
Allott	Ellender	Miller
Baker	Ervin	Moss
Bellmon	Fannin	Murphy
Bennett	Fong	Packwood
Bible	Gravel	Pastore
Boggs	Griffin	Pearson
Brooke	Gurney	Percy
Burdick	Hansen	Prouty
Byrd, Va.	Harris	Randolph
Byrd, W. Va.	Hatfield	Schweiker
Cannon	Holland	Scott
Church	Hollings	Smith, Ill.
Cook	Hruska	Sparkman
Cooper	Inouye	Spong
Cotton	Jackson	Stevens
Cranston	Javits	Talmadge
Curtis	Jordan, N.C.	Thurmond
Dodd	Jordan, Idaho	Tower
Dole	Magnuson	Yarborough
Dominick	Mansfield	Young, N. Dak.
Eagleton	Mathias	

NAYS—25

Aiken	McGee	Ribicoff
Case	McGovern	Saxbe
Goodell	McIntyre	Smith, Maine
Gore	Mondale	Stennis
Hart	Montoya	Williams, N.J.
Hughes	Muskie	Williams, Del.
Kennedy	Nelson	Young, Ohio
Long	Pell	
McCarthy	Proxmire	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Tydings, against.

NOT VOTING—9

Anderson	Goldwater	Mundt
Bayh	Hartke	Russell
Fulbright	Metcalf	Symington

So Mr. FANNIN'S amendment was agreed to.

Mr. FANNIN. I move to reconsider the vote by which the amendment was agreed to.

Mr. HRUSKA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REHABILITATION EXPENDITURES ON LOW-INCOME HOUSING

Mr. GORE. Mr. President, I send an amendment to the desk and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. GORE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

Page 389, line 15, after the period insert "An election may be made under this paragraph with respect to any rehabilitation expenditures only by the owner of the low-income rental housing with respect to such expenditures are incurred."

Page 432, line 12, strike out "Every" and insert "Except as otherwise provided in this subsection, every".

Page 433, line 6, after the period insert: "An election may be made under this subsection with respect to any certified pollution control facility only by the owner or lessee of the plant in connection with which such facility is used."

Page 441, lines 5 and 6, strike out "Every person, at his election" and insert "A taxpayer which is a domestic common carrier engaged in the furnishing or sale of transportation by railroad and subject to the jurisdiction of the Interstate Commerce Commission, at its election".

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

Mr. GORE. I yield.

PROGRAM

Mr. GRIFFIN. Mr. President, while most of the Senators are in the Chambers, I should like to inquire of the distinguished majority leader if he can tell us where we go from here.

Mr. MANSFIELD. I will endeavor to answer the query raised by the distinguished acting Republican leader.

It seems to me that the overwhelming majority of the Senate is prepared to remain until a reasonably late hour this evening—not everyone, but the majority. I have discussed this matter with the chairman of the committee, the distinguished Senator from Louisiana, and the ranking Republican Member, the distinguished Senator from Delaware; and it seems to be the feeling that, if at all possible, we ought to remain and get to third reading. If we can, then we will vote on the bill itself tomorrow. There would very likely be a motion to recommit. There would also be an hour referred to by a distinguished colleague of mine in this body as the "alibi hour." [Laughter.] I am sure that the "alibi hour" would be applicable to both sides.

To get down to the answer to the question raised, and keeping in mind the President's promise to call us back the day after Christmas if we do not complete the work which he has laid out for us—rather late, I must say—I would point out that when we get through with the pending business, we have a District of Columbia appropriation bill and a Department of Transportation appropriation bill, a foreign aid authorization, a foreign aid appropriation bill, a Department of Defense appropriation bill, a Labor-HEW appropriation bill, a number of conference reports, and some other proposed legislation to consider which is of vital importance to the people of this country.

So what it adds up to is that the Senate is really under the gun so far as proposed legislation is concerned, and I would hope that the same spirit and the same understanding and the same degree of coordination which showed itself last week and so far this week would continue the rest of this week and the week or so after that. But if we are going to do that, I first will have to ask one question: How many Members have amendments which they intend to offer to the present bill?

I count 10.

Mr. GORE. Do not count any further.

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

Mr. MANSFIELD. I yield.

Mr. COTTON. I should like to say to the majority leader that for several days I have had an amendment at the desk, which has been printed. I was willing to agree to 10 or 15 minutes on a side. However, I have sought recognition again and again. I have been unable to get recognized, while the same Members put in amendment after amendment after amendment. Enough time has elapsed now so that the Secretary of Commerce has found out about my amendment and has sent a letter to the distinguished chairman of the committee and to me, demanding that my amendment be defeated. So I am not prepared to deal with it in 10 minutes, because it will take me 15 minutes to pay my respects to the distinguished Secretary of Commerce. [Laughter.]

So I hope I will have a chance, and I intend to have this very brief and limited debate on an amendment about which many of us feel deeply. My distinguished colleague from New Hampshire is a cosponsor of the amendment with me, as are both Senators from South Carolina. It has to do with jobs in this country, a subject that has not been of apparent concern downtown, and I want an opportunity to make a good Democratic speech, and I am sure the majority leader will give me that opportunity.

Mr. GORE. I will yield to the Senator from New Hampshire right now.

Mr. MANSFIELD. The Senator has been most patient for more than a week; that I know of. May I say that what he has just said reinforces the speculative reports which have appeared in the newspapers concerning the excellent liaison between the administration downtown and the Members here. [Laughter.]

Evidently, we cannot get to third reading now, but I think we had better continue as long as we can. It is my understanding that with respect to his amendment, the distinguished Senator from Tennessee has discussed with the manager of the bill the possibility of a 5- or 10-minute limitation on each side; that the distinguished Senators from Texas and Alabama are going to offer an amendment following, and that they are not averse to a reasonable limitation of time.

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

Mr. MANSFIELD. I yield.

Mr. TOWER. I have not had a chance to discuss this matter with Senator SPARKMAN. We were prepared tonight, and we were under the impression that our amendment would be the last substantive amendment to come up, and I see that there are some others. This amendment deals with some real estate items in the bill. It is a rather extensive

amendment, dealing with appreciation. A number of Senators have expressed an interest in it, and perhaps we can bring it up tonight; but it seems doubtful that we would get to vote on it. It might be better to vote on it tomorrow.

Mr. MANSFIELD. A pattern has developed in the Senate: the longer you take, the more amendments develop at the desk.

Mr. TOWER. I was ready to proceed.

Mr. MANSFIELD. I do not blame the Senator.

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

Mr. MANSFIELD. I yield.

Mr. LONG. May I say to the distinguished Senator from Montana that the longer he keeps Senators up at night, and the sooner he brings them in in the morning, the less time they have to think up more amendments. [Laughter.]

Mr. MANSFIELD. The Senator knows better than that.

ORDER FOR RECESS TO 9 A.M. TOMORROW

Mr. MANSFIELD. Since the Senator has raised the matter, Mr. President, I ask unanimous consent that when the Senate completes its business tonight, it stand in recess until 9 o'clock tomorrow morning.

There will be no morning hour, no morning business. Evidently, the real-estate amendment will be pending.

I would hope that other Members would be cooperative and would get their amendments to the desk this evening, so that we can clear away as many as possible.

Remember, it is your Christmas, as well as mine. [Laughter.]

TAX REFORM ACT OF 1969

The Senate continued with the consideration of the bill (H.R. 13270), the Tax Reform Act of 1969.

Mr. GORE. Mr. President, in the spirit of cooperation with the majority leader, if the Senate will hear me for 5 minutes, I will not ask for a rollcall vote and will not ask for any further time.

Mr. President, may we have order?

The PRESIDING OFFICER (Mr. McGOVERN in the chair). The Senate will be in order.

Mr. LONG. Mr. President, I ask unanimous consent that the debate on the amendment be limited to 10 minutes, 5 minutes to the Senator from Tennessee and 5 minutes to the manager of the bill.

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

Mr. GORE. May we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. LONG. Is there objection? Twenty minutes, for that matter.

Mr. GORE. I will take 5 minutes, and the Senator from Louisiana can take 5 minutes, and we can yield back the remainder of our time.

Mr. President, I shall not ask for a rollcall vote, but I cannot in good conscience let the loophole toward which this amendment is directed——

Mr. MILLER. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. GORE. Mr. President, I offered the amendment out of a sense of duty. I am not going to ask for a rollcall vote. The Senate can work its will. The provisions of the pending bill provide a loophole for investor syndicates.

Earlier today, the Senator from Delaware and the Senator from Tennessee offered an amendment to deny the unjustified tax benefits in the bill to railroads, rehabilitation costs of certain housing, pollution control machinery, and to investment syndicates.

This amendment leaves all the benefits of rapid amortization to the owners of the railroads, the houses, and the factories; but it denies the benefits to investor syndicates.

I wish to briefly say how this would operate for the investment syndicates. Let us suppose that a railroad wished to buy or acquire rolling stock costing $1 million. It is not in a profitable position but it has credit at the bank. Therefore, the rapid amortization provision of the pending bill would be of no value to that railroad, but the financier might have a few friends in the 70-percent bracket. They form a combine and establish an investment syndicate to handle the deal. In one 5-year period the investor syndicate could realize a tax profit of $490,000 on $1 million of rolling stock.

The bill makes that possible. It establishes such tax preferential treatment. The same would be true of rehabilitation of housing; the same would be true on pollution control equipment.

I wonder if the Senate really wants to do that. I shall not take up more time. I urge that these provisions be stricken purely for investor syndicates. In my view it is not right.

Mr. LONG. Mr. President, the Senator directs his amendment to all of the 5-year amortization provisions, but as a practical matter, the only real impact would have to do with railroad rolling stock because that is an item on which someone could make money. No one makes money out of pollution abatement devices or on the rehabilitation of low-income housing units. But the bill wisely provides—and the Treasury recommended this to us; it was not the committee's idea—that the 5-year amortization provision should be drawn so that those railroads which are not making money, but losing money, could acquire rolling stock as well as those railroads which are in a profitable position.

The only way that railroads which are losing money could benefit from the tax advantage would be to permit them to make a contract with someone who would acquire the equipment, be it rolling stock or locomotives, and then lease that to the railroads.

The favorable tax treatment provided for the railroad is helpful and advantageous to the person who buys the equipment and that will reflect itself in a lower lease price when that equipment is leased to the railroad. If we do not do it in this way, there is no way that a railroad that is losing money could benefit from the provision.

Mr. President, more than one-half of the railroads in this country today are losing money, so if we do not vote to permit railroads to reach an agreement with someone who, in turn, enjoys the amortization provision and can pass the benefit on to the railroads under his lease, then the one-half of the railroads that need it most cannot take advantage of the amortization provision with regard to railroad rolling stock.

Senators have two choices. They can either vote with the committee, as the Senate did vote overwhelmingly with regard to the amortization provision, or they can support the Senator and deny this help to one-half the railroads in this country which need the benefit most.

Mr. GORE. Mr. President, the Senator just stated correctly that no benefit of the tax deduction could flow to a railroad that does not owe any tax. Therefore, what is the result here? By the provision in the committee bill we would be creating new tax preferential treatment of high-bracket-income taxpayers who form a syndicate, and it will be they who reap the benefit which we are proposing to provide for railroads.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point an example bearing on this matter.

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

EXAMPLE

A railroad wants $1 million worth of rolling stock. It cannot use the rapid amortization deductions because it is not making money.

The railroad's bank puts together a syndicate of 70% bracket taxpayers. The bank loans the syndicate $1 million on the basis of the railroad's ability to make "rental" payments sufficient to pay interest and principal on the loan. Payments are made by the railroad directly to the bank and do not even go through the syndicate.

What is the net result of this transaction? The syndicate members do not realize any cash flow benefit since the rent and the loan payments equal each other.

In the first year of the transaction the interest deduction and the rapid amortization deduction would more than offset the rental income for the syndicate members.

Their profit comes solely from the excessive deduction generated by the new loophole.

They would get a $200,000 deduction in year 1 for the rapid amortization to use against their other income. This compares to a proper deduction under the straight-line method of depreciation of only about $71,000. Thus, the potential first-year "profit" for the syndicate from the rapid-amortization provision is 70% of $140,000 or $98,000. This "profit" is not an economic profit from the transaction; it is solely the result of tax profiteering.

Thus, over a five year period, the syndicate will realize a profit of almost $500,000 from tax reductions. Yet they have not put up one dime of their own money!

Mr. LONG. Mr. President, if a railroad were to permit someone to lease the rolling stock without being well aware of the fact that there is a very advantageous tax situation to the person who acquires the rolling stock and leases it to the railroad, they would be very unwise, indeed.

Mr. President, the railroads will be wise enough to see to it that whoever they do business with, whoever buys the rolling stock and leases to them, does it under favorable lease conditions. I think

they would insist on an option in the contract giving them the right to acquire the railroad rolling stock at very low prices after it had been amortized.

The PRESIDING OFFICER. The Senator's time has expired.

Without objection, the amendment will be considered en bloc.

The question is on agreeing to the amendments of the Senator from Tennessee. [Putting the question.]

The amendments were rejected.

AMENDMENT NO. 342

Mr. COTTON. Mr. President, I call up my amendment No. 342 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. COTTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with, and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

At the end of the bill insert the following:

"SUBTITLE E—PROTECTION OF AMERICAN INDUSTRY AND LABOR

"SEC. 971. AUTHORIZATION FOR IMPOSITION OF QUOTAS AND NONTARIFF BARRIERS.

"(a) IMPOSITION OF RESTRICTIONS.—Whenever the President finds that—

"(1) the importation of any commodity from a foreign country is at such levels so as to disrupt the domestic market or is causing injury to industries, firms, or workers in the United States, and

"(2) the foreign country producing such commodity is imposing restrictions (by means of quotas, import licenses, tariffs, taxes, or otherwise) against the importation into such foreign country of articles produced in the United States,

he is authorized, by proclamation, to impose such quantitative limitations and such other restrictions as he determines necessary on the importation into the United States of articles produced in such foreign country.

"(b) TERMINATION OF RESTRICTIONS.—In any case in which the President has imposed restrictions under subsection (a) on the importation of articles produced in any foreign country, whenever the President determines that the restrictions imposed by such foreign country on the importation into such country of articles produced in the United States no longer exist, he shall, by proclamation, terminate the restrictions imposed under subsection (a) on the importation of articles produced in such foreign country."

Mr. COTTON. Mr. President, I will explain the amendment as quickly as I can. The amendment has been offered by me and it is cosponsored by my distinguished colleague, the Senator from New Hampshire (Mr. MCINTYRE), the distinguished Senator from South Carolina (Mr. HOLLINGS), and the distinguished Senator from South Carolina (Mr. THURMOND).

Mr. LONG. Mr. President, would the Senator be willing to agree to a limitation of time on his amendment?

Mr. COTTON. Not yet. I shall shortly, but not yet.

Mr. LONG. I thank the Senator.

Mr. COTTON. Mr. President, the amendment provides a new subtitle E. The amendment states:

Protection of American Industry and Labor

SEC. 971. AUTHORIZATION FOR IMPOSITION OF QUOTAS AND NONTARIFF BARRIERS.

(a) IMPOSITION OF RESTRICTIONS.—Whenever the President finds that—

(1) the importation of any commodity from a foreign country is at such levels so as to disrupt the domestic market or is causing injury to industries, firms, or workers in the United States, and

(2) the foreign country producing such commodity is imposing restrictions (by means of quotas, import licenses, tariffs, taxes, or otherwise) against the importation into such foreign country of articles produced in the United States,

he is authorized, by proclamation, to impose such quantitative limitations and such other restrictions as he determines necessary on the importation into the United States of articles produced in such foreign country.

(b) TERMINATION OF RESTRICTIONS. In any case in which the President has imposed restrictions under subsection (a) on the importation of articles produced in any foreign country, whenever the President determines that the restrictions imposed by such foreign country on the importation into such country of articles produced in the United States no longer exist, he shall, by proclamation, terminate the restrictions imposed under subsection (a) on the importation of articles produced in such foreign country.

In other words, the amendment would simply authorize the President—it does not direct him; it does not say "he shall"—it authorizes him, if he finds that importation into this country of articles manufactured in a foreign country—any of them—has reached such a level that it is destroying American industry and American jobs, he may impose by proclamation restrictions against the importation of articles from that country if—and only if—that country has restrictions against our exports to them. No other country can be affected.

When he finds that such foreign country has removed the restrictions, such as tariffs or import licenses, or the other various means resorted to, he shall—it does not say "may"—he shall, by proclamation, remove the restrictions of importations from that country into the United States.

Mr. President, I think that every one of us—I am sure that includes most of us—is as dedicated to the promotion of free trade among the nations of the world as is the President, the State Department, the Commerce Department, or anyone else.

The only trouble today is that we do not have free trade. Free trade is a two-way street. We have no restrictions against imports manufactured by cheap labor in foreign countries, sometimes manufactured by labor that is employed by Americans who have constructed factories and mills in a foreign country, which are putting our workers out of jobs and so many of our industries out of business.

Mr. President, let me read a paragraph from a letter received from the general counsel of the Department of Commerce, written to the chairman of the Committee Finance, the Senator from Louisiana (Mr. LONG), in response to the chairman's request. The general counsel is giving the views of the Department. He says that the Department of Commerce is against my amendment. One reason he gives is a real jewel, the purest ray serene. This is how he tells what he believes is wrong with the amendment I am offering.

Amendment No. 342 defines what are to be considered restrictions of other countries in such a broad manner as to apply to practically all countries of the world since quantitative restrictions, tariffs and taxes are referred to without any qualification such as "unfair" or "unjustified".

We have this in writing over the signature of a representative of the Commerce Department. We also have in the letter from the Department a statement which we all know to be true; namely, that America is the dumping ground for cheap shoes, cheap textiles, for electronic and electrical component parts and all kinds of goods. The United States is the dumping ground of the world.

On the authority of this letter sent to the distinguished chairman of the committee, from the great Department of Commerce, representing the attitude of Mr. Stans, we are told, in plain black and white language, that my amendment is too broad because it would include practically every country in the world.

Mr. President, if you want proof that we have submissively and meekly submitted to letting them run our workers out of their jobs from every place, East, West, North, and South, you have it in this letter from the Department of Commerce.

Mr. President, I am the senior Republican on the Commerce Committee, and in that capacity I have had some dealings with the present Secretary of Commerce and with the Department of Commerce.

Mr. Stans is a very fine man. Far be it from me to attack my own administration. But if we wait until the Department of Commerce negotiates and stops the deluge of cheap commodities coming into this country, we will lose every single job in any industrial establishment all over the United States of America.

What is Mr. Stans doing? Well let us look at the record. He is negotiating on textiles. As far as New England is concerned, doing something about textiles, as we want it done, is a good deal like having an autopsy on a corpse, because the textile industry—certainly cotton textiles—is completely gone. Woolen textiles are nearly gone. Manmade fibers are fast disappearing.

I said to the Secretary, when we had a conference in the committee room of the Committee on Commerce, "While you negotiate, negotiate, and negotiate about textiles, week after week after week, and month after month after month, and while the shoe industry in my State and all over New England and throughout the rest of the country is falling by the wayside, nothing is being done. The manufacturers of component parts for electronics products are hard-hit. We know we have lost radio manufacturing, because almost every radio is now made in Japan. The American workers who used to work on American radios moved

to black and white television. But now black and white television is made in Japan, and the workers who moved to television now find that television sets and parts are being made in Japan, and shipped into this country."

Mr. President, no industry has been damaged so rapidly in the last few months as the electronics industry of New England.

The letter from the Department of Commerce refers to the Trade Expansion Act of 1962. Under that Act, before anything could be done, the Tariff Commission had to hold hearings and find that a business or an industry was in jeopardy. Then the President could act, and that is a much better way to handle the situation.

Mr. President, nothing has been done since 1962. The years have passed. Every President of the United States, of both political parties—and I say this with the deepest respect—has appeared—and most sincerely appeared—to fail to yield to the entreaties of the State Department and has put our foreign relations in such a high place, and justifiably so, that he has turned deaf ears to the outcries of our perishing industries. That has been going on ever since the enactment of the Trade Expansion Act of 1962.

Mr. President, Congress passed an act in 1969—this year—which contains certain provisions. But I ask, what is wrong with Congress simply saying to the President, "If you find, first, that imports from foreign countries are reaching such levels as to imperil the workers in our industries and to destroy American jobs; and if you find, second, that the country from which these commodities are being sent into the American market does not give us an equal opportunity to export our goods to that country, but raises restrictions of all kinds—which is true; if you find those restrictions do exist, we authorize you—we do not direct you, but we authorize you—to impose, by proclamation, quantitatively, or otherwise, such restrictions as you deem necessary to protect our workers, our jobs, and our industrial plants?"

Mr. President, I have something else I want to say, and I will say it very quickly, about the distinguished people in the Commerce Department. A little bird flew in the window of my office a few weeks ago and suggested that, as a Senator very much interested in protecting our industry and as the senior Republican on the Commerce Committee, I should circulate a letter addressed to the President to be signed by Members of the Senate, and hopefully get many Members of the Senate to sign. This letter referred just to textiles. That is all he thinks about. He is like the fellow who went after the pullet and left the hen house open, so he lost all the hens while he was trying to get that one pullet. It was whispered by someone who, I think, comes from down the avenue somewhere near the Commerce Department, that it would be appreciated, and he would take it to the President—and I honor him for it—and he would have it in his pocket when he had meetings with the Premier of Japan. At the psychological point, the President of the United States would pull out that letter signed by so many Senators, and that might convince the Premier of Japan that the Congress of the United States—or at least the Senate of the United States—was getting a little impatient and that the Congress might do something to see to it that trade between other nations with our country becomes a two-way street.

So I rushed around with the letter to the President. I ran all over the Senate. I pestered Senators. I asked my friends to get signatures. With a great amount of effort and about 3 days time and being rebuffed in several instances by impatient Senators, what did we get? Fifty-five Senators. More than half the Senate.

We sent the letter down. I do not expect ever to hear about it again, but I will tell you one thing, Mr. President: It will be a long cold day in August before a Cabinet member ever gets me to pester Senators again to stick a letter under their noses, asking them to sign it.

What happened after that? Well, I introduced this amendment, which is a free trade amendment, and cannot possibly do any harm. It does not force the President to take any action. The only thing that requires him to take action is that if the restrictions are removed against our country's sending goods into another country, the President shall immediately remove the restrictions, so that we may have free trade and commerce with nations, in which we truly believe.

I remember for years when we talked about Japanese shoes and Japanese textiles. I remember talks we had with people from the State Department—not in this administration, but former administrations—and people in the Commerce Department. They said, "But the balance of trade is in our favor. Look at all the automobiles we send to Japan." And now the Japanese will not let us send one single American car to Japan.

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

Mr. COTTON. I yield.

Mr. PASTORE. As a matter of fact, we had one of the deputies of the Commerce Department come before our committee on a confirmation proceeding—a very fine gentleman, an economist, who had been affiliated and associated with Kodak Co. As he sat there, I said, "I am very glad you are connected with Kodak Co. Now you tell me this. Can we import Japanese cameras into this country without any restrictions?" He said, "Yes, of course we can." I asked, "Can Kodak Co. send any cameras from the United States to Japan?" He said, "No, they cannot."

That is the incongruity of this whole situation. This is what the Senator from New Hampshire is talking about. We are not saying to countries that have free trade with us, "Let us get on with our business." All we are saying is this—and I think this is the intent of the amendment—that where any country has any restriction against American exports, we in turn give discretionary power to the President, when those exports disrupt the American market, to relieve the situation. What is unfair about that—unless we are going to be Santa Claus forever?

Mr. COTTON. I thank the Senator for his observation.

I simply want to say that I took my amendment to the distinguished chairman of the Finance Committee. He was most courteous and kindly about it. He told me—and I do not blame him—that the Finance Committee did not want to get involved in trade matters.

On that, I merely want to say that it does not involve anybody in trade matters. It only authorizes the President to involve himself in trade matters without waiting for the Tariff Commission to go through a long line of hearings, and only against countries having restrictions against us. It provides that he shall—not may, but he shall—remove our restrictions against countries which had erected barriers against us but had then removed those barriers.

So anyone dedicated to free trade can vote for this amendment. It will not involve the committee in any entanglements. Unlike amendments that we have been considering day after day on this floor, this one will not cost the Treasury one single cent. It will not lose us any taxes. It will gain us revenue, and to that extent I believe that the distinguished members of the Committee on Finance ought to be interested in it.

Mr. PASTORE. Mr. President, will the Senator yield again?

Mr. COTTON. Yes, I am happy to yield.

Mr. PASTORE. The question is not whether it is going to save taxes or not. It is going to save American jobs. That is all we have been doing in this country, exporting American jobs, whether it be in textiles, whether it be in shoes, or whether it be in rubber goods. We have been exporting American jobs, and the time has come for us to tell countries that have restrictions against American exports that we will not tolerate the situation, and that we will reciprocate in like manner.

That is what this proposal amounts to.

Mr. COTTON. That is true, and I thank the Senator for his ringing statement. But I am addressing myself to the very natural objection which I understand has been made by the distinguished chairman of the committee. I think he had the feeling that this was an amendment which was hardly germane to the bill. But I say it is germane to the bill, because if we lose our industries, and if our people are out of work, and if our manufacturers continue to build factories in Taiwan, in Hong Kong, and other countries of the Orient, we are going to suffer a loss of revenue, because an industry that leaves our country or is forced out of business is not going to be of much help from the tax-paying angle.

Mr. President, I ask the distinguished Senator from Louisiana whether he would object if I ask unanimous consent to have printed in the RECORD this letter which was addressed to him by the General Counsel of the Department of Commerce, dated today, but a copy was sent to me. They were kind enough to send me a copy. If I could have inveigled the distinguished chairman into permitting me to offer my amendment the other day, when I wanted to, they would not

have had time to petition him; but they had time, and got a letter up here.

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

GENERAL COUNSEL OF THE
DEPARTMENT OF COMMERCE,
Washington, D.C., December 9, 1969.

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

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Department on Amendment No. 342 re "Protection of American Industry and Labor" intended to be proposed to the tax Reform Bill (H.R. 13270).

The proposed amendment would authorize the President to impose, by proclamation, quotas or other restrictions on imports of any article whenever he finds that these imports are causing market disruption or injury to American industries, firms, or workers and that the foreign country producing the article is imposing restrictions against imports from the United States. The President would be authorized to terminate these restrictions whenever he determines that the restrictions imposed by the foreign country no longer exist.

On behalf of the Administration, the Department of Commerce is opposed to enactment of the proposed amendment.

Section 301 of the Trade Expansion Act of 1962 provides for the Tariff Commission to make a finding before the President may give relief to industries, firms or workers. Under Section 301 the Tariff Commission must conduct a fair investigation of the facts under procedures and criteria designed to assure accurate and objective findings. In contrast, Amendment No. 342 makes no provision for a thorough fact-finding investigation, including the presentation of views of all interested parties, prior to action by the President.

Moreover, in his Message to the Congress of November 18, 1969, to accompany the proposed "Trade Act of 1969", President Nixon proposed an amendment to Section 301 which would liberalize the criteria under which the Tariff Commission makes its findings "to provide for industries adversely affected by import competition, a test that will be simple and clear: relief should be available whenever increased imports are the primary cause of actual or potential serious injury." Similar liberalization is proposed in the terms under which firms and workers would be eligible for adjustment assistance. Under Section 252 of the Trade Expansion Act of 1962, the President currently has authority to impose duties or quantitative restrictions on imports of any foreign country imposing or maintaining unfair import restrictions on United States agricultural products. The proposed Trade Act of 1969 would amend Section 252 of the Trade Expansion Act of 1962 to enable the President to impose duties or import restrictions on foreign products in retaliation for foreign restrictions on U.S. nonagricultural products as well as agricultural products.

Amendment No. 342 defines what are to be considered restrictions of other countries in such a broad manner as to apply to practically all countries of the world since quantitative restrictions, tariffs and taxes are referred to without any qualification such as "unfair" or "unjustified".

We believe that the problems with which Amendment No. 342 is concerned are more properly covered in the Trade Act of 1969. Moreover, Amendment No. 342 is deficient in two respects in that it fails to define what types of restrictions, tariffs or taxes are referred to and it fails to provide any procedure for a fair and objective finding.

The problems to which Amendment No. 342 is addressed will be considered in depth by the Senate in the early part of the next session in connection with the proposed "Trade Act of 1969". These problems are difficult and important and should be dealt with in a comprehensive fashion with an opportunity for all interested parties to express their position.

We believe that the question of relief for American industries, firms and workers should be treatd separately from retaliation against unfair foreign import restrictions. There are many other foreign trade issues for which the Administration proposal in the "Trade Act of 1969" seeks solutions in a comprehensive legislative framework which retains those procedures in the Trade Expansion Act of 1962 which have proved effective over the years while creating new authority, where needed, to deal with the outstanding issues of the present. This approach rather than the fragmented approach of Amendment No. 342 should provide the President with the necessary flexibility while assuring thorough consideration of our over-all national interests.

Sincerely,

BURT W. ROPER,
(For General Counsel).

Mr. COTTON. All they hope is that I will not have a rollcall vote on this. Mr. President, I ask for the yeas and nays on this amendment.

The yeas and nays were ordered.

Mr. THURMOND. Mr. President, will the distinguished Senator yield?

Mr. COTTON. I yield.

Mr. THURMOND. I commend the able and distinguished Senator from New Hampshire for sponsoring this amendment. I was pleased to join him as a cosponsor, and I think it is a most important measure.

This amendment is calculated to help preserve the jobs of American citizens. I ask the distinguished Senator this: Does not the amendment merely place the American worker on a basis of equal job security with workers of another nation, in that it provides that if a commodity from a foreign country is imported to such an extent that it disrupts the market here, and that country has import restrictions on American goods, then the President has the authority to discontinue that discrimination?

Mr. COTTON. That is exactly true. It will not put the American worker, really, on an equal basis with the foreign worker, because our wages are higher. But we are never going to pay starvation wages in this country, and we will meet the competition.

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

Mr. COTTON. I yield to my distinguished colleague.

Mr. McINTYRE. Mr. President, I commend from the bottom of my heart my distinguished colleague from New Hampshire. I am a cosponsor of this amendment because it is needed to protect American industry and labor.

Under this amendment, the President is authorized to impose such quota limitations and other restrictions as he feels are necessary on foreign articles being imported into the United States in such quantities as to cause injury to American industries and workers engaged in like activities.

I am particularly concerned by the importance of this amendment to small shoe manufacturers and shoe workers. As chairman of the Small Business Subcommittee, of the Senate Banking and Currency Committee, I recently held extensive hearings here in Washington and in Boston and Manchester in New England to inquire into the plight of the shoe industry.

These hearings showed that in my own State of New Hampshire, a startlingly large number of small shoe manufacturing plants have shut down in recent months. They showed too that almost as many others are on the verge of following suit. Other New England States and communities across the country are also being hit.

As my hearings proved, the single most important cause of these closings has been the accelerating growth of shoe imports in recent years.

Since 1955, the number of foreign-made shoes imported annually into the United States has increased from 8 million to nearly 200 million pairs. In the first 6 months of 1969 shoe imports of all kinds have constituted nearly 40 percent of domestic shoe production. Despite those increased imports, the shoe industry until recently has been able to hold its own. But it is now beginning to reel. Domestic shoe production declined 12 percent in the first 6 months of 1969 and industry employment, at least in New England, was down nearly 10 percent over the same period.

This amendment would give the President authority to act in aid of the industry. It would make it clear to the President that Congress wants such action at this time. It is essential to the future of our Nation's shoe industry that this congressional intent be made known. I urge the adoption of my senior colleague's amendment.

I ask unanimous consent that the remarks I made at the beginning of the hearings in Massachusetts and New Hampshire be printed in the RECORD at this point.

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

OPENING STATEMENT BY U.S. SENATOR THOMAS J. MCINTYRE

This is the second in a series of hearings into the problems faced by our small domestic shoe manufacturers.

As I said at the outset of our earlier hearings in Washington, the shoe industry is one of this country's most venerable industries. It was in 1629 that Thomas Beard the first shoemaker in America, landed in Salem with a supply of upper and sole leathers and a guarantee of 10 pounds a year for his efforts.

The shoe industry has been, ever since, one of our most important industries, especially here in the New England states. It is today the largest nondurable industry employer in New England, providing jobs for some 72,000 people engaged in shoe production and for perhaps 20,000 more in dependent industries—such as lasts, heels, dressings, supplies, findings, leather, and machinery.

This venerable and important industry is now in trouble. In the past year and one-half some 31 New England shoe plants, employing several thousands of workers, have been forced to close their doors. Here in New Hampshire a large number of plants have shut down recently and almost as many others seem to be on the verge of following

suit. Other sections of the country also have been hit.

Most of the plants affected have been small businesses, vitally important to the small communities in which they operated. I therefore decided, as Chairman of the Senate Small Business Subcommittee, that hearings should be called to investigate in depth the causes of these recent closings.

On the 16th and 17th of September, my Subcommittee held such hearings in Washington. Appearing as witnesses were national representatives of shoe industry management and labor and of other concerned groups, including shoe importers. As might be expected, the witnesses at these hearings differed somewhat in their testimony.

My Subcommittee heard, for example, that shoe imports have increased in number from only 8 million pairs annually in 1955 to the over 200 million pairs projected for 1969.

We learned also that the type of shoes imported most heavily in recent years has been women's shoes, primarily from Italy, Spain, and Japan. In 1968, for example, over 73% of the shoes imported into the United States were women's shoes and imports in this category totalled a full 80% of domestic production. It was not surprising, under the circumstances, to be told also that the domestic manufacturers most affected in recent years have been manufacturers mainly of women's shoes.

But while these and other facts submitted to us indicated that imports are responsible for the industry's present problems, the testimony of some witnesses blamed a variety of other factors. The primary purpose of our hearings today in Manchester, as well as our hearings in Boston, tomorrow, is to clear up certain areas of controversy left unresolved by the Washington hearings.

During the next two days we will be hearing directly from some of the people most intimately affected by the recent plant closings. Our witnesses will include public officials from the states and communities in which these plants have been located, as well as local manufacturers and union leaders. We will hear from them first-hand about the closing of generations-old businesses, about the loss of long-held jobs, and about the inevitable repercussions on communities as a whole.

With these hearings concluded, the way should at last be clear for meaningful Federal action in aid of the shoe industry. Free traders, of course, will abhor such action. They are opposed to protectionism of any kind. I would like to conclude my remarks this morning by saying just a few words about the implications of the shoe industry's problems for our national trade policy.

In principle, I agree that free trade is a fine idea. What it requires, however, is cooperation between countries and not unilateral action on the part of one country alone. At present the tariffs of those countries whose shoes have been flooding our markets are considerably higher than the tariffs here at home. Yet these countries have shown no willingness either to lower their tariffs and expose their own industries to competition or to ration in some way the flow of their exports to the United States. I think it is high time that we made clear to our trading partners that this situation cannot continue.

I wonder also whether completely free trade can ever be justified in labor-intensive industries such as the shoe industry. Rapidly rising imports in the context of such an industry mean a wholesale loss of jobs, with widespread suffering for those abruptly laid off work. The prevention of such suffering, it seems to me, is a legitimate governmental objective.

And it is an objective which I think can be realized without abandoning the benefits of freer trade. This, in fact, is the purpose of the Orderly Marketing Legislation which Senator Muskie introduced earlier this year and of which I am pleased to be a co-sponsor. That legislation would not choke off entirely the flow of shoe imports to the United States. On the contrary, it would allow such imports to continue. It would ensure, however, that the growth of imports would be limited in a manner consistent with the health of the domestic economy. It would protect American workingmen and women from the disruptive effects they have been experiencing in recent days.

I am not opposed, then, to an expansion of international trade. I merely insist that freer trade must be the product of international cooperation and that it must proceed at a pace consistent with the realization of other social objectives. I do not think this is too much to ask. I just think it is time we realized that the United States cannot be the world's consumer any more than we can go on being the world's policeman.

Mr. COTTON. I thank the Senator for his remarks. I yield to my distinguished cosponsor, the Senator from South Carolina (Mr. HOLLINGS).

Mr. HOLLINGS. Mr. President, the distinguished Senator from New Hampshire, together with his distinguished colleague, the Senator from Rhode Island (Mr. PASTORE), have been working for some 12 or 13 years on this problem. I was glad, as a newcomer to Congress, to join in those efforts.

Year before last we passed by an overwhelming margin a bill commonly known facetiously as the Chinese Gooseberry amendment, because we had to attach it, for introduction purposes, to a House-passed measure.

The President's commitment on textiles was clear—he stated it in an exchange of telegrams used during the campaign—to give comprehensive treatment to the textile problem, not just the long term cotton arrangement among 34 countries, but rather an extension of this trade agreement to manmade fibers and woolens as well.

Since January, I have had the very positive feeling that we were PR-ing, jawboning, headlining, and politicing textiles, but we were not acting. I know that I have been in the minority school on this particular point, and some of my distinguished and more senior colleagues have counseled, "Wait, do not be so impatient, Fritz. Do not twist the tail of the tiger while your friends are riding on his back. Do not irritate the President."

I am glad now that I find myself, in the presence and company and under the distinguished leadership of the Senator from New Hampshire, twisting the tail of that tiger tonight. And I hope we do irritate him. I hope we do annoy him into action. I hope he proves us wrong. I hope he takes action and gets some results. Because no law is necessary.

He keeps running over here, asking us to threaten on the legislative end on this particular problem. "Sato is coming to town, so, Mr. Senator from South Carolina, you and the Senator from New Hampshire run around and get up a petition." I joined with the Senator from New Hampshire, and we had everybody signing up. Oh, we were going to scare Sato.

Other Senators made categorical statements that the textile problem should be tied to the resolution on Okinawa. I differed with them on that score. I think that is an all-encompassing problem, a matter far more important than any trade matter, involving the matter of world peace and our international commitments and national defense. So I would not join in that effort.

But more recently, to keynote another effort, there was a letter sent by my own congressional delegation. It started off:

DEAR MR. PRESIDENT: We, the undersigned members of the South Carolina Congressional Delegation, are pleased by the efforts you have made . . .

I disagreed with that. I think the President should have acted through the National Security provisions, as President John F. Kennedy did which brought about this so-called heinous protective measure, which 34 nations have voluntarily agreed to on cottons, the long term arrangement. President Kennedy did it without an additional Act of Congress, under the leadership of the Senator from Rhode Island (Mr. PASTORE) and the Senator from New Hampshire (Mr. COTTON). President Nixon could have acted under article 28 by the first of October this year on GATT.

The distinguished acting majority leader, the ranking member of the Finance Committee, the Senator from Georgia (Mr. TALMADGE), has acted in this particular capacity and knows of the provisions because he has been our representative from the U.S. Senate to Geneva on these problems.

However, President Nixon says we will get these results, all the time asking us to act and to hold off on acting, all at the same time. We keep threatening but it has no effect. The Japanese are not children. They are the best trade negotiators that I know. When they get a clear message such as our late senior colleague, Senator Dirksen of Illinois gave in the first of the year when he said with regard to steel, "I am going to get a bill."

As a result, Japan took action and we got voluntary steel quotas this year.

As Paul said to the Corinthians, "If the sound of trumpet is unclear, then who shall prepare himself for the battle?"

The Japanese received the clear signal when they appointed Gilbert, who was heading import organizations for the last 20 years and was interested in port authorities and not interested in jobs. They got a clear message, and what was the real intent.

The Senator from New Hampshire and the Senator from South Carolina worked on that.

What does the letter say that the Senator put into the RECORD?

First let me emphasize the legislation is merely permissive. It does not mention particular articles. It fixes the authority for foreign trade injury clearly with the President in a sense this amendment is the reverse of the Senate commitments resolution. By the commitments resolution, we wanted to make it absolutely clear to the Executive that the U.S. Senate had a role in treaty making powers of the country.

The Senate, through the Cotton amendment, wants to make it crystal clear that the Executive has the authority to handle free trade—that we prefer

not to legislate as in the past on milk and meat and electronics and all the other things that constitute what is called a Christmas-tree bill.

We cannot write into the bill everything on the basis of need that should be acted upon by the Executive.

The Executive has not acted. Instead, what position does the administration take?

It says to the chairman of the Finance Committee:

> This is in response to your request for the views of this Department on Amendment No. 342 re "protection of American industry and labor" intended to be proposed to the tax reform bill (H.R. 13270).
>
> The proposed amendment would authorize the President to impose, by proclamation, quotas or other restrictions on imports of any article whenever he finds that these imports are causing market disruption or injury to American industries, firms, or workers and—

This is conjunctive—

> and that the foreign country producing the article is imposing restrictions against imports from the United States. The President would be authorized to terminate these restrictions whenever he determines that the restrictions imposed by the foreign country no longer exist.

First, it applies only to countries that have restrictions against U.S. imports. Therefore, Presidential action against imports would reciprocate for similar restrictions against us.

It is the reciprocal free trade that Cordell Hull spoke of.

This provides for reciprocity.

I read again from the letter from the General Counsel of the Department of Commerce:

> On behalf of the administration, the Department of Commerce is opposed to enactment of the proposed amendment.

As his No. 1 objection he states:

> Section 301 of the Trade Expansion Act of 1962 provides for the Tariff Commission to make a finding before the President may give relief to industries, firms or workers. Under Section 301 the Tariff Commission must conduct a thorough investigation of the facts under procedures and criteria designed to assure accurate and objective findings. In contrast, amendment No. 342 makes no provision for a fair fact finding investigation, including the presentation of views of all interested parties, prior to action by the President.

Mr. President, I do not believe that a provision for an investigation is necessary. I know that we would conduct an investigation.

Under the present law, when President Kennedy appointed his five-member Cabinet committee, they in turn appointed a five-member sub-Cabinet committee. The Under Secretary of Commerce, Hickman Price, and I over a 3-week period of time in the Commerce Department brought in witnesses, examined them, and gave the findings to the sub-Cabinet committee which in turn gave them to the Cabinet committee which in turn gave them to the President. And the President acted under the present law. The present law allows investigations and hearings by the Executive.

However, somehow this says that we do not have any provision for it.

Would the distinguished Senator from New Hampshire by unanimous consent, beginning at the very beginning of his amendment, where it says, "Whenever the President finds that" change it to read, "Whenever the President finds, after such investigation and hearings as he may deem appropriate, that." That would let him go ahead and have the hearings. I do not wish to beg that question.

Mr. COTTON. Mr. President, I ask unanimous consent to so modify my amendment.

Mr. JAVITS. Mr. President, reserving the right to object, and I shall object, I think we ought to talk about this a little bit to find out what it is about and find out how important it is.

Only those in favor of the proposal have been heard. Before we rush into this, with all due respect to my colleagues—and I do not think I need to assure them of that—I feel constrained to object.

The PRESIDING OFFICER. Objection is heard.

Mr. COTTON. Mr. President, I promised the majority leader that I would not hold the floor.

Mr. TALMADGE. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. HOLLINGS. Mr. President, I will limit my remarks. I am sorry that I was not present when the amendment came up. I wanted to cover the duplicity that is evident in the letter. I can point to where it states in the beginning that we do not have any guidelines and in the last paragraph they say the necessary flexibility is assured. They talk about the Trade Expansion Act and what it would do. Our amendment would do the same thing.

At the beginning of that last paragraph they say, "We believe that the question of relief for American industries, firms and workers should be treated separately from retaliation against unfair import restrictions."

But here is their bill, introduced by Mr. MILLS the day after the message was sent on November 18. In this bill they do not treat it separately, but conjunctively.

The administration has gone in both directions at the same time. It is time that the U.S. Senate dispassionately and impartially make it absolutely crystal clear what we expect of the Executive so that there will not be any misunderstanding downtown about the intent of Congress to protect American jobs.

Mr. COTTON. Mr. President, I thank the Senator. While I had no particular objection to the amendment offered by my friend, the Senator from South Carolina, I am perfectly satisfied to let the amendment stand or fall as it is. I am getting a little sick of investigations. I am getting a little sick of the findings of this and that commission.

The amendment, if it is adopted, is not unfriendly to the President. It would help the President.

The amendment provides a fair shake for the United States. After all this business of free trade should be a two-way street. This is something he can pull out of his pocket, if it should be adopted by the Senate. This is something he can show the Premier of Japan. It is something he can use in his negotiations. It is not just a roundrobin letter. It is an action by the Senate, and carries with it a broad hint, the implication that the time is coming that we are prepared to represent our constituents, and to protect the jobs of our people.

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

Mr. COTTON. I yield.

Mr. DOMINICK. I thank the Senator from New Hampshire for yielding.

I ask the Senator if the would add me as a cosponsor of his amendment.

Mr. COTTON. It will be a pleasure.

Mr. President, I ask unanimous consent that the name of the Senator from Colorado be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. DOMINICK. Mr. President, we have been talking largely about people in the manufacturing business, but they do not get their leather unless they have cattle, and they do not get their wool unless they have sheep, and they do not get many other things unless we who grow these things and produce them are able to continue doing it.

I have been in Congress for 9 years—in the House and in the Senate—and in one meeting after another, as the Senator from South Carolina has said, have talked with the Senator from North Carolina about wool problems, the Senator from Maine about shoe problems, with our own people about problems on meat products.

I ask the Senator whether or not the word "commodity" is supposed to cover anything this country is producing which has a substantial impact on our economy.

Mr. COTTON. It certainly does. It is not confined in any sense to manufactured articles. It is what we produce on the farm or anywhere else that we have to sell and want to export, and we want to have the same privilege in exporting that other countries have with their exports to us.

Mr. DOMINICK. I sincerely appreciate that explanation and the colloquy, which I think will clear up the point I am trying to make.

I remember campaigning in 1962 outside the steel mills. No smoke was coming out of the steel mills, and there were no jobs. The company was almost totally shut down—steel wire, barbed wire, and the rest of it. I think that now it is one of the two nail companies left in the country. I do not think anybody else makes nails except one other company.

We have problems with all kinds of things of this nature, and I congratulate the Senator for pressing his point, and I hope he will stick with it.

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

Mr. COTTON. I yield.

Mr. RANDOLPH. Mr. President, I commend my colleague, the Senator from New Hampshire. He speaks with vigor and validity. It is a privilege to support him. I will not take the time of the Senate tonight to affirm and reaffirm in my

own language the many points he has succinctly made.

I ask unanimous consent that my distinguised colleague from West Virginia (Mr. BYRD) and I be permitted to be cosponsors of the amendment of the Senator from New Hampshire.

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

Mr. RANDOLPH. Mr. President, I have, with my able colleague, Senator BYRD, introduced S. 3022, legislation to regulate the rate of foreign imports of flat glass, glassware, steel, footwear, manmade fibers, and electronic products. The industries named in our bill, I emphasize, employ approximately 30,000 West Virginians. This represents nearly one out of every four manufacturing jobs in our State. Trade statistics prove that these import-sensitive industries not only are generally losing normal employment expansion, but are experiencing employment layoffs and loss of jobs as a result of imports.

West Virginia vitally needs the industrial expansion and new jobs which have been precluded by the rising tide of imports. We cannot afford to lose jobs by ill-advised neglect on the part of our Government to insist on reasonable ground rules to curb damaging imports. There is a pressing need for an equitable solution to this problem.

The bill introduced by Senator BYRD and me would establish mandatory import quotas based on the average imports of the products during the period 1966 to 1968 and would contain annual adjustments to increase quotas in proportion to the growth in domestic utilization. The statutory quotas would not apply to countries electing to negotiate with the President of the United States mutually acceptable trade agreements.

The less restrictive approach of the Senator from New Hampshire (Mr. COTTON)—which I shall support—differs from a mandatory system of import quotas. However, it does provide the President with strong negotiating power and effective authority to insure the security of American industry and labor. More importantly, this amendment will serve notice on our trading partners that we owe as much to our own people as we do theirs, and that we are not going to sacrifice our markets and our workers to foreign goods and foreign jobs.

Mr. COTTON. I thank the Senator.

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

Mr. COTTON. I yield.

Mr. HANSEN. Mr. President, I rise in support of the amendment offered by the distinguished Senator from New Hampshire.

I believe there is at long last a growing awareness in Congress that we have traded off in recent years what little protection in the way of tariffs that we had left. We have done this in the interest of promoting free trade with other nations but it has not quite worked that way.

In opposing import quota bills, our free trade advocates have said because of the agreements we made under the auspices of GATT, the General Agreement on Tariffs and Trade, any nonnegotiated duty increase would be contradictory to the present U.S. liberal trade policy.

GATT is not a permanent world trade organization, but rather an ad hoc or advisory body. The so-called Kennedy round in negotiations produced few concessions for U.S. agricultural products. Rather, there has been an increase in agricultural protectionism in other countries while protective tariffs and trade controls have been used less and less by the United States. We have been assured by the advocates of free trade that increasing exports coming from freer trade would compensate for any injury inflicted by competitive imports. But even this argument has been punctured by a continually worsening balance of payments as imports have increased at far higher rates than exports. Even the International Wheat Agreement has failed to open markets for huge U.S. wheat crops as other nations with surpluses made special deals to get what they could for theirs. So I believe it is high time to take some effective action against the free traders who have sold the American farmer down the river and protect domestic agriculture and industry from its own Government.

Reciprocal trade is—or would be—a great thing but reciprocity means two-way considerations and unless we want to lower our living standards and wage scales down to the levels of those producing most of these imports, we had better act and act now.

It seems entirely inconsistent to me that we should have minimum wage laws on one hand and imports produced by cheap foreign labor displacing our more highly paid workers on the other.

It does not make sense to spend Federal funds for unemployment when such unemployment in many cases could be prevented by a more realistic approach to the whole import problem.

Mr. COTTON. I thank the Senator.

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

Mr. COTTON. I yield.

Mr. TALMADGE. Mr. President, I commend the distinguished senior Senator from New Hampshire for the amendment he has offered.

I know something of the problems that American industries and employers have suffered as a result of imports from countries that have vastly lower wages for their employees than our country has.

I saw a report in the Wall Street Journal last week. Bibb Manufacturing Co., which is one of the oldest textile producers in the United States, has eight or more mills in the State of Georgia. They have thousands of employees there. They had sales of well in excess of $100 million in the last fiscal year, and their loss was in excess of $2 million. That has been caused by imports of foreign textiles from countries where the wage level is vastly lower than in the United States.

As the Senator from New Hampshire knows, he and I and other colleagues in the Senate have been calling on various Presidents of the United States, various Secretaries of State, and various Secretaries of Commerce for years, to try to get something accomplished in this field, without result.

I hope that the Senator's amendment will be agreed to, and I hope that the President of the United States will recognize that it is the voice of the country speaking. I hope that the President will take affirmative and positive action.

I compliment the Senator on his amendment.

Mr. COTTON. I thank the Senator.

I yield the floor.

Mr. JAVITS. Mr. President, it feels a little lonely to take the floor at this hour and under these conditions, especially when one has the affection for the Senator from New Hampshire that I have, and with much reason. I have been through many legislative struggles, in which he has been a prince. The manager of the tax bill on the floor, for the majority, says nice things about the amendment and would take it if we let him—

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

Mr. JAVITS. I yield.

Mr. TALMADGE. The yeas and nays have been ordered.

Mr. JAVITS. I understand.

And when the other Senators who have been handling the bill and vigorously arguing about amendments that are one one-hundredth as important as this one was before the Senate, they sort of smiled and said, "Well, fellows have plants that closed in their districts, and we have to give them a chance to blow off some steam"—everybody knowing in his heart that this will probably never get anywhere, even if it is adopted by the Senate—and it is very likely to, on the rollcall vote.

This is a strange anomaly about our country. We all know that some "Big Daddy" somewhere will protect the interests of the Nation; and, by the skin of teeth, I suppose that "Big Daddy" has always appeared. But we are not going to do it—not on this one.

I have no pretensions to heroism in this matter, but I am sustained by one thing, and it is a little sentimental. There was a Senator in this body who occupied precisely the role that I do. His name was Paul Douglas, of Illinois, one of the proudest names this Nation has ever know. He is still with us, thank the Lord. I take great courage and great inspiration from the fact that I saw him on this floor not once or twice or three times, as perhaps I would, but time and time again, with the greatest virtuousity, with deep knowledge and insight, with great patience and understanding, address himself to precisely the very hardy perennial we are discussing today. That is the essential tariff policy of the United States.

The essence of this amendment is really this: Shall we tack onto a tax reform bill, already staggering under a load of many improvidences, a superimprovidence, which is not only an improvidence but also is not relevant to the bill at all? Shall we, in a few hours of debate in the night, deal with the foreign policy of the United States and the trade policy of the United States which has had weeks and weeks and years and months of consideration, and about which the President of the United States has just, in a very considered way, sent us a trade message—to which the Senator from South Carolina referred—of November 18? And shall we in this way short-circuit Congress? That is exactly

what it would mean. We can give the President the authority, but that is all the authority we have. This is a very sweeping amendment. An amendment could be offered, and a two-thirds vote could be obtained, to amend the Constitution and eliminate the first 10 amendments, and the Senate can do that not only at 7:10, but if the Senate is in session, it could do it at 11 p.m. or at 12 midnight; and it might be passed if Senators are tired enough or do not know what they are doing.

That is the way a democracy can hang—by the skin of its teeth. Fortunately, that does not happen. Whether I win or lose, we will know what it is about and what it does and how it affects the interests of the United States.

We are asked to deprive Congress of all tariff writing and tariff changing authority and turn it over to the President. That is the whole essence of the amendment; and not only that but on definitions which radically—and I use that word advisedly and I shall explain it further later—differ from the definitions we have in a most considered way passed in Congress. We are asked to do it—and I do not complain about it; that is our business and we all do what we feel has to be done—on the very threshold of what may be the breakup of world trade through a tremendous trade war which is very incipient in this situation. The President or anyone else who is deeply immersed in the field will tell you that the entire world trade situation right now is in great jeopardy.

I am the last one to try to please the Japanese or the European Common Market. I spoke on the floor of the Senate the other day about the fact that they themselves are guilty of the gravest kind of protectionism and barriers to trade; that they were mindless of the best interests of the world, in a trading sense. I made recommendations as to what we could do about it, and the President has addressed himself to the matter.

But to throw this kind of measure, as the considered judgment of the Senate, into the balance will do only one thing. I must tell you that honestly and sincerely as a Senate man. It will discredit the Senate. It is not going to change the situation or anything that happens but it will discredit the Senate because you are going to do improvidently and precipitately, without regard to an understanding of what is at stake, what the law is on the books already, and how to change it, what should be done in a most deliberate and considered way.

Maybe we will come to these considerations as a result of the new trade act that must be written, because the old one has expired. Maybe the world will make the United States go protectionist. The world may be so obtuse and bullheaded that it will make us go protectionist. It would be a tremendous source of grief to me, but it is possible, and the very instruments we thought would free and liberalize trade may be turned against freedom of trade; but we are not going to invoke that thoughtlessly, and if we are going to do it, we are going to do it with dignity, deliberation, and the workmanship that is worthy of the Senate.

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

Mr. JAVITS. I yield.

Mr. COTTON. Mr. President, I am a little surprised. I want to make sure I understand the Senator. In the first place, I admire the Senator. He is a great lawyer, and he was the distinguished attorney general of one of the great States of the Union. But his statement that in this amendment the Senate is abdicating and surrendering its jurisdiction, or that it prevents Congress from enacting some kind of legislation with regard to foreign trade, is surprising to me. This would not preclude it; it simply invites the President to do something he desires. I have confidence in the President. The indication is to the contrary, with regard to disturbing our trade relations or antagonizing the world.

Mr. JAVITS. Mr. President, I wish to point out to the Senator why I say what I do. I hope the Senator is not inviting the Senate to march up the hill and pass it, knowing in advance he is going to repeal it, or knowing in advance the President will not use it. Why are we going through these charades if it is a document emblazened before all the world that the United States is going to pursue a protectionist course?

I am a lawyer. I think I am a pretty good lawyer. There are other good lawyers in this Chamber. I ask my lawyer friends to look at this amendment. What does the word "disrupt" mean? The amendment uses the phrase "disrupt the domestic market." What does that mean? We have had many volumes written about what is serious injury to domestic enterprise. This is a new word, the word, "disrupt." I beg any lawyer in the Chamber to define it.

The amendment states, "disrupt the domestic market or is causing injury to industries, firms, or workers in the United States." Does it mean any injury by place or places, or products, or lines of commodities?

Then, we go to the next page and we see the language:

> The foreign country producing such commodity is imposing restrictions—

What kind of restrictions? Are they sanitary laws? I ask the Senate the meaning of the word "restrictions." What are its perimeters, up and down? Does anybody know?

Then, the amendment states "by means of quotas, import licenses, tariffs, taxes, or otherwise."

I wish to ask Senators who are lawyers if they are going to pass this measure. It states:

> The foreign country producing such commodity is imposing restrictions (by means of quotas, import licenses, tariffs, taxes, or otherwise).

Now, going on from there one Senator said awhile ago they are going to run workers out of their jobs. As I understand the foreign trade of the United States, fortunately for us it is about on balance. We have $30 billion in exports and about $30 billion in imports. What about those fellows who deal in exports? Are they bums? Are they not entitled to be considered? What about all the consumers in this country who are buying these shoes? If they are cheaper and better, that is their right. Is this a one-way street?

We are no longer the paramount economic power on earth. The European Common Market does a much bigger import and export business than we and they are only six countries. The most viable country in the world is the United States, but that is my judgment. Many people disagree with me. They think Japan and Germany are at least if not better able economically to stand the strain of modern competition.

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

Mr. JAVITS. I yield.

Mr. PASTORE. Can the Senator name one country in the European Common Market that does not have restrictions?

Mr. JAVITS. I cannot.

Mr. PASTORE. That is the point.

Mr. JAVITS. No, I am sorry. It proves the other point because the Senator's definition includes every country in the world. The Senator's letter from the Department of Commerce just said so.

As I said when I began my remarks—and I am not sure the Senator from Rhode Island was in the Chamber at that time—every country in the world can be excluded from the American market by the power of the President. This turns over the total authority over tariffs of the United States to the President. That is all the Senate would be doing by passing this measure. I do not think the Senate would be well advised to do it and I doubt very much that the Senate wants to do it.

Mr. PASTORE. Mr. President, will the Senator yield further?

Mr. JAVITS. I yield.

Mr. PASTORE. Have we not done that with the Trade Expansion Act?

Mr. JAVITS. No.

Mr. PASTORE. We turned it over to the administration.

Mr. JAVITS. I do not agree. We limited the right to raise taxes up 50 percent and that is circumscribed by conditions under which hearings must be held and findings of fact must be made by the Tariff Commission.

This measure has no such provision. The Tariff Commission Act—which I would like to read because I think it is important—gives the President the very broad authority, but it is authority which has been defined and considered to the extent that Congress felt in all good conscience and judgment it should be limited.

I should like to read to the Senate the provision of the law on this particular subject. First, we look at the authority of section 301 which provides under B:

> On request, the President, upon resolution of either the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives, upon its own motion, or upon filing a petition under subsection (a), the Tariff Commission shall promptly make an investigation to determine whether as a result in major part of concessions granted under trade agreement an article is being imported into the United States in such increased quantity as to cause or threaten to cause serious injury—

I beg the Senate to note those words "serious injury"—

to the domestic industry producing an article which is like or directly competitive with the imported article.

Now then, there is the very comprehensive procedure by which the commission is required to inquire into this matter and to make a finding of fact, if one can be made appropriately, and then the power of the President becomes the following—I beg the Senate to note that this is not mandatory, either. This is also permissive authority.

The power of the President—I now read from section 351——

Mr. MANSFIELD. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. MANSFIELD. Does the Senator from New York intend to allow his colleagues to vote on this measure tonight?

Mr. JAVITS. That is putting me in an awkward position.

Mr. MANSFIELD. No. I have to think of others besides.

Mr. JAVITS. I will be as frank with the Senator, if he will allow me. I do not believe that an amendment which has the implications of this amendment should be voted on in the middle of the night. I have only so much breath and so much strength. I may not last the course.

Mr. MANSFIELD. Will the Senator from New York yield further?

Mr. JAVITS. May I finish first?

Mr. MANSFIELD. I just wanted to say that the Senator has answered my question indirectly.

Mr. JAVITS. I have yielded, and if the Senator will allow me, I should like to finish. I do not want to stand in the way of Senators voting on this. I am not filibustering. There is no question that this amendment should be discussed further, and that there should be a pretty good attendance on the vote. My humble suggestion to the majority leader, who has tremendous problems, certainly, as I have said, perhaps I shall not last the course, but I would be willing to stay. There are many other Senators concerned. I would be willing to agree to some reasonable time limitation and have the vote first thing in the morning. But I say, with all humility, because I am not trying to dictate to anyone, that I will stay or do whatever the Senator wishes.

Mr. MANSFIELD. If I had my way, we would stay all night and bring this amendment to a vote because I think it is most unusual; but in view of the situation, and in deference to my colleagues and the Senator who has the floor, I would, with his agreement, propose a vote at a time certain tomorrow, on whatever conditions the Senator may wish to advance, because I do not think that we should keep our colleagues here. Many of them are very tired because they have put in a long, hard day, and they are entitled to some consideration.

I would withhold my personal feelings and agree to something for tomorrow——

Mr. JAVITS. If the Senator will yield, I would suggest this: I think the Senator knows that he is a little bit annoyed with me now, but he knows that I have the highest regard and the deepest affection for him. I would like to have 1 hour tomorrow in which to discuss and give others the opportunity to discuss it, if they are so moved.

Perhaps an hour on each side and then we can vote. I shall be here at 9 o'clock tomorrow morning, ready to go forward.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I would suggest and ask unanimous consent that beginning at 9:30 o'clock tomorrow morning—there will be other business at 9 o'clock—there be 2 hours set aside for consideration of the pending proposal of the distinguished Senator from New Hampshire (Mr. COTTON), and that the time be equally divided between the Senator from New Hampshire and the distinguished Senator from New York (Mr. JAVITS).

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

The unanimous-consent agreement later reduced to writing, is as follows:

Ordered, That, on Wednesday, December 10, 1969, commencing at 9:30 a.m., further debate on the Cotton amendment (No. 342) to H.R. 13270, the tax reform bill, shall be limited to 2 hours, to be equally divided and controlled by the Senator from New Hampshire (Mr. COTTON) and the Senator from New York (Mr. JAVITS).

Mr. MANSFIELD. Mr. President, now, on the basis of the progress we have not been making, and that we will very likely not be able to finsh the bill tomorrow, with at least eight more amendments in the offing, and perhaps more, I would suggest to the Senate that it had better be prepared to stay in session through December 24, and if the President desires to call us back on December 26, I shall join him wholeheartedly in that request.

Mr. President, I would emphasize that we have an awful lot of legislation; that there is going to be debate at some length on the defense appropriation bill; that there is going to be debate at some length on the Labor and HEW bill; that there is going to be debate at some length on the foreign aid bill; that we have the District of Columbia appropriation bill and the Department of Defense appropriation bill, and a supplemental appropriation bill, and a newspaper bill, and other bills, all of which will have to be considered some time this year, or the next; and that this will not be done unless the Senate cooperates in the conduct of the business which will come before it.

I believe that I would be less than fair if I did not lay out the facts on the table.

Mr. PASTORE. Mr. President, I realize, I appreciate, and I sympathize with the Senator from Montana in his frustration and weariness at this moment.

Mr. MANSFIELD. Not on my part, I am fresh.

Mr. PASTORE. I know that the Senator is, but I believe that he is also a little bit disgusted with what has been going on. I should like to suggest at this time that we work out some kind of agreement to limit the time on all pending amendments.

Mr. MANSFIELD. I should like to do that, but I feel constrained not to do so because there are Senators who have to be considered who are not in the Chamber at the moment and I feel, in all fairness, that we will not do that at this time. Maybe tomorrow it might be possible.

Mr. COTTON. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. I yield.

Mr. COTTON. I feel very much embarrassed. I did not know that I would touch off such a filibuster with this perfectly plain and simple amendment. I am not going to withdraw it. I am going to have a vote on it, but if the Senator from New York wants 45 minutes or 1 hour right now, he can have it. All I would take would be 1 minute. He can have the debate all by himself and he can plaster this simple amendment with all kinds of obfuscation and legal terms he wants to. We can have a time to vote on it and not hold up the Senate.

Mr. JAVITS. Mr. President, will the Senator from Montana yield to me?

Mr. MANSFIELD. I yield.

Mr. JAVITS. I did not bring up this amendment. I did not bring it up at 6 o'clock at night. When it was brought up, I had to meet it.

Mr. COTTON. I brought it up at the first opportunity I had. I have been waiting for 3 days to do so.

Mr. JAVITS. I am not finding any fault with the Senator from New Hampshire. Considering the size of the engagement, and that I am undertaking to meet the arrangements made, I think it is reasonable rather than unreasonable. I will leave to the judgment of the Senate what is reasonable and fair in this matter.

Mr. MANSFIELD. Mr. President, I had intended to ask permission of the Senator from Alabama (Mr. SPARKMAN) and the Senator from Texas (Mr. TOWER) to lay their amendment No. 407 before the Senate tonight, on a time limitation, but I am precluded from so doing. There will be no further votes tonight.

Mr. COTTON. Mr. President, if the Senator will yield, would the Senator from Montana consider giving the Senator from New York, tomorrow morning, 1 hour, and giving me 10 minutes?

Mr. MANSFIELD. The Senator already has 1 hour, as does the Senator from New York. If the Senator does not use all his time, he can simply yield it back.

When I said that there would be no more votes tonight, I meant no more rollcall votes. If there are any amendments to be disposed of by a voice vote tonight, I feel that we can do so, but there will be no more rollcall votes tonight.

AUTHORIZATION FOR SMALL BUSINESS SUBCOMMITTEE OF THE BANKING AND CURRENCY COMMITTEE TO MEET TOMORROW AT 10 O'CLOCK A.M.

Mr. McINTYRE. Mr. President, I ask unanimous consent that the Small Business Subcommittee of the Committee on Banking and Currency be authorized to conduct hearings, beginning at 10 o'clock tomorrow morning.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending amendment be laid aside temporari-

ly for the purpose of presenting another amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 254

Mr. MOSS. Mr. President, I call up my amendment, No. 254, and ask that it be reported.

The PRESIDING OFFICER. The amendment of the Senator from Utah will be stated.

Mr. MOSS. Mr. President, I ask unanimous consent to dispense with the reading of the amendment.

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

The amendment is as follows:

At the proper place insert the following new section:

"SEC.—WITHHOLDING OF INCOME TAX IN THE CASE OF STUDENTS.

"(a) WITHHOLDING BASED ON EXPECTED WAGES FOR TAXABLE YEAR.—Section 3402 (relating to collection of income tax at source) is amended by adding at the end thereof the following new subsection:

"'(n) SPECIAL RULE FOR STUDENTS.—

"'(1) WITHHOLDING BASED ON EXPECTED TOTAL ANNUAL WAGES.—In the case of an employee who—

"'(A) files with his employer a certificate that he will qualify as a student (as defined in section 151(e)(4)) for his taxable year, and

"'(B) sets forth in such certificate the total amount of wages which he expects to receive from all employers during his taxable year,

the amount of tax required to be deducted and withheld under this section upon the wages paid by such employer to such employee for each payroll period during such taxable year shall be the amount which would be required to be deducted and withheld if the amount of wages paid by such employer for such payroll period were the payroll-period equivalent to the total amount of expected wages set forth in such certificate.

"'(2) CERTIFICATE.—A certificate filed under paragraph (1) shall be in such form and contain such information, and shall be filed subject to such terms and conditions, as the Secretary or his delegate may prescribe by regulation.'

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to wages paid on or after the first day of the month which begins more than thirty days after the date of the enactment of this Act."

UNANIMOUS-CONSENT AGREEMENT

Mr. LONG. Mr. President, I ask unanimous consent that further debate on the amendment be limited to 20 minutes, to be equally divided between the Senator from Utah and the manager of the bill.

Mr. MOSS. Mr. President, I have no objection.

Mr. GRIFFIN. Mr. President, may I know the number of the amendment?

Mr. MOSS. 254.

The PRESIDING OFFICER. Is there objection to the unanimous consent request of the Senator from Louisiana? Without objection, it is so ordered.

Mr. MOSS. Mr. President, this amendment is relatively simple. It does not affect the tax income or outgo. It is simply an amendment to provide that students who work in the summer be given an opportunity to file a certificate of the amount of money they expect to earn during that summer period, and that the withholding that is then applied to their wages be prorated as though the summer's earnings were the annual income. Therefore, the students would not have withheld the larger amount, which they need at the end of the summer, ordinarily to go into college, pay their room dues, and all the rest of it.

At the present time, the withholding is made at whatever the salary rate is, as though it were going to continue the whole year.

The explanation of the bill as reported by the committee stated that section 803 (f) took care of this matter, but that is not so. It simply applies to a person who expects to have no income and who had no income the year before. He is forgiven the withholding.

This amendment applies to the special situation of students who work for a limited period of time, in the summer, say 3 months.

I have talked with the distinguished chairman of the committee about the amendment. I have also mentioned it to the distinguished Senator from Delaware. I think it is perfectly acceptable, and certainly would accomplish a useful purpose for students who work in the summertime and then go back to school.

Mr. President, on October 27, 1969, I introduced for myself and 25 other Senators an amendment to H.R. 13270 which would correct the unfairness of the tax withholding provisions toward students.

In the Finance Committee's summary of printed amendments, it is stated that the substance of my amendment was agreed to by the committee—see section 803(f). Unfortunately, however, I must disagree with the committee as to what the substance of my amendment is.

My amendment would permit students to have their withholding rates set on the basis of their total expected income rather than the present formula which assumes that they will be employed full time the year-round.

To qualify under this amendment, a student would have to file a certificate with his employer certifying that he is a student. The certificate would also contain a statement of the student's expected total wages for the taxable year. The Secreary of the Treasury would have the authority to prescribe regulations concerning this certificate.

Section 803(f) of the Finance Committee bill only partially accomplishes the objective of my amendment. Under this section an individual will not have any tax withheld if he can certify that he, first, incurred no tax liability during the preceding taxable year, and second, anticipates no tax liability for the current taxable year.

While this provision is a worthy improvement, many students will still not be helped by it. Most students who worked this last summer earned over $900, and therefore incurred at least some tax liability.

From now on, of course, under the low income allowance provision, $1,700 will have to be earned before any tax liability is incurred. But some students who only in the summer make more than $1,700 and those that continue to work part time during the school year almost certainly do.

Higher education is very expensive and many students pay for all or part of the tuition and other fees. These students expect to pay their fair share of the tax burden. But as with the draft, they have a legitimate complaint when the inflexible withholding system takes more from them than they will eventually owe in taxes.

This is a simple reform. It does not ask much. It does not give students any special tax break. It simply tells the Treasury to withhold only as much as the student will eventually owe in taxes and no more. The money will have to be returned to the student anyway.

Why should students simply because they are employed full time only in the summer be forced, in effect, to "lend" their money to the Government interest free? It is not fair. And it can be easily corrected by adopting this amendment.

Mr. LONG. Mr. President, we have looked at the amendment. Its purpose is very meritorious. If it can be worked out in conference, we would like to provide a more expeditious manner of taking care of this situation. I applaud the Senator for his effort. If it can be worked out technically, I would like to see the purpose the Senator seeks to reach with his amendment carried out.

I think the amendment was also discussed with the Senator from Delaware, and I believe he would agree to taking this amendment to conference.

Mr. GRIFFIN. 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. GRIFFIN. 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. MOSS. Mr. President, I yield back my time.

Mr. LONG. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Utah.

The amendment was agreed to.

AMENDMENT NO. 383

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside and that the Senate proceed to consider amendment No. 383, and ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment (No. 383) is as follows:

On page 136, after line 10, insert the following:

"For purposes of subparagraph (A), substantially all the use of a property shall be considered to be substantially related to the exercise or performance by an organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501 if such property is real property subject to a lease entered into primarily for purposes which are substantially related (aside from the need of such organization for income or funds or the use it makes of the rents derived) to the exercise or performance by such organization of its charitable, educational, or other purpose

or function constituting the basis for its exemption under section 501."

Mr. YARBOROUGH. Mr. President, this is a technical amendment which is designed to clarify an ambiguity in the proposed tax on debt-financed income of exempt organizations. This provision of the bill replaces the present tax on unrelated business lease income of exempt organizations. I understand that there is no intention to apply the new provision to rental income of exempt organizations that is exempt under present law because the leases are related to exempt purposes or functions of the lessor organizations. The amendment I am offering to section 121 of H.R. 13270 adds a sentence to section 534(b)(1) that provides this explicitly, resolving any possible ambiguity on the point in the present language of the bill.

I urge the distinguished chairman of the Committee on Finance to accept this amendment as a clarification of the committee's bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that the amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, the amendment is temporarily laid aside.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

Mr. COOPER. Mr. President, I want to submit to the distinguished manager of the bill a problem which has arisen in connection with a foundation in Louisville, Ky. I shall designate it. It is the James Graham Brown Foundation of Louisville, Ky. The foundation was created earlier, but Mr. Brown died testate on March 30, 1969, leaving to the foundation all of the stock of three companies that are operating companies with no ready market for their stock.

The question which I wish to direct to the chairman of the committee is the following:

I note that under the income payout requirement imposed on private foundations by the bill, long-term capital gains realized by a foundation are not required to be currently distributed. I would like to ask the Senator from Louisiana whether my understanding of the application of this rule to the following situation which has been called to my attention is correct.

The private foundation of which I have spoken owns all of the stock of a number of companies—to be exact, three. These companies were owned by the creator of the foundation, who died earlier this year and who left the stock to the foundation. There is not a ready market for the stock of these companies and, therefore, in order to comply with the stock ownership requirements of the bill, it is contemplated that a 5-year plan of complete liquidation of these companies will be adopted. I understand that under present law amounts received by a shareholder on a partial or a complete liquidation of a corporation are treated as in payment for the shareholder's stock rather than as a dividend.

Thus, any income involved is a long-term capital gain if the shareholder has held its stock for more than 6 months. In the case of the foundation I have mentioned, is my understanding correct that any amounts, including property, it receives as distributions in liquidation pursuant to the 5-year plan of liquidation from the corporations which it wholly owns will be treated as in payment for its stock rather than as a dividend, and thus any gain will be capital gain income, which will not have to be included in the income amounts which it is required under the bill to distribute currently, assuming the stock has been held by it for more than 6 months?

Mr. LONG. Mr. President, the Senator has stated the intent of this provision correctly. That is the way it would work.

The PRESIDING OFFICER. What is the will of the Senate?

AMENDMENT NO. 346

Mr. PACKWOOD. Mr. President, I call up my amendment No. 346.

Mr. MANSFIELD. Wait a minute. Mr. President, we have two or three amendments set aside already, and if we keep on multiplying them, I am afraid this joint is going to get out of joint. [Laughter.]

Mr. PACKWOOD. It will take only 5 or 6 minutes.

Mr. MANSFIELD. Will the Senator request a rollcall?

Mr. PACKWOOD. Oh, no.

Mr. MANSFIELD. Mr. President, I ask unanimous consent, even under these most unusual circumstances, that the two amendments now temporarily laid aside be continued to be laid aside temporarily, for the purpose of taking up an amendment to be offered by the distinguished Senator from Oregon.

The PRESIDING OFFICER. The amendment will be stated.

The BILL CLERK. The Senator from Oregon (Mr. PACKWOOD) proposes an amendment (No. 346), as follows:

On page 131, strike out the quotation marks in line 7, and after line 7 insert the following:

"'(19) Corporations, other than cooperative housing corporations (as defined in section 216(b)(1)), not organized for profit but operated exclusively for the preservation, maintenance, and repair of houses, apartments, or other dwellings owned by the members of such a corporation, and for the preservation, maintenance, landscaping, and operation of the common area owned by such members or such corporation situated contiguous to such houses, apartments, or other dwellings and used for noncommercial purposes, but only if—

"'(A) no part of the net earnings of such corporation inures (other than through the performance of related services for the members of such corporation) to the benefit of any member of such corporation or other person, and

"'(B) 95 percent or more of the gross receipts of such corporation consists of amounts received from such members for the sole purposes of providing such services.'

"On page 118, line 24, strike out 'or (9)' and insert ', (9), or (19)'.

On page 119, line 1, strike out 'or (9)' and insert ', (9), or (19)'.

"On page 119, line 18, strike out 'Such term' and insert 'In the case of an organization described in section 501(c)(19), such term does not include income received from any member of such organization with respect to the sale or lease to him by such organization of any house, apartment, or other dwelling or any interest in any common area situated contiguous to any house, apartment, or other dwelling. In the case of an organization described in section 501(c)(7) or (9), such term'.

"On page 130, line 1, strike out 'pension trusts' and insert: 'pension trusts and housing management corporations'.

"On page 130, line 5, strike out 'paragraph' and insert 'paragraphs'."

Mr. PACKWOOD. Mr. President, this is an amendment dealing with condominiums and their methods of ownership and taxation. Most Senators are familiar with the legal methods of condominium ownership. The persons who live in the apartments physically and legally own the condominium; the corporation that manages it normally owns the land.

In this situation, the Treasury Department has taken the position that when the owner of the condominium apartment contributes $15, $20, or $25 a month to the corporation for the maintenance of the building and for the landscaping of the common land, that is taxable income, and the corporation must pay a tax on it in the year received, whereas, if it were operated under a mutually beneficial trust, as many condominiums are, if it were operated under a partnership, as some small condominiums are—though that involves some problems of buying in and selling out—the money that was set aside—and that is exactly what it is, a fund set aside to take care of repairs which come up, or of necessary landscaping—is not taxable.

I asked the Treasury Department to draft an amendment for me that would permit corporations, if they are nonprofit and if they are organized solely for the purpose of repairs, maintenance, and taking care of the condominium common property, the landscaping, the roof, the painting, and other matters detailed in the amendment, and if 95 percent of the corporation's income—again, it is a nonprofit corporation—comes from receipts from the condominium owners, to make the receipts of that corporation nontaxable in the year received.

The Treasury Department drew the amendment and sent me a letter saying that they have no opposition or support, that they would neither propose nor oppose it.

I asked them what the revenue loss would be, and they said none or negligible, because, unfortunately, most people who build condominiums now are aware of the tax consequences if they organize corporations, so they find various other ways to avoid incorporating, which is inconvenient but necessary to find another way of avoiding taxability on the income.

That is the sum and substance of the amendment.

Mr. WILLIAMS of Delaware. Mr. President, I have discussed the amendment with the Senator. I wish we could accept it, but I do not think we can.

I would like to point out some of the problems that would arise. It is true that

the income represents an advance payment which will be offset by expenditures later; but if the amendment is accepted, we will have established a precedent for exemption, for example, of automobile manufacturers. They put a lifetime guarantee on a car, the cost of which is built into the price of the car. They will be coming in next, asking for a similar exception. The same is true of all the termite companies: You pay an annual fee, but may go for years before the company has to treat your house. It works out, in the long run.

I hope the Senator will not press the amendment, because, after consultation with the staff, I think it would open a dangerous precedent for the Internal Revenue Code, which I would not want to see done.

Mr. PACKWOOD. Let me say to the Senator in rebuttal that we are not talking about a profitmaking corporation; we are talking about a nonprofit corporation. We are not talking about the condominium owners escaping anything that they cannot escape otherwise, if they want to use some other form of organizational structure. So it is not a question of evading taxes, it is a question of allowing nonprofit corporations to operate condominium properties and repair them, and permit the money to be set aside under corporate form rather than some other form of operation.

Mr. WILLIAMS of Delaware. That is true, but the basic problem is the same whether it is a profitmaking or a nonprofit operation. It is merely a matter of the mechanics of how they operate.

I would be willing to say that the committee could give it study, but I would be reluctant to accept it as an amendment on the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 346) of the Senator from Oregon.

The amendment was rejected.

Mr. HANSEN. Mr. President, I should like to ask the distinguished senior Senator from Delaware his view as to the application of the unrelated business income tax in the case of fraternal beneficiary societies—such as the Shriners, which is well known for their support of crippled children's hospitals—where they sponsor football games or present a Shrine circus. In this case will they be exempt from unrelated business income treatment on income from activities of this type?

Mr. WILLIAMS of Delaware. The answer is "Yes." The unrelated business income tax does not apply to income from activities which are not carried on by such an organization on a regular basis—that is, incidental or sporadic activities, such as the Senator has mentioned, the Shrine circus or annual football game, and similar activities would not constitute regularly engaging in a business.

Mr. HANSEN. The fact that the Shrine may carry on, for a week or so each summer, a Shrine circus, even though this may be something that is done year after year, would still not cause the income from the circus to be subject to the unrelated business income tax?

Mr. WILLIAMS of Delaware. The answer is "Yes." Our committee considered that very problem. We are confident that these activities are not taxed under the bill.

Mr. LONG. Mr. President, I affirm what the Senator from Delaware said. That was the intent of the committee.

Mr. WILLIAMS of Delaware. I do not think there is any question about it.

Mr. HANSEN. Mr. President, I thank the distinguished chairman of the committee and the distinguished ranking minority member.

Mr. CURTIS. Mr. President, as a matter of fact, there was a direct vote in the Finance Committee on this matter, and the committee voted not to tax such activities as circuses and other such activities.

AMENDMENT NO. 383

Mr. YARBOROUGH. Mr. President, I ask that my amendment 383 be called up at this time.

The PRESIDING OFFICER. The question recurs on the amendment offered by the Senator from Texas.

The question is on agreeing to the amendment.

Mr. YARBOROUGH. Mr. Prasident, I call the attention of the distinguished Senator from Louisiana to the fact that I call up my amendment and ask for action on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 383) was agreed to.

SOUTHERN UTE TRIBE

Mr. MANSFIELD. Mr. President, I have one further piece of business, an item on the calendar that has been cleared all the way around after a hold had been put on it. There will be no more business tonight.

I ask unanimous consent to temporarily lay aside the pending business and that the Senate proceed to the consideration of Calendar No. 563, H.R. 12785.

The PRESIDING OFFICER. The bill will be stated by title.

The BILL CLERK. A bill (H.R. 12785) to declare that the United States holds in trust for the Southern Ute Tribe approximately 214.37 acres of land.

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

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–568), explaining the purposes of the measure.

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

PURPOSE

The purpose of the bill is to transfer the title to 214.37 acres of land located in La Plata County, Colo., from the United States to the United States in trust for the Southern Ute Indian Tribe. The land has been determined to be excess to the needs of the Federal Government since 1940 and has been under permit to the Southern Ute Tribe. All of the land, except the 8-acre tract near Bayfield, Colo., is immediately adjacent to other tribal holdings. All of the land is within the exterior boundaries of the Southern Ute Reservation. It was acquired from allottees of the Southern Ute Tribe, or their heirs, and none of the land has ever been on the county tax rolls.

Although the conveyance is witout consideration, the Indian Claims Commission will consider the extent to which the value of the land will be set off against any claim against the United States that is determined by the Commission. A tribal claim against the United States is pending.

The land is now excess to the needs of the Department of the Interior, except for the temporary use of 1 acre.

The land is located within the boundaries of the Southern Ute Reservation and has been in the possession of the tribe since 1940 pursuant to a permit from the Bureau of Indian Affairs. It consists of some irregated cropland, some irrigated pastureland, and some dry grazing land. It is surrounded by other Indian trust land, and is within the areas which the tribe is attempting to consolidate in Indian ownership. The land is in the Pine River Valley, where most of the tribal members reside, and where the tribe plans to develop light industry, a commercial park, recreation facilities, tourism, and residential sites. Transfer of the land to the tribe will permit the tribe to pursue its reservation development plans more effectively, and will enhance employment opportunities for many Indians.

Leonard C. Burch, chairman of the Tribal Council of the Southern Ute Indian Tribe, in his statement to the committee on S. 1873, briefly explained the program for development of the reservation under the tribe's master plan. With respect to the overall objective, Mr. Burch ably expressed it as follows:

"As you may know, the Ignacio area is an E.D.A. designated, 'Economical Depressed Area,' and as you can see, we are making real progress toward eventually removing this designation. We have great hopes and dreams that we will, in time, be self-sufficient in all areas of our economic life.

"We feel that this legislation will be of real assistance to us in reaching that goal.

"We are confident that if we are fortunate enough to have these lands transferred to the tribe that it will result in the economic betterment of our tribe and the surrounding areas in which we live."

SETOFF PROVISION

The land was acquired by the United States by purchase in five different tracts from Indian allottees or their heirs. The five tracts were purchased for a total consideration of $9,630. They have a present estimated value of $39,250, exclusive of possible mineral value, which is purely speculative and unknown.

The House adopted an amendment, recommended by the Department, which provides for the Indian Claims Commission to consider this conveyance as a possible setoff against any claims of the Southern Utes pending before it. The Southern Ute Tribe has a claim pending before the Indian Claims Commission, docket No. 328, in which they are seeking fair payment for land on the Southern Ute Reservation in Colorado which was disposed of by the United States without the consent of the tribe. The setoff provision is permissive, that is, the Indian Claims Commission is not required to make a setoff, and may or may not make a setoff depending upon the equities of the overall situation. However, if a setoff is deemed to be appropriate, the following colloquy between Senator Allott and Assistant Secretary Loesch concerning the amount of the setoff is pertinent:

"Senator ALLOTT. * * * If the amendment which you have suggested is adopted by the committee with respect to claims before the Indian Claims Commission, would a proper figure for the setoff be the cost to the Federal Government?

"Mr. LOESCH. Yes, Senator Allott, it would, and that has been the practice, I am told. The claim of the tribe against the Govern-

ment will, of course, as usual, be based on the value of the lands at the time in particular and in all equity the value of this land should be determined as it was at the time the Government obtained it.

"Senator ALLOTT. So the approximately $9,630 in your opinion would be a fair setoff under your amendment?

"Mr. LOESCH. Yes, and of course this is what I would recommend. I have no control, naturally, over the Indian Claims Commission, but I certainly would anticipate this is the way it would go."

COST

Enactment of the bill will require no Federal expenditure of money.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs recommends that the bill be enacted.

STATEMENT ON NOMINATION OF HENRY TASCA TO BE AMBASSADOR TO GREECE

Mr. PELL. Mr. President, as a matter of setting the record straight, I wish to state publicly that the dispatch in the New York Times of today which said that Henry Tasca's nomination as Ambassador to Greece had been delayed primarily by my efforts is simply not true.

Actually, I sought to bring up his nomination three times in the Foreign Relations Committee and supported it when it was reported out yesterday.

I have always believed that we should have ambassadors at the seats of those governments of which we most disapprove and that of the Greek junta certainly fills the bill in that regard.

I do accept with pride responsibility for authorship of my amendment cutting off additional military assistance to Greece for the time being. This, I believe, is the correct way of showing our country's disapproval of the present Greek Government and as the best way to encourage it on the road toward general elections and ending the torture of political prisoners there.

Not to have an ambassador in a sensitive post abroad is, I have always believed, an excellent example of the cutting off of our nose to spite our face. It simply reduces the level of government at which we can make our views known abroad. The correct way to express disapproval is to cut what hurts the regime of which we disapprove and not what hurts ourselves.

And, this is what the cutting of military assistance aid means. In addition, a pleasant fallout effect could be a substantial saving for the American taxpayers.

TAX REFORM ACT OF 1969

The Senate resumed the consideration of the bill (H.R. 13270), the Tax Reform Act of 1969.

Mr. MOSS. Mr. President, I call up my amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The BILL CLERK. The Senator from Utah (Mr. Moss) proposes an amendment, as follows:

On page 342, line 10, insert the following: "Delete the date 'October 9, 1969' and insert in lieu thereof the following 'December 31, 1969'."

Mr. MOSS. Mr. President, under the tax reform bill as reported out by the Finance Committee, all new provisions pertaining to mineral production become effective for calendar year taxpayers after December 31, 1969, except the change in the tax treatment of mineral production payments. For some reason this latter provision becomes effective October 9, 1969, except for such payments created before January 1, 1971, pursuant to binding contracts entered into before October 9, 1969.

I think the effective dates of these provisions should be uniform. Fixing the effective date at December 31, 1969, would also be consistent with the general practice of making changes in tax laws prospective to future taxable years. A uniform date would also be equitable in that it would treat taxpayers who had such payments under negotiation on October 9, 1969, in the same manner as taxpayers who had reduced their transactions to a binding contract on that date.

Mr. LONG. Mr. President, I regret that I cannot support the amendment. We felt that we had advanced the date to the date that committee commenced action in executive session and that we could not consider advancing the date on any prospective basis.

We discussed the amendment. And we think this is one of the areas where we expect to make a considerable amount of money in the reform features of the bill. In the event the date were advanced, we would lose a considerable amount. The amount of loss would be unpredictable. However, I feel constrained to oppose the amendment. I have discussed the matter with the distinguished ranking minority member.

Mr. WILLIAMS of Delaware. Mr. President, I have discussed the matter with the distinguished chairman of the committee. And I am afraid that we cannot accept the amendment.

The question is on agreeing to the amendment.

The amendment was rejected.

SENATOR BROOKE OPPOSES INFLATIONARY TAX PROVISIONS

Mr. BROOKE. Mr. President, the bill upon which we will soon be voting is described as a Tax Reform Act. As is true of all such shorthand terms, this title is less than adequate. It might as appropriately be called the Tax Reduction Act, or the Social Security Reform Act, or the Tax Adjustment Act, or even the Inflation Escalation Act of 1969.

No one in this Chamber, possibly no one in this Nation, would agree with all of the provisions of the bill as it passed the House, as it was reported from the Senate Finance Committee, or as it awaits our consideration here in the Senate.

All of us commend the diligent efforts of the members of the committee and their staffs. All of us feel strongly about certain provisions we would like to see included in the bill, or deleted from it. None of us will ever be completely satisfied with the legislation which is finally passed. But Mr. President, this country faces a grave fiscal crisis, and the choice is still ours whether to pass legislation which will deepen, or help to control, the unstable and gravely perilous economic position in which we find ourselves today.

The merits of this bill are many. In particular I believe the Senate has acted wisely in indicating its support for substantial increases in social security and in reducing the burden of medical expenses on our elderly. The fact that the House Ways and Means Committee has also accepted a 15-percent increase in social security benefits leaves little doubt that, whether in the tax bill or in separate legislation, the Congress will be moving on this essential front. Furthermore the minimum tax on persons with large incomes that were formerly exempt is a most significant step, as are the removal of several million low-income people from the tax rolls, the reduction of the oil depletion allowance and other measures closing loopholes. These forward-looking provisions can and should become law.

Unfortunately, certain amendments accepted by the Senate would have disastrous consequences for the entire Nation. They go far beyond the $9 billion in general tax relief recommended by the committee, but do not significantly increase the $6 to $7 billion to be gained by tax reforms. Therefore, in spite of my strong endorsement of many positive features in the bill, I cannot approve the legislation as it stands.

In particular the changes in the proposed repeal of the investment tax credit would drain over $1 billion a year from the Treasury. And this at a time when projected investment rates are already setting records. So strong has the investment surge been that it is questionable whether even the highest interest rates in a century will have the desired effect of dampening this counterproductive spiral. Who can claim that it needs further stimulus?

Most damaging of all, however, has been the addition of the blatantly inflationary increase in personal exemptions. By the most modest estimate this increase will cost approximately $6.1 billion in the next 2 years alone, precisely the period when we must cool the superheated economy on which all Americans depend. Under no test of economic responsibility could such an action be justified at this time.

The American people should really be dismayed when they consider that the increase in tax exemptions may soon be worthless as tax relief. The original $600 exemption has declined to a fraction of its original value as inflation has eroded the dollar. The $200 increase offered by the amendment fuels an even more intense inflation which will destroy its value also. The only meaningful tax relief, the only relief likely to survive inflation, is adjustment of the tax rates themselves.

Furthermore, the implication that the increase in exemption is of special benefit to lower and middle income groups is highly misleading. In truth the provision does not provide $200 in tax relief to the man with lower income and $200 in tax relief to the man with higher income; that would be regressive in itself. The situation is even worse, since the change really means that a taxpayer at

the bottom of the schedule would be paying $28 less in taxes for each exemption claimed, while taxpayers at the high rates would be paying $140 less for each exemption. Thus the real result of the allegedly progressive amendment on exemptions is to give actual relief of perhaps $112 to a low-income family of four while providing $560 to an affluent family of the same size. And because of the varying number of exemptions, the amendment certainly shifts more of the tax burden to smaller families and single persons, while affording disproportionate relief to larger families.

One of the more damaging aspects of this proposal, which I do not believe has been adequately examined, is the sizable reduction of the tax base it accomplishes. The committee bill had already trimmed the national tax base by $22 billion to a total of $350 billion. The ill-considered change in personal exemptions would remove another $23 billion from the base, reducing it to only $327 billion. If, as may well be necessary, future tax increases are approved, relatively higher levies must be placed on this smaller base. Those still in the tax-paying pool will have to pay still greater sums to compensate for this drastic curtailment in the country's taxable income.

These are not easy points to grasp and some people may be deceived into believing that their interest is being served by this superficially attractive measure.

But the fact is that its benefits are illusory and its potential harm to our common well-being, catastrophic.

Mr. President, the distressing thing to me about many of the amendments offered is that they were without question, worthwhile. I would have liked to vote for them. And under ordinary circumstances I would have been among the first to support measures which would lower taxes for individuals, and provide tax credits for investments which seek to correct our intolerable economic imbalances.

But these are not ordinary times. Our consumer price index is up nearly 6 points over last year. Housewives are paying nearly 12 percent more for meat; prospective buyers find the price of homes has risen 10.5 percent over the last year; medical costs are nearly 9 percent higher than they were just 1 year ago. At this rate, how much will the individual be helped by a $200 increase in the personal exemption? How much will the small company benefit from a retention of the 7-percent investment tax credit, if the cost of materials and labor goes up 10 percent or 15 percent? These meager benefits can easily be consumed before they ever go into effect by the rising cost of living.

An increase in the personal exemption may look like a boon to the taxpayer. In reality, however, it will put more paper money into the pockets of the consumers while at the same time driving up the costs of the goods they seek to buy.

During the last few days I have found myself asking hard questions, questions which I am sure every Member of this body has been considering: Are the tax reform provisions sufficiently constructive to merit passage of the bill in its present form even in view of its predictable inflationary effects? Is it fair of us to rely on the conferees to delete provisions which we find objectionable, to "save us from ourselves," in effect, and to report back a reasonably clean bill? Are we prepared to reject a conference report which has too many dangerous and inflationary aspects? Are we, in the final analysis, prepared to put aside parochial interests and to perform as responsible national legislators, acting in good faith in the best interests of the country as a whole? Or will we, for the sake of short-term political advantage, enact a measure which can, in the words of the President, "reduce taxes for some while raising prices for all?"

This is not a partisan issue, though partisanship has been clearly in evidence more often than not in this debate. This is not a regional or sectional issue, nor is it an issue even between conflicting private and public interests. We are dealing with an issue which clearly and deeply affects us all. The question before us is nothing less than the purchasing power of the dollar in domestic and international trade. It is a matter which affects the single taxpayer, the workingman, the welfare mother, the retired pensioner, the small businessman, and the giant corporation all at once.

Inflation may hurt some more than others, but none of us remains untouched.

As much as I favor the tax reform provisions of this bill and as urgent as I consider its social security provisions and related features, I cannot support the bill in its present form. The price is simply too high.

It is my profound hope that the conference committee will preserve the progressive elements of this legislation and produce a measure which Senators can support wholeheartedly. But if the conferees cannot remedy the central defects of this legislation, I will be compelled to vote "no" on the report.

RECESS TO 9 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 recess until 9 a.m. tomorrow morning.

The motion was agreed to; and (at 7 o'clock and 56 minutes p.m.) the Senate took a recess until tomorrow, Wednesday, December 10, 1969, at 9 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, December 9, 1969*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

May the Lord make you increase and abound in love to one another and to all men.—I Thessalonians 3: 12.

Almighty and eternal God, conscious of our obligation to the historic past, aware of the opportunities of the present, and with faith in the beckoning future, we humbly join our fathers in the affirmation—"glory be to Thee, O Lord most high."

Thou hast been wonderfully good to us and we are grateful. Thy spirit has led us. Thy hand has supported us, and Thy love has filled our hearts with good will. Make us one with Thee, we pray, as we face the duties of this day.

Standing as Americans together may we lift high the banner of freedom, strengthen the arm of justice, build bridges between races, classes, and nations, and keep ourselves ever mindful of Thy presence and ready to do Thy will.

In the spirit of Christ we pray. 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 without amendment a bill of the House of the following title:

H.R. 13767. An act to authorize the appropriation of funds for Fort Donelson National Battlefield in the State of Tennessee, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 210. An act to eliminate requirements for disclosure of construction details on passenger vessels meeting prescribed safety standards, and for other purposes; and

H.R. 9163. An act to authorize the disposal of certain real property in the Chickamauga and Chattanooga National Military Park, Ga., under the Federal Property and Administrative Services Act of 1949.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1232. An act to declare and determine the policy of the Congress with respect to the primary authority of the several States to control, regulate, and manage fish and wildlife within their territorial boundaries; to confirm to the several States such primary authority and responsibility with respect to the management, regulation, and control of fish and wildlife on lands owned by the United States; and to specify the exceptions applicable thereto; and to provide procedure under which Federal agencies may otherwise regulate the taking of fish and game on such lands;

S. 2619. An act to amend section 5723(b) of title 5, United States Code, relating to length of service required by teachers in Bureau of Indian Affairs schools when travel and transportation expenses are paid to first post of duty; and

S. 2940. An act to amend the act of June 28, 1948, as amended, relating to the acquisition of property for the Independence National Historical National Park.